



Appeal Decision

Inquiry held on 18 and 20-21 January 2022

Site visit made on 26 January 2022

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 June 2022

Appeal Ref: APP/K2420/W/21/3284379

Land South of Hinckley Road, Crabtree Farm, Barwell, LE9 8DJ

Grid Reference: 443636 296274

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr David Thornton-Baker of Barwell Capitol against Hinckley and Bosworth Borough Council.
 - The application Ref: 21/00581/OUT is dated 2 June 2021.
 - The development proposed is the development of up to 25 dwellings with associated public space and infrastructure.
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Decision

1. The appeal is allowed, and planning permission is granted for the development of up to 25 dwellings with associated public space and infrastructure at land south of Hinckley Road, Barwell, LE9 8DJ, in accordance with the terms of the application, Ref: 21/00581/OUT, dated 2 June 2021, and the plans submitted with it, subject to the conditions included in the schedule of this decision.

Procedural Matters

2. The application is submitted in outline with all matters reserved apart from access. Accordingly, this decision is made on the basis of the submitted drawings, Site Boundary Plan, (951 002 Rev A) and Site Access and Visibility Splays, (DWG-02 Rev C). I have treated the masterplan submitted with the application as indicative only.
3. The appeal has been submitted following the non-determination of the application for outline planning permission. The Council states that its putative reason for refusal relates to the unsustainability of the proposed development in the countryside given its location outside Barwell in the designated Green Wedge (GW). This results in environmental and landscape harm. It is not part of the Council's case that the site has poor access to services.
4. The appeal was accompanied by a draft Unilateral Undertaking which includes a range of provisions. I received a completed Undertaking after the Inquiry, dated 25 January 2022. I refer to this later in this decision.
5. The Council has stated that I should treat the appeal scheme both as a standalone scheme and also as a 'cumulative scheme' to take into account the

undetermined outline application for residential development¹ for 51 dwellings on the site to the east, which is also in the ownership of the appellant. Whilst I understand the potential connection between the 2 schemes it is not my role to predict the Council's decision on the undetermined application. For this reason, I shall limit my considerations to the appeal before me.

Main Issues

6. Although the Council has set out a single putative reason for refusal, based on everything that I have seen, read and heard, I consider that the main issues in this appeal are the effect of the proposal:
 - a) on the landscape character and appearance of the area having regard to the site's location within a Green Wedge,
 - b) whether or not the proposals include adequate infrastructure directly required by the development, and
 - c) whether or not it is necessary to undertake a planning balance having regard to the agreed housing land supply within the Borough.

Reasons

a) Landscape character and appearance

7. I have determined this main issue in respect of the impact of the proposal on both the strategic functions of the Hinckley, Barwell, Earl Shilton and Burbage Green Wedge and its landscape and visual impacts.
 - a) *Impact on the function of the Green Wedge (GW)*
8. The GW has existed for around 30 years and aims to preserve land from development and prevent settlements from merging. Whilst the GW is not a landscape designation it forms part of the Borough's Green Infrastructure as defined in Policy SP20. The policy identifies those areas of the Borough which comprise its Green Infrastructure and that developer contributions would be required to fund improvements in these areas. The GW straddles both sides of the A47 road between the settlements of Hinckley and Barwell.
9. The Council's Core Strategy Policy SP6 defines a range of uses which would be acceptable in the GW. Whilst this policy is not explicit in referencing residential development this is not precluded, as agreed by the Council². However, the policy requires that any land use or associated development should adhere to 4 functions: retain its function, retain and create green networks between the countryside and open spaces within urban areas, retain and enhance public access particularly for recreation and retain the visual appearance of the area.
10. In 2019 an appeal³ was allowed for up to 25 dwellings and a burial ground. The burial ground would have occupied land which forms the site of the appeal before me and the housing would have been located on land to its east which now forms the site of the undetermined application for 51 dwellings referred to above.

