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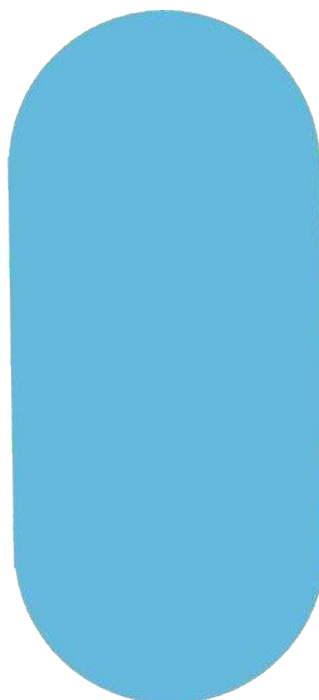
Appeal by Boningale Developments Ltd

Statement of Case

Land at Tilstock Road, Tilstock

LPA Ref: 24/04176/FUL

Against the non-determination by Shropshire Council of “Residential development of 70 dwellings including access, open space, landscaping and associated works”



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1. Introduction

1.1 Context

- 1.1.1 This Statement of Case ('SoC') is submitted by Marrons on behalf of Boningale Developments Ltd ('the Appellant') and it relates to an appeal against Shropshire Council's ('the Council') non-determination of full planning application 24/04176/FUL, for which the description of development is as follows:

"Residential development of 70 dwellings including access, open space, landscaping and associated works."

- 1.1.2 The Appellant considers a Public Inquiry is the most appropriate forum by which to test the appeal proposal. A justification for this request is provided in accordance with the Planning Inspectorate's Procedural Guide's Criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals, to be found at section 1.4 below.
- 1.1.3 This Statement should be read alongside the submitted draft Statement of Common Ground ('SoCG') **[CD4.1]**.
- 1.1.4 The Appellant has sought to engage proactively and positively with the Council throughout the application process. The Council have however, despite not having received a number of statutory consultees at the time of writing this statement, confirmed that they will not be accepting further submissions in regard to the application **[CD14.33]**. The Appellant considers this to be unreasonable and a position that has left no alternative but to submit an appeal against non-determination of the application.
- 1.1.5 The Appellant is a local SME Housebuilder and determination of the application is business critical, with further delays potentially having widespread implications for the company.
- 1.1.6 The Appellant reserves the right to make an application for Costs at a later date.

1.2 Appeal Site and Surroundings

- 1.2.1 The boundary of the appeal Site is shown on Location Plan **[CD6.21]**.

- 1.2.2 The Site occupies a 4.05 hectare site at Tilstock Road, Tilstock. Lying to the north of the settlement, the Site is comprised of greenfield land, presently in use for equestrian grazing.
- 1.2.3 The Site is bound by agricultural land to the north and east, with the village built form to the south. To the west lies Tilstock Road, separating the Site and agricultural land, along with some ribbon development to the west.
- 1.2.4 The Site is bordered to the west and the south by mature hedgerows and trees. The northern boundary is bordered by a smaller hedgerow, separating the site from the field adjacent to the northern boundary. The eastern boundary is made up of fencing. Vehicular access into the site will come from off Tilstock Road, entering the site from the western boundary. Pedestrian access will be provided by a public footpath, entering the Site from the south eastern corner, offering connections to Tilstock village centre, utilising and enhancing existing Public Rights of Way that run adjacent to Tilstock Primary School.
- 1.2.5 The settlement of Tilstock is characterised as an ‘(Other) Rural Settlement’ (Community Cluster) in the adopted Development Plan and benefits from numerous local facilities including a primary school. More details will be provided in this regard further in this Statement. Further settlements of Whitchurch and Shrewsbury are also readily accessible by public transport.

1.3 Background to the Appeal

- 1.3.1 The full planning application which is the subject of this appeal was submitted on 30th October 2024 and validated by the Council on 31st October 2024 **[CD14.2]**. The statutory 13-week determination deadline for the application was 30th January 2025.
- 1.3.2 The planning application was supported by a comprehensive suite of technical reports and supporting documents in accordance with the Council’s validation requirements.
- 1.3.3 The Appellant has not agreed any extensions of time or planning performance agreements during the course of the application’s consideration.
- 1.3.4 Through email correspondence with the Case Officer and a meeting with the same, it has been established that the Council do not consider the application suitable for approval. This is despite a lack of any technical objections. Furthermore, as will be explained in the following sections,

officers have at the time of writing, failed to provide substantive reasons which led them to such a conclusion.

- 1.3.5 As this is an appeal against non-determination and the planning application has not been reported to the Council's Planning Committee to establish any putative reasons for refusal, the Council's case for the appeal is not yet known. Notwithstanding this, the Appellant's response to the anticipated position of the Council is set out at Section 4 of this SoC.

1.4 Justification for an Inquiry

- 1.4.1 With reference to the Planning Inspectorate's Procedural Guide's Criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals, the Appellant requests a public inquiry for the following reasons:

Clearly Explained Need for Evidence to be tested through formal questioning by an advocate

- 1.4.2 Matters in relation to the principle of development, including the Council's Five Year Housing Land Supply position, are integral to the case and likely to be contested between the parties. An advocate will be needed to explore these matters in detail. Emerging case law in relation to the interpretation of national policy means detailed legal submissions may be necessary.
- 1.4.3 Furthermore, to date no consultation response has been received from the Local Highway Authority so unless and until such matters are resolved satisfactorily, highways should be assumed to be requiring detailed exploration during the course of the appeal.
- 1.4.4 It is also considered likely that matters of landscape impact will form an area of disagreement between the parties which will warrant exploration through formal questioning by an advocate.
- 1.4.5 In addition to the above, the Appellant reserves the right to explore further matters and considerations in such a manner subject to the putative reasons for refusal which may be posed by the Council in due course throughout the appeal process.

