

**HINCKLEY & BOSWORTH BOROUGH
COUNCIL**

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY J H HALLAM & SON LTD

**LAND AT BEECH DRIVE, THORNTON,
LEICESTERSHIRE**

**LOCAL PLANNING AUTHORITY REF NO:
PLANNING INSPECTORATE REF NO:**

**16/00311/OUT
APP/K2420/W/16/3156239**

LOCAL PLANNING AUTHORITY STATEMENT OF CASE

SEPTEMBER 2016

1. INTRODUCTION

- 1.1 This Statement of Case by Hinckley and Bosworth Borough Council relates to the refusal of planning application ref 16/00311/OUT submitted by J H Hallam & Son Ltd for "*Residential development of up to 48 dwellings (outline – access) (resubmission)*" at Land at Beech Drive, Thornton.
- 1.2 The application was recommended for approval by the Chief Planning and Development Officer but refused by the Local Planning Authority on 1 June 2016 for one reason, as described by the Decision Notice.

2. THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The site is an area of 2.15 hectares and comprises a single pastoral unit. The site, slopes appreciably down towards the south-west and is enclosed on all sides by mature native hedgerow and a belt of trees along the south-western side. The post-war residential estate of Hawthorn/Beech Drive lies to the north-west of the site and the site abuts the rear of properties on Main Street to the north. Public footpath R85 runs within the site, along the north-eastern boundary, to the rear of the properties on Main Street. Thornton is a small linear settlement which has developed through ribbon development along Main Street. Although modern infill developments and modernisations have taken place along Main Street, the majority of modern development has been towards the southern fringe of the village. The site falls outside of, but adjacent to the settlement boundary of the village as defined by the recently adopted Hinckley and Bosworth Site Allocations and Development Management Policies DPD (July 2016) (SADMP).

3. PLANNING HISTORY

- 3.1 Application 16/00311/OUT is a resubmission of refused planning application 14/01274/OUT, albeit with minor changes. 14/01274/OUT is also subject to appeal and the appeals are conjoined.

4. THE APPEAL PROPOSAL

- 4.1 The proposal is accompanied by a masterplan that suggests the development of up to 48 dwellings, with formal and informal play and open space. A full description is in the Statement of Common Ground.

5. THE DEVELOPMENT PLAN

- 5.1 Under Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

- 5.2 The Hinckley and Bosworth Development Plan comprises the “Local Plan (2006-2026),” which consists of the following documents:

- a) Core Strategy (2009)
- b) Hinckley Town Centre Area Action Plan (2011)
- c) Earl Shilton and Barwell Area Action Plan (2014)
- d) Site Allocations and Development Management Policies (2016). This was adopted on 12 July 2016

It also includes the Market Bosworth Neighbourhood Development Plan (2015).

- 5.3 The Decision Notice refers to Policies NE5 and RES5 of the Hinckley and Bosworth Local Plan 2001. However, the Local Plan 2001 has been superseded. Policy RES5 does not have a replacement in the Local Plan (2006-2026). Policy NE5 has been replaced by SADMP Policy DM4: Safeguarding the Countryside and Settlement Separation. The policy states that the countryside will “first and foremost” be safeguarded from unsustainable development, and that development proposals will be considered appropriate where one of 5 criteria are met, and all of a further 5 criteria are met.
- 5.4 Also relevant are Policies 7 and 10 of the Core Strategy 2009. These are not mentioned in the Decision Notice but are relevant to the proposed development “*not being in accordance with the council’s aspirations for development as set out within the Local Plan.*”

6. THE CASE FOR THE LOCAL PLANNING AUTHORITY

6.1 The differences between the two proposals 14/91274/OUT and 16/00311/OUT are not significant (up to 48 dwellings vs up to 49 dwellings). Although the Decision Notices are worded differently, the objection to the proposed development 16/00311/OUT is the same and the LPA intends to advance the same case with regard to both appeals. In summary, the objection is:

- The proposal is contrary to the Development Plan spatial strategy, which focuses development upon urban areas and two SUEs.
- Loss of countryside, a limited resource and an asset to the borough.
- It has not been demonstrated that there is a need for additional housing in Thornton

