

# **HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**



**Hinckley & Bosworth  
Borough Council**

## **WRITTEN STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

**PLANNING APPEAL BY MRS PAULINE ROSA TAYLOR**

**AGAINST THE REFUSAL OF OUTLINE PLANNING PERMISSION FOR THE  
PROPOSED ERECTION OF ONE SELF-BUILD/CUSTOM BUILD DWELLING (ALL  
MATTERS RESERVED EXCEPT FOR ACCESS)**

**AT**

**LAND AT THE CORNER OF THE GREEN AND PIPE LANE  
ORTON ON THE HILL, LEICESTERSHIRE**

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE**

**24/00284/OUT**

**THE PLANNING INSPECTORATE REFERENCE**

**APP/K2420/W/25/3361470**

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## **1. INTRODUCTION**

- 1.1. This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, in full support of the decision of Hinckley and Bosworth Borough Council to refuse outline planning permission for the erection of one self-build/custom build dwelling (all matters reserved except for access) at land at the corner of The Green and Pipe Lane, Orton on the Hill, Leicestershire.

## **2. DESCRIPTION OF THE APPEAL SITE AND THE PROPOSAL**

### *The Appeal Site*

- 2.1. The 0.35ha appeal site is located within the centre of the identified settlement boundary of Orton on the Hill, to the west of, and adjacent to, the crossroads junction of Pipe Lane/Main Street with The Green/Sheepy Lane. The adopted Core Strategy (2009) classifies Orton on the Hill as a Rural Hamlet. The appeal site is located within the Orton on the Hill Conservation Area (OHCA).
- 2.2. Within the OHCA Appraisal, Orton on the Hill is described as being divided into two distinct character areas, one of which is the area around The Green and Pipe Lane. This area is characterised by relatively unplanned organic pattern of buildings, which are separated from each other by distance, green spaces, and continuous hedges. The OHCA confirms that the large green spaces between the groups of buildings along Pipe Lane and around the village green are important to the character of the Conservation Area and should be retained.
- 2.3. The appeal site comprises paddock land and one Category B Tree. The topography of the site slopes gently down from the north-western corner of the site towards the south-eastern corner. Within the OHCA Map, the paddock is identified as a Key Space that features important hedgerows along its northern and south-eastern boundaries that are adjacent to The Green and Pipe Lane.
- 2.4. Views north along The Green and views west along Pipe Lane in both directions adjacent to the appeal site are identified within the OHCA Map as protected views. These views emphasise the village's rural character and allow for an appreciation of the significance of the Grade I Listed Church of St Edith from its wider setting and context.
- 2.5. The Orton on the Hill Conservation Area Management Plan (OHCAMP) (2009) describes the application site as:

*“The large paddock that fronts The Green is important in visual terms. The vista along The Green looking towards the Parish Church emphasises the village's rural character, [which is] reinforced by its grass verges and continuous hedgerows. Any new development fronting the road will have [a] detrimental impact [by] being visually prominent. The opening at the field gate to the paddock would also need to be considerably widened to accommodate road access.”*

- 2.6. To the north of the site, beyond The Green, are further Key Spaces within the Conservation Area alongside a spinney and a pond. To the northwest and west of the site are further residential properties within Orton on the Hill. Immediately adjacent to the western boundary of the site is 4 Pipe Lane, which is identified as a potential development area within the OHCA Map.

*The Appeal Proposal*

- 2.7. This appeal proposal seeks outline planning permission for the provision of one self-build/custom build dwelling at land at the corner of The Green and Pipe Lane, Orton on the Hill. Only details of access to the site are sought for approval within this outline application and all other matters are reserved.

### **3. SITE HISTORY**

- 3.1. There is no relevant planning history for this appeal site.

### **4. NATIONAL POLICIES**

- 4.1 National Planning Policy Framework (NPPF) (2024).

It is noted that the NPPF was revised after the determination of the planning application in December 2024.

- 4.2 National Planning Practice Guidance (PPG).

- 4.3 National Design Guide (NDG) (2019).

### **5. LOCAL POLICIES**

- 5.1 The Development Plan policies referred to for the purposes of the refused planning application 24/00284/OUT were:

- 5.2 Core Strategy (2009):

- Policy 13: Rural Hamlets
- Policy 14: Rural Areas: Transport

- 5.3 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology

- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

#### 5.4 Other Relevant Guidance:

- Good Design Guide (GDG) (2020)
- Leicestershire Highways Design Guide (LHDG) (2024)
- Orton on the Hill Conservation Area Appraisal (OHCA) (2009)

It is noted that the LHDG was revised after the determination of the planning application in December 2024.