The issues are complex

- 1.4.6 The above topic issues are complex in nature and will require evidence to be adduced by expert witnesses. As such it is the view of the Appellant that these matters will require cross-examination to establish the extent of the evidence which underpins the Council's claims.

Significant local interest

- 1.4.7 There is a significant local interest in the scheme and the Council's website indicates that at the time of writing 142 comments have been made regarding the application from members of the public during their consideration of the planning application. There have also been comments made by the Whitchurch Rural Parish Council.
- 1.4.8 It is considered that a public inquiry is the most efficient way to deal with matters raised by local residents. This is particularly the case if a 'Rule 6' party is formed. In addition to Whitchurch Rural Parish Council, the Appellant is aware of local group 'Stop Tilstock Development' which may seek to form a Rule 6 party.
- 1.4.9 Public interest in the appeal will also impact on the likely length of the appeal proceedings, as discussed below.

Likely length of inquiry

- 1.4.10 It is considered that, to address all matters including those which may be raised as putative reasons for refusal, up to 4 sitting days will be required. This exceeds the single day usually reserved for a hearing (even a two-day hearing, which is understood to be used only in exceptional circumstances). The guidance therefore suggests that a public inquiry is necessary.

2. The Development Plan

2.1 Development Plan

2.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that determination must be made in accordance with the development plan unless material considerations indicate otherwise. Section 39 of the Act requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.

2.1.2 The Appellant will adduce evidence to demonstrate that important material considerations exist which limit the weight that can be afforded to parts of the development plan and that allowing the appeal is wholly appropriate and justified.

2.1.3 The adopted development plan for Shropshire Council comprises of:

- Core Strategy Development Plan Document 2006-2026 (adopted 24th February 2011) **[CD2.2]**
- SAMDev Plan 2006-2026 (adopted 17th December 2015) **[CD2.3]**

2.1.4 In addition, at the time of submission, the ‘emerging Local Plan Review 2026-2038’ formed a material consideration. However, as will be explained further in this Statement, since the submission of the application circumstances have moved on and the emerging Local Plan Review is set to be imminently withdrawn from Examination. The Council have confirmed in a letter to Inspectors’ (GC57) **[CD14.46]** that it is their intention to withdraw the Plan following Full Council approval which is expected on 17th July 2025.

2.1.5 The Appellant considers the following policies to be relevant to the determination of the appeal:

Core Strategy Development Plan Document 2006-2026

- Policy CS1: Strategic Approach
- Policy CS5: Countryside and Green Belt
- Policy CS6: Sustainable Design and Development Principles
- Policy CS7: Communications and Transport
- Policy CS8: Facilities, Services and Infrastructure Provision
- Policy CS9: Infrastructure Contributions
- Policy CS11: Type and Affordability of Housing
- Policy CS15: Town and Rural Centres

- Policy CS17: Environmental Networks
- Policy CS18: Sustainable Water Management

SAMDev Plan 2006-2026

- Policy MD1: Scale and Distribution of Development
- Policy MD2: Sustainable Design
- Policy MD3: Delivery of Housing Development
- Policy MD8: Infrastructure Provision
- Policy MD12: Natural Environment
- Policy MD13: Historic Environment

2.1.6 The Appellant's evidence will include a detailed analysis of the appeal proposals against the relevant policies of the development plan.

2.2 Weight to be Afforded to the Development Plan

- 2.2.1 The Appellant will adduce evidence setting out its position on the weight that can be afforded to the policies of the development plan and any conflict that there may be with them, in accordance with Paragraphs 11, 231 and 232 of the National Planning Policy Framework 2024 (NPPF) **[CD2.1]** and other relevant material considerations.
- 2.2.2 The Development Plan was adopted in 2011 (Core Strategy) and 2015 (SAMDev), and as such is ten years old, based upon an evidence base formed prior to the adoption of the first NPPF.
- 2.2.3 A recent attempt at adopting a new Local Plan has failed, with the Council set to imminently withdraw the Local Plan Review from Examination. The Council will now need to commence plan-making from the beginning once more, this time on the basis of the "new" NPPF.
- 2.2.4 Furthermore, the Council cannot currently demonstrate a five-year supply of housing land, having published a Five Year Housing Land Supply Statement **[CD2.4]** on 13th February 2025 stating their supply to be 4.73 years.
- 2.2.5 As will be adduced in further evidence, the Appellant considers that the housing land supply position in actuality is much lower even than the published 4.73 years. Full evidence in this regard will be adduced during the appeal, but reasons for this assertion include the fact that the Council have included within their supply of "deliverable sites" several sites which were proposed to be allocated in the examination version of the emerging Local Plan, which as described above is

expected to be imminently withdrawn or found unsound by the examining inspectors, meaning many of those sites have no planning status and cannot be regarded as deliverable. The Council have confirmed in written correspondence that it is their intention to continue to rely on the Local Plan Review evidence base to demonstrate this claimed supply. This is further considered below.

2.2.6 This lack of housing land supply and the extreme dated-ness of the development plan means that, in accordance with NPPF Paragraph 11(d) planning permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination

2.2.7 Thus, the tilted balance is engaged; it is expected that the Council will agree to this as per the SoCG.

2.2.8 The Appellant will adduce evidence to demonstrate that the extent of the housing shortfall and housing land supply situation is an important material consideration in the conclusion of this case.

2.2.9 The proposals are considered to accord with those elements of the development plan policies which are considered up-to-date by virtue of their degree of consistency with the NPPF, and generally considered to secure a well-designed place in an appropriate location, aligning with the principles outlined in Paragraph 11(d).