6.2 For sake of clarity, the LPA does not identify harm to existing infrastructure and facilities in Thornton.

Housing land supply

Introduction

6.3 It is apparent from the appellant's Statement of Case that the housing supply figure, and in particular, the correct housing requirement, is a matter of dispute. The most recent benchmarks for determining housing supply in the borough are:

- "Land south of Markfield Road, Ratby APP/K2420/W/15/3003301" determined on 9th October 2015
- "Land off Sherborne Road, Burbage APP/K2420/W/15/3004910" determined on 4th May 2016
- The SADMP Inspector's final report published on 17 May 2016.
- The April 2016 Residential Land Availability Statement

6.4 The two appeal inspectors concluded that the borough had a 5 year supply of housing land and the appeals were dismissed. Since the Ratby and Sherborne Road

appeal decisions, the Inspector's Report for the Site Allocations and Development Management has been published (17 May 2016). It states that:

“Although the Core Strategy was adopted in 2009, and pre-dates the publication of the NPPF, I am satisfied from the evidence presented by all parties at the examination that its strategic approach to meeting the development requirements of the borough remains sound, and that there is demonstrable impetus towards achieving its key growth proposals, for example by recent trends in housing delivery.

I am also satisfied that the Plan (together with the Council's AAPs) does provide sufficient sites in order to maintain five years worth of housing throughout the remainder of the Plan period.”

6.5 With particular reference the Sherborne Road decision, the following conclusions may be reached:

- A sound full, objectively assessed need (OAN) is 9000 dwellings (450 dwellings per annum), deriving from the SHMA 2014 (Leicester and Leicestershire Strategic Housing Market Assessment), consistent with the population projections for 2012 and validating the Core Strategy 2009 requirement. *Note: an OAN of 450dw/annum was a matter of common ground at the Ratby inquiry but not at the Sherborne Road inquiry.*
- The 'Sedgefield' methodology is preferred to address the existing undersupply in housing.
- There has not been a persistent under-delivery in the borough and so a buffer of 5% applies to the calculation.
- All of the sites submitted by the Council on large and small sites are deliverable, including the two Sustainable Urban Extensions (SUEs) at Earl Shilton and Barwell.
- A 4.3% discount for large sites and 8.8% discount for small sites take account of non-implementation of planning permissions.
- The Council has been realistic in respect of sites allocated in the Site Allocations and Development Management Policies DPD (SADMP)

The Council's Calculation

Housing Land Supply 1 April 2016: Table 1

		Dwellings
a	Borough Housing Requirement (2006-2026)	9,000 450 per annum
b	Completions (1 April 2006 – 31 March 2016)	4307
c	Completions required since the start of the Plan Period (1 April 2006 – 31 March 2016) (450 dwellings per annum x 10 years)	4500
d	Shortfall for the period 1 April 2006 – 31 March 2016 (c – b)	-193
e	Deliverable housing supply required over next 5 years (1 April 2016 – 30 March 2021) ((450 x 5) + 193)	2,443 489 per annum
f	Deliverable housing supply required for 5 years with additional 5% buffer (5% of annual requirement of 489 dwellings = 24 dwellings) (489 + 24) = 513 x 5	2,565 513 per annum
g	Housing Supply (1 April 2016 – 30 March 2021) Row 2. Large Site Commitments = 1204 dwellings + Row 3. Small Site Commitments = 416 dwellings + Row 4. Barwell Sustainable Urban Extension = 360 dwellings + Row 5. Earl Shilton Sustainable Urban Extension = 260 dwellings + Row 6. Dwellings allocated = 758 dwellings	2998
h	Overprovision/Shortfall (g - f)	+433
i	Number of years supply (g / 513 dwellings per annum)	5.84 years

Borough Housing Requirement

6.6 The Framework sets out in Paragraph 47 that “*to boost the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;.....*”

6.7 The Guidance states:

What is the starting point for the five-year housing supply?