## 6. THE CASE FOR THE LOCAL PLANNING AUTHORITY

### 6.1 The planning application was refused on 30 August 2024 under delegated powers for the following reasons:

1. The proposal results in adverse impacts to the character and appearance, and thus significance of the Orton on the Hill Conservation Area and the surrounding area due to the spatial and visual erosion of the verdant and open nature of a designated key space within the Conservation Area. This harm is considered to have a further detrimental effect on the integrity of a key view within the Conservation Area, which diminishes the view's important contribution to the appreciation of the character and appearance, and thus significance, of the Grade I Listed Church of St. Edith. These effects are contrary to, and in conflict with, Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Section 16 of the National Planning Policy Framework (Dec 2023) and the statutory duty of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Ultimately, these adverse impacts significantly and demonstrably outweigh the public benefits of the development.

### 6.2 It is considered that the main planning issues in relation to this appeal are the adverse effects of the proposed development on the character and appearance, and thus significance, of the historic environment and the surrounding area, including the Orton on the Hill Conservation Area and the setting of the Grade I Listed Church of St. Edith.

#### Determination of the Appeal Proposal

#### *Housing Land Supply*

### 6.3 Since the determination of the refused planning application 24/00284/OUT, the National Planning Policy Framework has been revised.

- 6.4 The Council's Planning Policy Team are currently reviewing the latest revisions to the NPPF within the 2024 version of the document and its implications for the Council's Five-Year Housing Land Supply. A revised position will be published by the end of May 2025 once the monitoring for the 2024/25 year has been completed. It is however likely that, with the revised need figure of 682 dwellings (649dpa + 5% buffer as per Paragraphs 62 and 78(a) of the NPPF), that the Council will be unable to demonstrate a five-year supply of land for housing once the revised position is published.
- 6.5 Although the appeal proposal would contribute to the Borough's potential shortfall in supply of land for housing, the development only consists of one additional dwelling to this supply. As a result, the social and economic benefits associated with this contribution to the supply of land for housing should only attract limited weight in the planning balance in these site-specific circumstances.
- 6.6 As confirmed at Paragraph 8.6 of the Delegated Report, the age of the relevant housing policies within the adopted Core Strategy are out of date and therefore the 'tilted' balance in Paragraph 11(d) of the NPPF was engaged within the determination of the refused planning application 24/00284/OUT.
- 6.7 However, as highlighted by Paragraph 8.3 of the Delegated Report, in accordance with Paragraph 225 (now 232) of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.
- 6.8 Given the above, whilst it is likely that the Council may no longer be able to demonstrate a five-year supply of land for housing, the 'tilted' planning balance is still engaged and therefore the process for the determination of the appeal proposal has not changed since the determination of planning application 24/00284/OUT.
- 6.9 For decision-taking, Paragraph 11(d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
  - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 6.10 Footnote 7 of the NPPF highlights that assets of particular importance include designated heritage assets such as listed buildings and conservation areas.

6.11 Footnote 9 of the NPPF confirms that these key policies include: Paragraphs 66 and 84 of Chapter 5 (Delivering a Sufficiently Supply of Homes), 91 of Chapter 7 (Ensuring the Vitality of Town Centres), 110 and 115 of Chapter 9 (Promoting Sustainable Transport), 129 of Chapter 11 (Making Effective Use of Land), and 135, and 139 of Chapter 12 (Achieving Well-Designed Places).

6.12 It is noted that only Key Policy Paragraphs 115, 129, 135, and 139 of the NPPF are applicable in these site-specific circumstances.

*Supply of Self-Build and Custom House Build Development*

6.13 The requirements in relation to the Local Planning Authority's duty to provide a sufficient number of self-build and custom house build developments is detailed at Paragraphs 8.9 to 8.14 of the Delegated Report.

6.14 Since the determination of the refused planning application 24/00284/OUT, the Local Planning Authority updated its position on its supply of self-build and custom house build developments in the Borough. As of 31 October 2024, the Council has a modest shortfall of five self-build and custom house build dwellings.

6.15 The Appellant has submitted a signed Unilateral Undertaking to secure the development as a self-build and custom house build development, which is welcomed by the Local Planning Authority.

6.16 Therefore, weight could now be given to the benefit of the appeal proposal's contribution to meet the current unmet demand for self-build and custom house build developments within the Borough. However, as the application relates to just a single property, the Local Planning Authority strongly refute Paragraphs 5.8 and 5.10 of the Appellant's Statement that substantial weight should be given to this benefit in the planning balance.

6.17 Whilst the NPPF does not include locational requirements for the provision of self-build and custom housebuilding developments, this does not mean that these types of developments should be exempt from policies designed to direct developments to the most sustainable locations, such as those which do not result in significant harm to the character, appearance, and significance of designated heritage assets.

6.18 As stated at Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Whilst the Appellant has referred to the importance of self-build development within National Planning Policy at Paragraph 5.7 of their Statement, the need to protect and enhance the natural, built, and historic environment forms one of the three overarching objectives of sustainable development in accordance with Paragraph 8 of the NPPF.

6.19 Given the above, the Appellant's belief that substantial weight should be given to the benefit of the providing one additional self-build and custom house build property to the Council's supply is misguided and fails to appropriately read the National Planning Policy Framework as a whole in accordance with Paragraph 3 of the NPPF.

- 6.20 Ultimately, the appeal proposal would only provide one additional dwelling to the Borough's supply of self-build and custom house build developments. As such, the social and economic benefits associated with this small contribution in addressing the limited current shortfall in the Council's provision of self-build and custom house build development should only attract moderate weight in the planning balance.
- 6.21 Importantly, Paragraph 35 of the Right to Build Task Force Custom and Self-Build Planning Guidance: PG3.2: Counting Relevant Permissioned Plots (2024) confirms that, *"A development contributing to CSB is unlikely on its own to outweigh planning harm (e.g. landscape or environmental harms)."*

#### *Summary*

- 6.22 Overall, since the determination of the refused planning application 24/00284/OUT, amendments have been made to the National Planning Policy Framework and the Local Planning Authority's position on its supplies of land for housing and self-build and custom build housing have changed.
- 6.23 The Council now has a modest shortfall of five self-build and custom house build developments in its supply within the current Base Period (31 October 2024 to 31 October 2025). Given the appeal proposal's small contribution to meeting this supply, the benefits associated with this contribution should only attract moderate weight in the planning balance.
- 6.24 It is also now unlikely that the Council can demonstrate a five-year supply of land for housing. Due to the appeal proposal's small contribution to meeting the Council's supply of housing, the benefits associated with this contribution attracts limited weight in the planning balance.
- 6.25 Nevertheless, the 'tilted' balance was engaged during the determination of planning application 24/00284/OUT and therefore the process for determining the appeal proposal is the same in accordance with Paragraph 11(d) of the NPPF. Due weight should also be given to existing policies according to their degree of consistency with the NPPF.

#### Impact upon the Character of the Surrounding Area and the Historic Environment

- 6.26 Key Policy Paragraph 129(d) of the NPPF states that planning decisions should support development that makes an effective use of land, taking into account the desirability of maintaining and area's prevailing character and setting (including residential gardens), or of promoting regeneration and change.
- 6.27 Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve.

- 6.28 Key Policy Paragraph 135(a) and (c) of the NPPF confirm that planning decisions should ensure that developments:
- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; and
  - (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.29 These Key Policy Paragraphs are supported by Policy DM10(c) of the SADMP, which states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 6.30 Guidance Point C1 of the NDG confirms that well-designed new development should respond positively to the features of the site itself and the surrounding context beyond including the existing built development and landscape character, amongst others.
- 6.31 Guidance Point I2 of the NDG advised that well-designed places should contribute to local distinctiveness and Guidance Point I3 of the NDG highlights that design decisions at all levels and scape should help to create a memorable sense of place.
- 6.32 Paragraph 137 of the NPPF states that applicants, where applicable, should provide sufficient information to demonstrate how their proposals will meet the design expectations set out in local and national policy.
- 6.33 The Local Planning Authority refused planning application 24/00284/OUT due to the scheme's significant harm to the character of the surrounding area and the historic environment. It is noted that the Appellant has sought to solely rely on their originally submitted Heritage Impact Assessment to justify their proposal within this appeal, which was reviewed by the Local Planning Authority during the processing of planning application 24/00284/OUT.
- 6.34 Therefore, in spite of the requirements of Paragraph 137 of the NPPF, the Appellant has failed to provide any further information to demonstrate how their proposal meets design expectations as set out in local and national policy and has not provided any response to the Council's assessment of their development within the Delegated Report for the refused application.
- 6.35 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses.

- 6.36 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 6.37 These statutory duties to preserve and enhance the historic environment are detailed at Paragraphs 8.18 and 8.19 of the Delegated Report. Notably, the Appellant's Statement and their Heritage Impact Assessment (HIA) fail to refer to the statutory duties of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.38 Paragraphs 5.16 and 5.25 of the Appellant's Statement assert that:
- "Conservation is the management of change – not the fossilisation of the existing situation."*
- 6.39 This specious statement oversimplifies the requirements of conservation and attempts to diminish the importance of the statutory duties of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the requirements of National Planning Policy.
- 6.40 Paragraph 202 of the NPPF confirms that heritage assets are:
- "An irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations."*
- 6.41 In determining applications, Paragraph 212 of the NPPF requires that great weight be given to the conservation of designated assets and the more important the asset, the greater the weight should be. It is noted that the Appellant's Statement does not refer to this requirement of National Policy.
- 6.42 Given the above, there is a clear intention to preserve and enhance the historic environment within National Planning Policy.
- 6.43 This is supported by Policies DM11 and DM12 of the SADMP, which seek to protect and enhance the historic environment and heritage assets. Policy DM11 of the SADMP requires all developments proposals which have a potential to affect a heritage asset or its setting to demonstrate:
- (a) An understanding of the significance of the heritage asset and its setting; and
  - (b) The impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
  - (c) How the benefits of the proposal will outweigh any harm caused; and
  - (d) Any impacts on archaeology in line with Policy DM13 of the SADMP.

