

Land North of Barlestone Road, Newbold Verdon

Statement of Case

**On behalf of David Wilson Homes East
Midlands**

Hinckley and Bosworth Borough Council Application Reference Number: 24/01061/OUT

May 2026

savills

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1. Introduction

1.1 Preamble

- 1.1.1 This Statement of Case has been prepared on behalf of David Wilson Homes East Midlands (the 'Appellant'), in respect of a planning appeal against the decision taken by Hinckley and Bosworth Borough Council ('HBBC') to refuse an outline planning application (all matters reserved except access) (the 'Application') (reference 24/01061/OUT) for the development of land north of Barlestone Road, Newbold Verdon ('the Site').
- 1.1.2 The planning appeal has been submitted under section 78 of the Town and Country Planning Act 1990.
- 1.1.3 This Statement of Case (referred to as 'this Statement') sets out the Appellant's grounds for the planning appeal, brought against the refusal of the Application by HBBC for a proposed development comprising up to 240 residential dwellings, a cemetery and health centre car park with associated accesses, landscaping, open space, drainage and biodiversity net gain provision on the Site. Only access is sought for approval within the Application and all other matters are reserved (the 'Proposed Development').
- 1.1.4 This Statement has been prepared with input from the Appellant's wider consultant team.
- 1.1.5 This Statement has been prepared following the guidance within Section 11 of the Planning Inspectorate Procedural Guide: Planning Appeals – England, June 2025 and pursuant to The Town and Country Planning (Inquiries Procedure) (England) Rules 2000 and The Town and Country Planning (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000.

1.2 Appeal Context

- 1.2.1 Savills, on behalf of the Appellant, submitted by email a Notification of Intention to Submit an Appeal to HBBC on 20th April 2026. A copy of this notification is contained at **Appendix 1**.
- 1.2.2 An Inquiry has been requested as the most appropriate method of dealing with the appeal. The reasons for requesting the Inquiry route are set out within Section 7 of this Statement. The Appellant reserves the right to submit further evidence in response to matters raised by HBBC, its advisors, statutory consultees or third parties in relation to matters not covered within this Statement.
- 1.2.3 A draft Statement of Common Ground ('SoCG') has also been prepared by the Appellant. The Appellant intends to discuss common ground with HBBC and any other relevant stakeholders and to identify those relevant matters that are agreed and those that remain in dispute for the planning appeal. This includes proposed planning conditions for consideration by the Planning Inspector. The Appellant will seek to agree a list of Core Documents with HBBC in advance of the Inquiry, through discussions on common ground.
- 1.2.4 The Appellant intends to agree a legal agreement and/or unilateral undertaking covering planning obligations under section 106 of the Town and Country Planning Act 1990. The Appellant intends to continue its dialogue with HBBC and other relevant stakeholders in the run up to the Inquiry about the contents of the draft section 106 Agreement submitted with this appeal.

1.3 Structure of this Statement

- 1.3.1 This Statement is broken down into the following sections:

1. Introduction (this section);
2. The Appeal Site and Surroundings;
3. Background to the Appeal Proposals;
4. The Appeal Proposals;
5. Development Plan Policy and Material Considerations;
6. The Appellant's Case;
7. Justification for a Public Inquiry;
8. Planning Conditions and Planning Obligations; and,
9. Planning Balance and Conclusion.

1.4 Appeal Core Documents

1.4.1 A Core Documents list will be agreed with HBBC in due course. The following documents and plans have been submitted with this appeal:

- This Statement and Appendices;
- Decision Notice (dated 7th November 2025);
- HBBC Committee Report and Update Note (4th November 2025);
- Appeal Form;
- Draft SoCG;
- Certificate B;

Original Outline Planning Application Submission, November 2024:

- Application Form and Certificates;
- Design and Access Statement October 2024 (P22-3085_GD_01D);
- Heritage/Archaeological Assessment October 2024 (version 1.4);
- Geophysical Survey December 2023 (issue No. 2);
- Contaminated Land Assessment October 2024 (24832-GEO-0401 Rev C);
- Flood Risk Assessment and Drainage Strategy October 2024 (24832-FLD-0101 Rev D);
- Transport Assessment (including access drawings) October 2024 (24832-TRAN-0803 Rev B);
- Travel Plan October 2024 (Rev B);
- Noise Impact Assessment October 2024 (Rev C);
- Air Quality Assessment October 2024 (Rev C);
- Lighting Impact Assessment October 2024 (Rev C);
- Landscape and Visual Impact Assessment October 2024 (V3);
- Ecological Assessment September 2024 (Rev G);
- Biodiversity Metric (reference: 11314 19.09.24
The_Statutory_Biodiversity_Metric_Calculation_Tool_-_Macro_disabled);
- Arboricultural Impact Assessment and Tree Survey October 2024 (Rev E);
- Utilities Assessment October 2024 (Rev C);
- Agricultural Land Classification Report (24th November 2023);
- Statement of Community Consultation and Engagement (November 2024);
- Minerals Assessment October 2024 (Rev C);

Additional Material Submitted During Determination:

- Amended Indicative Masterplan (March 2025) (drawing number P22-3085_DE_013_R_01);
- Amended Parameter Plan March 2025 (drawing number P22-3085_DE_013_K_03);
- Groundwater Assessment March 2025 24832-GEO-0403 Rev B;

- Revised Minerals Assessment March 2025 (Rev E);
- Amended Arboricultural Report March 2025 (Rev H);
- Amended BNG Metric March 2024 (reference: 11314 21.03.25 The_Statutory_Biodiversity_Metric_Calculation_Tool_-_Macro_disabled);
- LVIA Addendum Note March 2025 (V3);
- Amended Open Space Provision Plan March 2025 (drawing number P22-3085_EN_017B);
- Amended Landscape Strategy Plan March 2025 (drawing number P22-3086_EN_017F);
- Access Landscape Plan March 2025 (drawing number: P22-3085_EN_17 Access Inset Sht 1-2); and
- Cemetery Delivery Commitment Letter (23rd April 2025).

2. Appeal Site and Surroundings

2.1 Site Context and Location

- 2.1.1 The red line boundary for the Site covers an area of 13.9 hectares (34.34 acres), located within the administrative boundary of HBBC. The Site is located outside of, but immediately adjacent to, the settlement boundary of Newbold Verdon, which is defined as a 'Key Rural Centre' in the adopted Core Strategy¹. The red line boundary is shown below in Figure 1:

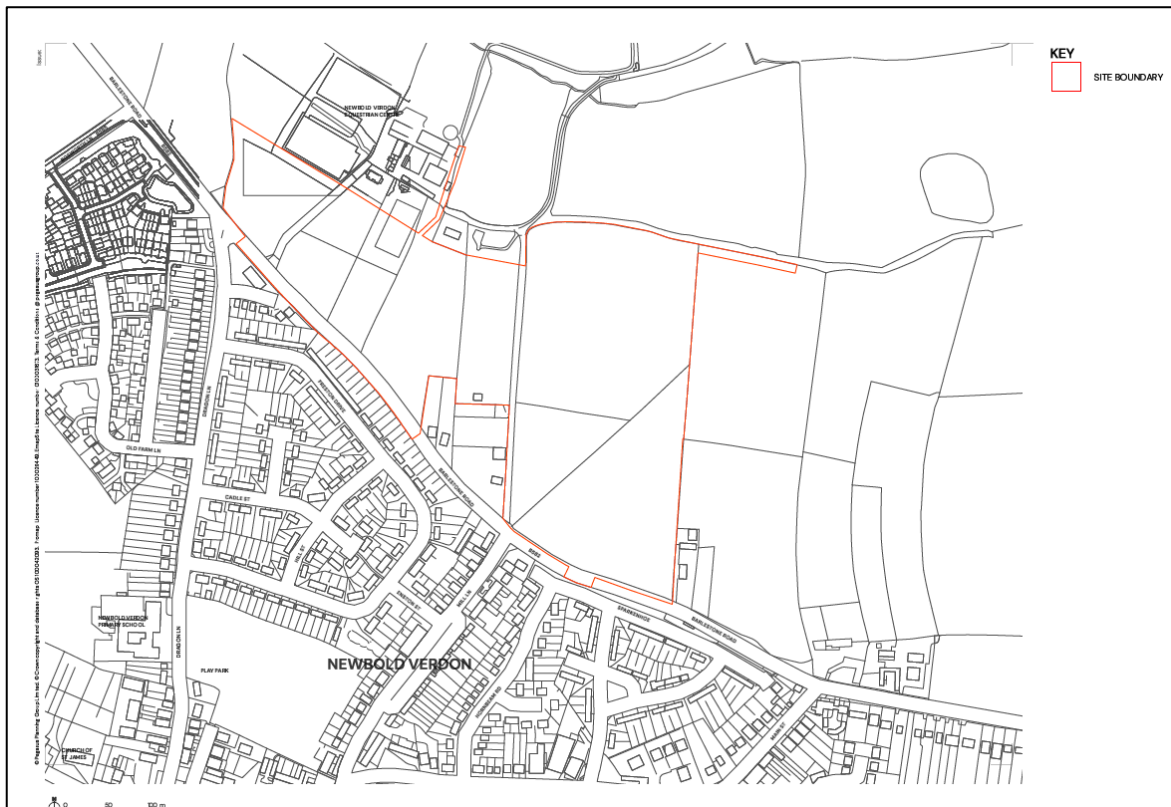


Figure 1: Red Line Boundary

- 2.1.2 The Site is bound by Newbold Verdon Equestrian Centre to the north-west, with its access running through the Site itself. Further agricultural land lies to the north and west and much of the east of the Site with the exception of 'The Firs', which is a residential property with associated outbuildings. The Site wraps around three residential properties – 'Four Winds', 'Hollycroft' and 'Applegate' – which are located off Barlestone Road close to the centre of the Site. Barlestone Road lies to the south/south-west of the Site separated by field hedgerow and beyond this lies residential properties, Newbold Verdon Medical Practice and the centre of Newbold Verdon.

¹ Key Rural Centres are defined by Policy 7 of the adopted Core Strategy.

2.2 The Site

- 2.2.1 The land is currently agricultural grazing land, subdivided into several field parcels.
- 2.2.2 There are three Public Rights of Way ('PRoW') through the Site. One runs across the western corner of the Site (reference: S11/1), the other runs across the eastern half of the Site (reference: R88/1) and a further PRoW runs along the eastern section of the Site from north to south (reference: S13/1). There are also PRoWs that run along part of the northern and eastern boundary of the Site. The Site is also accessible via two surfaced access roads – Newbold Verdon Equestrian Centre access road and 'Nursery Lane' (also known as 'Harry's Lane'), which leads to a single dwelling adjacent to the Equestrian Centre.
- 2.2.3 The topography of the Site is generally flat. There are several hedgerows within the Site alongside field trees within the field boundaries. The Site is not subject to any specific environmental or landscape designations.
- 2.2.4 In flood risk terms, the Site is located within Flood Zone 1, having the lowest probability of flooding. The majority of the Site also has very low/low risk from surface water flooding.
- 2.2.5 There are no designated heritage assets (Listed Buildings, Scheduled Monuments, Conservation Areas, Registered Battlefields or Parks and Gardens) within the Site or immediately adjacent to it.

2.3 Site Surroundings

- 2.3.1 The Site is immediately adjacent to Newbold Verdon. It is within approximately 0.2 miles (5 minute walk) of Newbold Verdon Village Centre which has an array of existing services including a primary school, convenience stores, doctor's surgery, pharmacy, library and working men's club.
- 2.3.2 In addition to the shops and services in Newbold Verdon, the Site is approximately 1.5 miles from the village of Barlestone which has the following services: a primary school, a convenience store, a playgroup, takeaways and places of worship. The Site is also approximately 8 miles from the centre of Hinckley which has a train station and a significant number of facilities and services. The Site is also approximately 9 miles from Leicester which is the largest and most sustainable settlement in the county. It offers a wide range of services and facilities and can be accessed by public transport from Newbold Verdon.

2.4 Relevant Planning History

- 2.4.1 Prior to the submission of application 24/01061/OUT, the Site has no relevant planning history.

3. Background to the Appeal Proposals

3.1 Pre-application Engagement with HBBC

- 3.1.1 A request for pre-application advice was made to HBBC in September 2023.
- 3.1.2 A pre-application meeting with HBBC took place in October 2023 and a written response was received in November 2023 that included statutory consultee responses. A separate landscape pre-application meeting was also held in December 2023 with HBBC, HBBC's appointed Landscape Consultant (Node) and the Appellant's Landscape Consultant (Pegasus Group).
- 3.1.3 A summary of the written pre-application advice received in November 2023 is available at Section 1.3.4 of the submitted Planning Statement.
- 3.1.4 A separate highways pre-application request was also submitted to Leicestershire County Council ('LCC') in October 2023 and a response was received in November 2023. This is appended to the submitted Transport Assessment (please refer to Appendix B).

3.2 Environmental Impact Assessment ('EIA')

- 3.2.1 A request for a Screening Opinion was submitted to HBBC on 16th November 2023 in accordance with Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. HBBC issued its Screening Opinion on 7th December 2023 which confirmed that an EIA is not required. This is summarised at section 1.7 of the submitted Planning Statement.

3.3 Public Consultation and Engagement

- 3.3.1 Meetings were held with the Newbold Verdon Parish Council in relation to the Proposed Development and proposed public consultation strategy on 4th September 2023 and 5th February 2024. HBBC also agreed to the consultation strategy during the pre-application correspondence. An in-person public consultation event was subsequently held on 27th February 2024 with the local community, Ward and Parish Councillors and the MP invited to attend to share feedback on the proposals. Feedback received from the event was used to amend the proposals and inform the submission.
- 3.3.2 Additional details relating to the public consultation event and a review of responses received are detailed in the accompanying Statement of Community Consultation and Engagement (November 2024) which was produced by Savills.

3.4 Post-Submission Engagement with HBBC and Consultees

- 3.4.1 During the determination period, a number of meetings were held between the Appellant and HBBC's planning case officer. Throughout these meetings HBBC advised that it was its view that the benefits offered by the Proposed Development outweighed any harms and that the presumption in favour of development applied to this scheme, as HBBC was unable to demonstrate a Five-Year Housing Land Supply ('5YHLS').

- 3.4.2 A full suite of consultee responses is provided. All statutory consultee comments and requests for further information were resolved during the determination period and HBBC subsequently took the Application to its Planning Committee on 4th November 2025, with a recommendation for approval. No statutory consultees objected to the Proposed Development, other than the Parish Council.
- 3.4.3 The Committee members subsequently voted to refuse the Application.
- 3.4.4 Following this, a further meeting was held between the Appellant and the planning case officer at HBBC on 5th November 2025 to discuss the reasons for refusal and the Appellant's right to appeal.

3.5 Reasons for Refusal

- 3.5.1 The Decision Notice sets out two reasons for refusal ('RfR') which are set out in full below:
- 1) *The proposal represents new development in the designated open countryside that would result in significant permanent harm to the character of the site, the settlement form and character of the village; and the intrinsic value, beauty, open character, and landscape character of the surrounding area. The proposal is therefore contrary to, and in conflict with, Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Paragraphs 129 and 135 of the National Planning Policy Framework (2024). This harm significantly and demonstrably outweighs the potential benefits of the scheme when assessed against the Framework as a whole.*
 - 2) *The Applicant has not entered into a Section 106 Agreement that secures the provision of planning obligations for the delivery of affordable housing and public open space, and planning contributions towards highways, health, education, waste services and libraries and other infrastructure provision. As such, the application fails to make the necessary, fair, and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of the development on community services and facilities. Therefore, the application is contrary to, and in conflict with Policy.*
- 3.5.2 The Appellant's full case for responding to these RfR is set out in Section 6 of this Statement.

4. The Appeal Proposals

4.1 Proposed Development

- 4.1.1 The Application submission contains details of the Proposed Development including a Planning Statement, Design and Access Statement ('DAS') and various plans arising out of the background survey and assessment work. A list of the Application submission plans and statements has been submitted with the appeal (see also paragraph 1.4.1 of this Statement).
- 4.1.2 The Application proposals comprise:
- Residential development for up to 240 dwellings;
 - 40% Affordable Housing, in accordance with local policy;
 - New primary Vehicular Access Point from Barlestone Road and retention of the existing Site access to serve the Equestrian Centre and proposed cemetery;
 - Provision of land for a cemetery;
 - Provision of a health centre car park;
 - An array of public recreational benefits including significant open space;
 - Retention and enhancement of existing PRoWs within the Site; and
 - The provision of attenuation ponds to provide both a sustainable drainage strategy as well as biodiversity.
- 4.1.3 The formal description of development is as follows:
- Outline planning application (all matters reserved except vehicular access) for the erection of 240 residential dwellings (Use Class C3), retention of the existing accesses off Barlestone Road and the creation of new accesses off Barlestone Road, a cemetery and a health centre car park, public open space and associated infrastructure.*
- 4.1.4 The Proposed Development proposes to retain the existing access route towards the western edge of the Site which serves Newbold Verdon Equestrian Centre. No new residential properties would be accessed from this point, however, it is proposed to serve the cemetery land and any associated car parking area.
- 4.1.5 The Nursery Lane is proposed to be retained and indicative measures have been included to prevent vehicular access for the future development whilst allowing the lane to be accessible for existing residents/agricultural vehicles.
- 4.1.6 A new primary access is proposed to the north of Barlestone Road which is intended to serve the proposed residential properties and car park for the health centre. Full details of the cemetery and health centre car park are reserved for later approval. The need for the cemetery and health centre car park are outlined in paragraphs 8.201-8.210 of the Committee Report. The need for a cemetery is also identified in the pre-submission version of the Neighbourhood Plan and subsequent Parish Council meeting minutes. The Parish Council advised during the determination period that a cemetery was still required.
- 4.1.7 In relation to the health centre car park, the Integrated Care Board ('ICB') and Newbold Verdon Medical Practice were consulted and the ICB confirmed that following the planned growth in and around Newbold Verdon, Newbold Verdon Medical Practice would be unable to meet patient needs and that in order to meet anticipated registration demands the surgery would need to expand. The ICB, in consultation with Newbold Verdon Medical Practice, confirmed that utilising the land on the Site for a new medical facility (as originally proposed) would not be financially viable. Instead, the preferred option would be to extend the existing surgery. However, to extend the surgery it would be

necessary to build onto the current car park which would then lead to a loss of car parking. As such, it is now proposed that the land on the Site would be used to provide a new car park, allowing the surgery to expand onto the existing car park without a loss of car parking spaces.

