

HINCKLEY AND BOSWORTH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

**STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING
AUTHORITY**

PLANNING APPEAL BY MR & MRS MORLEY

**AGAINST THE REFUSAL OF OUTLINE PLANNING PERMISSION FOR THE
ERECTION OF A SINGLE SELF-BUILD DWELLING (ALL MATTERS RESERVED
EXCEPT FOR ACCESS)**

AT:

LAND SOUTH WEST OF SIBSON ROAD, SHEEPY PARVA, LEICESTERSHIRE

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:
24/00872/OUT**

**THE PLANNING INSPECTORATE REFERENCE:
APP/K2420/W/25/3361154**

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1.0 SECTION 1: INTRODUCTION

- 1.1 This statement outlines Hinckley and Bosworth Borough Council's statement of case in relation to the appeal against the refusal of outline planning permission for the erection of a single self-build dwelling (all matters reserved except for access).
- 1.2 The application was refused by Hinckley and Bosworth Borough Council under delegated authority on 11th November 2024. This statement is in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission.
- 1.3 Please see Appendix 1 (the Officer Report) for the site description, application description, site history, relevant policies and the Council's case, all of which have already been set out in the Officer Report and shall not be repeated here for brevity.
- 1.4 Since the application was refused on 11th November 2024, the NPPF has been revised, and the Council's Planning Policy Team are reviewing the implications of this. A revised position will be published by 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 per annum from the Dec 2024 NPPF (649dpa + 5% buffer as per Para 78a), that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published.

2.0 SECTION 2: COMMENTS ON THE APPELLANT'S GROUNDS OF APPEAL

- 2.1 In preparing this statement the Council have reviewed the Appellant's Grounds of Appeal. The following section comments specifically on these items, expanding upon the Council's full case contained in Appendix 1.
- 2.2 In paragraph 6 of the Appellant's statement, it is asserted that the LPA agrees to a number of matters pertaining to the settlement boundary of Sheepy Magna, the LPA does not agree with the statement made. There is reference to the Sheepy Parish Neighbourhood Plan (SPNP) and the emerging Local Plan, suggesting that the existing settlement boundaries of Sheepy Magna and Sheepy Parva will need to be extended to incorporate additional residential development. The LPA can confirm that Sheepy Magna is defined as a Rural Village with a settlement boundary enclosing most of the built form of the village. However, Sheepy Parva does not have a defined settlement boundary, the latest Settlement Hierarchy Review (2021) (Appendix 7) retained the settlement's status as a Rural Hamlet. Rural Hamlets are defined as small rural settlements with limited to no services which are reliant on surrounding larger settlements to meet the day-to-day needs of residents. Sheepy Parva contains a restaurant with limited to no bus service as set out in the officer report (Appendix 1). The Sheepy Neighbourhood Plan (made 2022) included a review of settlement boundaries and noting the limited services within Sheepy Parva no settlement boundary was introduced. The settlement boundary could theoretically be extended in the future, if this was supported by the relevant evidence. However, it cannot be assumed this would incorporate the appeal site and given the eastern edge of the settlement boundary of Sheepy Magna lies approximately 470m west of the site it is considered unlikely to be extended to the extent where the appeal site is incorporated, as this would merge the two settlements.