- 6.44 Policy DM12 of the SADMP confirms that all developments affecting heritage assets and their setting will only be permitted where it is demonstrated that the proposals are compatible with their significance and their setting. Assets identified on the Locally Important Heritage Asset List should be retained and enhanced wherever possible.
- 6.45 Policy 13 of the adopted Core Strategy states that the Council will require new development to respect the character and appearance of the relevant Conservation Area by incorporating locally distinctive features of the Conservation Area into the development.
- 6.46 Paragraph 5.18 of the Appellant's Statement suggests that the Local Planning Authority, *"Overstates the contribution of the wider rural setting and context to the significance of the heritage assets."* These accusations are supported in the same paragraph with the justification that, *"Listed Buildings are primarily of significance in their own right, rather than as a result of what is around them."*
- 6.47 This suggestion is another example of the Appellant's inaccurate simplification of conservation matters and is in direct conflict with Paragraph 2.5 of their HIA, which confirms that, *"The setting of a heritage asset can contribute to its significance."*
- 6.48 Significance (for heritage policy) is defined by the NPPF as:
- "The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting."*
- 6.49 This is supported by Paragraph 42 of the Appeal Decision APP/K2420/W/23/3317090 for the dismissal of development at the Land north of Shenton Lane, Market Bosworth (c.f. Appendix A), which confirms that:
- "Loss to significance can be caused from development within the assets setting."*
- 6.50 Ultimately, Paragraph 49 of this Appeal Decision gave, *"Substantial weight,"* to the conflict with Policies DM11 and DM12 of the SADMP due to the proposal's harm to the setting of the Market Bosworth Conservation Area.
- 6.51 This clearly confirms that the significance of heritage assets can derive from its setting and therefore be negatively affected by development within its setting.
- 6.52 This is reinforced by Paragraph 213 of the NPPF, which highlights that:
- "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."*

- 6.53 It is noted that neither the Appellant's Statement, nor their HIA refer to the definition of 'significance', nor the requirements of Paragraph 213 of the NPPF.
- 6.54 Given the above, the Appellant has significantly downplayed and trivialised the importance of the appeal site within the Orton on the Hill Conservation Area, and its contribution to the setting, and thus significance, of the Grade I Listed Church of St. Edith.
- 6.55 This can also be seen by the fact that Paragraph 3.2 of the HIA only bases its assessment of the appeal site on its connection to the former Vicarage.
- 6.56 For the avoidance of doubt, the Local Planning Authority have not at any stage of this appeal process relied on the appeal site's connection with the former Vicarage in its determination of the appeal proposal, nor was the former Vicarage highlighted within the reason for refusal of planning application 24/00284/OUT.
- 6.57 The appeal site is located in The Green and Pipe Lane Character Area of the Conservation Area. This Character Area is characterised by a relatively unplanned organic pattern of buildings, which are separated from each other by distance, green spaces, and continuous hedges. The Orton on the Hill Conservation Area Appraisal (OTHCAA) confirms that, *"It is important to the character of the Conservation Area that the large green spaces between these groups of buildings are retained."*
- 6.58 Notably, the appeal site is a large green space between groups of buildings and therefore the site positively contributes to the character and thus significance of this Character Area within the Conservation Area. The eastern and southern boundaries of the site are also within the important views to be protected that are identified within the OTHCAA, which reinforce the site's positive contribution to the character and appearance of the surrounding area.
- 6.59 Ultimately, the spatial and visual importance of the appeal site is clear because it is designated as a key space within the Conservation Area. The Orton on the Hill Conservation Area Management Plan (OHCAMP) states that:
- "The large paddock that fronts The Green is important in visual terms. The vista along The Green looking towards the Parish Church emphasises the village's rural character, [which is] reinforced by its grass verges and continuous hedgerows."*
- 6.60 This appraisal is supported by the Council's Conservation Officer who confirmed that:
- "The site makes a positive contribution to the character and appearance and thus significance of the Conservation Area, and the site plays an essential role in preserving the verdant, open and rural character of the village."*