- 4.1.8 The above demonstrates the significant need for both the cemetery and health centre car park.
- 4.1.9 Discussions in relation to the cemetery and health centre car park took place with the Parish Council, ICB and Newbold Verdon Medical Practice prior to the Application being submitted and during the determination period and the Appellant would look to continue those discussions. It was nonetheless agreed with HBBC prior to the Application being taken to Committee that the provision of land for a cemetery and a health centre car park would be secured through a S106 legal agreement. As described in Section 8 of this Statement, the detail of this agreement remains to be finalised, but will be agreed with HBBC in accordance with the appeal timetable.
- 4.1.10 Minor amendments were made to the Proposed Development during the determination period to respond to consultee responses received. The amendments are summarised below:
- alterations to the parameter plans and indicative landscaping in response to requests made by the case officer and HBBC's landscape consultant;
 - inclusion of a half sized MUGA; and
 - the original proposals included land for the provision of a new health centre, however this was amended to a health centre car park at the request of the ICB in consultation with Newbold Verdon Medical Practice, as described above at paragraph 4.1.7.
- 4.1.11 Full details of the Proposed Development are contained within the Planning Statement and DAS. These proposals represent the culmination of extensive discussions with HBBC planning officers, technical officers and statutory consultees during the pre-application and determination periods. All statutory consultee comments and requests for information were resolved during the Application determination period. No statutory consultees objected other than the Parish Council.
- 4.1.12 The Appellant will seek to agree with HBBC through the SoCG that the Proposed Development should be carried out in accordance with the details shown on the following drawings:
- Site Location plan (drawing number P22-3085_DE_13_C_04);
 - Proposed Access Strategy (drawing number 24832-08-020-03 Rev. E);
 - Pedestrian / Cycle Improvements (drawing number 24832-08-020-07 Rev. C); and
 - Proposed Speed Limit Changes (drawing number 24832-08-020-09).
- 4.1.13 The Appellant will also seek to agree with HBBC through the SoCG that the Proposed Development should be carried out in general accordance with the details shown on the following drawings:
- Parameter Plan (drawing number P22-3085_DE_013_K_03);
 - Landscape Strategy Plan (drawing number P22-3086_EN_017F); and
 - Open Space Provision (drawing number P22-3085_EN_017B).
- 4.1.14 This is proposed to be controlled by draft planning conditions 7 and 8 respectively (as set out in the Late Items Committee Report and draft SoCG).

5. Development Plan Policy and Material Considerations

5.1 Introduction

- 5.1.1 It is the Appellant's intention to reach common ground with HBBC in respect of the relevant development plan policies. As described previously, a draft SoCG has been prepared by the Appellant and will be progressed with HBBC in advance of the Inquiry.

5.2 Development Plan

- 5.2.1 Sections 7.1-7.5 of HBBC's Committee Report include a list of development plan policies and other material considerations which it considers to be relevant to the Proposed Development.
- 5.2.2 The Appellant considers the relevant Development Plan documents for this planning appeal to be:
- Core Strategy DPD ('CS DPD') (adopted 2009);
 - Site Allocations & Development Management Policy DPD ('SADMP DPD') (adopted July 2016); and
 - The Leicestershire Minerals and Waste Local Plan (September 2019).
- 5.2.3 The Site is located within the designated Neighbourhood Plan Area of Newbold Verdon. Newbold Verdon Parish Council has prepared a draft Neighbourhood Plan. The Regulation 14 consultation is currently underway and ends on 29th May 2026. No weight is attached to this plan as it is still at consultation stage.
- 5.2.4 The Site is not allocated for residential development within the adopted Development Plan documents.
- 5.2.5 The development plan policies that the Appellant considers to be relevant to this appeal are set out below and these relate to the RfR. Appendix 1 of the Planning Statement provides an assessment of the Proposed Development against these policies.

Core Strategy (2009):

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand Alone
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- 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

5.3 Material Considerations

- 5.3.1 HBBC is preparing its Emerging Local Plan (the Local plan review 2024 to 2045). The Regulation 18 Local Plan Consultation took place from 17th October 2025 to 28th November 2025. This Regulation 18 draft plan focused on matters that were either new or updated post the last consultation on the previous Regulation 18 consultation/plan which took place in summer 2024. The new Regulation 18 Local Plan includes new site allocations.
- 5.3.2 As the Regulation 18 Local Plan is only in draft form and is subject to further public consultation, submission and an examination only limited weight can be attributed to the Emerging Local Plan at this stage.
- 5.3.3 The following other material considerations are considered by the Appellant to be relevant to the appeal:
- National Planning Policy Framework (2024) (NPPF)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
 - Planning (Listed Buildings and Conservation Areas) Act 1990
 - Levelling-Up and Regeneration Act (LURA) 2023
 - Self-Build and Custom Housebuilding Act 2015
 - Affordable Housing Supplementary Planning Document (2011)
 - HBBC Good Design Guide (2020)
 - Housing Needs Study (2019)
 - Landscape Character Assessment (LCA) (2017)
 - Landscape Sensitivity Assessment (2017)
 - Leicestershire Highway Design Guide (LHDG) (2024)
 - Leicester and Leicestershire Authorities Statement of Common Ground relating the Housing and Employment Land Needs (June 2022)
 - Local Development Scheme (LDS) (2025)
 - Newbold Verdon Housing Needs Assessment (2022)
 - Open Space and Recreation Study (2016)
- 5.3.4 The above list of material considerations is not necessarily exhaustive and the Appellant will seek to reach agreement with HBBC on the list of relevant material considerations and core documents.

6. The Appellant's Case

6.1 Introduction

6.1.1 This section of this Statement focuses upon the Appellant's case in so far as it relates to the RfR.

6.2 Principle of Development

6.2.1 Planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF is one such material planning consideration and it should be read as a whole.

Development Plan

6.2.2 The Site does not fall within the settlement boundary for Newbold Verdon and is therefore not supported by the first bullet point of Policy 7 of the adopted Core Strategy. It is similarly not supported by the second bullet point in relation to Policy 17: Local Needs.

6.2.3 Whilst the development will deliver transport improvements in line with Policy 14 and will achieve the environmental standards prescribed by Policy 24, it is accepted that the Proposed Development conflicts with Policy 7 when read as a whole.

6.2.4 Similarly, the Proposed Development does not fall within any of the criteria a) – e) of Policy DM4 of the SADMP which describes circumstances where development in the countryside may be considered 'sustainable'.

6.2.5 As such, it is accepted that the Proposed Development is unacceptable in principle insofar as the Development Plan is concerned.

Material Considerations

6.2.6 However, HBBC accepts that it is unable to demonstrate a 5YHLS and that Paragraph 11(d) of the NPPF is therefore engaged. HBBC has confirmed that it cannot demonstrate a 5YHLS in an appeal decision dated 17th September 2025 (Appeal Ref: APP/K2420/W/24/3357570) (**Appendix 2**). HBBC confirmed it can only demonstrate a 3.89-year supply. That was also the position that HBBC adopted in the Committee Report (see paragraphs 8.20-8.22) and HBBC accepted it could not demonstrate a 5YHLS at the time of the decision.

6.2.7 At the time of writing, it is understood that HBBC will soon publish an updated 5YHLS calculation. HBBC has made public² that it estimates that it can demonstrate up to 3.95-years supply (calculated to the end of the April 2025 monitoring year, but made public April 2026) and therefore it remains the case that it cannot demonstrate a 5YHLS.

6.2.8 The Appellant will provide evidence as part of the Inquiry that the 5YHLS is in fact worse than the position presented by HBBC. The Appellant considers that there is an acute market, affordable, and self/custom build housing shortfall across Hinckley and Bosworth Borough.

6.2.9 It is also a matter of fact that the housing requirement (450 dwellings per annum ('dpa')) within the Development Plan is out-of-date as it is derived from the 2009 East Midlands Regional Plan. The

² Committee report associated with outline planning application reference: 25/00676/OUT which was heard at HBBC Planning Committee on 7th April 2026.

current housing requirement derived from the March 2026 Standard Method equates to 659 dpa (a 46% increase).

6.2.10 In accordance with Paragraph 78 of the NPPF, the 'most important' plan policies are therefore considered to be out of date, when read as whole. As described in the Planning Statement submitted in support of the Application, these are considered to be:

- Core Strategy Policy 7 - Key Rural Centres
- Core Strategy Policy 11 - Key Rural Centres Stand Alone
- SADMP DPD Policy DM1 – Presumption in Favour of Sustainable Development
- SADMP DPD Policy DM4 – Safeguarding the Countryside and Settlement Separation
- SADMP DPD Policy DM10 – Development and Design

Policy Weighting

6.2.11 Notwithstanding the above, it is accepted that policies being considered to be 'out-of-date' does not automatically mean that these policies attract no weight in the planning balance. Weight may be afforded to them in light of their consistency with the NPPF in accordance with NPPF paragraph 232.

6.2.12 It is the Appellant's case that Core Strategy Policies 7 and 11 address the location and quantum of development. Given the 5YHLS deficit and the revised housing requirement provided by the Standard Method, only **limited weight** should be accordingly afforded to them.

6.2.13 SADMP DPD Policy DM4 is similarly out-of-date, for the same reasons. This position is supported by appeal decision Ref: APP/K2420/W/23/3330774 (**Appendix 3**) dated 28th February 2024, wherein the Inspector concluded at paragraph 12 that although '*residential development on the appeal Site would run counter to it [the spatial strategy] and would therefore conflict with policy DM4... that policy conflict only attracts limited weight because the policies which quantify and distribute housing growth in the development plan are out-of-date*'.

6.2.14 Furthermore, in the appeal decision Ref: APP/K2420/W/23/3331081 (**Appendix 4**) dated 17th May 2024, the Inspector concluded at paragraph 15 that the adopted Core Strategy '*is in broad accordance with the Framework, by focusing development in the most accessible locations. However, this is reliant on an out-of-date housing requirement that is highly likely to increase. I therefore place limited weight on the conflict I have identified with Policy DM4 of the SA DPD*'.

6.2.15 The Appellant therefore similarly affords **limited weight** to Policy DM4.

6.2.16 SADMP DPD Policy DM10 is nonetheless considered to be consistent with the NPPF and is therefore afforded **full weight**.

Conclusions in respect of Principle of Development

6.2.17 The Site is considered to be in a sustainable location and the Proposed Development is considered to comply with the principles of sustainable development. Residential development is also considered to be a compatible use for the character of the surrounding area. The Site is located outside of, but immediately adjacent to, the settlement boundary of Newbold Verdon, which is defined as a 'Key Rural Centre' in the adopted Core Strategy. It is within approximately 0.2 miles (5 minute walk) of Newbold Verdon Village Centre which has an array of existing services including a primary school, convenience stores, doctor's surgery, pharmacy, library and working men's club. The Site is also within close proximity to Barlestone, Hinckley and Leicester which offer an array of additional facilities.

6.2.18 Paragraphs 8.2-8.16 of the Committee Report consider the principle of development. Paragraph 8.217 of the Committee Report states "*the 'tilted' balance is engaged whereby in accordance with*

Paragraph 11(d)(ii) of the NPPF, 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 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”.

- 6.2.19 Paragraph 8.236 of the Committee Report concludes that *“it is not considered that the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole. As a result, it is recommended that, in accordance with Paragraph 11(d) of the NPPF that planning permission is granted”.*
- 6.2.20 The Appellant accepts that the Site is not allocated for residential development yet considers that the relevant policies within the adopted Development Plan documents should be given reduced weight, both due to the age of the Development Plan and due to the severe housing shortfall in HBBC. As the tilted balance is engaged, the Appellant considers that the adverse impacts come nowhere near to ‘significantly and demonstrably’ outweighing the significant benefits.

6.3 The Appellant’s Response to HBBC’s RfR

- 6.3.1 The two RfR contained within HBBC’s Decision Notice are set out below with a response from the Appellant’s consultant team to each of the reasons. Full detailed responses will be set out in subsequent Proofs of Evidence.

Reason for Refusal 1 – Landscape

“The proposal represents new development in the designated open countryside that would result in significant permanent harm to the character of the site, the settlement form and character of the village; and the intrinsic value, beauty, open character, and landscape character of the surrounding area. The proposal is therefore contrary to, and in conflict with, Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Paragraphs 129 and 135 of the National Planning Policy Framework (2024). This harm significantly and demonstrably outweighs the potential benefits of the scheme when assessed against the Framework as a whole”.

- 6.3.2 The submitted Landscape and Visual Impact Assessment (‘LVIA’) advises that a pre-application meeting was undertaken on 1st December 2023 with HBBC and Node (HBBC’s landscape consultant) to agree the approach and methodology for the LVIA. Node and Pegasus Group (DWH’s landscape consultant) were generally in agreement that the methodology adopted for the LVIA was appropriate and largely concurred concerning the level of landscape and visual effects arising from the Proposed Development.
- 6.3.3 Following the landscape consultee response to the planning application received on 30th January 2025 and comments from the case officer, the Parameter Plan, Illustrative Masterplan and Illustrative Landscape Plan were updated to include stronger planting buffer to the east of the Site and north south PRoW (Nursery Lane also known as Harry’s Lane) (reference: S13/1), as requested by HBBC.
- 6.3.4 A LVIA addendum was also produced by Pegasus Group (March 2025) in response to comments raised and to consider the impact of the updated proposals. The LVIA addendum identified that following the revision to the proposal summarised above, despite a high magnitude of change, year 15 effects for views 19, 20, 21, 22 would not all be major/moderate adverse (as suggested by Node) and would instead be reduced to **moderate adverse**.
- 6.3.5 Following receipt of the revised documents, Node advised in a subsequent consultation response dated 2nd May 2025 that *“The LVIA Viewpoints 19, 20, 21, 22 - Do identify major adverse impacts in year 1 but now state that these will be reduced to moderate adverse by year 15. I am still of the view*

*that this [sic] impacts will be **major / moderate adverse** by year 15 as residential development will still be visible above the hedgerow and despite mitigation planting” [emphasis added].*

- 6.3.6 There accordingly exists a difference of opinion as to the extent of landscape harm expected to arise from the Proposed Development.
- 6.3.7 However, it was agreed with HBBC during the application process that the Site is neither in itself nor part of a valued landscape, and as such the NPPF requirement to ‘contribute and enhance to the natural landscape’ is limited to the requirements of paragraph 187(b). Paragraph 187(b) requires the Proposed Development to recognise the intrinsic character and beauty of the countryside. The Appellant will provide landscape evidence which demonstrates how the Proposed Development seeks to achieve this.
- 6.3.8 Paragraph 8.233 of the Committee Report states that *“based on the indicative information submitted as part of this application, the scheme is considered to result in significant harm to the character of the site, the surrounding area, and the intrinsic value, beauty, open character, and landscape character of the designated countryside. Ultimately, this harm is considerable, experienced over a long period of time, and non-reversible”*. It also states that *“the landscape effects on the wider landscape character area are agreed to be minor adverse/negligible”*.
- 6.3.9 It is the Appellant’s case that whilst there will inevitably be a level of landscape harm when developing any greenfield site, it would not be significant but would be **moderate adverse** with mitigation, as described above. Furthermore, as paragraph 8.235 of the Committee Report states:
*“Significant harm of the development of the character of the surrounding area **must be weighed against the significant benefits associated with the provision of residential properties** towards the Council’s shortfall in housing, the provision of affordable housing, the social and economic impacts, and the cemetery land, the moderate benefits afforded to the medical centre car park land, BNG provision and the limited benefits attributed to the overprovision in open space. Alongside the benefit of custom/self-build plots” [Savills Emphasis].*
- 6.3.10 In order to meet the housing shortage in the Borough, greenfield development is needed and sites, such as the appeal Site, which are not within a valued landscape and where development will result in the least amount of localised landscape harm should be preferred.
- 6.3.11 As such, it is the Appellant’s case, and it will be demonstrated through evidence, that the proposed benefits of the Proposed Development clearly outweigh the level of landscape harm. This was also the view of HBBC, which concluded at paragraph 8.236 of the Committee Report that *“it is not considered that the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.”*
- 6.3.12 The RfR cites two policies which the Proposed Development is said to be in conflict with: DM4 and DM10. In regards to DM4, it is accepted that the Proposed Development conflicts with the policy, but as described above it is the Appellant’s case that limited weight should be afforded to this policy as it is more restrictive of development in the countryside than the NPPF and does not account for increased housing needs since the plan was adopted in 2019.
- 6.3.13 In respect of DM10, whilst it is accepted that a degree of conflict arises with part c) due to the moderate adverse landscape impact identified by the Appellant, it is considered that the Proposed Development complies with the policy when it is read as a whole. The technical work submitted as part of the Application has not identified any constraints which cannot be mitigated through the scheme’s design and proposed mitigation, such as amenity (policy parts a and b), materials (part d), landscaping (part e), energy performance and EV charging (Parts f and g), sustainable drainage (part h) and secure design (part i), which are ultimately matters to be reserved for future determination through a combination of layout, scale, appearance and landscaping.