3. Material Considerations

3.1 National Planning Policy Framework

- 3.1.1 In terms of the Framework, paragraph 2 states that the NPPF is a material consideration in planning decisions. Paragraph 61 references the government's objective of significantly boosting the supply of homes. The Appellant will adduce evidence to demonstrate that the appeal proposal responds to this national policy ambition and represents sustainable development.
- 3.1.2 The Appellant will demonstrate that, having regard to the proper application of the Framework, the following can be said of the appeal proposals.

Sustainable Development

An economic objective

- 3.1.3 Evidence will be adduced to demonstrate the beneficial economic impacts of the appeal proposal. The delivery of new market and affordable homes now in Tilstock will contribute to enabling Shropshire to promote and sustain a strong, responsive and competitive economy.

A social objective

- 3.1.4 It will be demonstrated that the appeal proposals will deliver new homes of the right type and mix, in the right place and at the right time to meet market and affordable housing needs and support Shropshire's growth ambitions, including the delivery of 70 new homes, of which 10.5 would be affordable, to address the pressing local need for housing and the national policy imperative to significantly boost the supply of housing.
- 3.1.5 The provision of formal and informal public open space on the site, including a locally equipped area of play and a further local area for play, is an additional social benefit of the proposal.
- 3.1.6 It will be demonstrated that the site is located in an accessible and sustainable location close to key services and facilities, and the wider area, which will help support the health, social and cultural wellbeing of Tilstock and the wider Shropshire area.

An environmental objective

- 3.1.7 It will be demonstrated that the appeal proposals have no unacceptable environmental effects. The proposals involve the provision of informal and formal public open space, landscaping and ecological mitigation. A copse is retained as part of the development and trees are incorporated throughout, both new and retained.
- 3.1.8 Overall, the scheme will deliver significant material benefits, and the proposals represent sustainable development.

The Presumption In Favour Of Sustainable Development

- 3.1.9 The presumption in favour of sustainable development sits at the heart of the Framework. The presumption does not change the statutory status of the development plan as the starting point for decision making.
- 3.1.10 The appeal proposals will deliver new housing development which will assist the Council by contributing towards the requisite land supply and also meeting the Government objective of “boosting significantly” the supply of housing. The development plan is nearly ten years old, and the Council accepts that it is unable to demonstrate a five-year supply of deliverable housing sites. Therefore, the policies most important for determining the appeal are out of date and the presumption in favour of sustainable development (tilted balance) set out in paragraph 11d is applicable
- 3.1.11 It is expected to be common ground that the tilted balance is engaged.

3.2 Five Year Housing Land Supply

- 3.2.1 The Council currently accepts that it cannot demonstrate a five year housing land supply, having published a Five Year Housing Land Supply Statement on 13th February 2025 stating their supply to be 4.73 years.
- 3.2.2 The Appellant reasonably anticipates that it will be common ground that the Council cannot demonstrate a five-year housing land supply for the purpose of the appeal.
- 3.2.3 As will be adduced in further evidence, the Appellant considers that the housing land supply position in actuality is much lower even than the published 4.73 years. Full evidence in this regard will be adduced during the appeal, but reasons for this assertion include the fact that the Council have included within their supply of “deliverable sites” several sites which were proposed to be allocated in the examination version of the emerging Local Plan, which as described above will

be imminently withdrawn, meaning many of those sites have no planning status and cannot be regarded as deliverable. The evidence base which underpins these allocations has not been found sound as part of the Local Plan examination, consequently the Council cannot rely on this evidence base as evidence that these sites are deliverable.

- 3.2.4 While it is anticipated to be common ground that the Council cannot demonstrate a five year housing land supply, the level of the shortfall is likely to be a matter which requires in-depth analysis through the appeal process. This would be likely to include a site-by-site analysis of deliverability of those sites the Council has included within their supply. This analysis is critical to the appeal, for while the Council have acknowledged that the tilted balance is engaged they have sought to argue **[CD14.33]** that given that their claimed supply is 4.73 years, the shortfall is not large (567 dwellings) and thus the balancing exercise (whilst tilted) is less heavily weighted towards a grant of approval than it may have otherwise been if the shortfall had been greater.
- 3.2.5 The Appellant therefore reserves the right to adduce evidence and witnesses on the matter of five-year housing land supply during the appeal process.

3.3 The Local Plan Review

- 3.3.1 From the period January 2017 a Local Plan Review was commenced with the aim of adopting a new Local Plan. Following consultation which has occurred since 2017, a draft Plan **[CD2.5]** was submitted to the Secretary of State for examination in September 2021.
- 3.3.2 After the first round of hearings in July 2022 and January 2023, the Inspector's Interim Findings paper (ID28) was released in February 2023. Further information was provided, and a further round of hearings took place in the Winter of 2024, scheduled to last several weeks. Following the first five sitting days the Inspectors issued a Holding Letter expressing that they had concerns which would be set out in detail later but that the planned hearings would be cancelled.
- 3.3.3 In their detailed Inspector's Findings letter dated 10th December 2024 (ID47) **[CD14.42]** their concerns were set out in detail. These included, but were not limited to, the following summarised points:
- Draft plan did not identify sufficient housing to address its own need as well as that unmet need of the Black Country (BC) which it has agreed to accommodate;
 - Insufficient allocation of employment land;