- 6.61 It is noted that the Appellant, nor their submitted HIA, comment on the positive contributions of the character of the appeal site on the Conservation Area within their assessment of the effect of the appeal proposal upon the character and appearance, and thus significance of the Conservation Area, nor the setting and thus significance of the Grade I Listed Church.
- 6.62 Paragraph 3.4 of the HIA seeks to justify the loss of this key open space by suggesting that the vast majority of the key spaces within the Conservation Area are, *“Made up of private garden land associated with domestic dwellings.”*
- 6.63 The appeal site is not within a residential use, nor is it associated with residential garden space. This heightens the importance of the key space and its positive contribution to the character and significance of the Orton on the Hill Conservation Area.
- 6.64 Instead, the HIA refers to the appeal site on five separate occasions as, *“Waste,”* land. Given the importance of the site to the character of the Conservation Area, this is an unacceptable description of the appeal site. The HIA provides no suitable justification for this description of the site, and this is considered to demonstrate that the Appellant and the HIA are seeking to significantly downplay the importance of the appeal site and the positive contribution that it makes to the significance of the Orton on the Hill Conservation Area.
- 6.65 The OHCAA confirms that in the Main Street Character of the Conservation Area:
- “Spaces between farms, particularly along Main Street have been infilled with new dwellings to the detriment of the traditional character of the settlement. Main Street has been particularly badly affected because of the modern unsympathetic nature of this development.”*
- 6.66 Unlike The Green and Pipe Line Character Area, the OHCAA does not characterise the Main Street Character Area as featuring green spaces and continuous hedges. Therefore, given the extent of the detrimental impact of infill development within the Main Street Character Area, it is clear that such development in an important key spaces, such as the appeal site, in The Green and Pipe Lane Character Area would have a significantly higher level of permanent and damaging impacts upon the character and appearance, and thus significance, of the Conservation Area than in the Main Street Character Area. .
- 6.67 The importance of the identified key open spaces within Conservation Areas can be seen within the recent dismissal of the refused planning application 23/01173/FUL at 22 Rookery Lane, Groby (APP/K2420/W/24/3349885) (c.f. Appendix B). Application 23/01173/FUL was for the erection of a two-bedroom dwelling within a green space identified within the Groby Conservation Area Appraisal.
- 6.68 Paragraph 10 of this Appeal Decision confirms that the Inspector found the development to result in less than substantial harm in terms of the NPPF and ultimately:

*“The benefit of a single new dwelling, and its associated economic benefits, in this location, of bespoke design, would not, however, outweigh the great weight that should be given to the conservation of designated heritage assets.”*

- 6.69 Given the above, the provision of a dwelling within the current appeal site would result in the permanent domestication and urbanisation of an important, verdant, and largely rural, key open space within the Conservation Area. Such a proposal is spatially inconsistent with the settlement and introduces built form into a key space within the Conservation Area. As a result, irrespective of any design concept, scale or appearance of the dwelling, any development within the appeal site would result in a significant adverse impact upon the character and appearance, and thus significance, of the Orton on the Hill Conservation Area. This significantly adverse impact is heightened due to the topography of the site and the elevated position of the development in comparison to levels of The Green and Pipe Lane to the southeast.
- 6.70 As detailed at Paragraph 8.29 of the Delegated Report, this significantly harmful impact would have negative implications for the integrity of the key views around the appeal site within the Conservation Area, which would also have a significant detrimental impact on an observer's ability to appreciate the character of the area and the significance of the Grade I Listed Church of St Edith.
- 6.71 Given that the development of this site for a single dwelling would result in permanent domestication and urbanisation of this verdant, undeveloped, and identified key space, the appeal proposal would result in significant harm to the character of the area and to the historic environment. As a result, the scheme is not well designed and fails to reflect local design policies and government guidance on design as a matter of principle. In accordance with Key Policy Paragraph 139 of the NPPF, it is recommended that the appeal proposal is dismissed.
- 6.72 In spite of the above, Paragraph 5.17 of the Appellant's Statement suggests that the proposal would only have a, *“Slight,”* impact on the character of the area. Notably, the final conclusions of the Appellant's Statement on the impact of the development on the historic environmental refer to the Shottery Conservation Area, which raises, at a minimum, the possibility that the Appellant's Statement is based on an assessment of a scheme in Stratford-upon-Avon rather than the effect of the appeal proposal on the Orton on the Hill Conservation Area.
- 6.73 One of the supporting reasons for the Appellant's conclusion is that, *“The landmark status of the church spire will be unchanged.”*
- 6.74 The Local Planning Authority question the Appellant's reference to the impact on the landmark status of Listed Church rather than the development's impact on it its character, appearance, setting, and significance within their assessment of the appeal proposal. The 'status' of the Listed Church as a landmark within the surrounding area is not the policy test, and this justification fails to acknowledge that harm can be caused to a heritage asset and its setting without changing its status as a heritage asset, or a landmark in the wider area.