Reason for Refusal 2 – Lack of Section 106

“The Applicant has not entered into a Section 106 Agreement that secures the provision of planning obligations for the delivery of affordable housing and public open space, and planning contributions towards highways, health, education, waste services and libraries and other infrastructure provision. As such, the application fails to make the necessary, fair, and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of the development on community services and facilities. Therefore, the application is contrary to, and in conflict with Policy DM3 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Policy 19 of the adopted Core Strategy (2009)”.

- 6.3.14 The Appellant is willing to enter into a S106 Agreement with HBBC. This was confirmed in the submitted Planning Statement and through confirmation of the proposed planning obligations prior to the Application being taken to Planning Committee. The Appellant’s solicitors have also been in direct contact with HBBC and its solicitor regarding the draft S106 Agreement. The case officer and HBBC’s solicitor have had sight of the draft and have provided comments on this. The contributions which were requested by statutory consultees will be sufficient to ensure that necessary infrastructure is provided and / or improved in order to support the development and ensure it complies with the relevant local and national policies.

6.4 Other Harm Arising

- 6.4.1 Whilst the loss of agricultural land is not raised as an issue within the Committee Report and is not identified as a RfR, the Appellant nonetheless accepts that there would be a degree of harm from the loss of Grade 2 and Grade 3a Agricultural Land as a result of the Proposed Development.
- 6.4.2 This loss amounts to 12.5ha of Grade 2 land (77% of the Site area) and 3.4ha of Grade 3a land (20% of the Site area).
- 6.4.3 However, this loss must be contextualised against the extent of BMV elsewhere within Hinckley and Bosworth Borough. A report³ produced by Land Research Associates on behalf of HBBC identifies that there exists 255ha of Grade 2 land and 254ha of Grade 3a land surrounding fourteen settlements⁴ within the Borough (NB. this is not representative of *all* of the land within the *entirety* of the Borough, merely the land in the immediate surrounds of the identified settlements).
- 6.4.4 In this context, the Proposed Development represents a loss of 4.9% of Grade 2 land and 1.3% of Grade 3a land surrounding these settlements⁵.
- 6.4.5 As a result, the loss of land arising as a result of the Proposed Development is considered to be limited and should attract only limited adverse weight in the planning balance.

6.5 Summary

- 6.5.1 Whilst the Appellant accepts that there would be a degree of landscape harm and the loss of Grade 2 and Grade 3a Agricultural Land (the latter of which is not a RfF, nor was it cited by HBBC as a concern in the Committee Report), it has clearly demonstrated that the Site’s proposed significant benefits (set out in full at paragraph 9.1.7 of this Statement) would clearly outweigh the moderate

³ Agricultural Quality of Land Surrounding Settlements in Hinckley & Bosworth District, Land Research Associates (May 2020).

⁴ Bagworth, Barlestone, Bosworth, Barwell, Burbage, Desford, Earl Shilton, Groby, Hinckley, Market Markfield, Newbold Verdon, Ratby, Stoke Golding and Thornton.

⁵ Whilst Borough-wide data is not available, it follows that when contextualised against the Borough-wide BMV land, this loss would proportionately be even less.

adverse landscape harm and limited loss of BMV land that would arise. No other harms are identified as resulting from the Proposed Development.

- 6.5.2 Fundamentally, HBBC's planning officers agreed with this conclusion and recommended the Application for approval, identifying that there were substantial benefits proposed which outweighed the identified harm.
- 6.5.3 These benefits and harms are set out fully in Section 9 'Planning Balance and Conclusion' of this Statement.
- 6.5.4 A S106 Agreement has been drafted and the Appellant's solicitor has been in direct contact with HBBC's solicitor. A completed S106 Agreement will be produced in accordance with an agreed timetable as part of the Inquiry.

7. Justification for a Public Inquiry

7.1.1 The 'Criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals' document⁶, most recently updated in August 2024, sets out the criteria against which each appeal is assessed to determine the appropriate procedure. The Appellant has requested that this appeal be dealt with as a Public Inquiry. Section 3 of the criteria document states that appeals dealt with via a Public Inquiry should meet one or more of the following tests:

- *"there is a clearly explained need for the evidence to be tested through formal questioning by an advocate (This does not preclude an appellant representing themselves as an advocate);*
- *the issues are complex (For example where large amounts of highly technical data are likely to be provided in evidence);*
- *the appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by a hearing (where the proposal has generated significant local interest a hearing or inquiry may need to be considered. In such circumstances the local planning authority should indicate which procedure it considers would be most appropriate taking account of the number of people likely to attend and participate at the event. We will take that advice into account in reaching the decision as to the appropriate procedure)".*

7.1.2 Having considered the circumstances of this case, against the criteria, it is very clear that it meets all three of these tests. We set out further explanation below in relation to each point.

- a) There is a clearly explained need for the evidence to be tested through formal questioning by an advocate, due to the complexity of technical issues in dispute between the Appellant and HBBC which will need to be considered as part of the appeal, including but not limited to landscape and visual impact, housing need and housing supply. It is also anticipated that there will be dispute between the parties as to the extent to which policies within the Development Plan can be considered up-to-date, and the weight that can and should be duly afforded to them in the planning balance. These matters require expert input and will require formal questioning by advocates due to the complexity of the evidence likely to be presented. Landscape is also a very subjective matter so a Planning Inspector would benefit from formal evidence being given in response to questions from advocates.
- b) Given the size of the Proposed Development (up to 240 dwellings, plus land for a cemetery and the medical centre car park) and the complex technical nature of the RfR relating to landscape, it is to be expected that detailed technical evidence will need to be the subject of cross-examination. The Appellant is proposing to call witnesses on the following topics: landscape impact and planning. In addition, the Appellant also considers there is a likely need to call witnesses in relation to housing land supply, affordable housing need and self / custom build need. As set out at paragraph 6.2.7 of this Statement, an updated 5YHLS position is expected from HBBC. As HBBC's 5YHLS position is not known at the time of writing, the Appellant has the right to reserve its position as to whether it will need to call witnesses to provide evidence.

⁶ www.gov.uk/government/publications/criteria-for-determining-the-procedure-for-planning-enforcement-advertisement-and-discontinuance-notice-appeals/criteria-for-determining-the-procedure-for-planning-enforcement-advertisement-and-discontinuance-notice-appeals

- c) There is an ongoing very substantial local interest in the appeal proposals, which was evident at the consultation stage, which warrants an Inquiry as opposed to a hearing. Approximately 39 members of the public have objected to the Proposed Development and 25 members of the public have written in support of it. Furthermore, members of the Committee refused the Application despite an officers' recommendation for approval, so there is a clear member interest too.

Conclusion

- 7.1.3 As set out above, the Appellant considers this appeal should be dealt with at a Public Inquiry, when assessed against the tests set out within the relevant guidance. The guidance clearly states that the case should be dealt with at an Inquiry if it meets these tests.
- 7.1.4 This Statement has been prepared on the basis that the appeal will be dealt with at a Public Inquiry. If, subsequently, it has been decided that it would be dealt with at a Hearing, the Appellant reserves the right to add to this Statement, in accordance with the PINS appeal procedural guide.

8. Planning Conditions and Obligations

- 8.1.1 Prior to the Application being taken to Committee, the Appellant worked with HBBC to agree a set of draft conditions which are set out at section 7 of the Late Items Supplement to the Committee Report. The Appellant will continue to discuss these conditions with HBBC and will agree a final list through a SoCG.
- 8.1.2 The Appellant has also worked with HBBC to agree draft Section 106 Heads of Terms, which are presented in Section 8 of the Committee Report. A final agreed S106 Agreement will be provided in accordance with the appeal timetable.
- 8.1.3 Should further dialogue on conditions and S106 matters be necessary, the Appellant will seek to engage further with HBBC to agree any amendments to the proposed planning conditions and obligations prior to the Inquiry.

9. Planning Balance and Conclusion

- 9.1.1 This Statement has been prepared on behalf of David Wilson Homes East Midlands, the Appellant.
- 9.1.2 This Statement sets out the Appellant's grounds for the planning appeal, brought against the refusal of outline planning permission.
- 9.1.3 This Statement has described how the Appellant accepts that the Proposed Development is unacceptable in principle insofar as the Development Plan is concerned. The Appellant acknowledges conflict with Policy 7 of the adopted Core Strategy, when it is read as a whole. Similarly, the Proposed Development does not fall within any of the criteria a) – e) of Policy DM4 of the SADMP which describes circumstances where development in the countryside may be considered 'sustainable'.
- 9.1.4 However, this Statement also explains that HBBC is unable to demonstrate a 5YHLS, so the most important policies for determining the appeal are considered out-of-date by virtue of Paragraph 78 of the NPPF. Furthermore, this Statement explains that Paragraph 11(d) of the NPPF is therefore engaged by virtue of the lack of a 5YHLS, a position HBBC accepted at the time that the Application was determined and continues to accept at the time of writing. As such, 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 NPPF taken as a whole. This is considered further below.
- 9.1.5 In regards to the principle of development, the Appellant has presented a case demonstrating that the Site is appropriate for development. It is located in a sustainable location and provides significant benefits which outweigh any potential landscape harm. This position was supported by HBBC planning officers, who recommended the Application for approval.
- 9.1.6 The Appellant accepts that the Site is not allocated for residential development yet considers that the relevant policies within the adopted Development Plan documents should be given reduced weight, both due to the age of the Development Plan and due to the severe housing shortfall in HBBC.

Benefits

- 9.1.7 The benefits are presented in the table below:

Benefits	Weight Afforded by Appellant
Provision of market housing, in the context of a housing land supply deficit.	Significant positive
Provision of 40% affordable housing, in the context of a housing land supply deficit.	Significant positive
Job creation and economic benefits.	Significant positive
Land for a cemetery in the context of a demonstrable need.	Significant positive
Provision of self- and custom-build plots, in the context of demonstrable need.	Significant positive
Land for health centre car park in the context of a demonstrable need.	Moderate positive
Provision of bungalows in the context of a demonstrable need.	Moderate positive

Provision of on-site Biodiversity Net Gain in excess of 10%.	Moderate positive
Provision of on Site Public Open Space.	Limited positive

Harms

- 9.1.8 The Appellant also accepts that there would be a degree of landscape harm and other limited harms such as the loss of Grade 2 and Grade 3a Agricultural Land. In regard to Policy DM4 of the SADMP DPD, whilst it is accepted that the Proposed Development conflicts with the policy, it is the Appellant's case that limited weight should be afforded to this policy as it is more restrictive of development in the countryside than the NPPF and does not account for increased housing needs since the DPD was adopted in 2019. This is a position that has been adopted by Planning Inspectors in two recent appeals (see paragraphs 6.2.13 - 6.2.14 of this Statement). Similarly, in respect of Policy DM10 of the SADMP DPD, whilst it is accepted that a degree of conflict arises with part c) due to the moderate adverse landscape impact identified by the Appellant, it is considered that the Proposed Development complies with the Policy when it is read as a whole.

- 9.1.9 The harms arising from the Proposed Development are accordingly considered to be:

Harms	Weight Afforded by Appellant
Moderate adverse impact upon landscape character of the Site.	Moderate negative
Minor adverse / negligible impact upon wider landscape character area.	Limited negative
Limited loss of Grade 2 and Grade 3a Agricultural Land.	Limited negative

- 9.1.10 Based on the tables of benefits and harms above, the Appellant has clearly demonstrated that the Site's proposed substantial benefits would clearly outweigh the harm that would arise. This is a point upon which HBBC also agreed in its Committee Report, paragraph 8.236 of which stated that *"it is not considered that the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole."*
- 9.1.11 Where potential issues have been identified, appropriate mitigation measures have been considered and informed the proposals accordingly. Given the date of the adopted Development Plan and the acknowledged lack of 5YHLS, housing / growth policies within the plan should only be given no/limited weight in the decision-making process.
- 9.1.12 In summary, it is considered that there are significant benefits to this Proposed Development which are considered more than sufficient to clearly outweigh any potential harm that may arise from the Proposed Development in light of the severe market, affordable, and self/custom build housing shortfall across HBBC.
- 9.1.13 The Appellant intends to provide a comprehensive presentation of its case to the Planning Inspector in the Proofs of Evidence at the planning appeal by Public Inquiry.

Appendix 1: Pre-notification of Appeal

**TOWN AND COUNTRY PLANNING ACT 1990
APPEAL UNDER SECTION 78**

Notification of intention to submit an appeal

Under the provisions of Recommendation 3 of the Rosewell Review into inquiry appeals, this notification is to give the Local Planning Authority and Planning Inspectorate not less than 10 working days' notice of an intention to submit a planning appeal where the appellant will request the inquiry procedure.

The appeal will be against:	Hinckley and Bosworth Borough Council
For:	The refusal of an outline planning application
Appellant(s) name:	David Wilson Homes East Midlands
Site address:	Land North of Barlestone Road, Newbold Verdon
Description of development:	Outline planning application (all matters reserved except vehicular access) for the erection of up to 240 residential dwellings (Use Class C3), retention of the existing accesses off Barlestone Road and the creation of new accesses off Barlestone Road, a cemetery and a health centre car park (Use Class E(e)), public open space and associated infrastructure.
Planning application number:	24/01061/OUT
Likely submission date of appeal:	May 2026
Proposed duration of inquiry in days:	4 days

Appendix 2: Appeal Decision APP/K2420/W/24/3357570 - Higham-On- The-Hill, Nuneaton



Appeal Decision

Hearing held on 6 August 2025

Site visit made on 7 August 2025

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

Appeal Ref: APP/K2420/W/24/3357570

Oddfellows Arms, 25 Main Street, Higham-On-The-Hill, Nuneaton, Leicestershire CV13 6AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by AR Cartwright Ltd against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref is 24/00229/FUL.
 - The development proposed is development of 7 dwellings – the conversion of the existing building into 2 dwellings and 5 new build properties.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) was published in December 2024. In the interests of natural justice both main parties have had the opportunity to make representations. In reaching my decision I have had regard to the revised Framework and the PPG.
3. The Council have confirmed that there is a typographical error on the decision notice relating to the plans and the Belvoir house type. Therefore, the correct plan reference is '*Proposed Floor Plans and Elevations Belvoir 22/85 52*'. I have considered the appeal on this basis.
4. At the Hearing several additional documents were handed up including late evidence from the main parties. These documents related to the conservation area, and ecology which were already in the public domain. Relevant caselaw the appellant intended to rely upon, a relevant appeal decision omitted from the Council's original evidence and an email relating to a conversation thread between the parties relating to the Framework. In considering whether to accept the evidence and any procedural unfairness. The Council, the appellant and interested parties were given an opportunity to comment orally. In considering those made I do not consider that any prejudice and/or unfairness would arise to any party and have therefore accepted these documents.
5. Evidence was received following the closure of the Hearing from interested parties and the Parish Council relating to securing funding for a public works loan. The letter was issued by the Local Government Finance Directorate, Ministry of Housing, Communities & Local Government dated 7 August 2025. Both the main

parties were invited to make submissions in writing, as set out in accordance with Rule 14 (3) of the Town and Country Planning (Hearings Procedure) (England) Rules 2000. The information was factual relating to discussions which had already taken place and was not available on the day of the Hearing. Having regard to caselaw¹ and, It would not prejudice any party if I were to accept it. It has not necessitated the Hearing to be re-opened, and I have had regard to the written submissions.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the impact on the significance of the Oddfellows Arms as a non-designated heritage asset, nearby listed buildings, and whether it would preserve or enhance the character or appearance of the Higham on-the-Hill Conservation Area;
- Whether the proposal provides adequate justification for the loss of the public house, with particular regard to the loss of an Asset of Community Value (ACV); and
- Whether the proposal would provide acceptable living conditions for future occupants, with regard to Plot 1 and outlook.

Reasons

Significance of Heritage Assets

7. The appeal site relates to a building, the Oddfellows Arms, its car park and beer garden. The site is some 0.29 hectares to the northern side of Main Street and beyond the site to the north is a paddock with a pond. The building is a non-designated heritage asset (NDHA), and the site falls within the Higham-on-the-Hill Conservation Area (CA).
8. As the appeal site is within the CA, I have had special regard to section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) 'the Act' to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
9. The appeal site lies nearby to several Grade II listed Buildings on Main Street, and particularly the setting of the Grade II* Church of St Peter (listing 1178178), which has a C12 west tower with the nave dated 1790, refenestrated in 1854 with a south aisle and porch, single-bay chancel, blocked archway of a former crossing tower. There is an oval monument in the chancel and a first world war memorial on the north side of the nave. The church played an important part in the religious life of the village and parish from the 18th and 20th centuries. Therefore, special regard should be given to the desirability of preserving the setting as required under 66 (1) of the Act.