The National Planning Policy Framework sets out that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. Therefore local planning authorities should have an identified five-year housing supply at all points during the plan period. Housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs. (Paragraph: 030 Reference ID: 3-030-20140306)

6.8 The Core Strategy 2009 has a housing requirement of 9,000 dwellings for the period 2006-2026, or 450 dwellings per annum. As supported by the Sherborne Road Decision Letter (paragraphs 5 to 17), a sound full, objectively assessed need (OAN) is 9000 dwellings (450 dwellings per annum), deriving from the SHMA 2014 (Leicester and Leicestershire Strategic Housing Market Assessment), consistent with the population projections for 2012 and validating the Core Strategy 2009 requirement. A Proof of Evidence will be submitted by the LPA to explain in more detail the OAN for this appeal, and the outcome of the forthcoming High Court challenge to the Sherborne Road decision.

Completions

- 6.9 Table 1 above is a table of five year housing land supply. The table shows a net total of 4,307 dwelling completions within the borough since the start of the plan period 1 April 2006 (against a completion requirement equating to 4500 dwellings - an average of 450 dwellings per year). This leaves a cumulative shortfall of 193 dwellings when assessed against the requirement since 1 April 2006.

Dealing with the Shortfall

- 6.10 The Guidance at paragraph: 035 [Reference ID: 3-035-20140306] states:

Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the 'Duty to Cooperate'.

- 6.11 The 'Sedgefield' methodology is used to address the existing undersupply in housing. This approach consists of front loading the shortfall over the next 5 years rather than later in the plan period. Therefore the shortfall of 193 dwellings since the start of the plan period has been added to the annual requirement of 450 dwellings over the next five years, equating to 489 dwellings per year.

The Appropriate Buffer

- 6.12 At paragraph 47, the Framework requires local planning authorities to provide an additional buffer of 5% against their housing supply requirements, increased to 20% where there has been a record of persistent under-delivery of housing. The Guidance at paragraph: 035 [Reference ID: 3-035-20140306] states:

The approach to identifying a record of persistent under delivery of housing involves questions of judgment for the decision maker in order to determine whether or not a particular degree of under delivery of housing triggers the requirement to bring forward an additional supply of housing.

The factors behind persistent under delivery may vary from place to place and, therefore, there can be no universally applicable test or definition of the

term. It is legitimate to consider a range of issues, such as the effect of imposed housing moratoriums and the delivery rate before and after any such moratoriums.

The assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle.

Table 2 below sets out net housing completions in the borough from 2001/02.

	Leicestershire			
	Structure	Regional		
	Plan (2005)	Plan (2009)		
	annual	annual		completions
	average	average		against
				annual
2001/02	485	340		145
2002/03	742	340		402
2003/04	421	340		81
2004/05	583	340		243
2005/06	454	340		114
2006/07	438		450	-12
2007/08	398		450	-52
2008/09	474		450	24
2009/10	353		450	-97
2010/11	227		450	-223
2011/12	373		450	-77
2012/13	227		450	-223
2013/14	480		450	30
2014/15	752		450	302
2015/16	585		450	135
			Total	792

6.13 With reference to the Guidance, this 15 year monitoring period (2001/02 to 2015/16) is a 'longer term view' and will "take account of the peaks and troughs of the housing market cycle." During this period the borough's annual average housing delivery requirement was met on 9 occasions. From 2009/10 - 2012/13 the annual average was not met. The lower delivery during those 4 years can be explained by the national housing market downturn rather than a lack of deliverable housing sites in the borough. Indeed, the most recent year experienced an over-supply compared with the housing requirement (+135 houses). Overall, there is an over-delivery of 792 houses.

- 6.14 Over a long period of time (15 years), there has not been a 'persistent under-delivery of housing' in the borough and so the 5% buffer applies at this time. The 5% buffer is added to the annual housing requirement (5% of 489 dwellings), equating to an additional 24 dwellings per year. This 5% buffer, added to the annual requirement of 489 dwellings per year to address the shortfall, equates to an annual requirement of at least 513 dwellings per year for the next five years till 31 March 2021 (totalling 2,565 dwellings over this period).

Deliverable Sites Included in the Five-Year Supply

- 6.15 Wainhomes (South West) Holdings Limited and SoSCLG (25th Match 2013) Case no CO/12207/2012 addresses the matter of what constitutes a deliverable site, as defined by footnote 11 of the Framework. Furthermore, the Guidance at Paragraph: 031 [Reference ID: 3-031-20140306] states:

What constitutes a 'deliverable site' in the context of housing policy?

Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years.

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the five-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (e.g. infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a five-year timeframe.

The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust five-year housing supply.

Site Assessment

- 6.16 For each large and small site with extant planning permission (including a resolution to grant) an initial assessment on deliverability was made. This assessment included specific site knowledge from HBBC, judgement on market conditions, the size of the site and recent build rates in the borough. Each initial assessment was sent to the relevant landowner/developer/agent to give them the opportunity to confirm their agreement of the initial assessment or amend accordingly. On all letters sent to the landowner/developer/agent it states that if no response is received it is presumed that the Council's trajectory and assumptions are correct. The initial assessment of deliverability was then amended to reflect the responses received.
- 6.17 In Wainhomes, it was held that "*Being 'available now' is not a function of (a) being a suitable location for development now or (b) being achievable with a realistic prospect that housing will be delivered on the site within five years and that the development of the site is viable.*" Clearly, whether something is "available now" is not a bright line rule – it is a matter of judgment. For example, a site without planning permission cannot be lawfully developed tomorrow, but that does not prevent it from coming forward within the five years and thus being included within the supply. Moreover, HBBC has considered removing potential sites that were not started and removing sites where construction has started but not progressed over an extended period, for example if there are legal or physical impediments hindering progress. Two small sites are discounted by HBBC during the site assessment stage, due to the Council's concerns about their deliverability (Woodfields 119 Sapcote Road and Manor Farm, Twycross Road). Similarly, two more sites have been discounted by HBBC from the Site Allocations DPD supply table (HIN13 and HIN148).

Discounts

- 6.18 HBBC applies local evidence about the non-implementation of planning permissions, as found in the Residential Land Availability Monitoring Statement 2015/16. This "*assessment of the local delivery record*" (my emphasis) meets the test of Guidance (paragraph 033). This latest review of non-implementation justifies a 4.3% discount on large sites (those sites where development has not commenced) and an 8.8% discount on small sites (those sites where development has not commenced). In the absence of evidence to the contrary, any other figures would be arbitrary and unreliable.

Barwell Sustainable Urban Extension

- 6.19 The Guidance at Paragraph: 031 [Reference ID: 3-031-20140306] states “*Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years.*”
- 6.20 Policy 3 of the Core Strategy has allocated a Sustainable Urban Extension to the west of Barwell. This will include 2500 dwellings, 15 hectares of employment, shops, a new primary school and children’s centre.
- 6.21 The SUE at Barwell is also allocated in the adopted Earl Shilton and Barwell Area Action Plan (2014) (The AAP). The AAP was the subject of Examination in March/April 2014 and was adopted in September 2014 following receipt of the Inspector’s Report in August 2014.
- 6.22 Planning application ref 12/00295/OUT involved 2,500 new dwellings etc and was subject to a resolution to grant outline planning permission in April 2013. The application returned to committee in March 2015 following an affordable housing viability study. The application is at an advanced stage to complete the Section 106 agreement and for permission to be issued under delegated powers. Its contribution to the supply of housing in the next five years was accepted by the Markfield Road inspector and SADMP inspector.
- 6.23 Not all of the dwellings allocated at Barwell SUE have been included in the five year supply. An assumption was made that work would commence in the 2018/19 monitoring year and therefore based on information supplied by the developer, only 360 of the 2500 dwellings have been included in the five year housing land supply figure.

Earl Shilton Sustainable Urban Extension

- 6.24 Policy 2 of the Core Strategy 2009 has allocated a Sustainable Urban Extension to the south of Earl Shilton. This will include 2000 dwellings, 10 hectares of

employment, shops, a new primary school and children's centre. The SUE at Earl Shilton is also allocated in the adopted Earl Shilton and Barwell AAP.

- 6.25 Not all of the dwellings allocated at Earl Shilton SUE have been included in the five year supply. Based on information supplied by the developer it has been the assumption that work would commence on the site within the monitoring year 2018/19 and a total of 260 dwellings out of the allocated 1600 dwellings are included within the five year housing land supply.

Site Allocations and Development Management Policies DPD

- 6.26 The Council refers to deliverable housing sites included in the Site Allocations and Development Management Policies DPD. Their deliverability is examined with reference to information supplied by land owners/agents. Six of the sites now have planning permission (HIN16, HIN17, BAG03, NAI02, NAI03 and 14/00136/FUL).
- 6.27 On the matter of deliverability, in Wainhomes, it was held that "*planning permission is not a necessary prerequisite to a site being 'deliverable'*" but that "*where sites are in contemplation because of being included in an emerging policy document....and the document is still subject to public examination, that must increase the lack of certainty as to outcome....in the absence of site specific evidence, it cannot be either assumed or guaranteed that sites so included are deliverable when they do not have planning permission and are known to be subject to objections.*" The Guidance at Paragraph: 031 [Reference ID: 3-031-20140306] states "*If there are no significant constraints (e.g. infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a five-year timeframe.*"
- 6.28 Evidence regarding the deliverability of each site is provided in the Submission DPD. HBBC did not receive objection to the deliverability of these sites during the draft DPD consultation exercises. Furthermore, HBBC conducted an exercise in response to the Inspector's Issues and Matters letter to check again the deliverability of all sites within the Submission DPD (with and without planning permission) with the landowners/developers.

- 6.29 One site included by the Council as deliverable is HIN02 “land west of Hinckley.” This site is subject to an outline planning application submitted on 27th February 2015 for 850 houses and a full planning application on 20th May 2015 for 243 houses.

Housing supply – conclusion

- 6.30 At paragraph 49 the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.31 The Council will produce evidence, on a case-by-case basis, to justify the deliverability of sites without planning permission. This evidence is sufficiently robust to satisfy the tests of deliverability as set out in the Wainhomes judgement and PPG and satisfied examination in the recent Ratby and Sherborne Road inquiries and SADMP inquiry.
- 6.32 The overall position at 1 April 2016 (the latest calculation of housing land supply) as stated in Table 1 is a supply of 2998 deliverable dwellings within the borough, equating to an over-provision of 433 dwellings when compared to the housing requirement of 2,565 dwellings over the next five years. This equates to a housing supply of 5.84 years including a 5% buffer. The LPA reserves the right to provide an updated housing supply calculation in advance of the public inquiry (which is scheduled to start on 14th March 2017), and notes the Appellant reserves the same right.

Housing delivery in Bagworth and Thornton 2006-2026

- 6.33 Table 1 of the Core Strategy (2006-2026) sets out the “current housing supply” for the borough; that is, the housing supply in 2009 when the Core Strategy was adopted.

Bagworth

Bagworth	
Housing Requirement	
(a) Number of dwellings to be allocated in Core Strategy	Minimum of 60
(b) Alterations: Difference between developable sites (at Core Strategy Position) and developable sites at 1 April 2016 (no. of dwellings)	6
(c) Expired permissions	9
Total	75
Housing Supply	
(d) Completions since 1 April 2009 (not included as a commitment in the Core Strategy) (no. of dwellings) (net of demolitions)	59
(e) Existing Permissions (at 1 April 2016) (no. of dwellings) (not committed in the Core Strategy) (including sites pending S106 agreement)	61
Residual Housing Requirement=(a+b+c)-(d+e)	
-45	

Thornton

Thornton	
Housing Requirement	
(a) Number of dwellings to be allocated in Core Strategy	0
(b) Alterations: Difference between developable sites (at Core Strategy Position) and developable sites at 1 April 2016 (no. of dwellings)	0
(c) Expired permissions	0
Total	0
Housing Supply	
(d) Completions since 1 April 2009 (not included as a commitment in the Core Strategy) (no. of dwellings) (net of demolitions)	3
(e) Existing Permissions (at 1 April 2016) (no. of dwellings) (not committed in the Core Strategy) (including sites pending S106 agreement)	11
Residual Housing Requirement=(a+b+c)-(d+e)	
-14	

- 6.35 The Thornton Allocations Plan has THO02PP. This allocation is planning permission ref 13/00566/EXT for 8 dwellings at Manor Farm, Main Street, Thornton, located within the settlement boundary.

Impact on the spatial vision for Hinckley and Bosworth borough

- 6.36 The Decision Notice for 16/00311/OUT refers to the development “*not being in accordance with the council’s aspirations for development as set out within the Local Plan...*” The Local Plan 2006-2026 is a suite of four Plans, of which one is the Core Strategy. The Core Strategy Key Diagram illustrates the spatial strategy of the borough on page 25. Development is to be focused upon urban areas (Hinckley, Burbage, Barwell and Earl Shilton), followed by Key Rural Centres, Rural Villages and Rural Hamlets. Spatial Objective 5 on page 20 of the Core Strategy is “*The focus*

of development will be in and around the Hinckley urban area, with more limited development in the rural areas to meet local needs.”

- 6.37 At paragraph 4.31 and Policy 10 of the Core Strategy, Bagworth and Thornton are grouped together as “Key Rural Centres within the National Forest”. These two are a ‘cluster’ of villages, which, according to paragraph 4.32 of the Core Strategy, have a population to support services, but very few services have materialised, despite significant housing growth at Bagworth. The Core Strategy states *‘The purpose of designating these villages as Key Rural Centres is to assist in securing services to ensure this cluster fulfils its potential’*. (paragraph 4.32)
- 6.38 At a borough level, the proposal is contrary to the urban focus of the Core Strategy. Despite being a modest number of houses (48), the proposal directs residential development to a rural area rather to the Hinckley urban area and two Sustainable Urban Extensions. Paragraph 4.5 of the CS states *“a proportion will also be distributed to the rural areas of the borough to accommodate their particular development needs.”*
- 6.39 To amplify this point, the LPA refers to “Land at Hinckley Road, Stoke Golding 10/00408/OUT appeal ref APP/K2420/A/10/2138596”. This proposal involved a proposal for about 60 houses. It is a pre-Framework decision but nevertheless, has parallels to this appeal proposal. Despite the absence of a 5-year supply of housing land in 2010, the appeal was dismissed. Like Thornton, Stoke Golding is a Key Rural Centre. At paragraphs 18 to 21 the inspector found that *“As things now stand, the minimum addition of 60 dwellings identified in policy 11 has...already been exceeded.....this scheme would undermine the Core Strategy and conflict with the policy setting out the spatial vision for Stoke Golding.”* In this case, there is no housing allocation for Thornton and 14 houses are built or committed in Thornton during the Plan period (2006-2026).
- 6.40 Comments made by the Stoke Golding Inspector at paragraph 19 about “damaging consequences for the Strategy” also apply to this appeal proposal. Taking into account a shortfall in housing land supply in 2010, the inspector wrote *“First, it would imply that a shortfall due partly to the inherent difficulties of developing awkward urban sites and of instigating schemes in the ‘sustainable urban extensions’ could be rectified by redirecting development to rural areas. Second, the repetition of similar schemes in other ‘key rural settlements’ would clearly have the potential to*

significantly alter the planned distribution of housing between urban and rural places. Third, the proposal would imply a preference for development on green-field and rural, rather than on brown-field and urban, sites, thereby further undermining the urban focus of the Strategy.”