- Inappropriate choice of option for accommodating uplift to housing requirement (relying on windfall);
- Re-allocation of sites initially proposed to meet Shropshire's need towards meeting BC's needs, in lieu of allocating additional sites;
- Illogical lack of consideration for removing land from the Green Belt to meet needs of BC;
- Plan period would only cover 12 years post adoption;
- Therefore an additional 3 years minimum should be added to plan period, plus an additional 3 years' housing supply
- Over-reliance on windfalls, equating to approx. 13.5% of supply, despite poor rates of delivery in recent years showing a trend of decreasing delivery;
- Linked to the above, the Council's decision to provide a list of "known significant windfall development opportunities" but not allocate those sites;
- Reliance on sites allocated in the SAMDev as a proportion of supply despite the fact that they have not yet come forward;
- Reliance on un-deliverable employment site SHR166;
- Pre-determined nature of the strategy;

3.3.4 Overall, the Inspectors concluded that:

The combination of all these interrelated matters have a cumulative effect that go to the heart of the Plan, and because of the serious shortcomings identified we find that it is unsound. It is not positively prepared, as it would fail to meet the housing and economic development needs of Shropshire, or to deliver on the clear commitment to addressing some of the unmet needs in the BC.

It is not justified, since it does not provide an appropriate strategy, considering the reasonable alternatives. It is not effective as it would not be deliverable over the plan period, nor would it enable the delivery of sustainable development in accordance with the policies in the Framework. We cannot see that we can recommend main modifications to remedy these deficiencies as they are so fundamental.

- 3.3.5 Mindful of the written ministerial statement issued by Matthew Pennycook in July 2024, the Inspectors noted that their pragmatism should only be used where it is likely a plan is capable of being found sound following limited additional work. In this case they felt that the work required would be of a significant scale.
- 3.3.6 Nonetheless, at the Inspector's invitation, the Council provided a draft programme (GC56) **[CD14.43]** outlining the work that they found to be required and the timescale they found to be appropriate. This would have included an updated assessment of housing and employment land growth options including assessment of additional options for a strategic employment site and sites to meet BC housing and employment need. A 30-day public consultation would be held and additional material submitted for examination. The proposed project plan would span February through August 2025.
- 3.3.7 However, in February 2025 the Inspectors published ID48 **[CD14.44]**, noting that the concerns they have with the plan are significant and they do not find the Council's proposed project programme to be realistic. They cite their experience in examining the Shropshire plan, which has been much drawn-out, as well as other plans. Finding the project plan overly ambitious, particularly given that several tasks to be undertaken must be done consecutively, they conclude that they are not confident the necessary work could be completed within six months and recommend that the plan be withdrawn.
- 3.3.8 On 6th March 2025 the Council confirmed their intention to withdraw the draft Local Plan Review in a press release on their website **[CD14.45]**. In the announcement of this withdrawal, the Council state that this withdrawal will allow them to focus on preparing a Plan for the period 2025-2045. Chris Schofield, Shropshire Council's Cabinet member for planning and regulatory services, said:
- "We will now turn our attention to preparing a Plan for the period 2025-45. This will need to respond to the Government's recent significant uplift in housing need for the county, as well as providing a framework for sustainable economic growth and managing the county's environmental assets. This process will begin later this year, and the council will work with communities in establishing positive and sustainable growth strategies for their areas."*
- 3.3.9 In a response to ID47 **[CD14.42]** the Council have written to the Inspectors' (GC57) **[CD14.46]** and confirmed that it is their intention to withdraw the Plan from Examination pending Full Council approval which is expected on 17th July 2025.

3.3.10 Following this, the soon to be withdrawn draft local plan does not hold any weight as a planning consideration, though it is of relevance to note the timeline above as the plan was a consideration during the consideration of the planning application up until its withdrawal two weeks prior to the submission of this appeal. Furthermore, it has been indicated that the Council wish to rely on it's evidence base in calculating their housing land supply.

3.4 Other Documents

3.4.1 The Appellant may also refer to the following during the course of the appeal, and reserves the right to refer to any further documents not listed below, as the need emerges:

- Developer Contributions Supplementary Planning Document **[CD2.6]**
- Sustainable Design Part 1 Supplementary Planning Document **[CD2.7]**
- Type and Affordability of Housing Supplementary Planning Document **[CD2.8]**

4. Outstanding Matters and Issues in Dispute

4.1 Introduction

4.1.1 As this appeal is made against the non-determination of a planning application there are no formal reasons for refusal to respond to at the present time. However, for ease, the Appellant has set out the latest position in respect of technical matters, based on the available information, and noting the Council's repeated failure to provide substantiation behind the reported intention to refuse the application. The Appellant does not consider that there is sufficient cause for any of the below technical matters to form part of a putative Reason for Refusal but considers the below could be areas of focus for the appeal.

- Principle of development
- Highways
- Landscape
- Ecology and Trees
- Flood Risk and Drainage

4.1.2 As set out within the draft SoCG, the Appellant is hopeful that the following matters will not form areas of dispute within the appeal process:

- Housing mix
- Amenity

4.1.3 The Appellant reserves the right to amend its Statement of Case in response to any subsequent putative reasons for refusal and/or issues raised in the Statement of Case prepared by the Council.

4.1.4 As a minimum, the Appellant will adduce evidence in regard to Housing Land Supply and the Principle of Development. The Appellant will further adduce evidence in response to any technical matters included within the putative Reasons for Refusal.

4.2 Principle of Development

4.2.1 The Appellant acknowledges that the appeal proposal would conflict with certain policies of the Development Plan, insofar as the Site is not allocated for development and lies outside of, but adjacent to, the settlement boundary of Tilstock. However, it should be noted that per the

Development Plan, and reiterated in the Planning Policy consultation response of 2nd December 2024 [CD16.1], Tilstock is considered to be a sustainable location for development. Furthermore, the defined settlement boundaries date back almost 10-years. Within that 10-year period, development outside of the defined settlement boundaries has been granted by the Council and indeed, the Council are seeking to rely on over 2,000 dwellings worth of supply on sites located outside of the defined settlement boundary. As such, the Appellant considers that the defined settlement boundaries are out-of-date, and should carry limited or no weight in the planning balance having very obviously been superseded by events over the last 10-years, by changes in national policy relating to housing delivery and more significantly, by virtue of the fact that the Council cannot currently demonstrate a sufficient supply of housing.

- 4.2.2 Through this appeal the Appellant will demonstrate that the conflict with the out-of-date Development Plan, including settlement boundaries, as set out above, should be afforded limited weight for the purposes of decision making, taking account of the lack of five year housing land supply and other relevant material considerations.
- 4.2.3 The Appellant will demonstrate that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of granting planning permission in this case, when considered against paragraph 11(d) of the Framework and the presumption in favour of sustainable development. The appellant will also show that this is not a situation where any restrictive policies would act to dis-apply the presumption.

4.3 Highways

Introduction

- 4.3.1 At the time of preparing this Statement of Case, there have been no consultation comments received from Shropshire Council acting as the Local Highway Authority (LHA).
- 4.3.2 The Appellant will therefore demonstrate that the proposed development does not conflict with the NPPF nor policies of the Development Plan.
- 4.3.3 The Appellant will also demonstrate that there is no justification to refuse the planning application on highways safety grounds or development impact, and that that there is no insurmountable issue that could not be overcome either through the imposition of suitably worded condition(s) or through mitigation.

Background to the appeal

- 4.3.4 An initial pre-application submission was made to the Council in January 2024, which included a Highways Pre-Application Technical Note (January 2024). At that time, the scheme comprised 50 residential units and a 68 bed extra-care facility.
- 4.3.5 A pre-application meeting was held with the Council on 15th April 2024, and a subsequent written response was received which included comments relating to highways.
- 4.3.6 The scheme was subsequently amended in August 2024, to allow for the removal of the proposed extra-care facility element of the site. A Transport Statement (dated October 2024) [CD7.1] was subsequently produced in support of the revised scheme of 70 dwellings, with the planning application submitted on 30th October 2024 and validated on the 31st October 2024.
- 4.3.7 The Transport Statement was informed by the pre-application comments received from the Council in relation to the previous scheme. This included a detailed review of sustainable travel options and a review of the proposed site access strategy.
- 4.3.8 Whilst no comments were received from the Local Highway Authority (LHA) during the consultation period, the Appellant instructed a Stage 1 Road Safety Audit to be undertaken (January 2025) on the off-site highway improvement measures. This Road Safety Audit and associated Designers Response were issued to the LPA, and were noted as being uploaded to the Council's website on 11th February 2025 [CD7.2].
- 4.3.9 It is not clear whether the Council have reviewed the Road Safety Audit or Designers Response.

Case for the Appellant

- 4.3.10 No comments have been received from the LHA to date in relation to the application which was validated on 31st October 2024. It is therefore considered that the works undertaken as part of Transport Statement (October 2024), Stage 1 RSA and Designers Response have not been reviewed by the Local Planning Authority or Highways Development Control Team.
- 4.3.11 Notwithstanding the above, taking into account key national policy contained within the NPPF, this Statement of Case assess whether the proposals accord with such policy.

National Policy Compliance - NPPF

- 4.3.12 With regard to the NPPF, which was updated in December 2024, Paragraph 115 states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 4.3.13 Within the Transport Statement, a detailed analysis of historic Personal Injury Accident data was undertaken for the previous 5-year period in accordance with Planning Practice Guidance document ‘Travel Plans, Transport Assessments and Statements in decision-taking’ (2014). This analysis identified that there have been no recorded Personal Injury Accidents (PIAs) recorded over the 5-year period in the vicinity of the site. Therefore it was concluded that there were no pre-existing highway safety problems, and that the proposed development should not give rise to an unacceptable impact on highway safety in accordance with Paragraph 115 of the NPPF.
- 4.3.14 Nevertheless, a Stage 1 Road Safety Audit (dated January 2025) was commissioned and carried out in accordance with the principles of the National Highways document GG 119 ‘Road Safety Audit’ (version 2). The audit assessed the proposed site access onto Tilstock Road and the dedicated pedestrian link to Tilstock Lane to the south.
- 4.3.15 A Designers Response was prepared (dated February 2025) in response to the Stage 1 RSA. The Designers Response included **Drawing Number SH5037-10PD-001 Rev D** which included amendments to the scheme to address the concerns raised in the RSA. This included detail of how the Public Right of Way between the site and Tilstock Lane would be upgraded with a bound surface and lighting (and that this would be undertaken in conjunction with the Council as part of any Discharge of Condition). **Drawing Number SH5037-10PD-001 Rev D** also shows how the existing 30mph limit would be extended in conjunction with further gateway entry features.
- 4.3.16 In light of the above, there are deemed to be no outstanding concerns in relation to highway safety grounds, which should preclude the LHA from supporting the scheme
- 4.3.17 Turning to ‘residual cumulative impacts on the road network’, the Transport Statement highlighted that the site could generate up to 35 two-way vehicle trips during any given peak hour. This equates to circa 1 vehicle every 2 minutes on the surrounding highway network. Based upon traffic count survey data included within the Transport Statement (undertaken March 2024), it is also noted that the distribution of existing traffic along Tilstock Road is quite evenly split northbound / southbound during the peak periods. Therefore the additional vehicle trips heading southbound through Tilstock village would be circa 16 two-way trips during any hour. This would not fundamentally affect how the highway currently operates.