¹ *Akhtar v SSCLG & LB of Barking & Dagenham* [2017] EWHC 1840 (Admin)

10. The PPG explains that there are a number of processes through which non-designated heritage assets may be identified, including conservation area appraisals and reviews. The building is not identified on a locally important heritage asset list, due to this being not formally adopted by the Council. However, it is recognised as a significant local building within the Conservation Area Appraisal, 2009 (CAA).
11. The CAA identifies the Oddfellows Arms built in 1791 as two cottages but in 1862 converted to one property. It was subsequently purchased by William Webb in 1874 and became a public house associated with Manchester Unity Oddfellows Club, a friendly society. The building is also identified within the Leicestershire and Rutland Historic Environment Record and in further documentation that it was purpose built for a public house, known as the Gardeners Arms. There is some dispute concerning the context of the two cottages, and the Council acknowledge that its arrangement is more typical as a single premises with a central door with features more reflective in form and scale of a typical late-18th to early-19th century farmhouse, with likely early agricultural origins. In 1992, substantial alterations to the building and site were undertaken.
12. The significance of the NDHA is derived from its historic and architectural importance, with local vernacular style, and the building's historic use as a public house and its prominence fronting Main Street which is apparent due to its central landmark position in the village. The topography of the site provides key vistas from and to its surroundings within the linear context of the village adding to the visual openness of the immediate and local character and appearance including the verdant areas and vegetated boundaries. These are all positive factors contributing to its significance.
13. The CAA suggests the origins of Higham on the Hill is of Anglo-Saxon and is a prevailing image of an agricultural settlement. Although a ridge top linear village, the Main Street is not straight with subtle bends and gentle curves which are reinforced by key buildings and has several series of linked spaces from one end to the other of the townscape. It acknowledges that overall few buildings have been lost but many buildings have been severely altered and retaining historic features and using traditional materials are important. The CA boundary covers the historic core of the village including the fields with public rights of way and open spaces to the north and south of the linear ridge top development along Main Street.
14. The CAA sets out general guidance to maintain the distinctive character and appearance of the CA, and at section 11 advises it will be necessary to retain listed buildings and buildings of local interest, and ensure new development contributes positively including siting, scale, design and materials. It resists development proposals in key areas, identified on the map. The CAA and its map identify views from Main Street to the west and vistas to be protected. Therefore, the significance of the CA is derived from the linear settlement pattern arising from medieval times, buildings of local and national significance and importance including the NDHA and the appeal site with its landscape setting which positively contribute to the CA taken as a whole.

The appeal proposal and its effects

15. For the purposes of the development plan, Policy 12 of the Hinckley & Bosworth Borough Council, Core Strategy 2009, (CS) identifies Higham on the hill as a rural village. The Council confirmed that the vast majority of the site and all the proposed built development lies within the settlement boundary. There is no dispute that the site is previously developed land, however, I do not consider that it is identifiable as being within an urban location even if there is other built form on either side of the appeal site.
16. Policy 12 of the CS requires new development to respect the character and appearance of the CA incorporating local distinctive features. Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document, 2016 (SADMP) seek to protect, conserve and enhance the historic environment and their setting, including protection or enhancement and contribute to the distinctiveness of areas. Policy DM10 of the SADMP relates to complementing and enhancing the character with regard to scale, layout, density, mass, design, materials and architectural features. These policies are generally consistent with the good design and heritage aims of the Framework.
17. *Public house* – the building is of brick and 3 storeys accessible via 2 entrances on the east and west of the site. It would be converted to a residential end use of 2 dwellings and would incorporate the removal of existing unsympathetic and unsightly extensions to the side and rear. A new access would be formed, designed to adoptable standards and parking provided for the development.
18. Given the passage of time, the building clearly requires some modernisation and repair as architecturally it has diminished. The existing paraphernalia does little in retaining any historic core context and previous detailing of the building. A two-storey extension and single storey side extension would be erected of appropriate siting, scale, form and appearance having a minor positive impact upon architectural interest. Suitably worded conditions could agree the finer details of windows, doors and materials.
19. Nevertheless, whilst the proposed alterations and design appearance are welcomed, the changes would erode its original function as a community building thus resulting in the loss and value of the buildings historic significance. In this case, significance derives not only from its physical presence, but also from its setting and in the context of historic interest it can be an interest in past lives and events and assets can illustrate or be associated with them. Neither do I agree with the appellant's contention that it would return the asset back to its original intended use, i.e. as two dwellings as set out in their Cambridge '*Built Heritage*' statement.
20. The PPG considers that heritage assets with historic interests not only provide a material record of our nation's history but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values. In addition, Historic England (HE) have objected to the proposals, advising that the building has a strong sense of street presence and of clear interest with age. Therefore, the proposal would cause harm to the significance of the NDHA, this would be relatively minor and be of a limited scale, however, it must follow that there would be some, albeit it limited harm to the CA.

21. *The new dwellings* – the existing parking area and rear land would be used for the construction of 5 new dwellings. These would be constructed in brick with render detailing, chimneys and pitched tiled roofs with the design concept of a simple rectangular plan form. The Council acknowledged that in general terms, the form, appearance and construction materials would reflect some traditional characteristics of the CA. However, the layout of plots 4-7, situated behind the frontage of development of Main Street would not reflect the traditional urban grain, being that of existing residential layouts and siting which would be to the detriment of the character and appearance of the area and the CA.
22. The siting of these plots would be unacceptable in terms of the scale and massing, which is likely to be exacerbated by boundary treatments to the plots, domestication of the site through long plots and some harm from the positioning of the new dwellings along Main Street. In totality the new dwellings would be uncharacteristic, urbanising and eroding the existing open character and appearance of the area, including the negative impact on the openness of the surrounding countryside and would cause harm to the significance of the CA as a whole.
23. From the surrounding viewpoints and vistas along the interlinking footpaths there is a clear distinction where properties along Main Street building lines finish at the rear. The development would extend further back into the open character and overall impacting negatively on the character and appearance of the area despite development not extending wider into the paddock or pond areas. This is further acknowledged to be the case set out by HE, and I would dispute that in any way they excluded any focus on this planning application or that it is erroneous. Furthermore, the new dwellings would interrupt the protected views and vistas, which results in further harm to the character and appearance of the area and the CA.

The effect of the proposal on other heritage assets

24. As I saw, there were significant views of the appeal site, due to its topography within the immediate and wider area. Notably, was the view from the graveyard at the Grade II* Listed Church of St Peter and from the footpaths that interlink the site around the village. These views and protected vistas, despite the distance from the site they are still within the CA. The proposed development would clearly be discernible in the views from this part of the Church, and I acknowledge that there has been some change in views and vistas over time with the intervening residential development at Hilary Bevins Close.
25. However, I do not agree to an extent with the appellant that there would be no harm to the significance of other heritage assets including the significance of vistas, and consideration should be given solely to evolving time lapses of other built form since the CAA was published. Policy DM12 of the SADMP requires the preservation and enhancement of key views and/or vistas in and out of the CA. Therefore, given the above I find that there would be harm to the setting of the listed church, and thus, it must follow that some harm, albeit at the lower end of the scale would be to the CA in this instance, of which I attribute moderate weight.
26. In response to the other listed buildings, including Higham Hall, 60, 66, 68 and 70 Main Street, there is clear intervening presence between the site and there is no known historical functional or other relevant relationship between the appeal site

and them. The archaeological value relates to its evidential value, and the settlement remains dating from Roman times. The appellant has undertaken an archaeological survey, and the parties do not dispute it meets the requirements of the Framework; matters could be dealt with by suitably worded conditions during any construction phase for recording and preservation if necessary, which would comply with Policy DM13 of the SADMP. For these reasons, I do not consider that the proposal would harm the setting and/or significance of these.

Heritage Balance

27. Given the above, I find the proposal would fail to preserve the significance of the NDHA and would negatively impact on the setting of the nearby listed church. The proposal would harm the character and appearance of the area, including the CA and would not conserve or enhance the CA taken as a whole. In this case, I find the harm to be at the lower scale of less than substantial in this instance but nevertheless of considerable importance and great weight.
28. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation (and the more important the asset, the greater weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction, or from development within its setting of those assets and that any such harm should have a clear and convincing justification.
29. Where the proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use.
30. Paragraph 216 of the Framework requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. I therefore, find that the proposal would cause harm and lead to the loss of the significance of the NDHA and attach moderate weight.
31. The appellant contends that the proposals would preserve the character and appearance of the area, and that the proposal represents a viable optimal use for repairing, enhancing and sustaining the heritage asset in the long term. There are heritage benefits, and this would include the removal of the poor-quality extensions to the building and the renovations to bring the building back into use, and the general design and materials, including energy efficiency of new dwellings would sustain the significance of the CA, which attract moderate weight.
32. It could secure a viable end use for the long-term future incorporating some economic and social benefits, environmental benefits would be provision of landscaping and ecology provisions which I ascribe moderate weight. I accept that the proposal would provide much needed housing including a balanced mix of unit sizes. This is a substantial benefit given the Council's inability to demonstrate a 5-year housing land supply, and the emphasis of boosting the supply of housing and efficient use of land, and that it is PDL. However, the matter of a proven track

record for disposing and developing other sites without any exception, are not public benefits and only serve as individual benefits to the appellant.

33. I accept that if the appeal is to be dismissed, the future of the building would continue and be uncertain and, if it were to remain vacant, its condition could deteriorate further. However, there is little benefit in securing a new residential use for the building and site, if, as I have found in this case, the totality of the proposed development would compromise its conservation to an unacceptable degree.
34. Consequently, the combined weight of the public benefits would not tip the balance in favour of the appeal scheme when set against the great weight and importance placed on the identified harm to the special historic interest and significance of the NDHA, setting of the nearby listed building, and the character or appearance of the CA would neither be conserved nor enhanced.
35. For this reason, it would fail to satisfy the requirements of the Act, paragraphs 213, 215 and 216 of the Framework. It would be contrary to Policy 12 of the CS, Policies DM10, DM11 and DM12 of the SADMP. Taken together, among other things, requires protection and enhancement of heritage assets and their settings, in a manner appropriate to their significance.

Loss of the Public House / ACV

14. The provisions for ACV are set out in the '*Localism Act 2011*' which came into force on 21 September 2012 alongside the regulations '*The Assets of Community Value (England) Regulations 2012*'. By definition, a site or property listed as an ACV is considered of value to the community. The property was nominated by the Parish Council and first listed as an ACV on 1 December 2018 with the listing expiring in December 2025.
15. Policy 12 of the CS states that the loss of local shops and facilities will be resisted unless it is demonstrated that the business or facilities can no longer operate in a viable manner. Policy DM25 of the SADMP designates the site also as a community facility. The policy gives importance that the Council will resist the loss of community facilities including ancillary areas subject to where certain criterion is demonstrated which includes for the retention of existing provision and the loss of existing facilities.
16. The policy criterion of DM25 sets out 'or' scenarios (*my emphasis*) which include at criteria a) an equivalent range of replacement facilities will be provided in an appropriate location within reasonable distance of the local community, or b) a surplus of the facility type within the immediate locality, or c) the loss of a small proportion of the site would result in wider community benefits.
17. The policy continues where there is a loss of existing facilities and replacement facilities are not provided or a surplus cannot be demonstrated and the scheme does not result in wider community benefits on the remainder of the site, it is only acceptable where it is demonstrated at (d) '*The facility has been proactively marketed for a community use for a reasonable period of time at a reasonable marketed rate as supported and demonstrated through a documented formal marketing strategy*'; e) '*it has been offered to the local community for them to take ownership of the facility*'.

18. The Framework at paragraph 98, aims to promote healthy and safe communities and amongst other matters requires policies and decisions to plan positively for the provision and use of shared spaces, community facilities including public houses and other local services to enhance the sustainability of communities and residential environments. It requires to guard against the unnecessary loss of valued facilities and services, particularly where it would reduce the community's ability to meet its day-to-day needs.
19. Therefore, combined with this, its status as an ACV, and development plan policies for the purposes of the appeal scheme I consider that the contention of the appellant that the building shouldn't be classed as a community facility and should be considered as a conversion of a building to residential is not justified. Moreover, there is nothing before me to suggest that the building has an alternative use, or there is theoretical and/or a genuine fallback consideration position in this case.
20. Nonetheless, there has been a significant amount of time since the public house permanently closed in 2018. A previous closure of the business happened in 2009 but appears to be this was for only a limited time. During the periods up to 2018 it was owned with leased tenants and then purchased by the appellant in around late August 2019 for some £500k. The licence was surrendered in 2020 but was not revoked until 2023 under the licensing regime, and it was agreed this was likely due to the passage of time it had been closed.
21. The 'Save The Oddfellows Pub' group (STOP) are residents and interested persons representing the community. The group was established some time ago with the support of the Parish Council. They have undertaken their own business plan, including obtaining professional advice and applying for grants and funding registered as The Higham Community Benefit Society. I have had regard to their comments including information and documentation. I have also had regard to the comments from the Parish Council and the local branch of CAMRA in that pubs are vital for a community and valuable assets.
22. Turning to the policy requirements and criteria, there are no other public houses within the village, the nearest ones are within the adjoining settlements. The local shop closed some time ago and bus services are limited and/or non-existent late night and weekends. However, with the benefit of access to a car, there are a good selection of public houses, social clubs and services within a short distance. Given this, and that the policy falls silent on distance I consider these would be of reasonable distance and within the immediate locality.
23. Whilst it was disputed that these pubs are not accessible by foot or cycle, the appeal site has not traded for a significant amount of time and evidently it has not thus been serving the community in this way for a considerable period of time. Furthermore, the evidence that the Oddfellows ever functioned in that manner is not decisive to lead me to an alternative conclusion on this matter that the community have not been using facilities elsewhere including those remaining in the village such as the local hall, church and school.
24. In addition, it was confirmed and as I saw from my site visit the noticeboard on the Methodist Church offers facilities for the community. This included a weekly food bank with other items accepted on Wednesday and Fridays, sessions for craft, coffee and chat and mobile library. There were several religious ceremonies and services shown offered throughout the summer/autumn months at the Methodist

Church and St. Peters Church. Therefore, I do not consider there is not any range of services offered to the community and village. These would also likely be available to residents who were limited to or unable to travel outside the settlement.

25. Moreover, the Framework at paragraph 83 promotes rural housing, and where there are groups of settlements, development in one village it may support services in a village nearby, and at paragraph 110 it recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
26. As such, it is not necessary for me to consider the further limbs / scenarios of the 'Or' policy. Nevertheless, whilst there would be limited community benefit in terms of a new public house or community hub, and the appeal scheme would not necessarily result in a small loss, the proposal would contribute to the lack of housing supply and this would be a benefit in terms, of the economic and social contributions that would likely derive to the community.
27. The criteria at (d) of the Policy DM25, does not stipulate a timeframe for a community facility to be proactively marketed or what the requirements are for a marketing strategy. The pre-amble gives an indication that marketing should be done in line with the Developer Marketing Standards in the most up to date Employment Land and Premises Review.
28. At the Hearing the Council did not provide a view on what may be a reasonable timeframe, nor have the Council presented any criteria of what would constitute a reasonable period of time or an acceptable marketed rate. The policy falls silent on whether this should only be by an owner and not the appellant to undertake a marketing exercise. The Council did not offer up any evidence on the viability of retaining the public house nor alternative development. They further did not, challenge the appellant's evidence in terms of their economic viability assessments² and in the signed Statement of Common Ground at paragraph 5.6, agrees it was subsequently marketed.
29. Furthermore, the appellant confirmed details at the Hearing that it was marketed for some 12 months, it was advertised as a public house and alternative uses. It was marketed with a guide rent of £35,000 per annum with a leasehold interest. It was confirmed that approaches were made for other uses including leisure and commercial retail operators.
30. This is supported by the marketing evidence by the Everard Cole Report, albeit conducted by the previous owner. A full inspection was undertaken in September 2018, and marketing commenced on 26 September 2018 offering a free of tie leasehold. The property was advertised in ten media outlets and online as 'e-marketing'. In October 2018, the marketing strategy was amended to incorporate a freehold and it was advertised on a dual basis. The appellant confirms that there were enquiries, with 15 viewings conducted with only 2 parties interested in continuing the licenced use. In November 2018, an offer for the freehold was accepted. This offer was withdrawn following the listing of the property as an ACV on 1 December 2018.
31. An economic viability assessment (VA) has been provided, supported by a condition report and schedule of repairs required. The VA includes figures of for an open market sale and reintroducing the property back as a public house. The VA

² The Economic Viability of Sustaining Public House Use, Anthony Barnes, dated 24 February 2025

- states that it would not be financially viable or prudent venture as a public house. I accept that there are disagreements between interested parties on the VA undertaken, however this matter is not disputed by the Council or formed a reason for refusal. Therefore, having regard to the evidence before me, I consider that the relevant reasonable steps were undertaken, and it was proactively marketed for a range of community uses. This is demonstrated through consideration of a documented marketing strategy, and it would meet the aims of the policy.
32. Criterion e) of Policy DM25, requires to be demonstrated that the facility has been offered to the community for ownership. The property was listed as an ACV by the Council on 1 December 2018. The Parish Council were given the opportunity to purchase, during the moratorium period of 6 months but did not do so. STOP at that time did not consider they were able to purchase the property or provide a realistic offer.
 33. I acknowledge the comments made by interested parties concerning the building and its status as an ACV. This is a material consideration in the appeal, and one of planning judgement to what weight is given to the listing of the public house as an ACV. It would appear that the listing of it at that time in 2018 satisfied the tests of the Localism Act. I have no reason to doubt that it would not have been frequented by members of the local community and may have even been a thriving pub many years ago prior to its closure. The Council at the Hearing could not advise on any contention that the ACV would be reviewed, following its expiry. The letter from the Council suggests it would be removed from the register with effect on 9 December 2025.
 34. From the oral evidence, and written evidence what is clear to me from all parties is that there have been ongoing discussions between the appellant and the interested parties, including the Parish Council and STOP going back to 2019. These have included discussions to outlay their desire to purchase the pub and several ballpark figures. Notably, the timelines set out an offer of purchase from STOP in June 2020 at a figure of £265k for the full site. In August 2020 the offer was not accepted by the appellant on the basis that it did not reflect the true value of the site, and that the appellant gave STOP the opportunity to submit a revised offer.
 35. Discussions appear to have continued, and STOP raised £599 by a GoFundMe page with other monies and grants in the process of being secured. Figures suggested in the evidence were the amounts needed to be in the region of some £305k - £375k to put the building and pub back to a suitable condition, £275k could be a purchase price with the final costs being anticipated to be around some £590k - £665k to acquire land and put into a condition fit for trading depending on market circumstances and acquisition type.
 36. In 2022, discussions also took place on land outlined in blue as a compromise. It appears from STOP further offers were submitted in June 2023, December 2023 and 2024 rising to some £250k which was refused subject to survey and legals, the last correspondence on this matter was said to be in February 2025. The MJD Hughes, market appraisal and valuation report survey, highlights that there is a valuation uncertainty with an estimated valuation of £220k but the estimated reinstatement costs would be £750k. The external inspection by Morgan & Clarke is dated back from 2021 and was at a time it had ceased to trade. This included that there was regular email dialogue between the parties and formal acceptable to allow the funds to be brought together. The report of 2021 by James Slater & Co,

suggests several repairs with a total project cost of some £254k to bring the building back into use.