- 6.75 The introduction of built form within this site would detrimentally interfere with the important view looking northwest along The Green towards the Listed Church, which is the only built form currently within this view. This would have a detracting and adverse impact upon an observer's visual experience and appreciation of the significance of the Listed Church, which would in turn negatively impact the 'status' of the heritage asset as a landmark. In light of the above, the appeal proposal would detrimentally affect the setting of the designated heritage asset and therefore have a significantly harmful impact on the appreciation, and thus character and significance of, the Grade I Listed Church.
- 6.76 Paragraph 4.5 of the HIA confirms that the assessment of the impact of the development on the historic environment is also dependent on the *"Future hedge management on the two roadside boundaries."* Paragraph 3.10 of the HIA then confirms that, *"It is likely that winter views are more extensive than at the time of the site visit on 04 September."*
- 6.77 Therefore, the Appellant has relied on existing vegetation to justify their development and their HIA has acknowledged that the impact of the development would be extensive in winter months. The Local Planning Authority do not consider such justification to suitably defend the HIA's conclusion that the development shall only have a slight impact upon the character and significance of the Conservation Area and the Grade I Listed Church.
- 6.78 Importantly, vegetation cannot be relied upon to provide permanent or substantial buffers to views because they can be removed without planning permission, they are susceptible to disease, and they are ever evolving and reliant on regular maintenance to retain a consistent form. It is also not considered that new planting could appropriately screen a two-storey structure.
- 6.79 Whilst it is appreciated that the hedges bounding the site are identified as Important Hedges within the OHCAA, the size of these hedges was significantly lower at the time of the publication of the OHCAA, which can be seen through historic street images of the appeal site from 2010 in Figure 1:



**[Figure 1: Historic Image of the Appeal Site from Pipe Lane in May 2010.]**

- 6.80 Therefore, the important hedges could be significantly reduced in size and still be considered Important Hedges for the purposes of the OHCAA.
- 6.81 Furthermore, relying on existing landscaping to reduce views of the development would in turn reduce the key views of the Listed Church from Pipe Lane and The Green, and subsequently their important contribution to the appreciation of the character, appearance, and thus significance, of the Listed Church.
- 6.82 Crucially, Paragraph 5.17 of the Appellant's Statement confirmed that they have intentionally not included the hedgerows along the boundaries of the site within the red line boundaries of the appeal proposal, and they have failed to identify that these important hedgerows are within the ownership of the Appellant in the submitted plans. Therefore, the Appellant has failed to demonstrate that they have a material influence on the management of the important hedgerows and subsequently the views into the site.
- 6.83 If the Appellant wished to rely on their assertion that landscaping can be relied upon to provide adequate screening to the proposal, detailed evidence and justification should have been provided to support such a conclusion in accordance with Paragraph 137 of the NPPF.

#### *Summary*

- 6.84 To summarise, there is a clear intention to preserve and enhance the historic environment within the heart of the definition of sustainable development and within wider National Planning Policy and Legislation, and the Development Plan. The NPPF confirms that the significance of heritage assets derives not only from a heritage asset's physical presence, but also from its setting.
- 6.85 The appeal site is a designated key space within the Conservation Area and has been confirmed by the Orton on the Hill Conservation Area Appraisal and the Council's Conservation Officer to positively contribute to the character and appearance, and thus significance, of the Conservation Area.
- 6.86 In spite of this, the Appellant's inaccurate assessment of the appeal site as, "Waste," land, and the subsequent impact of the appeal proposal disregards the requirements of National Planning Policy and Legislation and significantly downplays and trivialises the importance of the appeal site within the Orton on the Hill Conservation Area, and its contribution to the setting, and thus significance, of the Grade I Listed Church of St. Edith.
- 6.87 As a result, the Appellant's assessment of the impact of the development is misguided and solely relies on vegetation to reduce views of the development. However, the appeal site is in an elevated position in comparison to the identified important views in the Conservation Area to the southeast of the site, and the Heritage Impact Assessment confirms that extensive views of the site are likely to be possible during winter months.

- 6.88 Importantly, vegetation cannot be relied upon to provide permanent or substantial buffers to views. Notwithstanding this, the Appellant has failed to demonstrate that the hedgerows that they have relied on to diminish views into the site are within the red line boundaries of the site or within their ownership.
- 6.89 The appeal proposal would result in significant and irreparable adverse impacts to the character and appearance, and thus significance of the Orton on the Hill Conservation Area and the surrounding area due to the spatial and visual erosion of the verdant and open nature of a designated key space within the Conservation Area. This permanent harm would be furthered by its effect on the integrity of a key view within the Conservation Area, which would diminish the view's important contribution to the appreciation of the character and appearance, and thus significance, of the Grade I Listed Church of St, Edith.
- 6.90 This level of harm to both heritage assets is considered to be less than substantial in terms of the NPPF. Given the quantum of detrimental effects, the adverse impact upon the Conservation Area is between the middle and higher end of this spectrum of harm. As the proposal would result in an adverse change to the setting of the Church rather than a direct impact, the adverse impact upon the Church is at the lower end of less than substantial harm.
- 6.91 Nevertheless, as stated at Paragraph 42 of the Appeal Decision at the Land north of Shenton Lane, Market Bosworth (c.f. Appendix A), great weight should be given to the conservation of the Conservation Area, *"Irrespective of whether any potential harm amounts of substantial harm, total loss or less than substantial harm."*
- 6.92 Given the above, the application of policies within the NPPF that protect areas of particular importance provide a strong reason for refusing the proposed development. Therefore, the 'tilted' balance required by Paragraph 11(d)(ii) of the NPPF is disengaged and the appeal proposal should be determined in accordance with the 'normal' balance as set out at Paragraph 2 of the NPPF. This is in accordance with Paragraph 80 of the Appeal Decision at the Land north of Shenton Lane, Market Bosworth (c.f. Appendix A).
- 6.93 The development of this site for a single dwelling would result in permanent domestication and urbanisation of this verdant, undeveloped, and identified key space, and therefore the appeal proposal would result in significant harm to the character of the area and to the historic environment. As a result, the scheme is not well designed and fails to reflect local design policies and government guidance on design as a matter of principle. In accordance with Key Policy Paragraph 139 of the NPPF, it is recommended that the appeal proposal is dismissed.

## 7. CONCLUSION

- 7.1 To summarise, Section 38 (6) of the Planning and Compensation Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 indicates that planning permission should be granted for development proposals that accord with the Development Plan unless material considerations indicate otherwise.

- 7.2 It is acknowledged that the Development Plan was adopted prior to the publication of the latest NPPF. However, as a result of the strong consistency with the wording of the NPPF, due weight should be given to the policies within the Development Plan, such as Policies DM10, DM11, and DM12 of the SADMP, and Policy 13 of the Core Strategy in accordance with Paragraph 232 of the NPPF.
- 7.3 Since the determination of the refused planning application 24/00284/OUT, amendments have been made to the National Planning Policy Framework and the Local Planning Authority's position on its supplies of land for housing and self-build and custom build housing have changed. As a result, moderate weight should be given to the proposal's small contribution to Council's supply of custom and house build developments, and limited weight should be given to the benefits of supply an additional dwelling to the Council's supply of land for housing.
- 7.4 The Appellant has failed to have appropriate regard to the statutory requirements of National Legislation for preserving and enhancing heritage assets and has failed to consider the great weight given to the conservation of designated heritage assets within National Planning Policy. As a result, the Appellant's assessment of the impact of the development proposal is misguided and significantly downplays and trivialises the importance of the appeal site within the Orton on the Hill Conservation Area, and its contribution to the setting, and thus significance, of the Grade I Listed Church of St. Edith.
- 7.5 The appeal proposal would result in significant adverse impacts to the character and appearance, and thus significance of the Orton on the Hill Conservation Area, and the integrity of a key view within the Conservation Area, which diminish the view's important contribution to the appreciation of the character and appearance, and thus significance, of the Grade I Listed Church of St. Edith. This level of harm to both heritage assets is considered to be less than substantial in terms of the NPPF.
- 7.6 Given the above, the application of policies within the NPPF that protect areas of particular importance provide a strong reason for refusing the proposed development. Therefore, the 'tilted' balance required by Paragraph 11(d)(ii) of the NPPF is disengaged and the appeal proposal should be determined in accordance with the 'normal' balance as set out at Paragraph 2 of the NPPF.
- 7.7 In accordance with Paragraph 212 of the NPPF, irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm, great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be.
- 7.8 Paragraph 215 of the NPPF and Policies DM11 and DM12 of the SADMP require this less than substantial harm to the significance of the designated heritage assets to be weighed against the public benefits of the proposal. As confirmed at Paragraph 8.55 of the Delegated Report, the development cannot demonstrate any heritage benefits. The Appellant has not sought to refute this statement.

- 7.9 Although the weighting of the potential benefits of the scheme have altered, as detailed at Paragraphs 6.23 and 6.24 of this Appeal Statement, the permanent and adverse impacts to the character and appearance, and thus significance, of the site, the surrounding area, the Orton on the Hill Conservation Area and the setting of the Grade I Listed Church of St. Edith significantly and demonstrably outweigh the non-heritage benefits of the proposal in these site-specific circumstances.
- 7.10 Therefore, the development proposal is contrary to, and in conflict with, Policies DM10, DM11, and DM12 of the SADMP, Policy 13 of the Core Strategy, Chapters 2, 12, and 16 of the NPPF, including Key Policy Paragraphs 129, 135, and 139, the National Design Guide, and the statutory duty of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 7.11 In light of the above, the application of policies within the NPPF that protect areas and assets or particular important provide a strong reason for refusing the proposed development. The proposal is contrary to, and in conflict with three of the four applicable Key Policy Paragraphs, and the considerable adverse impacts of the scheme significantly and demonstrably outweigh the potential benefits of the proposal in these site-specific circumstances. In accordance with Paragraphs 2 and 139 of the NPPF, it is therefore recommended that the appeal proposal is dismissed.
- 7.12 There are no other material considerations to indicate that the proposal should be determined other than in accordance with the adopted Development Plan in this case. With regard to the information contained in this statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed. However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the following conditions suggested below.