- 2.3 Paragraph 7 of the Appellant's statement misquotes the delegated report and fails to address that part of the walking route to services is along a section of road without a footpath and street lighting.
- 2.4 Paragraph 9 of the Appellant's statement refers to the Julian Wood v SSCLG & Gravesham Borough Council 2015 caselaw. The case refers to paragraph 89 of the NPPF relating to "limited infilling in villages" within the Green Belt (now paragraph 154). Given the site is not within the Green Belt, that no Green Belt or related policies exist within Hinckley and Bosworth Borough and that the case does not hinge on the interpretation of infill development the relevance of this judgement to this appeal is very limited. It is true that the judgement found that the inspector misdirected themselves on how stringently they applied the settlement boundary as opposed to the assessment of built form on the ground when determining whether the development could be construed as infill development against paragraph 89. However, the appeal in question was dismissed when redetermined, with a further appeal dismissed in 2020. In both cases it was found that the plot did not demonstrate infill development in the context of paragraph 89/154 (Appendix 6). The cases highlight that each case and site must be determined on its own merits. For this case the delegated report at paragraphs 8.45 - 8.57 carries out an assessment of the site and surrounding built form. Despite some built form in the area, it is considered that the site and surrounding area has an open and rural character, that the development would fundamentally alter the rural character of the approach to Sheepy Parva and lead to ribbon development along Sibson Road. The assessment clearly relates to the built form of development in the area and not just the sites' location outside of any settlement boundary.
- 2.5 Paragraph 10 of the Appellant's statement states that Policy DM4 of the SADMP is out of date as the purpose of the Policy is to only limit unsustainable development in "isolated and remote rural areas". The purpose of DM4 is to protect the intrinsic value, beauty and open character of the countryside, and the policy does not specify that this only relates to isolated and remote rural areas. Whilst the Council recognises that to the extent that Policy DM4 seeks to implement the CS through its approach to the countryside and settlement boundaries it is out of date. In terms though of the weight that should be afforded to Policy DM4 the emphasis of the policy is to promote sustainable development proposals within the countryside and protect it from unsustainable proposals. In that regard Policy DM4 is consistent with and accords with the NPPF, particularly paragraph 187b which provides that planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. In this case, the relevant tests are (i) and (iii), whether the proposal would have a significant adverse effect on the open landscape character of the countryside and whether the proposal would create or exacerbate ribbon development.
- 2.6 The provision of residential development on this application site would fundamentally and detrimentally alter the character of the application site and approach to Sheepy Parva through the removal of some hedgerow, the creation of a surfaced access and associated hardstanding, and the erection of a dwelling of which the scale and appearance is not yet known. The Neighbourhood Plan contextual analysis for Sheepy Parva notes that on the approach from Sibson Road the main built-up area of the village is marked by South Riding and Manor Farm- the latter being more typical of the area's architecture and character. The development would extend development beyond this into an area which quickly transitions to an open countryside character to the southwest of Sibson Road. The development would also lead to ribbon development along this side of Sibson Road which DM4 seeks to avoid.

- 2.7 Paragraph 11 of the Appellant's statement suggests that the appeal site is an infill site and refers to the Council's Conservation Officer's consultation comments which assess potential harm to the significance of any designated heritage assets. Whilst the site does neighbour dwellings to the northeast, northwest and southeast, the site lies outside the settlement boundary within the open countryside. The pattern of development is made up of sporadic larger plots and does not represent a typical infill situation. Furthermore, the comments from the Conservation Officer only refer to the impact on designated heritage assets, not impact on the character of the countryside and application site.
- 2.8 Paragraph 13 of the Appellant's statement states that the first sentence of the reason for refusal is "generic" and "non-site specific". The wording of the reason for refusal is wholly accurate in concluding that the proposal represents residential development outside of the existing built form and settlement boundary, and within the open countryside. The LPA has concluded that the proposal would have a permanent detrimental urbanising effect on the character of the countryside, and that the site location is not sustainable for new housing. These statements are all specific to the site and are consistent with other reasons for refusal in the vicinity (Appendix 4).
- 2.9 Paragraph 15 of the Appellant's statement has been misinterpreted. The Conservation Officer's comments refer to the fact that the application was in outline with access only for consideration. Therefore, there is potential for a dwelling in this location to result in greater than negligible changes within the setting of the two listed buildings. It is not a suggestion that the Conservation Officer is open to consider a proposal in the direct vicinity and in relation to the existing surrounding buildings. It is simply a comment that a further assessment would need to be made at reserved matters stage, if approved.
- 2.10 Paragraph 17 of the Appellant's statement refers to the delegated report and the inference that a proposed dwelling would assimilate within the existing street scene and neighbouring properties. The quoted paragraph 8.63 from the Officer report refers only to neighbouring amenity impacts and not design and impact on the character of the area.
- 2.11 In regard to Custom and Self-Build Housing, Hinckley and Bosworth Borough Council previously had a shortfall of self-build and custom housebuilding at the beginning of the current base period (starting 31st October 2024), requiring 5 suitable cumulative permissions to be granted by 30 October 2025 (Appendix 2).
- 2.12 The latest base period for HBBCs Custom and Self Build Register ended on October 30th, 2024, just before the decision notice was issued for the refusal. Prior to this base period the Council were meeting demand, however 19 plots needed to be permitted by 30th October 2024 to match demand from the Register. 14 CSB permissions have been confirmed within that period. As such Hinckley and Bosworth Borough Council had a shortfall of 5 or fewer self-build and custom housebuilding plots. The result is a cumulative need for 20 or fewer permissions to be granted by the end of the current base period (31 Oct 2024 - 30th Oct 2025). The reference to 5 or fewer as opposed to a definitive number is owing to ongoing monitoring at present due to the timing of the decision and the end of base period 9.
- 2.13 Upon reviewing the latest permissions during the current base period, to date, there have been permissions (some pending Legal Agreements) for 7 self-build dwellings across three separate permissions – 23/01229/OUT (5 CSB dwellings), 24/00286/OUT (1 CSB dwelling – pending Legal Agreement), and 24/1155/FUL (1 CSB dwelling – pending Legal Agreement). The Council therefore confirms that whilst formal