37. It was further set out at the Hearing that the Council had been party to some of the discussions. Therefore, the Council's contention that the appellant has been genuinely unwilling to sell the pub to the local community are somewhat unfounded and this is not what the policy wording sets out, or the requirements of the regime and legislation relating to an ACV. In addition, from the history of the site, previous planning applications were submitted with the intention to provide a community space with dialogue taking place. There is also correspondence from interested parties to suggest that they made some good progress based on their independent valuation of the site until the schemes were withdrawn.
38. Despite, the negative outcomes of discussions for the community, STOP, the Parish Council and that they have now secured a public works loan. I must consider whether the policy criteria have been met, having regard to the specific wording of the policy in that it has been offered to take ownership. The policy does not provide any assurance or guidance that any offer must be taken up or that a seller must then sell to them even if some funding including a loan is secured. The policy further falls silent on how this should be assessed as a whole or omits reference to the legislation or regulations. The appellant confirmed at the Hearing that the site is now not for sale.
39. Furthermore, the Localism Act and the Regs does not stipulate that any owner must sell to a community group or force a sale, irrespective of their intentions to retain the facility for community use. Neither does it discourage alternative uses for such buildings. I have also had regard to caselaw³ which was brought to my attention, in that the desirability of preserving an existing use of land may be a material consideration when a decision is made on a proposal for a different use, and there is a reasonable probability that such use will be preserved if permission for the new use is refused.
40. It was clearly apparent that there is a significant amount of local interest in the building and that a future use is established. The matters of a community hub to facilitate various desired needs, including aspects of physical, social and mental health does not lead me to a different conclusion on determining the appeal based on the evidence. It is not for me to consider the requirements of many of the residents as what a future community hub should include or entail including how the appeal site could be divided up. What, however, is clear is the policy wording in this case, and the requirements that have been satisfied under the relevant legislation and regulations for consideration of the appeal scheme. Moreover, It is not within my remit in the appeal process to conclude on how discussions should have been carried out or ascribe weight to the level or how the negotiations were conducted.
41. Planning law requires that planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework objectives are to significantly boost the supply of housing, including that substantial weight is given to the value of using suitable brownfield land within settlements for homes, for which should be approved unless substantial harm is caused. Therefore, for the reasons given, I consider that criterion e) of the policy

³ *Mainwaring & Carroll [2017] EWCA Civ 1315 [2016]/EWHC 2462 (Admin)*

has been demonstrated. However, the matters of heritage harm I have found above, do not outweigh that I have found no conflict with the policy or this main issue.

42. Consequently, taking all these matters into account, I conclude that the proposal and the loss of the ACV would not lead to the reduction to the community's ability to meet its day to day needs, which is a requirement of the Framework, and that adequate justification has been provided for the loss of the public house, including its status as an ACV. For the reasons given above, I must therefore conclude that the proposal would not conflict with Policy 12 of the CS and DM25 of the SADMP as already set out above.

Living Conditions

43. The Council contend that Plot 1 would not be sufficient in terms of the separation between the rear of the plot and the side gable of Plot 7. They say that it would only be some 11m and the required distance should be some 14m and this would impact on the future occupier by the door and window positions, having an oppressive outlook.
44. My attention was drawn to The Good Design Guidance, 2020 (SPD) which sets out some basic principles. However, the relevant section at 5) accordingly refers mainly to the context of existing residential development including distances back to rear. Policy DM10, of the SADMP does not specifically include matters of outlook for future occupiers. The policy makes no reference to the design guidance which the pre-ample states it does not enforce design codes or prescribe excessive detail, which is what the Framework requires, and I note the policy was not included on the Council's decision notice in the reason for refusal.
45. Nevertheless, even in considering the principles of the guidance, the proposed layout and siting including that there would be an intervening boundary treatment between the plots, likely to be a fence and the inclusion of a driveway for Plot 7 between Plot 1 and the gable. I find that the deficiency in this case, is justified including that there is no disagreement that the garden sizes are not acceptable for the relevant plots. Therefore, the proposal would provide adequate levels of amenity, in terms of outlook and would not cause significant adverse harm to future occupiers living conditions.
46. For the reasons given above, I conclude that the proposal would provide acceptable living conditions for future occupants, with regard to Plot 1 and outlook. I find it would not be generally in accordance with the requirements in the SPD and would not be in conflict with the aims of the Framework, at paragraph 135 relating to the provision and standards of amenity, or that it warrants refusal on this issue.

Other Matters

47. The proposal was accompanied by an ecology survey which indicates there is no bats present, matters pertaining to the provision of mitigation including bat boxes and enhancements for birds and wildlife including soft landscaping could be dealt with by suitably worded conditions. The proposal is exempt from biodiversity net gain, due to when it was submitted, therefore there would be no conflict with Policy DM6. Although letters of support have been received, these do not alter my findings and are a neutral consideration.

48. Interested parties have raised further concerns regarding highway safety and parking in the village. However, I have no substantive evidence to support these concerns, and a traffic impact assessment was provided with the Highway Authority confirming the impacts would not be severe, indeed they set out that the proposal is likely to generate less traffic than a pub at certain times. The Council raised no concerns pertaining to service infrastructure shortages, flood risk and drainage or archaeology and advised these could be dealt with by suitably worded conditions, I have no reason to disagree.
49. There is no evidence to suggest that the recreation ground access would be restricted which is confirmed on the revised block plan. I afford no weight to comments relating to the other developments by the appellant's company which have been undertaken as these are not the proposals before me. However, these matters weigh neither for nor against the development.
50. I have been directed to or provided with several appeal decisions from both the main parties. However, I have no substantive information provided on each of those appeal schemes which led to their decisions. Nevertheless, whilst having regard to them in so far as being relevant, ACV, housing land supply and that they raise some similar issues, I have determined the appeal on the basis of oral evidence, written submissions and my own site observations.

Planning Balance and Conclusion

51. Since the determination of the planning application, the Council's housing position has changed, and an interim statement was provided prior to the Hearing. Applying the standard method as of 1 April 2025 gives a maximum of 4.08 years supply. When applying the 5% buffer, this results in a 3.89 years supply. The Council, point out that these are indicative, but nonetheless the Council are unable to demonstrate a 5-year supply of housing and this is not disputed by the appellant. Therefore, in these circumstances paragraph 11(d) of the Framework is engaged.
52. However, in light of my findings in relation to heritage matters the application of policies in the Framework that protect heritage assets (footnote 7 to paragraph 11 d) i) provides a strong reason for refusing the development, consequently the presumption in favour of sustainable development does not apply in this case.
53. I have identified the benefits of the appeal scheme and have undertaken the necessary balancing exercise in relation to public benefits. However, having considered the appeal scheme it would be unacceptable on heritage assets which overall attracts significant weight against the grant of planning permission.
54. The proposal conflicts with the above cited policies of the development plan and the Framework, and the material considerations advanced do not outweigh this conflict. For the reasons given above, I conclude that the appeal should not succeed.

KA Taylor

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

N Lea	Appellant, Land Manager, AR Cartwright Ltd
T Leader	Counsel – St Johns Chambers
M Robson	Director, Cerda Planning Ltd
H Hayes	Senior Planner, Cerda Planning Ltd
A Barnes	Fleurets
M J Billingsley	Cambridge Heritage
A Cartwright	Managing Director, AR Cartwright Ltd

FOR THE LOCAL PLANNING AUTHORITY:

T Hartley	Team Leader, Development Services
P Grundy	Senior Planning Officer, Conservation & GIS

INTERESTED PARTIES:

Councillor Jenkins – Parish Council
K Phillips
M Phillips
C Merrian - CAMRA
M Flemming
J Melaney
B Boulstridge
A Hawkins
J Francis

DOCUMENTS/EVIDENCE:

Interim statement on housing land supply
Conservation Area Management Plan Photographic Survey
Conservation Area Management Plan
Ecology and Biodiversity Consultation dated 17 September 2024
Email between the Main Parties dated 24 July 2025
Appeal Decision 3317090
Judgement - *Mainwaring & Carroll [2017] EWCA Civ 1315*[[2016] EWHC 2462 (Admin)]
Draft Planning Condition & Revised Condition List
MHCLG Public Works Loan Letter dated 7 August 2025

Appendix 3: Appeal Decision APP/K2420/W/23/3330774 - Desford Lane, Ratby

Appeal Decision

Inquiry held on 13-16 February 2024

Site visit made on 15 February 2024

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2024

Appeal Ref: APP/K2420/W/23/3330774

Land off Desford Lane, Ratby, Leicestershire LE6 0HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd and Bletsoe against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 21/01295/OUT, dated 15 October 2021, was refused by notice dated 1 September 2023.
 - The development proposed is described as an outline planning application for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point. All matters reserved except for means of access.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point on land off Desford Lane, Ratby, Leicestershire LE6 0HF in accordance with the terms of the application Ref 21/01295/OUT, dated 15 October 2021, and subject to the 26 conditions in the attached schedule.

Preliminary Matters

2. The description used on the application form and as set out in the banner heading above includes some wording that is superfluous because it is not a description of development. I have omitted it in the description used in my decision. It does not change the substance of the proposal.
3. The proposal is made in outline with all detailed matters reserved for later consideration other than for access. Access relates to the proposed vehicular access to Desford Lane and associated highway works. It does not extend to the internal road layout within the site as shown on the development framework plan, which is for illustrative purposes only.
4. A legal undertaking has been submitted which secures a number of planning obligations. I consider the undertaking later in my reasoning. The Council is satisfied that a combination of these obligations and conditions overcomes its concerns around the impact of the development on public facilities and services. Consequently, that reason for refusal no longer needs to be considered as a main issue in the appeal.
5. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties were able to respond to

those changes in preparing their evidence and at the inquiry. I have taken the revised Framework into account in reaching my decision.

6. A draft version of the Hinckley and Bosworth Local Plan 2020-2039 was published for consultation in 2022. I address the weight I give to the plan in more detail in the planning balance.

Main Issues

7. The main issues are the effect of the proposed development on:
 - The spatial strategy of the development plan, in relation to the location of new development
 - The landscape
 - Accessibility to services and facilities
 - The settings of the grade II* listed Church of St Philip and St James, and of the Ratby Conservation Area.
8. It is also necessary to consider the benefits of the proposal, and the consequences of a lack of housing land supply. I do this as part of the planning balance.

Reasons

Spatial strategy

9. The spatial strategy as set out in the Core Strategy Development Plan Document 2009 (the Core Strategy) is to focus development in and around Hinckley, with a lesser amount of development planned for the rural area to ensure that smaller settlements remain vibrant, mixed communities. To that end, Policies 7 and 8 of the Core Strategy support housing development within the settlement boundary of Ratby, which is identified as a Key Rural Centre. Outside the settlement boundary, only limited forms of development are supported, as listed in Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document 2016 (the Development Management Plan).
10. The appeal site lies outside the settlement boundary of Ratby as defined on the Settlement Inset Plan and the proposed development does not fall within any of the categories of development supported by Policy DM4. The proposed development would therefore be at odds with the spatial strategy of the development plan and conflict with Policy DM4.
11. The housing target in the Core Strategy is derived from the former East Midlands Regional Plan, now withdrawn. That housing target has been superseded by a nationally derived housing target calculated using a different methodology, and the need to co-operate with neighbouring planning authorities to address unmet housing demand, which results in a higher housing target. It follows that the development plan no longer reflects current housing need and fails to support the Government's objective of significantly boosting the supply of homes. The policies relating to the provision of housing are therefore out-of-date.

12. I conclude that, in so far as the spatial strategy as set out in the development plan is relevant, residential development on the appeal site would run counter to it and would therefore conflict with Policy DM4 of the Allocations Plan. However, that policy conflict only attracts limited weight because the policies which quantify and distribute housing growth in the development plan are out-of-date.

Landscape

13. In landscape terms the site forms part of an area¹ characterised by gently rolling landform rising to the north, clustered villages of varying sizes, predominantly arable farmland with areas of industry and recreational facilities near to the village fringes, limited tree cover, large to medium sized field patterns surrounded by hedgerows and linear woodland copses, and a good network of footpaths linking settlements. Electricity pylons and wind turbines are often prominent vertical features in the open landscape.
14. The site reflects these landscape characteristics by forming the larger part of what is currently an arable field surrounded by hedges, those to the north and south supplemented by hedgerow trees. It slopes down to the south and east, with its highest point being the proposed access point to Desford Lane. The village of Ratby sits on a hill to the east. To the south a shallow valley separates the site from the neighbouring village of Kirby Muxlowe. Land to the west is designated as part of the National Forest, although adjacent to the appeal site it is farmed land in arable and pastoral use rather than woodland.
15. Although the land surrounding these villages is predominantly agricultural in nature, commercial uses are interspersed within the landscape. A line of pylons runs up the valley. There was general agreement in the evidence presented on landscape that the site and surrounding area has a medium to medium-high sensitivity to change. Although not a 'valued' landscape in the sense used in paragraph 180b) of the Framework, I recognise it as having its own intrinsic character and beauty.
16. Residential development on the site would introduce domestic scale buildings together with roads, vehicles and lighting. The development as well as the activities associated with it would suburbanise the site and would inevitably harm its agricultural character and appearance and the contribution it makes to the landscape. Although residential buildings would not front Desford Lane, the development would still be readily seen from it and the public footpath that runs along the western boundary of the site, and in views across the valley from the south. Some landscape mitigation could be provided, with up to half of the site potentially being available. However, even after such planting had become established, the houses and associated activities would still be visible because of the proximity of the footpath and the sloping nature of the site.
17. The highway works to Desford Lane would also have a material impact on its character and appearance. Although well trafficked, at present the lane provides a largely rural approach to Ratby. In my view the built-up entry to the village does not become apparent until one gets near the new medical centre. The proposed highway works would suburbanise the lane by straightening and widening parts of it, introducing new hard surfacing and lighting, and reducing

¹ Hinckley and Bosworth Borough Landscape Character Assessment 2017 – LCA D: Newbold and Desford Rolling Farmland

the amount of soft verge. The hedgerow along the site frontage would also have to be removed but is proposed to be replanted behind the access sight line.

18. The development would be separated from the existing built-up edge of Ratby by the playing fields of Ratby Sports Club to the north and small meadows either side of Little Rothley Brook to the east. I was presented with differing views as to how this separation would be perceived in landscape terms. Other than for the hedged and treed boundary to Desford Lane, the playing fields do not in my view contribute to the wider landscape because they do not reflect its characteristic features. They provide an open and green space adjacent to the built-up area but are formal in appearance with terraces to accommodate the playing pitches.
19. The meadows however provide a more obvious break between the site and the western edge of the village. In views from the west and southwest, development on the site would be seen against the backdrop of existing housing in Ratby, but from the south and southeast it would be apparent that the development was on a separate hillside to that occupied by the existing village and that there was a green wedge separating it from existing housing.
20. Balanced against that sense of separation from Ratby is the presence of commercial operations in the immediate vicinity of the appeal site, the most evident being that of the stoneworks and to a lesser extent a caravan storage use on the opposite side of Rothley Brook. Development on the site would be seen as occupying land between these commercial operations and Ratby, rather than intruding out into open countryside. Sufficient countryside would remain between Ratby and Kirby Muxlowe to maintain a separation between the villages.
21. Taking all of these factors together it is my view that the development would have a harmful impact on the landscape by introducing built development on agricultural land that is characteristic of the landscape and forms part of its intrinsic character and beauty. While the proposal would be perceived as spreading development beyond the hilltop setting of Ratby and separated to an extent from its existing built-up edge, that perception would be moderated by the presence of the nearby commercial operations such that the harm would be contained to the local area. Planting would help to mitigate that harm to an extent. However, given the visibility of the site there would remain moderate adverse harm to the landscape in the long term.
22. The Council's reason for refusal relating to landscape harm refers to Policies 6 and 7 of the Core Strategy. Neither of these policies are relevant to impact on the landscape as the former relates to a green wedge designation and the latter relates to development within key rural centres, neither of which the site falls within. Reference is also made to Policies DM1 and DM10 of the Development Management Plan. Policy DM1 relates to the presumption in favour of sustainable development (paragraph 11 of the Framework), which I address later. Policy DM10 is aimed primarily at detailed design, which is relevant for the reserved matters but not the outline stage.
23. That leaves Policy DM4 of the Development Management Plan. Its purpose is to safeguard the countryside and maintain separation between settlements. It does that by protecting the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development. The

appellants argue that the detailed criteria i) to v) are only relevant where development falls within the categories of development considered sustainable in the countryside as set out in criteria a) to e). Given the joining preposition 'and' between these lists of criteria in the policy, that interpretation must be right. However, that does not prevent the first sentence of the policy from being relevant to unsustainable forms of development in the countryside.

24. I conclude that the development would conflict with Policy DM4, not only because it is not included in any of the categories of development considered sustainable in the countryside, but also because it would cause moderate adverse harm to the value, beauty and character of the countryside, albeit that harm would be contained to the local area and would not result in the merging of villages. It would also conflict with paragraph 180b) of the Framework which recognises the intrinsic character and beauty of the countryside, with the implied degree of protection that recognition affords.

Accessibility to services and facilities

25. Ratby is identified in the Core Strategy as a Key Rural Centre because it contains a primary school, local shop, post office, medical surgery, community and leisure facilities, employment opportunities and a 6 day a week bus service. These services and facilities are recognised in the Core Strategy as making it a place where residents can fulfil their daily needs without having to travel long distances into urban areas. A need identified in Policy 8 of the Core Strategy to improve medical facilities in Ratby has recently been secured through completion of the new medical centre on Desford Lane.
26. At present the site is not well connected to the services and facilities in Ratby. Desford Lane has no footways and is unlit for most of its length, and there is no other direct access across Little Rothley Brook to the village. The proposed highway works would therefore be critical in securing accessibility to the village as well as wider afield by means other than the private motor car.
27. With the proposed highway works, walking distances to the services and facilities in the village may be longer than is desirable but nevertheless most would be within what are acceptable or preferable maximum distances for pedestrians without a mobility impairment². The proposed bus stops would be within a desirable walking distance. Average walking distances to facilities in the centre of the village would be comparable to those from dwellings in its northern and southern parts, including recent residential development off Markfield Road.
28. Because the proposal is made in outline with layout reserved for later consideration, the measurement of distances has been taken from a central point in the site, meaning that some occupants would have to walk further and some less than that calculated³. Given the somewhat subjective nature of what may be considered desirable, acceptable or the maximum preferable walking distances, I consider that does not invalidate the findings detailed above.
29. The quality of the walking route is also important in encouraging future occupants to walk or cycle rather than take the car for short journeys. In that regard the separate shared footway/cycleway with street lighting and the new pedestrian crossing would provide a safe route into the village for both

² Institution of Highways & Transportation: guidelines for providing for journeys on foot 2000, table 3.2

³ Accessibility statement of common ground, table 2.1

- pedestrians and cyclists. The provision of new bus stops with a central refuge to aid crossing the lane would also provide convenient and safe facilities for bus passengers.
30. The proposed works would have some shortcomings, in that there would be a pinch point where the shared path crosses Little Rothley Brook, and neither the path nor the bus stops would be under passive surveillance⁴. The single point of access to the site and the single shared path into the village are also less than ideal, in that there would be no choice of routes unlike other parts of the village where there is greater permeability. However, none of these would seriously undermine the quality of the proposed highway facilities or significantly reduce their attractiveness to future users in accessing services and facilities in the village, or wider afield, including employment opportunities.
31. I conclude that, notwithstanding the shortcomings, accessibility to services and facilities sufficient to meet daily needs would be available to occupants of the proposed development by a range of travel modes other than the private motor car. Accessibility further afield to higher order services, facilities and employment opportunities would also be available by bus or bicycle. The proposal would therefore accord with Policy DM17 of the Development Management Plan, which seeks to minimise the need to travel and promotes sustainable forms of transport in new developments.

Heritage

32. There are two heritage assets which the development has the potential to affect. These are the grade II* Church of St Philip and St James⁵, and the Ratby Conservation Area. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to preserving the architectural and historic interest of the church, and to preserve or enhance the character or appearance of the conservation area, respectively.
33. The significance of the church lies in its historic fabric, the earliest parts of which date from the 13th century, and also its setting in a prominent position on top of a hill in the centre of the village. Its immediate setting is defined by the churchyard, with its wider setting being established by the village (in particular the more historic parts of it) and beyond that to the surrounding countryside.
34. The significance of the conservation area lies in the historic buildings and road layout which make up the earliest part of the village, grouped around the church, along Main Street and the upper part of Station Road. The buildings reflect the change from a predominantly agrarian village to one that accommodated a mix of agricultural and early manufacturing uses within the historic core. The setting around the conservation area is now largely occupied by more modern development although playing fields abut it to the south and west, and views of surrounding countryside can be gained from the higher ground within it.
35. Neither of these heritage assets would be directly impacted by the proposed development, which would be separated from them by some distance. Views of the appeal site can be obtained from the church, and vice versa, although those views are filtered through the hedge and trees along the northern

⁴ Leicestershire Highway Design Guide 2022, part 3

⁵ List entry number 1074093

boundary of the site. The illustrative development framework plan shows that it may be possible to retain some views of the church from the appeal site through site layout design, although that would be for the reserved matter stage and is not determinative of my conclusions on heritage matters.

36. Little of the appeal site can be seen from the conservation area, other than from the area immediately around the church. Desford Lane does form an approach to the conservation area, although only its easternmost end is identified as a view to be protected⁶, which is beyond the part of the lane that would be altered by the proposed highway works.
37. The loss of part of the countryside that can be seen from the church and that part of the conservation area that immediately surrounds it would have a minor adverse effect on their settings, in that it would lessen the historic relationship between the church and village and its agricultural hinterland. However, historically the church has always been surrounded by buildings rather than being reliant on an isolated, countryside setting. The same applies to the conservation area where its significance and special interest lies not only in its agrarian links but also to buildings associated with early forms of manufacture, none of which were reliant on agriculture.
38. Consequently, the limited impact to the wider settings of the church and conservation area identified above would amount to less than substantial harm to their significance. That impact would be towards the lower end of the range of such harm.
39. In such circumstances, paragraph 208 of the Framework says that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. It is common ground between the witnesses for both of the main parties that the public benefits arising from the provision of additional housing, including a proportion of affordable housing, would outweigh the less than substantial harm to the significance of both the church and the conservation area.
40. Irrespective of the level of harm caused, paragraph 205 of the Framework requires that great weight be afforded to a heritage asset's conservation. Having taken into account that great weight, and the statutory protection afforded to designated heritage assets, I am of the view that the public benefits of the development would easily outweigh the very limited harm caused to the significance of both the church and conservation area. Consequently, I conclude that the development would not conflict with Policies DM11 and DM12 of the Development Management Plan, which seek to protect the historic environment taking account of any benefits that might flow from development proposals.

Other Matters

41. The development would give rise to the loss of a small amount of best and most versatile agricultural land. The loss of agricultural land does not form a reason for refusal on the Council's decision notice although it is a matter raised in evidence. I was informed that almost all agricultural land in the borough falls within this category and therefore any housing development is likely to result in

⁶ Ratby Conservation Area Appraisal, 2014

- such a loss. Given that to be the case, I consider that the loss of this relatively small parcel of land for agriculture would not cause any material difference to food production because such a loss is inevitable if the borough is to meet its housing requirements.
42. I heard evidence from interested parties that Ratby has expanded rapidly in recent decades and that has put strain on local facilities, in particular the primary school and increased traffic on the roads, as well as fears about the ability of the village to accommodate the rate of change in social terms.
43. While I understand the concerns expressed on these issues, it is a matter for service providers to respond to new development by providing improvements or additional capacity where necessary, rather than existing capacity being seen as a limiting factor on development, unless such improvements or additional capacity are not possible. In this case, no objection to the scheme has been raised by service providers, including the County Council in its roles as Highway Authority and Education Authority. A range of legal obligations and conditions agreed to by the appellants would also secure contributions towards the provision of education and highway improvements, as well as other services such as the library and maintenance of open space.
44. Social change is a more subjective matter. I appreciate that more housing will make the village a busier place with potentially a greater variety of people, and that some residents may regret the change from what was a smaller and perhaps more intimate scale of village in the past. However, more residents do also bring advantages, such as more participants in village sports clubs, and using local shops and businesses ensuring that they remain and thrive. Development of new housing, whether at Ratby or elsewhere in the borough, is necessary to meet demand and therefore change to the existing population is inevitable. I do not consider that change to be intrinsically harmful.
45. I was told that there have recently been instances of flooding in the local area. While that may be the case, so far as the proposed development is concerned there is a requirement that it incorporate a sustainable drainage system to avoid increasing surface water run-off from the site. It would not therefore worsen the current problems.
46. The issue of noise disturbance from the stoneworks has been raised. I do not consider that is of sufficient concern to prevent residential development taking place on the site, but I have imposed a condition requiring the potential for such noise disturbance to be assessed in more detail and for suitable mitigation to be incorporated in the layout and design of houses on the site if necessary.
47. There would be some temporary disruption during the construction period. However, that is common to almost all development and does not amount to a reason for dismissing the appeal. Conditions are imposed that would help minimise any disruption that might occur.

Planning Balance

48. I have found that the proposed development would conflict with Policy DM4 of the Development Management Plan because the site lies outside the settlement boundary of Ratby and does not fall within any of the categories of development considered appropriate in the countryside. However, that conflict

- only carries limited weight because the spatial strategy of the development plan is out-of-date.
49. I have also found that the proposed development would conflict with Policy DM4 and paragraph 180b) of the Framework in that it would cause harm to the landscape. I give that harm moderate weight.
50. For accessibility by means other than the private motor car, I have concluded that while there are some shortcomings to what is proposed, when taken in the round accessibility to services and facilities in Ratby would be acceptable. I have also concluded that while there would be less than substantial harm to heritage assets, that harm would be very limited and is outweighed by the public benefit of providing housing to meet demand. Both of these issues are of neutral weight in my decision.
51. Balanced against that conflict with Policy DM4 and the Framework, the proposal would result in a number of benefits. The principal benefits, already mentioned in connection with heritage assets, are the provision of new market and affordable housing. Those homes would help meet demand for housing, which both parties recognise is not being adequately met in the borough at the current time. I give both those benefits significant weight.
52. There would be economic benefits both in the short term during the construction period and afterwards through the spending power of future occupants to the local economy. There would also be a net gain in biodiversity. I give these benefits limited weight.
53. Open space and play equipment would be provided on site, as would contributions towards a range of off-site services and facilities such as education and the library service. While these facilities or improvements to services would be available to the general public, they are primarily intended to meet demand and serve the needs of future occupants. I therefore give them only limited beneficial weight.
54. The proposed development would have its own sustainable drainage system that would attenuate surface water run-off from the site such that it would be no greater than the existing greenfield run-off rate. I am satisfied that such a system would not worsen localised flooding that interested parties told me about at the inquiry. However, without having further details of the storage capacity of the system I am unable to say whether it would improve on the current situation. I therefore give this matter neutral weight.
55. In terms of housing land supply, it is necessary to consider the recent changes in national policy contained in the revised Framework. The Council is required to identify and update annually a supply of deliverable sites by virtue of paragraph 77, because it does not meet the criteria in paragraph 76. That requirement is for 5 years' worth of housing land, unless the provisions of paragraph 226 apply, in which case it is 4 year's worth. Paragraph 226 applies where an authority has an emerging local plan which has reached the Regulation 18 or 19 stage⁷ and includes both a policies map and proposed housing allocations. This provision is time limited to 2 years (ending December 2025).

⁷ Town and Country Planning (Local Planning) (England) Regulations 2012

56. In this case, the Council does have an emerging plan that has reached the Regulation 19 stage, and which does have a policies map showing housing allocations, albeit that map is incomplete because it does not show the geographical expression of other policies in the plan. However, the plan has not progressed to examination, and the Council has recently published a revised local development scheme⁸ which indicates that it intends to consider an alternative development strategy, extend the plan period to 2041 and carry out new Regulation 18 and 19 consultations before submission for examination by June 2025, with adoption expected in early 2026.
57. Although the present Regulation 19 plan has not been formally withdrawn, it is apparent that there is no intention to progress it in its current form. The purpose of the revised requirement in the Framework is to recognise those authorities which are progressing with plan making. Since the current Regulation 19 plan has stalled, and a revised version is not envisaged to be adopted for at least two years, I consider that the provisions of paragraph 226 do not apply in this case. That position is accepted by both main parties, including the Council, which is not seeking to rely on the provisions of paragraph 226.
58. In terms of housing land supply, the most recent published figure shows 4.89 years' supply available⁹. This includes a 5% buffer, which is no longer needed. However, I was offered no updated housing land supply calculation, and the position of the Council remains that it is unable to demonstrate a 5-year housing land supply. In such circumstances, for proposals involving the provision of housing, footnote 8 of the Framework deems the policies most important for determining the proposal to be out-of-date.
59. Where those policies are out-of-date, paragraph 11d) of the Framework says that planning permission should be granted unless specific policies in the Framework provide a clear reason for refusal, or any adverse impacts of the development would significantly and demonstrably outweigh the benefits.
60. In this case there are no specific policies in the Framework that provide a clear reason for refusal. Harm to designated heritage assets is capable of being such a specific policy, but here it is agreed that the limited harm caused to the church and conservation area is outweighed by public benefits and therefore does not amount to a clear reason for refusal.
61. I have identified some adverse impacts arising from the proposal, both in terms of the conflict with the spatial strategy of the plan, and its impact on the landscape. However, those only carry limited or moderate weight. When compared to the range of benefits that would flow from the proposal, I conclude that the harm does not significantly and demonstrably outweigh the benefits. Accordingly, it follows that the Framework supports planning permission being granted. That is an important material consideration that carries significant weight.

Legal undertaking

62. The proposal is accompanied by a legal undertaking that secures a range of planning obligations. These include the provision of 40% affordable housing

⁸ Hinckley & Bosworth Borough Council Local Development Scheme 2020-2025, February 2024

⁹ Hinckley & Bosworth Borough Council Residential Land Availability Monitoring Statement 1 April 2021 – 31 March 2022

with agreed tenures, travel packs including bus passes, and financial contributions towards a traffic regulation order, education, health care, a civic amenity site, the library, improvement of a highway junction as part of the Coalville Transport Strategy, maintenance of on-site and off-site open space, and monitoring.

63. Having regard to the compliance statement submitted by the Council and the discussion that took place at the inquiry, I am satisfied that these obligations meet the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 in that they are necessary, directly related to the development and fairly and reasonably related in scale and kind. No objection to them was raised by the appellants. I have placed weight on them in meeting policy requirements in the development plan and the additional demands the development would place on infrastructure and public services. The proposed highway improvements, which are critical in securing adequate accessibility to the site, are secured through Grampian conditions, which I consider below.

Conditions

64. I have considered the draft conditions against the tests in paragraph 56 of the Framework. I have imposed those which I consider meet the tests, subject to rewording and simplification in the interests of clarity, consistency and enforceability. They have also been reordered in accordance with the advice in the Planning Practice Guidance. The appellants confirmed their agreement to the inclusion of pre-commencement conditions at the inquiry pursuant to section 100ZA of the Town and Country Planning Act 1990.
65. Condition 1 is necessary to require submission of the reserved matters, and conditions 2 and 3 set time limits for their submission and the start of development. I have separated these for clarity. Condition 4 listing the approved drawings is needed for certainty.
66. Condition 5 is necessary to ensure any matters of archaeological interest are found and recorded.
67. Conditions 6, 14 and 15 are necessary to find and remediate any contamination that might exist on the site.
68. Condition 7 is required to control and mitigate any adverse effects during the construction period, including construction traffic. I have combined suggested conditions into one and simplified the requirements in the interests of clarity.
69. Conditions 8, 9 and 16 are necessary to ensure appropriate surface water drainage both during construction and long term. I have combined suggested conditions to include the surface water drainage system being designed to also avoid water draining onto the public highway.
70. Condition 10 is necessary to enable further consideration to be given to the position and design of the proposed pedestrian crossing to the north of the site in the vicinity of the health centre.
71. Conditions 11, 12, 13 and 24 are necessary to secure biodiversity net gain and ensure that the impact on wildlife is minimised.
72. Conditions 17, 18, 19 and 20 are necessary to ensure that the proposed on and off-site highway works are implemented and thereafter maintained. Condition

- 21 requires a travel plan to be approved to encourage future occupants to use means of transport other than the motor car.
73. Condition 22 is necessary to support good quality, up-to-date communications.
74. Condition 23 is necessary to minimise noise disturbance to future occupants and condition 25 is necessary to ensure healthy lifestyle features are incorporated into the detailed layout and design of the development.
75. Condition 26 is necessary to control the times of construction activities in the interests of neighbouring occupants.
76. I have not imposed a condition referring to the development framework plan, as that is submitted for illustrative purposes only. I have not imposed conditions relating to retention of hedges, replacement of damaged planting, ground levels and bin storage as these are more appropriately considered as part of the reserved matters details. I have also not imposed a condition restricting permitted development rights for domestic gates and other means of enclosure as there is no clear justification to do so. To impose such a condition would conflict with paragraph 54 of the Framework.