4.3.18 The Appellant therefore sees no evidence or justification for refusing the scheme on highway grounds, or any evidence reasonably demonstrating how the scheme conflicts with Paragraph 115 of the NPPF.

Local Policy Compliance

4.3.19 The Appellant has reviewed the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) document and identified Policy CS6: “Sustainable Design and Development Principles” as being the most relevant local policy. This states that in order to create sustainable places:

“.....proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.”

4.3.20 The Transport Statement produced in support of the planning application identified that the development could give rise to an additional 35 two-way vehicle trips during any given peak hour. This is not deemed to represent a significant level of traffic as set out in Policy CS6.

4.3.21 Nevertheless, the Transport Statement has set out how there are ample opportunities to travel by sustainable modes of travel, with bus stops being located within a reasonable walking distance from the site when compared to the prevailing conditions in Tilstock.

4.3.22 The Appellant is also willing to produce an Outline Travel Plan as part of a suitably worded planning condition, which would set out a number of measures to reduce the need to travel and providing alternatives to single occupancy car trips.

4.3.23 In conclusion, it is considered that there is no insurmountable issue that could not be addressed by a suitably worded planning condition and/ or mitigation.

4.4 Landscape

4.4.1 At the outset of this section it should be noted that despite the case officer consulting “Shropshire Council Landscape Consultant Keith Hampshire” during the course of the application, no comments were received in response. However, as the case officer indicated by that they had “significant concerns” **[CD14.27]** with the site for reasons including landscape/visual harm, landscape must be considered a matter of dispute.

- 4.4.2 A Landscape and Visual Impact Assessment (LVIA) **[CD10.1]** following best practice guidance was prepared by Pegasus Group to support the planning application. The LVIA sets out the landscape led approach that has guided the design of the proposed development. The key landscape elements proposed include green infrastructure corridors and public open space through the development, with landscape buffers to the perimeter of the site adjoining the wider countryside. The submitted Design and Access Statement **[CD5.5]** explains how the multi-functional landscape of the proposals would align with Natural England Green Infrastructure Principles.
- 4.4.3 The immediate landscape context is influenced by the settlement edge character of Tilstock, with partial views of the adjacent residential properties through the boundary vegetation of the site and views across the agricultural fields to the east towards the northern settlement edge. The site itself forms an open area of land used for the grazing of horses and contains some moderate value landscape features including mixed species hedgerows along field boundaries, and a limited number of trees.
- 4.4.4 A large area (35%) of the site (1.4ha) would be dedicated to public open space including green infrastructure elements, with the remaining 65% of the site comprising new dwellings including private gardens and the access road. As part of the development proposals, existing landscape features of value would be mostly retained, with no trees requiring removal. The section of category C hedgerow removed along Tilstock Road, is proposed to be replanted behind visibility splays.
- 4.4.5 With regards to landscape impacts, the site is not subject to any statutory or non-statutory landscape protection designations and no other environmental designations are present. The landscape of the site and immediate context has no features that would indicate a 'valued' landscape in the context of the NPPF.
- 4.4.6 Paragraph 187(a). The development proposals would also represent no conflict with the landscape related considerations of footnote 7 of the NPPF.
- 4.4.7 There would be a moderate adverse effect upon the landscape character of the site, that is commonly the case for residential developments on greenfield sites and this accounts for the notable landscape enhancement proposed as part of the scheme. The proposed development whilst extending the existing settlement edge northwards, would be well contained by existing hedgerows and trees to the north and west and a new woodland belt to the east. With the

establishment of the landscape mitigation proposed, the key characteristics of wider landscape context would not be altered.

4.4.8 In terms of visual effects, the proposed residential development would have a localised visual envelope, with new built development typically being visible in the context of the existing village. There are no Public Rights of Way within the site and public access is not permitted. A public footpath 0233/28/1 to the east of the Site connects Tilstock village and the wider countryside. Initially there would be localised major adverse effects upon views experienced by footpath users reducing to a moderate adverse level upon the establishment of mitigation woodland planting. The visual impacts of the proposed development from the B5476 Tilstock Road and the publicly accessible settlement edge of Tilstock would be moderate adverse initially, reducing to a minor adverse level following the growth of mitigation planting.

4.4.9 In conclusion it is assessed that the landscape impacts of the scheme would not result in any material conflict with the purposes of Adopted Core Strategy Policy CS6 Sustainable Design and Development Principles, as the proposed development would have regard to national design guidance and landscape character assessments where appropriate. Furthermore, the proposals are considered to comply with Policy CS17 because the development would protect the most valuable environmental assets at the perimeter of the site and would create a multi-functional network of natural resources through new planting and sustainable urban drainage features. In relation to the SAMDev policies, the proposal would comply with Policy MD2: Sustainable Design, because it would provide safe, useable and well- connected outdoor spaces that include natural and semi-natural features. Compliance would also be achieved with Policy MD12: 'The Natural Environment' because the proposals would not have a significant adverse effect on any important woodlands, trees and hedges and would also not have a residual significant adverse effect upon visual amenity.

4.5 Design

National Planning Practice Guidance

4.5.1 Relevant extracts of the National Planning Practice Guidance will be referred to in evidence throughout this appeal as appropriate, in support of the evidence to be presented. Specific reference will be made to paragraphs under the chapter titled Planning for Well Designed Places.