## 8. CONDITIONS

1. An application for approval of reserved matters shall be made within two years of the date of this permission and the development shall be begun not later than 18 months from the date of approval of the last of the reserved matters to be approved.

**Reason:** To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence until details of the layout, scale, appearance, landscaping, and access other than vehicular access (hereafter called the reserved matters) have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved reserved matters.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

- Site Location and Block Plan 0201 (submitted: 25.03.2025)
- Site Plan and Landscaping 1800-0502-03 (submitted: 25.03.2024)
- Topographical Survey (submitted: 25.03.2025)
- Tree Constraints Plan November 2023 (submitted: 24.03.2025)

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1, DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No development approved by this planning permission shall take place until a Written Scheme of Investigation (WSI) has been submitted in writing to and approved in writing by the Local Planning Authority. For the land that is included within the WSI, no development approved by this planning permission shall take place shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination, and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

**Reason:** To ensure satisfactory archaeological investigation, recording, dissemination, and archiving in accordance with Policy DM13 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Chapter 16 of the National Planning Policy Framework (2024).

5. No development approved by this planning permission shall take place until a Biodiversity Enhancement Scheme has been submitted to, and approved in writing by, the Local Planning Authority. Enhancements should include, but is not limited to, a native planting scheme, at least one woodcrete/integrated bat box, one woodcrete/integrated bird box, and their make/model and locations. Any enhancement measures need to be shown on all relevant submitted

plans. All works are to proceed strictly in accordance with the approved scheme.

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. No development approved by this planning permission shall take place until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. All works are to proceed strictly in accordance with the approved scheme.

**Reason:** In accordance with the recommendations of Section 5 of the Preliminary Ecological Appraisal and Biodiversity Feasibility Study (submitted: 25.03.2024) in order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. No part of the development hereby permitted shall be first occupied until such time as the access arrangements shown on Indicative Proposed Site Plan 0502 (submitted: 25.03.2024) have been implemented in full. The access arrangements provided shall thereafter be permanently maintained with nothing within the associated visibility splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

**Reason:** To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety and in accordance with the National Planning Policy Framework (2024).

8. No part of the development hereby permitted shall be first occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

**Reason:** To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2024).

9. No part of the development hereby permitted shall be first occupied until a scheme of hard and soft landscaping works, including boundary treatments, for the site including an implementation scheme, has been submitted in writing to, and approved in writing by, the Local Planning Authority. The

scheme shall be carried out in full accordance with the approved landscaping scheme in the first planting and seeding seasons following the occupation of the development or the completion of the development, whichever is sooner. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period, any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

**Reason:** To ensure that the development has a satisfactory external appearance in accordance with Policies DM10, DM11, and M12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Any forthcoming Reserved Matters application shall include details of how the matters for which approval is being sought for the proposed development have taken into consideration and respond to the guidance within the National Design Guide (2019).

**Reason:** To support the creation of high quality and sustainable buildings and places and to ensure a satisfactory form of development in accordance with Policies DM1, DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Chapters 12 and 16 of the National Planning Policy Framework (2024).

11. Any forthcoming Reserved Matters application shall include an Arboricultural Impact Assessment.

**Reason:** In accordance with the recommendations in Section 5 of the Arboricultural Assessment (submitted: 25.03.2024) and to ensure that the development has a satisfactory external appearance in accordance with Policies DM10, DM11, and M12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. Any forthcoming Reserved Matters application shall include details of the types and colours of materials to be used on the external elevations of the structure hereby permitted. The scheme shall be implemented in accordance with those approved materials.

**Reason:** To ensure that the development has a satisfactory external appearance in accordance with Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

13. Any forthcoming Reserved Matters application shall include details for the provision of waste and recycling storage and collection areas across the site. The scheme shall address accessibility to storage facilities and confirm adequate space is provided at the highway boundary to store and service

wheeled containers. The development shall be implemented in accordance with the approved scheme prior to first occupation.

**Reason:** To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

14. Notwithstanding the provisions of Classes A, AA, B, C, D, and E of Part 1 of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

**Reason:** To protect the character of the surrounding area and the historic environment in accordance with Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

## **9. APPENDICIES**

9.1 (See separate documents)

9.2 **Appendix A** (Appeal Decision: Land north of Shenton Lane, Market Bosworth)  
(APP/K2420/W/23/3317090)

9.3 **Appendix B** (Appeal Decision: 22 Rookery Lane, Groby, Leicestershire)  
(APP/K2420/W/24/3349885)