Conclusion

77. I conclude that the development would conflict with Policy DM4 of the Development Management Plan, and would therefore conflict with the development plan when taken as a whole. However, there are important material considerations, in particular the 'tilted' balance arising from the Framework that indicates that planning permission should be granted, and the benefits of providing housing in an area where that need is not currently being met. These material considerations outweigh the conflict with the development plan.
78. Consequently, I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

Appearances

For the appellants:

Martin Carter	Counsel
Silke Gruner BHons LA CMLI	Director (Landscape), Icen Projects
Rosey Meara MA (Hons) PGCert MCIfA	Associate Consultant, CSA Environmental
Ben Jackson BEng (Hons) MSc MCIHT	Director, Ashley Helme Associates Ltd
Peter Dutton BA (Hons) MCD MRTPI	Planning Manager, Gladman Developments Ltd

For the Council:

Hugh Richards	Counsel
Simon Neesam BA (Hons) DipLA CMLI	Director, The Landscape Partnership Ltd
Andrew Gray MSc MRTPI MSc MIED	Associate Director, Aitchison Raffety
Tim Hartley BA (Hons) MRTPI	Team Leader Development Management, Hinckley & Bosworth Borough Council

Interested parties:

Cllr Ozzy O'Shea JP	Grobby & Ratby Division and Ratby, Bagworth & Thornton Ward
Cllr Chris Boothby	Ratby, Bagworth & Thornton Ward
Dr Andrew Simmonds	Local resident
Stephen Boud	Local resident
Graham Stanley	Local resident

Documents

Documents relating to the inquiry can be found at: [About the inquiry | Public inquiry: land off Desford Lane, Ratby | Hinckley & Bosworth Borough Council \(hinckley-bosworth.gov.uk\)](https://hinckley-bosworth.gov.uk/about-the-inquiry/public-inquiry-land-off-desford-lane-ratby)

Documents received during or after the inquiry are as follows:

1. Copy of draft legal undertaking
2. Draft conditions
3. High Court judgement: Monkhill Ltd v SSHCLG [2019] EWHC 1993 (Admin)
4. Appeal Court judgement: Monkhill Ltd v SSHCLG [2021] EWCA Civ 74
5. Plan of cycling route to Leicester
6. High Court judgement: Bramley Solar Farm Residents' Group v SSLUHC and others [2023] EWHC 2842 (Admin)
7. Opening statement on behalf of the appellants
8. List of appearances for the appellants
9. Opening statement on behalf of the Council
10. Speaking notes for Dr Andrew Simmonds
11. Revised local development scheme 2020-2025 dated February 2024
12. Minute 231 of Council meeting 13 December 2022 relating to revision of local development scheme 2020 to 2025 dated October 2022
13. CIL compliance statement by Council
14. Leader of the Council's position statement at Council meeting 6 September 2022 including reference to local plan
15. Regulation 19 draft plan
16. Policies map published with Regulation 19 draft plan
17. Inset map for Ratby published with Regulation 19 draft plan
18. Closing submissions on behalf of the Council
19. Closing submissions on behalf of the appellants
20. Speaking notes for Graham Stanley
21. Copy of completed legal undertaking.

Schedule of 26 conditions:

1. No development shall commence until details of layout, scale, appearance, landscaping and internal 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.
2. Application for approval of the reserved matters shall be made within 3 years of the date of this permission.
3. The development hereby permitted shall begin not later than 3 years from the date of this permission or not later than 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is later.
4. Other than as may be approved in condition 10, the development hereby permitted shall be carried out in accordance with the following plans:
Site location plan – CAS/5249/108 Rev B
Proposed access strategy – 1726/16 Rev E
Proposed access arrangements 1726/15 Rev H
Proposed toucan crossing – 1726/19 Rev C
5. No development shall commence until a scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the nomination of a competent person or organisation to undertake the approved scheme, and a programme of site investigation, recording and publication of post-investigation analysis. The scheme of archaeological investigation shall be carried out in accordance with the approved programme.
6. No development shall commence until a scheme for the investigation and mitigation of any contamination at the site has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation and mitigation shall be implemented in accordance with the approved details prior to occupation of the development.
7. Prior to the commencement of development a construction environmental management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall detail how, during site preparation and construction, the impact on neighbouring properties and the environment shall be minimised or mitigated from dust, odour, noise, smoke, light or other sources of pollution. The plan shall also detail how construction traffic will be managed including routing of construction traffic, wheel cleaning and parking. The plan shall detail how such controls will be monitored and shall include a procedure for the investigation of and response to complaints. The construction environmental management plan shall be implemented in accordance with the approved details.
8. Prior to the commencement of development details of a surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The details shall include how surface water will be prevented from draining onto the public highway. The surface water

drainage system shall be implemented in accordance with the approved details prior to occupation of the development.

9. Prior to the commencement of development a system for the management of surface water drainage during site preparation and construction shall be submitted to and approved in writing by the Local Planning Authority. The system for the management of surface water drainage shall be implemented in accordance with the approved details, and maintained in working order throughout site preparation and construction.
10. Notwithstanding plan 1726/19 Rev C in condition 4 (approved plans), prior to commencement of development a scheme for a pedestrian crossing north of the site on Desford Lane in the vicinity of the health centre shall be submitted to and approved in writing by the Local Planning Authority. The approved pedestrian crossing shall be installed prior to occupation of the development.
11. Prior to the commencement of development a biodiversity net gain plan ensuring a net gain in biodiversity of at least 10% shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of baseline habitat data, habitat creation and/or enhancement, a timetable for implementation, a habitat management and monitoring plan with measures for remediation if required, and if necessary details of biodiversity off-setting and its long-term management and monitoring. The plan shall be implemented in accordance with the approved details.
12. Prior to occupation of the development, a landscape and ecological management plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens shall be submitted to and approved in writing by the Local Planning Authority. The landscape and ecological management plan shall be carried out in accordance with the approved details.
13. Prior to occupation of the development, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and the design and location of the lighting equipment demonstrating how external lighting will minimise harm to protected species and their habitats. The external lighting shall be installed and operated in accordance with the approved details.
14. If during development contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation and mitigation of contamination at the site has been submitted to and approved in writing by the Local Planning Authority detailing how the contamination is to be remediated. The remediation works approved shall be carried out prior to the occupation of the development.
15. Within 3 months of the completion of any mitigation or remediation works approved pursuant to conditions 6 and 14, a verification report shall be submitted and approved in writing by the Local Planning Authority. The verification report shall be written by a suitably qualified person or

organisation and shall include details of the mitigation or remediation works, post-remedial sampling, disposal of waste and quality assurance certificate(s) to demonstrate that the mitigation or remediation works have been carried out in accordance with the scheme of investigation and mitigation approved pursuant to conditions 6 and 14.

16. Prior to occupation of the development a plan for the long-term maintenance of the surface water drainage system approved pursuant to condition 8 shall be submitted to and approved in writing by the Local Planning Authority. The maintenance plan shall include responsibilities and schedules for routine maintenance, monitoring and remedial action if required of the drainage system, and procedures to be implemented in the event of pollution of surface water on the site. The surface water drainage system shall be maintained in accordance with the approved maintenance plan.
17. Prior to occupation of the development the access arrangements shown on approved plan 1726/15 Rev H shall be implemented in full.
18. Prior to occupation of the development the offsite highway works detailed on approved plan 1726/16 Rev E including the shared use footway/cycleway along Desford Lane, realignment of part of Desford Lane, bus laybys, pedestrian refuge and gateway feature but excluding the pedestrian crossing north of the site on Desford Lane in the vicinity of the health centre, shall be implemented in full.
19. Prior to occupation of the development vehicular visibility splays of 2.4m x 120m to the right of the site access and 2.4m x 118m to the left of the site access shall be provided. The visibility splays shall thereafter be maintained free from obstruction above a height of 0.6m measured from the level of the adjacent footway, verge or carriageway.
20. Prior to occupation of the development vehicular visibility splays to existing accesses 1, 2 and 3 as detailed on Jackson drawing 2112 Rev D shall be provided. The visibility splays shall thereafter be maintained free from obstruction above a height of 0.6m measured from the level of the adjacent footway, verge or carriageway.
21. Prior to occupation of the development a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall be implemented in accordance with the approved details.
22. Prior to occupation of the development a full fibre broadband connection shall be made available and ready for use for each dwelling.
23. Layout and appearance reserved matters shall include a noise investigation and mitigation strategy detailing how occupants of dwellings on the site will be protected from adverse noise effects arising from the adjacent Stonecroft works. The development shall be implemented in accordance with the approved noise investigation and mitigation strategy prior to occupation of the development.
24. Layout and landscaping reserved matters shall include details of how the recommendations of the SCA Ecological Impact Assessment CSA/5249/05,

dated September 2021, have been incorporated. The details so incorporated shall be implemented in accordance with approved layout and landscaping plans.

25. Any reserved matters application shall include a Building for a Healthy Life Assessment which shall demonstrate how the development accords with best practice requirements set out in the Building for a Healthy Life document.
26. Site preparation and construction shall be limited to the following hours:
Monday – Friday: 07:30 – 18:30
Saturday: 08:00 – 13:00
There shall be no site preparation or construction on Sundays, bank or public holidays.

* * * End of conditions * * *

Appendix 4: Appeal Decision APP/K2420/W23/3331081 - Brascote Lane, Newbold Verdon

Appeal Decision

Hearing held on 23 April 2024

Site visit made on 24 April 2024

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Ref: APP/K2420/W/23/3331081

Land East of the Windmill Inn, Brascote Lane, Newbold Verdon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Richborough Estates, Messrs Longwill, Jenny Nicholls & Jason Nicholls against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 22/00277/OUT, dated 15 March 2022, was refused by notice dated 21 September 2023.
 - The development proposed is the construction of up to 239 dwellings with associated landscaping, open space, drainage infrastructure and associated works.
-

Decision

1. The appeal is allowed, and planning permission is granted for the construction of up to 239 dwellings with associated landscaping, open space, drainage infrastructure and associated works at Land East of the Windmill Inn, Brascote Lane, Newbold Verdon in accordance with the terms of the planning application Ref 22/00277/OUT, dated 15 March 2022, and subject to the conditions in Annex C.

Preliminary Matters

2. The proposal is in outline with access applied for in full. This is the vehicular and pedestrian access from Brascote Lane as set out on drawing Ref T20517 001 Rev C. An Illustrative Layout has also been submitted, on drawing Ref n1741 006 Rev C. I have had regard to this as appropriate, whilst acknowledging its illustrative nature.
3. Towards the end of 2023, a revised version of the National Planning Policy Framework (the Framework) was released. This was discussed at the Hearing and I refer to the revised version of the Framework as appropriate throughout my Decision.
4. The final s106 Planning Obligation, dated 2 May 2024, (the s106) secures:
 - the provision of 40% affordable housing provision on site, split into 56.25% Affordable Housing for Rent, 18.75% Shared Ownership Dwellings, and 25% First Homes;
 - 4.95ha of open space to be provided as publicly accessible, including at least 3.35ha of ecological enhancements through new woodland planting, meadow areas, an ecological pond and reinstated historic hedgerow boundaries;
 - an equipped children's play space;

- the future management and maintenance of the open space, including contributions;
 - contributions towards off-site open space and maintenance, civic amenities, early years education, SEND education facilities, secondary school facilities, post-16 education, health facilities, and library facilities;
 - travel packs for the future occupants and related contribution;
 - bus passes providing free travel for six months for future adult occupants;
 - Travel Plan monitoring contribution;
 - Council and County Council monitoring fees contributions; and,
 - Payment of Council and County Council's legal fees.
5. The Council's and the County Council's Community Infrastructure Levy (CIL) Compliance Statements set out the detailed background and justification for each of the obligations. I am satisfied that the provisions of the submitted agreement would meet all the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at Paragraph 57 of the Framework, and I have taken them into account. I return to matters of weight and detail of the s106 throughout my Decision as appropriate.
6. A duplicate planning application, Ref 23/01037/OUT, was submitted by the appellant. This was taken to the March 2024 Planning Committee where it was refused for the same reasons as the application that is the subject of this appeal.
7. Submissions were received during and after the Hearing, as set out in Annex B. I am satisfied that the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. The appeal is therefore determined on the basis of the additional documents.

Main Issues

8. The main issues are:
- whether or not the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance;
 - the effect of the proposal on the character and appearance of the area, particularly regarding landscape; and,
 - whether or not the site is in a suitable location for housing, with adequate access to services.

Reasons

Principle of development

9. The Core Strategy 2009 (the CS) sets out the spatial strategy for the Council, which is for the distribution of homes to be focussed on the larger settlements. Newbold Verdon is a Key Rural Centre, second in the hierarchy. Policy 11 of the CS allocates a minimum of 110 dwellings to the settlement, to be located within its defined settlement boundary (the SB), as set out in Policy 7.
10. The appeal site lies outside the SB of Newbold Verdon. It is therefore in the 'countryside' for the purposes of planning policy. Policy DM4 of the Site Allocations and Development Management Policies DPD, July 2016 (the SA

DPD) states that development in the countryside is unsustainable unless it meets one of five criteria, as set out at parts a) to e) of the policy. It is common ground, and I agree, that the proposal does not meet any of these criteria. It therefore conflicts with Policy DM4 of the SA DPD and, by extension, with the overall spatial strategy of the Council.

11. However, the CS is based on a target of 450 dwellings per annum (dpa) for the period 2006 to 2026, which is derived from the East Midlands Regional Plan. As set out in the Framework¹, the starting point for establishing the housing requirement for an area should be the Standard Method. I have not been provided with the most up-to-date housing requirement calculation using this method, but it is common ground, and I agree, that any such calculation would likely result in a higher annual requirement. In addition, it is likely that the Council will need to provide for at least some of Leicester's unmet need, under the Duty to Cooperate².
12. Furthermore, the Council has not been meeting its current target, and the net housing completions for the period 2006 to 2022 were 422 dpa³. Specifically, two large Sustainable Urban Extensions were proposed as part of the CS, and neither project has started, or is even included within the Council's current five-year supply of deliverable housing sites. In addition, a large proportion of the housing that has been granted planning permission during the CS plan period has been on greenfield land, ie outwith the spatial strategy.
13. It is therefore highly likely that the Council will need to reflect a higher housing requirement in its emerging spatial strategy. This is being progressed through an emerging Local Plan (the eLP). However, a previous Regulation 19 version, which was consulted upon in 2022, has since been withdrawn. The Council is re-visiting the eLP and therefore also its spatial strategy. The latest Local Development Scheme, dated January 2024, timetables a Regulation 18 consultation for the eLP in summer 2024, leading to eventual adoption in early 2026.
14. Therefore, as I write this Decision, we do not know what the spatial strategy or site allocations will be. However, given the likely requirement to accommodate greater growth than reflected in the CS and the reliance even within the CS plan period on greenfield development, it is likely that this will include either greater flexibility for development in the countryside and/or further site allocations on greenfield land.
15. Pulling all this together, the spatial strategy in the CS is in broad accordance with the Framework, by focusing development in the most accessible locations. However, this is reliant on an out-of-date housing requirement that is highly likely to increase. I therefore place limited weight on the conflict I have identified with Policy DM4 of the SA DPD, and the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance.

Character and appearance

16. Policy DM4 of the SA DPD sets out five criteria that must be met by development in the countryside. These are listed as additional criteria to be

¹ Paragraph 61

² See Leicester & Leicestershire Housing & Economic Needs Assessment Final Report, dated June 2022

³ See Residential Land Availability Monitoring Statement, 1 April 21 - 31 March 22

met by development that has met at least one of the first five criteria. By default, therefore, the proposal cannot meet these criteria. However, for the purposes of the appeal, the Council has approached the policy flexibly and considers the criteria i) to v) to help frame its assessment of the acceptability or otherwise of the appeal proposal. I have adopted this approach as a useful framework for assessing the proposed development. It is common ground⁴, and I agree, that only criteria i) is applicable to the appeal proposal. This states that a proposal must not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.

17. The Council accepts the conclusions of the appellant's Landscape & Visual Appraisal, dated 11 March 2022 (the LVA). This concludes that the appeal site is typical of the wider landscape character areas (LCAs)⁵, with no fundamentally defining features. It is visually highly contained, being surrounded to all but one relatively small boundary by substantial hedgerows and tree lines. Where visible from the south, east or west, for example from a footpath to the east, it is seen in the context of the existing housing in Newbold Verdon as a backdrop.
18. The appeal site is set slightly away from the village, with an intervening field and allotments. However, as approached from the south on Brascote Lane, there is already an ill-defined edge to the village. The village sign and speed limit signs are further to the north, at the point the existing homes in the village begin. However, the two allotment gardens on the lane, and the Windmill Public House, draw development further south, towards the highly dispersed settlement of Brascote.
19. The proposed change from an arable field to a residential development, albeit with substantial areas of open space and parkland, would affect the intrinsic character of the site. However, this would be visually self-contained. The proposed open space provides the opportunity to incorporate positive landscape features, and this could be controlled by condition. Planting could also be required by condition to reinforce the existing boundary planting, and to provide new planting to the small currently open boundary to the south east corner of the site. The LVA therefore concludes, and I agree, that the resultant effects on the landscape character of the area, and the two LCAs, would be neutral.
20. There would, nevertheless, be some harmful effects on the character and appearance of the area from the proposal, resulting from the change from a field to a residential development, including to the users of a nearby footpath. I acknowledge the importance of this footpath to some local residents because it is part of 'the block', a commonly used walking route on the edge of Newbold Verdon. However, the LVA assesses these as being at most moderate effects, and with the effects from many locations being minor or even negligible. For the reasons set out above, I agree with this assessment.
21. Overall, therefore, the proposal would result in limited harm to the character and appearance of the area. This fails to comply with Paragraph 180 of the Framework, which aims to preserve the intrinsic character and beauty of the countryside. However, it complies with Policy DM4 of the SA DPD, which

⁴ Confirmed verbally at the Hearing

⁵ Bosworth Parklands LCA and Newbold and Desford Rolling Farmland LCA

requires a significant adverse effect on the character and landscape character of the countryside before it finds a proposed development to be unacceptable.