National Design Guide

- 4.5.2 The National Design Guide (“NDG”) confirms in paragraph 8 that the underlying purpose for design quality of new development at all scales is to create well-designed and well-built places that benefit people and communities. As stated in paragraph 9, the NDG addresses the question of how we recognise well-designed places, by outlining and illustrating the Government’s priorities for well-designed places (as referred to in the NPPG) in the form of ten characteristics. The Design Guide lends some objectivity to the inherently subjective issue of ‘good design’.
- 4.5.3 It is confirmed in paragraph 16 that well-designed places and buildings come about when there is a clearly expressed story for the design concept and how it has evolved into a design proposal. In paragraph 21 it is noted that a well-designed place comes about through making the right choices at all levels, including: layout; form and scale; appearance; landscape; materials and detailing. It is added in paragraph 64 that -designed new development makes efficient use of land with an amount and mix of development and open spaces that optimises density. It also relates well to and enhances the existing character and context. Built form is determined by good urban design principles that combine layout, form and scale in a way that responds positively to the context.

The proposed development and compliance with local plan

- 4.5.4 The proposed development will be of a very high, well thought-through, design quality and will noticeably and significantly improve the standard of design and place-making in this part of Tilstock.
- 4.5.5 The proposed pattern of development reflects the characteristic pattern of growth within the Tilstock, an extension to the northern part of the village contained by well-defined field boundaries of trees and hedgerow, having regard to the positioning of development in response to context.
- 4.5.6 The proposed development will connect into the village via a highways access of Tilstock Road and an existing and legible footpath to the south east - the extension of which into the site provides a structure for the layout in support of an accessible, walkable neighbourhood. The proposed improvements to the path would further encourage people to walk.
- 4.5.7 The landscape context provides a framework for the proposed development. The proposed open spaces for informal and formal recreation, drainage and planting provide a sense of openness to the scheme appropriate to the edge of village setting. Within the scheme the areas of open space and tree lined streets further reinforce an edge of village, landscape led character. The play areas

and open space, accessible from the footpath would be a resource for the wider community. Recreational use can include walking, playing, socialising or simply sitting and enjoying the surrounds. The provision of open space exceeds the requirements of policy.

- 4.5.8 The layout of dwellings, density and form would be wholly in character with the village. As proposed the built density of development would be graduated from the south at the edge of the village to the west and countryside beyond. The proposed density of development would be within the range found within the wider village. The mix as proposed offers a suitable range of houses and includes the provision of affordable bungalows in accordance with Policy CS11 and the type and affordability of housing SPD.
- 4.5.9 In terms of design and appearance, the style is simple but with detail to provide character, referencing materials in keeping with the local area.
- 4.5.10 Overall, the proposed development would be appropriate in scale, design and appearance as required by adopted development plan policies. It will meet high standards of design and reflect local character in accordance with Policies CS6 and CS17, MD2 and SPD Sustainable Design Part 1.

4.6 Ecology and Trees

- 4.6.1 A Preliminary Ecological Appraisal **[CD9.2]** was prepared in support of the planning application. This has been reviewed by the consultant ecologist. As noted Skylarks were noted as present in the vicinity of the Site it is considered necessary to undertake survey work in that regard, to ascertain whether skylarks are breeding on or near the Site and therefore whether any mitigation or compensation measures will be required. This has been commissioned and the Appellant will act accordingly once the results are received.
- 4.6.2 However the site is currently used for the grazing of horses and as such the potential for skylarks to be found on site is considered to be minimal in accordance with the submitted Preliminary Ecological Appraisal.
- 4.6.3 The Biodiversity Net Gain Assessment submitted during the course of the application confirms that the development will deliver a 26.96% increase in area biodiversity units and a 22.01% increase in linear biodiversity units. This is well above the 10% required and the Appellant considers that this should carry significant weight in the planning balance in line with recent case law (NRS Saredon Aggregates Ltd v Secretary of State for Levelling Up, Housing and Communities

[2023] EWHC 2795 (Admin) **[CD12.1]** and R (Weston Homes Plc) v Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 2089 (Admin) **[CD12.2]**.

- 4.6.4 Within the consultee response, reference has been made to the recreational impacts on nearby Core Mere and Brown Moss, owing to the Site's proximity to the relevant locations. The Council have sought from the Appellant, during the course of the planning application, their agreement to contribute £50 per bedroom on the development towards mitigation measures towards those impacts. However, they have noted that this financial contribution would need to be agreed **before** an Appropriate Assessment is completed. As will be adduced during the appeal process the Appellant asserts that this process is erroneous; that the Appropriate Assessment should be conducted prior to the agreement of a financial contribution. Once such an Assessment has been made, they would be willing to enter into an agreement if required.

4.7 Flood Risk and Drainage

- 4.7.1 In support of the planning application a detailed Flood Risk Assessment **[CD8.1]** was prepared and submitted, alongside a Drainage Assessment. Also included was a package of relevant drawings including a Drainage Layout.
- 4.7.2 The Site is entirely within Flood Zone 1 and as such is not considered to be at risk from pluvial, tidal or fluvial flooding. In accordance with current Planning Practice Guidance 'Flood Risk and Coastal Change', sequential testing is not required.
- 4.7.3 There are two small, isolated areas at low risk of surface water ponding, associated with topographic depressions. Following a review of the greenfield runoff within the wider catchment it is noted that surface water ponding in the south-east of the site is most likely generated from greenfield runoff within the site rather than from outside. The raising of topographic depressions and the presence of the proposed drainage network will therefore remove any surface water ponding.
- 4.7.4 Through the course of the application comments were received from a consultant acting on behalf of Shropshire Council as Local Drainage Authority. This response notes that the drainage strategy proposed discharging surface water to the public surface water sewer, is acceptable in principle, though note it would require consent from Severn Trent, in relation to the connection and the discharge rate. This has been satisfactorily obtained and shown to the Council.