- 6.41 It is not the case that housing development is unacceptable in principle at Thornton during the plan period (2006-2026). Policy 7 sets out how Key Rural Centres can fulfil their roles and provide key services to their rural hinterland. Housing development will be supported within the settlements boundaries, or through Local Choice or Rural Exceptions Sites adjacent to the settlement boundary to meet a local need. Specifically, Policy 7 states that *“To support the Key Rural Centres and ensure they can provide key services to their rural hinterland, the council will: support housing development within settlement boundaries that provides a mix of housing types and tenures as detailed in Policy 15 and Policy 16.....”*
- 6.42 However, the appeal site lies outside of the defined settlement boundary for Thornton, as shown in the very recently examined and adopted Site Allocations and Development Management Policies DPD. The appeal proposal does not lie within a Key Rural Centre settlement boundary and nor is it a Local Choice or Rural Exception development. Therefore the proposal is contrary to the spatial vision of Policy 7. In the Inspectors Report on the Site Allocations Examination, the Inspector states that *‘...bearing in mind that the Council states that it intends to undertake a full review of its Local Plan in the short-term, and also that I consider that a five year housing land supply can be maintained for the remainder of the Plan period, I do not consider that it is either necessary or appropriate to make any further new allocations of land through this Plan. The correct vehicle for assessing the suitability of potential sites will be through a full Local Plan Review when there can be full consultation with local communities and stakeholders.’* This confirms the approach taken in the Core Strategy and reinforces the need for development to come forward through the local plan process.
- 6.43 Policy 10 of the Core Strategy sets out 12 criteria that the Council will adhere to when considering development at Bagworth and Thornton. As the proposal is at Thornton, it is unable to contribute to provision of local services at Bagworth (bullet point 1). Bullets 2 and 3 are not relevant as they relate to the Bagworth housing allocation and employment proposals respectively. The appeal proposal addresses National Forest planting requirements (bullet 4) by virtue of setting aside 20% of land

for woodland planting. The appeal proposal will not contribute to an improved community centre for Bagworth (bullet 5). A children's play area and informal open space is being provided on-site with a financial contribution towards Thornton Reservoir Open Space; however, this mitigates the impact of 49 houses on local recreation facilities (bullets 6 and 7). The proposal does not provide for improved access to Thornton Reservoir (bullet 8). The proposal is not relevant to the Charnwood Forest Regional Park (bullet 9). The proposal does not deliver any safe cycle routes (bullet 10). The proposal will not impact on the land at Bagworth safeguarded for the railway station (bullet 11). There is no opportunity to seek car parking improvements at the Reservoir from this proposal (bullet 12).

- 6.44 Overall, due to its location at Thornton, the appeal proposal does not contribute to improving services at Bagworth, which is the priority of Policy 10 (paragraph 4.40). This objective includes an allocation of a minimum of 60 new housing units, improved services (a shop, post office and primary care provision) and supporting additional employment provision at Bagworth. Housing development at Bagworth shall meet the needs of Bagworth, to either support the established local services or provide new services. Therefore, the strategy of Policy 10 focuses new development at Bagworth in order to improve the facilities there. There is no development focus at Thornton. The Core Strategy does not provide for any allocations of land for employment or housing at Thornton. This is a clear spatial strategy decision. The proposal fails to create a "new sense of place" at Thornton and does not *"transform these former mining villages into Forest Settlements within woodland settings, providing the local services to their populations and those of the surrounding rural hamlets/hinterland."* (CS paragraph 4.40).
- 6.45 The residual housing requirement for Bagworth currently stands at minus 45; that is, 45 houses more than the minimum allocation of 60 homes. Thornton does not have a Core Strategy housing requirement and has a residual housing requirement of minus 14 homes. There is no policy requirement to deliver more housing at Thornton but Policy 7 allows scope for housing at Thornton within the settlement boundary.
- 6.46 The appeal proposal will yield 20 affordable homes. This is a benefit of the development as it will go towards meeting affordable housing needs. The Core Strategy identifies the urban area of Hinckley and the two SUEs as the focus for residential development in the borough and they constitute more sustainable locations for affordable housing than at Thornton. This strategy to direct homes to

reflect local needs is consistent with the Framework's policies for sustainable development, for example paragraphs 54 and 55 which emphasise the need to be '*responsive to local circumstances*' and plan housing development '*to reflect local needs*' and promote development where it would '*enhance or maintain the viability of local communities*'. Thornton's market and affordable housing needs are limited, were not sufficiently great to require a housing allocation in the Core Strategy and are being met by committed sites at Bagworth and Thornton:

- 14/00426/OUT Mixed use of up to 61 dwellings and employment units. Resolution to grant subject to S106 obligation on 30 June 2015. That development includes 10 affordable units. Bagworth.
- 13/00903/FUL will deliver 2 affordable units. Bagworth.
- 13/00566/EXT for 8 dwellings, including 3 affordable units. Manor Farm, Main Street, Thornton.

6.47 The LPA does not identify harm to existing infrastructure and facilities in Thornton. The proposed development lies in a sustainable location and is within reasonable walking distances of a range of facilities, including a primary school, pub, community centre and convenience store. Yet the facilities are limited, reflecting its status as a village rather than a town or urban area, and there are no significant employment sites. There are benefits to the proposal, notably the delivery of market housing, affordable housing, construction jobs, New Homes Bonus and a children's play area. The development will incorporate 20% woodland planting and landscaping (0.43ha in this instance). More houses will help to support existing services in Thornton. These benefits are set out in more detail in the committee report and the application was recommended for approval. The proposed financial contributions towards education, highways and health are to mitigate the impact of this proposal on services and facilities in the locality and should not be construed as benefits.

Harm to the countryside

6.48 On the other hand, the proposal has a tangible local harm, deriving from the loss of a greenfield site. At paragraph 17 of the Framework, a core planning principle is to "*take account of the different roles and character of different areas...recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.*" That is what the development plan does, and the reason the development boundaries are, as they are. The role of different areas as being more

appropriate for the provision of market and affordable housing has been recognised in the adopted development plan.

- 6.49 On 27 March 2015 Minister of State for Housing and Planning, Brandon Lewis MP, wrote a letter to the Chief Executive of the Planning Inspectorate (PINS) to highlight several recent appeal cases in which harm to landscape character has been an important consideration in the appeal being dismissed. The Ministerial letter emphasises one of the core principles within the NPPF (paragraph 17) that *'plans and decisions should take into account the different roles and character of different areas, and recognise the intrinsic character and beauty of the countryside.'*
- 6.50 SADMP Policy DM4: Safeguarding the Countryside and Settlement Separation has replaced Policy NE5 of the Local Plan. The policy states that the countryside will "first and foremost" be safeguarded from unsustainable development, and that development proposals will be considered appropriate where one of 5 criteria are met, and all of a further 5 criteria are met. The appeal proposal does not meet any of the first 5 criteria and therefore the following 5 criteria are not relevant. Moreover, of the following 5 criteria, the proposal will "have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside." Therefore the proposal is contrary to DM4.
- 6.51 The replacement of an attractive green field located on the west side of Thornton with 48 houses, roads, cars, street lighting, fencing and other residential paraphernalia will harm its rural character and beauty. The public right of way (R85) will be become urbanised.
- 6.52 The Council's position is supported by the Markfield Road inspector, which like this appeal field involved "ordinary countryside", lacking any particular landscape or strategic designation. He concludes *"that the development would amount to a substantial extension of built development into open countryside, harmful to the character and appearance of the landscape, and would conflict with 'saved' Policies RES5 and NE5 of the Hinckley and Bosworth Local Plan 2001."* This decision was challenged in court (Cawrey Ltd v SoS for CLG [2016] EWHC 1198) and the appeal decision was upheld.

7. DEVELOPER CONTRIBUTIONS

- 7.1 Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:
- necessary to make the proposed development acceptable in planning terms;
 - directly related to the proposed development; and
 - fairly and reasonably related in scale and kind to the proposed development.
- 7.2 Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.
- 7.3 The committee report and the late items paper explain the level of developer contributions expected in this case. The Council has no reason to believe the appellant will not complete an acceptable Section 106 agreement before the close of the inquiry and reserves the right to make further submissions should that not be the case.

8 KEY DOCUMENTS

1. Core Strategy 2009
2. Site Allocations and Development Management Policies DPD
3. SADMP inspectors report
4. Land south of Markfield Road, Ratby APP/K2420/W/15/3003301
5. Cawrey Ltd v SoS for CLG [2016] EWHC 1198
6. Land off Sherborne Road, Burbage APP/K2420/W/15/3004910
7. Land at Hinckley Road, Stoke Golding APP/K2420/A/10/2138596
8. The SADMP Inspector's final report published on 17 May 2016.
9. Housing supply tables