Accessibility

22. The appeal site is on the edge of, but outside, Newbold Verdon. Newbold Verdon provides a reasonable range of services and facilities, including pubs, a primary school, a Co-op, churches, a post office, and other shops and facilities. The walking distances to the facilities are agreed⁶ as is the methodology of measuring from the middle of the appeal site to provide an average measurement. Main Street, with the majority of the services, is around 1km from the site. Apart from the Windmill Pub, next to the site, the other services and facilities are between 850m and 1.5km distant. The distances are therefore mostly beyond the 800m distance recommended to create a walkable neighbourhood in Manual for Streets⁷ (MfS) but within the upper walkable limit of 2km set out in the same document.
23. The MfS distances are guidelines and not policy requirements. Policy DM17 of the SA DPD seeks to ensure convenient and safe access by walking. In this regard, the appeal site is linked to the services and facilities by an existing pavement running along Brascote Road into the village centre. This is a reasonable width and is lit. Within the village, there are a variety of pavement widths and styles, as is to be expected in a village that has grown organically over time. Vehicular traffic is relatively light. There are also alternative routes at least partially using off-road footpaths, for example to the north east. The walking distances to the services and facilities are therefore relatively long but the attractiveness and useability of the walking routes is relatively high.
24. The appeal site is within a reasonable walking distance of bus stops along Main Street. Bus service 153 runs from these stops. It runs roughly hourly, including both early in the morning and into the evening, Monday to Saturday. There are no services on Sundays. This is a reasonable bus service for a rural location, providing a useable service to the larger service centres of Market Bosworth, Desford and Leicester. In addition, the s106 secures travel packs and up to two bus passes providing free travel for six months for future adult occupants.
25. Overall, I think it is likely that some journeys would be undertaken by foot or by bus. There would also, however, likely be a reasonable degree of reliance on the car for many of the journeys from the site. Given the relatively rural location of both the appeal site and Newbold Verdon, this is an acceptable level of accessibility, because there are genuine alternatives to the car for many journeys. The proposal is, therefore, in a suitable location for housing, with adequate access to services and the proposal meets the requirements of Policy DM17 of the SA DPD, which requires good walking access to services and facilities and where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

Other Matters

26. The Church of St James is a Grade II listed building⁸. It is a medieval church, partially rebuilt in 1899. The significance of the building, as it relates to the

⁶ See Table 1, Statement of Common Ground

⁷ See Section 4.4

⁸ List entry number 1115770

appeal, is its setting in the centre of Newbold Verdon, in the backdrop to the appeal site. I have therefore had regard to s16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). There is no known historic association between the church and the appeal site. The site is separated from the church by the village. There is limited inter-visibility, and where there is it is a common view of the church as can be seen from a number of locations on the outskirts of Newbold Verdon. The appeal proposal would not, therefore, affect the setting of the church, and it would preserve the setting of the building.

27. A Neighbourhood Plan for Newbold Verdon is being prepared. However, it is in the very early stages. It is not known what the policies of the plan will be. It is therefore common ground, and I agree, that no weight can be placed on this emerging document.
28. Several letters of objection have been received from neighbours, and some neighbours and Councillors spoke at the Hearing. They raise several concerns, some of which I have dealt with above, and others which I consider below.
29. The proposal would result in a biodiversity net gain, as could be secured by condition. This is because the appeal site is currently of low ecological value because it is mostly a field, and the proposal includes substantial areas of open space, landscaping, and other biodiversity mitigation measures such as new woodland planting, meadow areas, and an ecological pond. Leicestershire County Council's ecologist supports the proposal.
30. Disruption during construction, including highway safety, could be adequately controlled by condition to require a Construction Traffic Management Plan. As confirmed by the Local Lead Flooding Authority, the approach to sustainable urban drainage would be acceptable, including the use of detention basins, swales and tree pits to ensure an acceptable surface water discharge rate. The proposal would result in the loss of agricultural land, however no evidence has been provided to me that the land is of particularly high value, or is protected in any way. An Air Quality Assessment, dated February 2022, has been submitted by the appellant and it concludes that, subject to mitigation measures, the effect of the development on local air quality is predicted to be 'negligible'. I have no reason to disagree with this conclusion.
31. Both the County and Borough Council have considered the effect of the proposal in local infrastructure, as has the NHS with regard to the effect on the local GP Surgery. A range of mitigation measures are requested and have been secured in the s106, including contributions towards education, health and libraries. Subject to these measures, the proposal would have an acceptable effect on local infrastructure.
32. The appellants' Transport Assessment, dated February 2022 (the TA) assesses the likely traffic generation from the proposal. The Highway Authority (the HA) has considered the TA and supports its conclusions, which are that all affected road junctions would still operate well within capacity, apart from Barlestone Road/Bosworth Lane junction which would still be within capacity. National Highways has also confirmed that the proposal would be unlikely to have a significant impact on the operation of the Strategic Road Network, ie the M1, A46 and M69. I am therefore confident that the proposal would not give rise to any unacceptable increase in traffic on the surrounding road network with regard to the effect on the free-flow of traffic.

33. The effect on users of the existing allotments would be negligible, because substantial screening is proposed between the existing allotments and the proposed development. There would also be a beneficial effect on the users of the allotments because car parking for the allotments is proposed as part of the Parameter Plan. The detail of this could be agreed through reserved matters and condition discharge submissions.
34. Whilst the reason for refusal references highway safety, the Council agreed in the Statement of Common Ground⁹ that it no longer disputes this issue. The HA also raises no objection. The proposed vehicular access has good visibility in both directions, along a long straight road, in a location where the undulations don't materially affect visibility. The levels of on-site car parking would be confirmed at reserved matters stage and there is no reason to believe that adequate on-site car parking would not be provided. There would not, therefore, be any material increase in on-street car parking pressure as a result of the proposal. Accident data, as provided in the TA, confirms that the volume and pattern of accidents recorded in the area does not give any undue cause for concern. Any increase in traffic would be relatively low and would not give rise to any unacceptable harm to highway safety.

Planning Balance

Harms

35. There is conflict with Policy DM4 of the SA DPD because the proposal is for development defined by that policy as being unsustainable in the countryside. However, this only carries limited negative weight because the spatial strategy of the Development Plan is based on an out-of-date housing requirement.
36. The proposal would result in limited harm to the character and appearance of the area. Whilst complying with Policy DM4 of the SA DPD, this nevertheless weighs negatively in the planning balance. I place limited negative weight on this factor.

Benefits

37. Up to 144 market homes are proposed, in an acceptable housing mix, and on a site that is in a suitable location for housing, with adequate access to services. I place substantial positive weight on this factor.
38. Up to 95 affordable homes are secured through the s106. It is common ground that there is an acute need for affordable housing in the Borough. The CS target for affordable housing delivery is 2,090 affordable homes during the plan period of 2006 to 2026, at 105 dpa. The Council's Residential Land Availability Statement 1 April 2021 – 31 March 2022 identifies¹⁰ that, as of 1st April 2022, a gross total of 1,463 affordable dwellings have been completed over a 16-year period since 2006, equating to 91 dpa and therefore below the CS target. In addition, the latest estimates of affordable housing need set a far higher requirement, for example 498 dpa as set out in The Leicester and Leicestershire Housing and Employment Needs Assessment, June 2022. I therefore agree that there is an acute need for affordable housing and I place substantial positive weight on this factor.

⁹ Paragraph 7.45

¹⁰ Table 8

39. The proposed development would provide temporary employment arising from construction. It would also provide long term economic benefits from expenditure on local goods and services by the future occupants of the scheme. I place moderate positive weight on this factor.
40. A wildflower meadow, tree planting and an ecological pond, amongst other ecological enhancements, are all proposed and could be secured by a mixture of planning conditions and the s106. A Biodiversity Net Gain (BNG) assessment concludes that there would be a net biodiversity gain of 3.53 habitat units (12.13%) alongside a net gain of 5.62 hedgerow units (24.60%). I place moderate positive weight on the proposed ecological enhancements.
41. The level of public open space proposed is significantly in excess of the open space requirement at 1.635ha, with the s106 securing 4.95ha of open space, including a children's play area. Additional recreational routes are also proposed within the site. The Council's Open Space and Recreation Study, October 2016 concludes that there is a deficiency in all types of open spaces in Newbold Verdon¹¹. The proposed open space and play facilities would benefit both the future occupants of the proposed development and existing occupants within the village. I place moderate positive weight on these factors.

The balance

42. In accordance with s38(6) of the Planning and Compulsory Purchase Act 2004, my determination of this appeal must be made in accordance with the Development Plan unless material considerations indicate otherwise. There would be conflict with the spatial strategy which therefore represents a conflict with the Development Plan when read as a whole. However, an important material consideration is that the spatial strategy is reliant on an out-of-date housing requirement. The housing requirement cannot be divorced from the spatial strategy because one directly informs the other. I therefore place limited weight on this conflict. There would also be limited harm to the character and appearance of the area.
43. It is common ground, and I agree, that the Council cannot demonstrate a five year supply of housing sites. The 'tilted balance' is therefore technically engaged. However, as set out above, the benefits of the proposal are many and weighty. The harms are few and of lesser overall weight. The material considerations therefore indicate that the proposal is acceptable and it is not necessary to engage the 'titled balance'.

Conditions

44. A schedule of conditions agreed between the main parties was discussed at the Hearing. I have considered the conditions on this basis, and in the light of government guidance on the use of conditions in planning permissions. In addition to the standard reserved matters condition, a condition specifying the relevant drawings provides certainty. With regard to the other conditions:
 - the two time limit conditions adopt shorter timescales than normal, which was agreed between the parties, and are necessary to ensure that the proposal comes forward in a timely manner;
 - the housing mix condition is necessary to ensure that the final housing mix is appropriate for the needs of the area;

¹¹ Table 19.2

- the finished levels, materials, tree protection, external lighting, waste and recycling storage, Illustrative Masterplan, and tree retention conditions are necessary to protect the character and appearance of the area;
- the Construction Environmental Management Plan (CEMP), Biodiversity Net Gain, tree protection, external lighting, tree retention, and bird nesting conditions are necessary to protect and enhance biodiversity on the appeal site;
- the CEMP, Construction Traffic Management Plan (CTMP), external lighting, and noise conditions are necessary to protect the living conditions of neighbouring occupiers;
- the CEMP, CTMP, waste and recycling storage, and access arrangements conditions are necessary to protect highway safety;
- the CEMP, Surface Water Drainage Scheme (SWDS), and Surface Water Drainage System conditions are necessary to appropriately control surface water drainage;
- the Travel Plan and storage of cycles conditions are necessary to encourage the use of transport options other than the car; and,
- the CEMP, land contamination, waste and recycling storage, storage of cycles, infiltration testing, and Written Scheme of Investigation (WSI) conditions are necessary to ensure compliance with these technical details.

45. The main parties requested a condition requiring the provision of electric vehicle charging points. However, this is now a requirement of Building Regulations and is not, therefore, necessary. They also requested a condition requiring the installation of broadband to the proposed homes but this is not a material planning consideration
46. The CEMP, CTMP, materials, land contamination, tree retention, external lighting, waste and recycling storage, secure cycle storage, SWDS, infiltration testing and WSI conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

Conclusion

47. For the reasons above, the appeal is allowed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE APPELLANT:

Sarah Reid KC	Kings Chambers
David Pendle MRTPI	Marrons
Jonathan Berry CMLI AIEMA	Tyler Grange
Gerard McKinney CMILT	Hub Transport Planning

FOR THE LOCAL PLANNING AUTHORITY:

Laura Ashton MRTPI	Planning Consultant
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INTERESTED PERSONS:

Councillor Mark Bools	Ward Councillor, Newbold Verdon
Rachel Loughlin	Local resident
Councillor Richard Statham	Ward Councillor, Newbold Verdon
Jay Matthews	Local resident
Mike Hemming	Local resident
Roger Watson	Local resident
Roger King	Local resident
Councillor Andrew Tessier	Chair of the Newbold Verdon Neighbourhood Plan

ANNEX B: DOCUMENTS

- 1 Final Statement of Common Ground, dated 14 March 2024
- 2 Minutes of the Planning Committee on 19 September 2023
- 3 Relevant extracts from the Hinckley and Bosworth Local Plan 2020-2039, Regulation 19 Consultation, dated February 2022
- 4 Relevant extracts from the Newbold Vernon Neighbourhood Plan 2022 – 2039, Pre-Submission Version, dated October 2021
- 5 Proposed Site Access Layout Ref 001 Rev C
- 6 Relevant extracts from the Hinckley and Bosworth Borough Council Local Development Scheme 2020 – 2025, dated January 2024
- 7 Bus Route 153 Timetable
- 8 Hunts Lane, Desford Location Plan Ref 09129-FPCR-XX-XX-DR-A-0001 Rev P01
- 9 Appeal Decision Ref APP/K2420/W/23/3330774
- 10 Appeal Decision Ref APP/K2420/W/23/3332401

ANNEX C: SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: n1741 001; 004 Rev D; T20517 001 Rev C.

Reserved matters

- 5) Any reserved matters application shall be accompanied by a scheme which details the proposed housing mix for the development which should be in accordance with the Council's adopted Development Plan and the housing needs of the area. The development shall then be completed in accordance with the approved details.
- 6) Any reserved matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings in relation to existing ground levels. The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. The development shall thereafter be carried out in accordance with the approved levels.
- 7) Any relevant reserved matters application submission shall be accompanied by a Biodiversity Net Gain Plan (the Plan). The Plan shall be based on the Biodiversity Net Gain (BNG) metric spreadsheet completed by Ramm Sanderson, dated 12/04/2022, and shall provide a net gain on the reported baseline habitat loss. The Plan shall include the following details:
 - a) Location plan of the areas to be used for BNG;
 - b) Description of existing habitats on site;
 - c) Description of planned habitat creation/enhancement, including species to be planted/sown;
 - d) Timetable for implementation of habitat;
 - e) Habitat management and monitoring plan including timetable for management routines and reviews, and strategy for any remedial measures, if and when required;
 - f) Mechanism for securing the implementation of the biodiversity offsetting and its maintenance/management for a period of 30 years in accordance with details approved in the Plan; and,
 - g) Number and location of bat and bird boxes to be provided across the site.

The Plan shall be supported by an up to-date BNG metric calculation using the latest DEFRA version of the metric. The Plan shall thereafter be implemented in accordance with the approved details.

Pre-commencement

- 8) No development shall commence until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The Plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from air, dust, odour, noise, smoke, light and land contamination. The Plan shall detail how such controls will be monitored and a procedure for the investigation of complaints. The Plan shall detail how surface water drainage during construction will be managed. Site preparation and construction work shall be limited to between 0730 to 1800 Monday to Friday and 0800 to 1300 on Saturdays. There shall be no working on Sundays and Bank Holidays. The approved details shall then remain in force throughout the construction period.
- 9) No development shall commence until a Construction Traffic Management Plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities and a timetable for their provision, has been submitted to, and approved in writing by, the local planning authority. The construction of the development shall thereafter be carried out in accordance with the Plan.
- 10) No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages have been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be implemented in accordance with those approved materials.
- 11) Notwithstanding the recommendations within the Desk Study Report carried out by PJS Ref: PJSG21-47-RT-01-A, dated 24th February 2022, no development shall commence until a scheme for the investigation of any potential land contamination on the site has been submitted to, and agreed in writing by, the local planning authority. The scheme shall include details of how any contamination in accordance with the agreed details and any remediation works so approved shall be carried out prior to the first occupation of the development.
- 12) Development shall not commence until details of all trees, shrubs and hedges to be retained, including any trees located outside but adjacent to the site boundary, together with the means of protecting them from damage during the carrying out of the development, have been submitted to, and approved in writing by, the local planning authority. The approved means of protection shall be installed prior to the commencement of development and shall remain in place until the completion of the development.
- 13) No development shall commence until details of external lighting has been submitted to, and approved in writing by, the local planning authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles).

The lighting shall thereafter be installed, maintained and operated in accordance with the approved details.

- 14) No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted to, and approved in writing by, the local planning authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall thereafter be implemented and maintained in accordance with the agreed details.
- 15) Development shall not commence until a scheme that makes provision for the secure storage of cycles for each dwelling has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented in accordance with the agreed details.
- 16) Development shall not commence until a Surface Water Drainage Scheme has been submitted to, and approved in writing by, the local planning authority. The development must thereafter be carried out in accordance with these approved details and be completed prior to first occupation of the development.
- 17) Development shall not commence until infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise the suitability of the site for the use of infiltration as a drainage element, and this has been submitted to, and approved in writing by, the local planning authority.
- 18) Development shall not commence until a Written Scheme of Investigation (WSI) has been submitted to, and approved by, the local planning authority. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include:
 - a) the statement of significance and research objectives;
 - b) the programme and methodology of site investigation;
 - c) recording and the nomination of a competent person(s) or organisation to undertake the agreed works; and,
 - d) 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.

Pre-occupation

- 19) Prior to first occupation of the development, details in relation to the long-term maintenance of the Surface Water Drainage System shall have been submitted to, and approved in writing by, the local planning authority. The System shall thereafter be maintained in accordance with these approved details in perpetuity.
- 20) Prior to first occupation of the development, the access arrangements shown on drawing Ref T20517.001 Rev C shall have been implemented in full. This shall include vehicular visibility splays of 2.4m x 160m at the site access point. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

For observation

- 21) The development hereby permitted shall be implemented in general accordance with the Illustrative Masterplan Ref n1741 06 Rev C and the Landscape Mitigation & Enhancements recommendations set out within the Design & Access Statement, dated March 2022.
- 22) If during development contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination and implementation has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out in accordance with the agreed implementation period.
- 23) During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
- 24) The Travel Plan shall be carried out in accordance with the details contained within the Travel Plan Ref T20517 Rev A, dated May 2023. A Travel Plan Coordinator shall be appointed from commencement of development until five years after first occupation. The Travel Plan Coordinator shall be responsible for the implementation of measures as well as monitoring and implementation of remedial measures.
- 25) No trees and shrubs shall be removed on site during the bird nesting season (1st March to 31st July inclusive).
- 26) All dwellings facing Brascote Lane should be provided with the approved mitigation measures as set out within the Noise Impact Assessment, dated February 2022. The approved mitigation measures shall be completed prior to the first occupation of each dwelling and retained thereafter.

===== END OF SCHEDULE =====

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