monitoring is yet to take place, the current shortfall will have been met and, is likely to have been surpassed before the end of the current base period.

- 2.14 The Council's stance is therefore that, subject to the completion of formal CSB monitoring and owing to the aforementioned permissions within the current base period, the proposal would make a limited contribution against what is likely to be a minor surplus in CSB supply. Therefore, moderate weight at best should be attributed to the benefits of contributing one self-build dwelling to the supply of self-build and custom build dwellings at this moment in time.

3.0 SECTION 3: PLANNING BALANCE & CONCLUSION

- 3.1 The Council's housing land supply position has changed since the decision was issued, and it is acknowledged that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published. Notwithstanding this, the Officers recognised as part of the original refusal that the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required and do not contain any provisions regarding CSB. It is necessary therefore to continue to consider that the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 3.2 In accordance with Paragraph 14 of the NPPF, the LPA acknowledges that the Neighbourhood Plan was made less than five years from the date of this decision, and it contains policies and allocations to meet its identified housing requirement. Therefore, in his case, the adverse impact of allowing residential development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.
- 3.3 Policy DM4 of the SADMP is considered to be broadly consistent with the overall aims of the NPPF in seeking to protect the intrinsic character of the countryside and steering development to sustainable locations, and therefore significant weight should be attached to the fact that the proposal is contrary to the Development Plan and undermines the plan led approach endorsed by the Framework.
- 3.4 The proposal also conflicts with Neighbourhood Plan policies S1 and S10 insofar as the proposal does not meet any of the specified criteria for development outside of the settlement boundary. In line with paragraph 14 this conflict is attributed significant weight.
- 3.5 The development is considered to result in an adverse and irreversible harmful impact on the intrinsic value, beauty, open character, and landscape character of the open countryside. This is contrary to the Good Design Guide, Policies S1 and S10 of the Neighbourhood Plan, Policies DM4 and DM10 of the SADMP, and Sections 12 and 15 of the NPPF. Therefore, this harm is also considered to attract significant weight in the planning balance.
- 3.6 Furthermore, Policy DM17 supports development proposals that are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Sheepy Parva is a small settlement with limited services, some services could be utilised within Sheepy Magna and within a reasonable walking distance however residents would still depend on the use of private cars to meet daily needs.