¹ 21/0695/FUL

² Ms Loasby cross examination (XX)

³ APP/K2420/W/19/3222850

11. The extent of the GW was reviewed in 2020 as part of the Council's work for the emerging local plan⁴. This recommended, amongst other matters, the removal of the area allowed on appeal in 2019 for 25 houses; this area of land now forms part of the undetermined application for 51 houses as explained above.
12. The GW Review identified that the appeal site lies within Area A of the GW, its narrowest part between Hinckley and Barwell, where development would have a significant visual impact. The development of the houses would have reduced the gap by 55m.
13. The burial ground included in the scheme allowed on appeal would have been compliant with a function of the GW and would have included recreational access. In contrast, the scheme before me only includes an area of around 0.25ha of public open space. Given its proposed size and location it is unclear how this would encourage people from outside the scheme into the GW. For this reason, I am not satisfied as to how the appeal scheme would function as a recreational link between the urban areas and countryside as part of the Borough's Green Infrastructure consistent with Policies G20 and CSP6.

Landscape impacts

14. The appeal site comprises a single rectilinear field of 2ha lying on the south side of Hinckley Road. It is surrounded on each side by unmanaged hedgerows, interspersed with trees. These landscape features are particularly strong on its western edge.
15. The site lies within the LCA⁵ F: Burbage Common Rolling Farmland and lies just outside the Urban Character Area 9: Barwell, as identified in the Council's LCA.
16. The LCA F is characterised by large scale, rolling arable farmland with a pattern of medium to large fields. This character prevails, particularly on land to the west of the appeal site which includes larger arable fields and clipped boundary hedgerows. In contrast, the landscape context of the appeal site represents small to medium sized fields located on the settlement edge; these are representative of a historic piecemeal pattern of medieval open fields. The site does not lie within a valued landscape as defined by Paragraph 174a) of the National Planning Policy Framework (the Framework).
17. The LCA identifies Barwell as falling within an Urban Character Area (UCA) 9. This includes development along the north side of Hinckley Road and the development of land along St Mary's Avenue, Powers Road and Crabtree Road, east of the appeal site. Its key sensitivities are the degree of separation between Hinckley and Barwell and the recreational value of footpaths and bridleways. The appellant cites the LCA's ⁶ description of the UCA 9 as having a more rural character and a strong relationship with the countryside around Barwell Lane which lies to the south and east on the opposite side of Barwell away from the appeal site.
18. To the west of the site lies West Green Cottage around which are a number of loose boxes and a horse paddock. To the east of the site is a narrow field (site

⁴ CD G4 Green Wedge Review

⁵ Landscape Character Area included in Appendix 2 to Mr Hughes PoE

⁶ Mr Hughes' PoE paragraph 3.29

of housing included in the previous decision⁷) before housing on Crabtree Road and Powers Road.

19. The parties differ on the appeal site's landscape context. The Council describes it as having a 'semi-rural' as it is a small scale pasture which forms part of an intact field pattern between ridge settlements, surrounded on three sides by fields.
20. However, in my view the stronger influences are the site's proximity to the ribbon development on Hinckley Road, the noise and visual effects of the moderate volumes of traffic and regular bus services along this road. Whilst I agree with the Council that the site is well contained from the A47 to the south by its well treed boundaries this does not mask the continuous and clearly audible sound from the large volumes of rapidly moving traffic along this road. For these reasons, I would describe it as having a 'peri-urban' ⁸location as described by the appellant.
21. The Council's landscape assessment⁹ states that the site has a medium-high sensitivity to the development of the proposed scheme, resulting in what it considers would be a medium-large magnitude of change with moderate-major adverse landscape impacts arising from the scheme which would not change at Year 1 and Year 15.
22. However, whereas the Council conclude that moderate-major adverse landscape impacts arising from the scheme would not change at Year 1 and Year 15, in my view a low density development as suggested by the numbers of dwellings proposed would have only minor to moderate adverse impacts at Year 15 as suggested by the appellant¹⁰. This is because the boundary hedgerows and trees allow a firm basis for enhancement through a landscape led scheme which could be submitted at reserved matters stage; this would have sufficient time to mature by Year 15.
23. In terms of wider effects on the LCA, because the field pattern is not characteristic of the LCA being small and rectilinear in form, its landscape sensitivity would, in my view be low-medium as the appellant suggests. Although the scheme would result in a medium-large magnitude of change its long term effects would be minor to moderate adverse, due largely to the extent of existing boundary planting which could be substantially reinforced. This would mature by Year 15. Given its location away from the south and east of Barwell development on the appeal site would not significantly impact on the important sensitivities of UCA9.

Visual impacts

24. I conducted my site visit in January when the trees were without leaves and views of the site were clearest from the suggested viewpoints (VP).
25. Both parties agree that the site's visual context is determined by localised views. I agree with this assessment. Important influences are the largely flat topography and the extent of unmanaged hedgerows along field boundaries. For example, views of the site from footpath, U43/1 are significantly restricted

⁷ APP/K2420/W/19/3222850

⁸ Mr Hughes PoE Volume 1

⁹ Ms Aherns PoE Table 5.1

¹⁰ Mr Hughes PoE

- due to its location on the north side of the high hedge along the field boundary. For this reason, I do not agree with the Council that the views from the footpath would be moderate adverse and significant at Year 1 and 15. Any adverse effect would be localised which would be low rather than negligible as the appellant suggests.
26. Although the pedestrian footway along Ashby Road allows views east towards the appeal site, the distance and the existing depth of hedgerows and planting would mean that the visual impacts of the proposed development would not be readily seen. The proposed scheme would not in my view 'overtop' these features when viewed from the west. Both parties agree¹¹ that harm would be limited to minor adverse residual visual effects when the site is viewed from this area. Following my site visit I agree with this assessment.
27. Occupiers of the residential properties on Hinckley Road, opposite the appeal site would have a high sensitivity to its development. Although the tree protection plan¹² identifies that some trees would be removed along the site's northern boundary, these would be limited in number. Their removal would be required to allow the creation of the road access. However, there would still be sufficient retained tree cover to restrict views into the site from the road. Although the scheme includes 3 dwellings along its northern boundary, these would lie behind the thick band of vegetation at this point and the bulk of the scheme would lie south of the proposed SuDS¹³ and public open space within the site. These two areas could provide additional planting to screen the bulk of the housing.
28. For these reasons the Council accepts that whilst the magnitude of change would be medium at Year 1 this would reduce to low, by Year 15. For this reason, it assesses that the visual effects would be moderate adverse and significant in Year 1 reducing to minor adverse in Year 15¹⁴. Given the proximity of these receptors to the appeal site the low impacts reflect the degree of boundary cover.
29. The extent of the site's limited intervisibility with its surroundings is further demonstrated when viewed from footpath U44/1 which extends north from the A47 to Waterfall Way and footpath U45/1 which extends north eastwards from the A47. Again, the extent of field boundary hedgerows reduces significantly views of the site from receptor points along each of these paths. For these reasons I do not agree with the Council's assessment that the visual effects for walkers on these paths would be minor adverse and instead conclude that the effects would be negligible.
30. As mitigation for the potential landscape and visual impacts of the proposed scheme the appellant has suggested a range of measures. These largely relate to the proposed enhancement of existing boundary landscaping. The height of the existing trees surrounding the site are sufficiently tall to prevent the proposed housing 'overtopping' them as the Council has suggested.
31. I am satisfied that whilst the Council doubts whether all of the land on the edge of the site is within the control of the appellant, the scale of proposed development would allow a landscaping scheme within the site to supplement

¹¹ Statement of Common Ground paragraph 14

¹² CD4 and CD15

¹³ Sustainable Drainage System

¹⁴ Ms Ahern PoE

the boundaries. This would further reduce its visual impacts from the suggested viewpoints.

32. I acknowledge that this scheme differs markedly from that granted on appeal in 2019¹⁵ in that the proposed housing in that scheme would have been located adjacent to existing development on Crabtree Road and Powers Road with the proposed burial ground to the west allowing for landscaping and recreational access to the GW.
33. Furthermore, in contrast to the previous appeal scheme the depth of the site extending south from Hinckley Road represents a marginally smaller incursion of development into the GW despite its westwards extension. Through a combination of enhancements including reinforcement of planting to boundary hedgerows and the potential for biodiversity enhancements to the attenuation basin, the potential adverse landscape and visual impacts of this scheme would be minimised and harm to the LCA would be limited.

Conclusions on main issue (a)

34. The main issue is the effect of the proposals on the landscape character and appearance of the area having regard to the site's location in the Green Wedge.
35. Policy DM4 of the Council's SADMP¹⁶ seeks to protect the countryside's intrinsic value, its open and landscape character and to ensure that development would not undermine both the physical and perceived separation between settlements. Specific reference is included in the policy to the requirements of Policy SP6¹⁷ regarding the four functions of the GW. Of these, the location of the appeal site within the GW would undermine its basic function as a matter of principle. The appeal scheme would only marginally contribute to the two functions of creating green networks between the countryside and open spaces and improve recreational access due to the limited size of the proposed area of public open space. However, the appeal scheme would be well contained within its boundaries resulting in only marginal harm to the fourth function of the GW, its visual appearance.
36. Supporting text to Policy SP6 identifies the importance of the GW to the landscape and environmental functions of the Borough's Green Infrastructure included in Policy SP20.
37. The form of development proposed would be in conflict with Policy DM4 through the introduction of residential development in the countryside. Whilst the scheme's landscape and visual impacts would be limited, the inclusion of enhancements to achieve biodiversity net gain and public open space would not fully address the four functions of GW as defined in Policy SP6 and for this reason the scheme would not fulfil the role of GW as forming part of the Borough's Green Infrastructure, defined by Policy SP20.
38. For the above reasons on this main issue, I conclude that the proposed scheme would conflict with Policies DM4, SP6 and SP20.

¹⁵ APP/K2420/W/19/3222850

¹⁶ Site Allocation and Development Management Policies Development Planning Document 2016

¹⁷ Core Strategy 2009

b) Infrastructure

39. The appeal is accompanied by a completed Unilateral Undertaking dated 25 January 2022.
40. Both the County and Borough Councils have submitted CIL¹⁸ compliance statements which detail both relevant policies and formulae on which the contributions are based. Section 122 of the CIL Regulations with Paragraph 57 of the Framework require planning obligations to be related to the requirements of development plan policies and are necessary, directly related and fairly and reasonably related in scale and kind to the proposed scheme.
41. Covenants would be imposed in favour of the Borough Council regarding a policy compliant amount of affordable housing (up to 5 dwellings) with a tenure split of 75% affordable rent and 25% shared ownership. This would comply with Policy 15 of the Core Strategy.
42. Other covenants require the payment of capital monies of £16,373.70 in respect of play facilities and a payment of £41,832 for the maintenance of the public open space if this was offered to the Council; these would be in line with Policies 3 and 19 of the Core Strategy. A payment of £9,205.68 is required towards deficiencies in services at Barwell Medical Centre in line with Policy DM3 of the SADMP.
43. A series of covenants favour the County Council in respect of contributions of £760 for libraries, £74,632.30, towards secondary education, £15,944.78 for post 16 education and £1,238.00 for the civic amenity site. Contributions towards education would support both the Heath Lane Academy, Hinckley Academy and the John Cleveland Centre and the refuse centre in Barwell.

Conclusion on Main Issue (b)

44. I am satisfied that each of these covenants fall with the provisions of Regulation 122 of the CIL regulations and Paragraph 57 of the Framework. I conclude that the obligations included in the Undertaking are directly required by the development.

Interested parties

45. The appeal scheme has generated considerable local interest with objections focussed on a range of issues. I address these below.
46. Foremost amongst the objections is the potential loss of the burial ground which formed part of the original decision to grant housing on the adjacent site¹⁹. The appeal site occupies the area of Land on which the burial ground was proposed in the previous appeal. Many of the representations expressed profound emotions on this issue and the desire to be buried locally for family and historic reasons. However, there is no policy requirement for this form of development to be located on this site. Whilst my Inspector colleague accorded the burial ground as having modest weight in her decision, its potential to allow access to the GW was an important consideration. However, the Council has not cited the need for the appeal site to be used as a burial ground in its reason for refusal. Whilst I accept that burial space is limited in the area, no

¹⁸ ID7 Community Infrastructure Levy

¹⁹ APP/K2420/W/19/3222850

substantiated evidence was presented to the Inquiry to make the case for a dismissal of this appeal on this ground.

47. The appeal was accompanied by a flood risk assessment. The site lies in Flood Zone 1 where there is only a 1:1000 risk of flooding. Whilst the proposed scheme would marginally increase the risks of flooding in surrounding areas the proposed mitigation strategy, which includes a flood attenuation basin, would minimise this.
48. Other objections concern the potential for road congestion. However, the Traffic Assessment included with the appeal indicates that there would not be any significant adverse impacts on the capacity of the local highway network arising from the scheme. The proposed access to the site includes adequate sight lines for the purposes of highway safety. The County as Highway Authority is satisfied with the proposed scheme. I have no evidence before me to suggest that the proposed scheme would lead to road congestion or compromise highway safety.
49. Finally, although there are concerns over the potential for the appeal scheme to result in additional pressures on local services, the suggested obligations included in the Unilateral Undertaking as described above would address these concerns.

c) Housing Land Supply, Planning balance and conclusions

50. Both parties acknowledge that the Council cannot demonstrate a 5 year supply of deliverable housing. In these circumstances, paragraph 11(dii) and footnote 8 of the Framework state that the policies which are the most important for determining the application should be considered as out of date, and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
51. However, the fact that policies have to be considered as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 219 which, amongst other things, explains that the closer that policies in the plan are to policies in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date for reason of an inadequate land supply to still carry significant weight.
52. The Development Plan comprises the Core Strategy 2009, the Earl Shilton and Barwell Action Plan 2014 and the Site Allocations and Development Management Policies (SADMP) 2016. I consider that the most important policies underpinning this decision are DM1 and DM4 of the SADMP, SP6 and SP20 of the CS. Neither party referred to policies included in the adopted Action Plan.
53. Section 38(6) of the Planning and Compensation Act 2004 requires that applications for planning permission are determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Framework is a very important material consideration in the balance of this equation.
54. Policy DM1 places a presumption in favour of sustainable development and effectively re iterates Paragraph 11d(ii) of the Framework requiring that where

- planning policies are out of date then planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
55. Policy SP6 (Green Wedge), encourages development that provides for appropriate recreational facilities which could be within easy reach of local communities. Its focus is on agriculture, forestry, recreation, footpaths and burial grounds. Consistent with this, Policy SP20 identifies the Green Wedge as part of Green Infrastructure. In the extent of their scope and intent both policies are consistent with Paragraph 92c) in the safeguarding the provision of safe and accessible green infrastructure to promote local health and wellbeing needs. For these reasons, I accord the conflict between the appeal scheme and these policies considerable weight.
56. Within this strategic framework, Policy DM4 is not completely consistent with Paragraph 174 of the Framework. Although it seeks to protect the intrinsic character and beauty of the countryside, it is restrictive in the type of development which could be acceptable. I accord the potential conflict between the appeal scheme and this policy limited weight.
57. During the Inquiry there was agreement between the parties that Policy DM4 does not preclude housing within the GW. However, development is required to adhere to its four functions as set out above. The current appeal scheme would include a significant net gain in biodiversity through enhancement of existing natural boundaries and the inclusion of a SuDS pond with an area of public open space. However, the proposed public open space would have no link to green networks nor readily allow enhancement of public access for recreation. This contrasts with the scheme allowed on appeal²⁰ which would have allowed for better provision.
58. I acknowledge that the under supply of housing land largely stems from permission not being granted for the two planned SUEs²¹ in the Borough including one on the edge of Barwell. The housing shortfall amounts to around 253 dwellings based on the standard method of 444dpa²². The Council acknowledges that the shortfall is 'significant'²³.
59. Both parties acknowledge that the future housing needs will be, in part, addressed through development beyond existing settlement boundaries. Whilst the Council argues that a sequential test has been involved in this process with no sites identified in the GW at Barwell, I am faced with a decision on such a site in a location which both parties acknowledge allows access to services in Barwell and other centres by a genuine choice of transport mode.
60. Although the Council has argued that the shortfall could be addressed through the adoption of a new local plan when developers would 'tee up' new sites, I regard its suggested date of adoption as being optimistic given the current stage of progress, as the appellant suggests. Furthermore, to address the shortfall, the Council has a range of measures included in its Action Plan. However, housing delivery is declining, as evidenced in the HDT²⁴ between 2020 and 2021.

²⁰ APP/K2420/W/19/3222850

²¹ Sustainable Urban Extensions

²² Council closings

²³ Council closings paragraph 25

²⁴ Housing Delivery Test

61. Furthermore, the scheme would deliver a policy compliant amount of affordable housing and 20 units of market housing. Although the appellant overstates the extent to which the scheme could support the regeneration of Barwell in line with other Council policies, the additional dwellings would have economic benefits. These include the creation of construction jobs and in the long term through the additional spending power of the new residents in local shops and services.
62. I acknowledged the scheme's conflict with adopted policies and recognise that it could erode the recreational and access functions of the GW as an area of Green Infrastructure in this location. However, the landscape and visual harms arising from the appeal scheme would be localised and limited. In contrast, I accord significant weight to how the scheme could address the continued under supply of housing in the Borough together with its economic, environmental and social benefits. When considered against the policies of the Framework overall these matters weigh in favour of the appeal scheme.

Conditions

63. Following the roundtable discussion during the Inquiry I shall impose the planning conditions set out below. These largely reflect the suggested conditions included in the Statement of Common Ground. I am satisfied that these conditions are supported by adopted policies and furthermore reflect the tests included in Paragraph 56 of the Framework.
64. I have imposed a condition specifying the plans on which this decision is based for reasons of certainty. As this is an outline application, I have imposed a condition in respect of the submission of the outstanding reserved matters. During the Inquiry the appellant expressed concerns over the housing land shortfall and how this scheme could in part address this. Their suggestion of a period of 18 months from the date of this decision is entirely consistent with the appellant's desire to deliver the site given the HLS position. Accordingly, I have included this.
65. During the Inquiry there was some debate between the parties on whether suggested condition 4 included in the Statement of Common Ground served any purpose. In my view, it has value given the scheme's location within the GW and the importance which I accord the site's landscape features. The appellant made reference during the Inquiry, to the design aspirations for the site predicated on the indicative plan (951-001 Rev C). Although this plan is not one on which I made my decision it reflects how a scheme of 25 dwellings could be developed in this location which could result in minimal harm to landscape. Whilst I acknowledge that the Framework places weight on development making effective use of land, it is only reasonable to ensure that the illustrative plan is used to inform the details of the reserved matters to limit its landscape impacts.
66. I have imposed a planning condition in respect of restricting permitted development rights for matters relating to access gates and other highway furniture to ensure that vehicles could stand clear of the highway and in so doing protect highway safety.
67. I have included a condition requiring an explicit reference to the proposed housing mix in any applications for reserved matters to ensure that a range of

- housing is delivered which accords with the housing needs of the local community and is consistent with adopted policy.
68. For reasons of highway safety, I have explicitly referenced measurements for sight lines at the proposed junction with restrictions on permitted development rights to ensure that these are maintained free from obstruction.
 69. To safeguard the living conditions of surrounding occupiers from the environmental issues which could arise during the construction period, I have imposed a condition in respect of a construction traffic management plan. For the same reason I have imposed a condition regarding proposed working hours and one prohibiting the burning of materials during site clearance and construction phases.
 70. In order to protect the living conditions of occupiers of the site, details are required of waste, recycling, storage and collection.
 71. In order to protect the character and appearance of the area, I have required details of existing and proposed ground levels and full details of materials to be used in the proposed scheme. For the same reason, I have imposed a planning condition regarding landscaping and its long term management during the life of the development. A condition has been imposed in respect of the protection during construction of trees included in the tree belt on the site's eastern edge.
 72. Although this is a greenfield site the County Archaeological officers did not comment on the application for planning permission²⁵. For this reason, I do not consider that a pre commencement condition requiring investigations is necessary.
 73. I have not imposed a condition requiring site investigations and remediation regarding contaminated land as suggested by the Council. The site is greenfield and the possibilities of contamination would be limited.
 74. In pursuit of a low carbon future, I have imposed a planning condition requiring charging points throughout the scheme for electric and low emission vehicles.
 75. Given the location of this site in the GW and the important contribution which the appeal scheme can make to biodiversity net gain, I have imposed a condition requiring the permission to adhere to the recommendations included in the Biodiversity and Ecological Management Plan (BWB August 2021). As a guarantee designed to secure this net gain, if for some reason, the development does not proceed within the year of this decision, I have imposed a condition requiring an update of the Ecological Appraisal.
 76. Other conditions imposed require details of infiltration testing for drainage, the management of surface water during the construction period, long term maintenance during the life of the development, site drainage details, a surface water drainage scheme as built and the management of surface water in order to reduce any possibility of flooding across the site arising from the development and to prevent surface water flowing onto Hinckley Road.
 77. Given the site's proximity to the centre of Barwell, I have included a Grampian style condition requiring a new footway extending from the site access along the south side of Hinckley Road to connect with an existing footway to

²⁵ Officers report to Committee

encourage residents to walk to the centre and in this way add to the choice of transport modes available to residents to access services. This would run along the northern edge of the site and that of the land to the east in the ownership of the appellant.

78. For the above reasons, I allow the appeal.

Stephen Wilkinson

INSPECTOR

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 2 years 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: Site Boundary Plan, (951 002 Rev A) and Site Access and Visibility Splays, (DWG-02 Rev C) and the range of studies which accompanied the appeal.
- 5) The development hereby permitted shall be implemented broadly in accordance with Plan Drawing No. 951-001 Rev C subject to the reserved matters required by Condition 2 above.
- 6) 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 be completed in accordance with the approved details.
- 7) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on drawing, 'Site Access and Visibility Splays', (DWG-02 Rev C) have been implemented in full. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6m above the level of the adjacent footway/verge/highway.
- 8) No development shall commence on site until such time as 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 approved details and timetable.
- 9) No development shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.
- 10) No development shall take place until full details of the existing and proposed ground levels and proposed finished floor levels above ordnance datum have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 11) No development shall commence above slab level on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved by the local planning authority. The details should address accessibility to storage facilities and adequate collection point spaces at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details before the first dwelling is occupied.
- 12) No development shall commence until a scheme identifying the provision and location of charging points for electric or low emission vehicles within the development site is submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and implemented before the first dwelling is occupied.
- 13) No development approved by this planning permission shall take place until such time as details of the management of surface water on site during the construction period and a surface water drainage scheme for the scheme as built has been submitted to and approved in writing by the local planning authority and the works implemented in advance of works proceeding above slab level.
- 14) No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the local planning authority. Thereafter surface water shall not drain onto the Public Highway and be so maintained for this purpose.
- 15) No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of 5 years from the date of planting. During this period any trees or shrubs which die or or are damaged, removed or seriously diseased shall be replaced by trees and shrubs of a similar size and species to those originally planted at which time and they shall be specified in writing by the local planning authority.
- 16) No development approved by this planning permission shall take place until such time as 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, has been submitted to and approved in writing by the local planning authority.
- 17) The development shall be implemented in accordance with the recommendations included in the Biodiversity and Ecological Management Plan (BWB August 2021).
- 18) Notwithstanding Condition 17 above, if development has not commenced prior to March 2023, an updated Ecological Appraisal shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and the development shall be carried out in accordance with the recommendations of the approved updated Ecological Appraisal.

- 19) No waste materials shall be burnt on the site at any time during site clearance or during any construction phase.
- 20) Construction hours shall be restricted to Monday-Friday 08:00-18:00, Saturdays 09:00- 13:00. There shall be no working on Sundays or Public Holidays.
- 21) No occupation of the development approved by this planning permission shall take place until such times as details in relation to the long term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the local planning authority.
- 22) No part of the development shall be occupied until a scheme for off site works, being a 2m wide footway extending along the south side of Hinckley Road to the east of the site access and designed to tie in with the existing footway has been submitted to and approved in writing by the local planning. Completion of the approved scheme is required before the first dwelling is occupied.
- 23) Notwithstanding, the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 10m of the highway boundary.
- 24) A landscape management plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out in accordance with the approved details.
- 25) The hedgerows and trees that form the site's eastern boundary (and identified as G15, G16, G26, G27 and G28 within the Arboricultural Method Statement and Tree Protection Plan – revised June 2021) shall be retained with additional planting provided to the west of the field boundary. They shall not be cut down, uprooted or destroyed nor shall be topped or lopped without prior written approval by the local planning authority. If any part of the hedgerow and trees to be retained are to be removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that hedgerow and trees shall be of such size and species, and shall be planted at such time as maybe specified in writing by the local planning authority.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards	Of Counsel
He called	
Kate Ahern CMLI	Director LUC
Saffron Loasby BA Dip TP	Planning Consultant
Helen Nightingale MRTPI	Team leader Major Projects
Mark Johnson	Team Manager Planning Obligations, and Systems, Leicestershire County Council

FOR THE APPELLANT:

Zack Simons	Of Counsel
He called	
Robert Hughes BSc(Hons), Pg DipLA, CMLI	Director, Incola Landscape
Simon Hawley BA(Hons) MA, MRTPI	Director, Harris Lamb

INTERESTED PERSONS:

Cllr Michael Gould	Parish Councillor
Cllr Russ Roberts	Ward Member Hinckley and Bosworth Borough Council

Inquiry Documents

ID1	Appellant's openings
ID2	Council's openings
ID3	Council's closings
ID4	Appellant's closings
ID5	Suggested landscape condition
ID6	Draft planning conditions
ID7	CIL compliance statement