- 4.7.5 Some minor amendments and additional information is required to the drainage and attenuation strategy which has been undertaken and will be submitted as part of this appeal. As these amendments will directly address the identified matters, and there would be no outstanding matters at issue in respect of flood risk and drainage, this discipline is not considered to form a reasonable basis for a putative reason for refusal as the concerns could have been addressed during the planning process had the authority been willing to accept additional information, and will be addressed through the preparation for this appeal.

4.8 Heritage

- 4.8.1 Matters relating to heritage have been assessed through the completion of a Heritage Statement covering archaeology and built heritage (Pegasus Group, October 2025) **[CD11.1]**.
- 4.8.2 During the application process no comment has been received in respect of the historic built environment, despite the Council's website showing a consultation request was issued on 7th November 2024.
- 4.8.3 With regards to built heritage, as noted within the submitted Heritage Statement, less than substantial harm at the lower end of the spectrum is anticipated for the Grade II Listed Christ Church through changes to its setting. In accordance with paragraph 215 of the NPPF, such harm is not prohibited, but rather should be weighed against the public benefits of the proposed scheme.
- 4.8.4 A low level of harm has also been identified to the non-designated Ivy House Farm. Under paragraph 216 of the NPPF, such harm is not prohibited, but rather should be considered as part of a balanced judgement, taking into account the scale of any harm or loss and the significance of the heritage asset.
- 4.8.5 With regards to archaeological remains, no remains of higher than regional significance are anticipated, and the potential for such remains is considered to be low. Provision for the recording of any remains present could be secured through a condition attached to any permission granted.
- 4.8.6 A response was received on 14th November 2024 with regards to archaeology. Therein, it is noted that *"officers concur with the assessment that there is low potential for archaeological remains dating from the prehistoric to post medieval periods, and that these remains may be of up to*

regional significance. Officers also agree that the paucity of recorded activity may reflect an absence of previous archaeological investigation.”

- 4.8.7 A condition requiring field evaluation including a geophysical survey and targeted trial trenching to be carried out, which the Appellant is content to agree to.
- 4.8.8 To conclude on matters of heritage, the development is considered to give rise to harm at the lower end of less than substantial with respect to the Grade II Listed Christ Church through changes to its setting. In addition, a low level of harm has been identified in respect of the non-designated Ivy House Farm. Both of these harms are low in level, and as such are considered to be outweighed by the public benefits associated with the proposal, principally including the delivery of housing in an authority with a significant shortfall.
- 4.8.9 With regards to footnote 7 of NPPF Paragraph 11(d), the harm noted above is not considered significant such that it would provide a strong reason for refusal of the application.

4.9 Third Party Objections

- 4.9.1 In addition to the issues raised by the Council and consultees, a number of objections were received from third parties to the planning application.
- 4.9.2 The Appellant reserves the right to adduce further evidence to address any matters raised by third parties to the inquiry or where an interested party granted Rule 6 status puts forward evidence on matters beyond any putative reasons for refusal. The appellant proposes to make witnesses available for the first day of the inquiry to respond to concerns raised by members of the public.

5. Planning Conditions and Section 106 Obligations

5.1 Planning Conditions

- 5.1.1 In addition to the issues raised by the Council and consultees, a number of objections were received from third parties to the planning application.

5.2 Section 106 Obligations

- 5.2.1 It is proposed that the necessary obligations will be provided by way of bilateral agreement. This will be issued to the Council for comment in advance of the appeal in order to provide reasonable opportunity for agreement to be reached and in order for a draft agreement to be provided to the Inspector 10 days in advance of the Inquiry, in accordance with the PINs Procedural Guide.
- 5.2.2 The agreement will include provisions relating to securing of affordable housing and management of on-site public open space.

6. Planning Balance and Conclusion

6.1 Planning Balance

- 6.1.1 Planning law requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.1.2 The proposal will deliver housing on a sustainable site at a time when the Council cannot demonstrate a five-year supply of deliverable sites and does not have an up-to-date development plan.
- 6.1.3 The Appellant will demonstrate that the appeal site represents a suitable and sustainable location for the quantum and nature of the development proposed. Where conflict is alleged with policies of the development plan which seek to guide the location of development, the Appellant will demonstrate that those policies serve to restrict the construction of much-needed market and affordable homes and cannot be determinative in this case.
- 6.1.4 It is reasonably expected to be common ground that the 'tilted balance' is engaged for this appeal. This position is reached with due regard having been given to any impact of the proposal on designated heritage assets and the operation of Framework footnote 7. In this context, it will be demonstrated that if there is harm to any designated heritage assets, this is 'less than substantial' and outweighed by the public benefits of the proposal.
- 6.1.5 Framework paragraph 11(d) provides that, in the circumstances of this appeal, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.1.6 The appeal proposal will secure a range of benefits that will be demonstrated in full in evidence. These include, inter alia:
- 70 dwellings in a sustainable location, to meet pressing need;
 - 15% affordable housing comprising 10.5 dwellings total, being 10 dwellings provided onsite and an additional financial contribution equivalent to 0.5 dwellings to address an identified affordable housing need;

- New areas of publicly accessible open space and green infrastructure, including two children's play areas, one to be equipped;
- Economic benefits through construction spend and jobs created over the build-out period;
- Additional Council Tax and New Homes Bonus revenue.

6.1.7 These benefits outweigh the very minimal harm that may arise from the proposals.

6.2 Conclusion

6.2.1 In accordance with paragraph 11d(ii) of the Framework, it will be demonstrated there are no material adverse impacts arising from the appeal proposal that would significantly and demonstrably outweigh the benefits the development will deliver. There are no specific policies of the Framework which would either preclude or restrict the development in the current circumstances.

6.2.2 It is clear there are very significant material considerations in favour of a grant of planning permission. The benefits of the proposed development clearly outweigh any limited harms and planning permission should therefore be granted.