- 3.7 Despite this, it is acknowledged that there are potential social benefits from the scheme such as providing a dwelling for a range of occupants including families, and economic benefits associated with the construction of the dwelling and the future occupant's opportunity to act as new customers and employees for local businesses and services. Notwithstanding this, as the application proposal is for the provision of a single dwelling, these social and economic benefits are afforded limited weight. Furthermore, although some weight must be given to the general benefits of self-build in this case, the harm in this case is considered to outweigh such benefits, as evidenced in comparable local appeal decisions (Appendix 5).
- 3.8 Importantly, no Legal Agreement has been submitted by the Appellant to secure the dwelling as self-build, ensuring that the plot is serviced for this use and that the dwelling is implemented as self-build in accordance with the definition of self-build and custom house build in Paragraph A1 of Section 1 of the Self-Build and Custom Housebuilding Act 2015. The LPA considers that a Legal Agreement is required to ensure that the weight attributed to the custom and self-build element of the proposal is attributable for the purposes of decision making, as demonstrated in recent appeal decision (Appendix 3). If the Inspector is minded to allow the appeal and disagrees with the requirement for a Legal Agreement a condition should be included to ensure that the proposal will be implemented as a self-build scheme, and that the development shall be carried out and occupied in accordance with the approved details.
- 3.9 It is acknowledged that the Council had a shortfall in the supply of custom and self-build developments of 5 or fewer dwellings from base period 9, with 20 or fewer permissions now required within Base Period 10 31st October 2024 to 30th October 2025. However, as discussed in paragraph 2.12, the supply of CSB housing has increased to the extent that the Council has met the current shortfall within this base period.
- 3.9 The Framework states that small and medium sized sites can make an important contribution to meeting housing requirements of an area and can be built out quickly. The proposal would deliver one new dwelling which would make a positive contribution to addressing the minor shortfall in self-build plots. As the scheme is only for one dwelling and the shortfall is not considered to be significant, nor is it a persistent shortfall with the LPA having just entered this, the LPA affords moderate positive weight to this aspect of the proposal.
- 3.9 In summary, it is considered that the proposed dwelling would be in an unsustainable location considering the Development Plan and its location away from the settlement boundary and day to day services. The adverse environmental and social impacts of this proposal and conflict with the Development Plan, in particular the Neighbourhood Plan, significantly and demonstrably outweigh its potential benefits. As a result, it is considered that the development conflicts with Policies S1, S8 and S10 of the Sheepy Neighbourhood Plan, Policies DM4, DM10 and DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), as well as Sections 2, 11, 12, and 15 of the National Planning Policy Framework (December 2024).

4.0 SECTION 4: SUGGESTED CONDITIONS

1. Application for the approval of reserved matters shall be made within 2 years from the date of this permission and the development shall begin no later than one year 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, and landscaping, (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, DM4, DM10, DM11, and DM12 of the adopted 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 Plan received 17.09.24

Site Access Design & Visibility Splays (DWG-01) received 17.09.24

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4 DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No development shall commence until details have been submitted to, and approved in writing by, the Local Planning Authority that provide evidence that the scheme hereby permitted will be implemented as a self-build dwelling in accordance with the definition of self-build and custom house build at Paragraph A1 of Section 1 of the Self-Build and Custom Housebuilding Act 2015. The development shall then be carried out and occupied in accordance with the approved details.

Reason: To ensure that the proposal is delivered as self-build and custom house building development, as stated by the Applicant, to meets the needs of people wishing to build their own homes accordance with Paragraph 71 of the National Planning Policy Framework (NPPF) (December 2024).

5. Prior to the submission of any subsequent reserved matters application, a field evaluation shall be submitted to and approved by the Local Planning Authority. The Field Evaluation shall be carried out by appropriate techniques including trial trenching (if identified necessary in the assessment) to identify and locate any archaeological remains of significance and propose suitable treatment to avoid or minimise damage by the development. Further design, civil engineering or archaeological work may then be necessary to achieve this.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving in accordance with Policies DM11, DM12 and DM13 of the Site Allocations and Development Management Policies Development Plan Document.

Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
3. The proposals show that the Applicant may need to remove a section of grassed highway verge in order to facilitate the access. Whilst this may be acceptable there may be statutory undertaker apparatus located within the verge/footway fronting the site; the Applicant will need to undertake surveys and potentially works to relocate these services. Any additional cost that arises as a result of this would be entirely at the Applicant's expense.
5. Provision for waste and recycling storage of containers and collection across the site will be required and adequate space provided at the adopted highway boundary to store and service wheeled containers.
6. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk