

TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPULSORY PURCHASE ACT 2004

APPEAL STATEMENT OF THE LOCAL PLANNING AUTHORITY

Appeal by Boningale Developments Ltd
against the Non-determination by Shropshire Council of
Planning Application 24/04176/FUL for Residential
development of 70 dwellings including access, open space,
landscaping and associated works.

**at Land to the East of Tilstock Road
Tilstock
Whitchurch
Shropshire**

Planning Inspectorate Reference: **APP/L3245/W/25/3362414**

Shropshire Council Reference: **25/03362/NONDET**

Date: **23rd June 2025**



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1.0 INTRODUCTION

- 1.1 This appeal relates to the non-determination of planning application, LPA Ref: 24/04176/FUL, for the residential development of 70 dwellings, including access, open space, landscaping and associated works.
- 1.2 The application was received by the LPA on the 31st October 2024 had a determination date of the 30th January 2025.
- 1.3 No extensions of time were agreed between the LPA and the appellant. The LPA received notice of intention to submit a planning appeal on the 28th February 2025.
- 1.4 The LPA did not make a decision within the statutory timescales due to not having received all consultee comments, namely the Highways Authority's comments. Despite the Highways Authority exceeding the deadline in providing consultee comments, a large number of the public representations received cited highway safety concerns. As a result, the Case Officer was of the opinion that to determine the application without technical consultee comments from the Highways Authority would be inappropriate and potentially open to third party challenge.
- 1.5 Nonetheless, the Case Officer was in correspondence with the appellant, throughout the statutory determination period and held a meeting with the appellant's agent (Marrons) on the 14th January 2025. No meeting minutes were produced following this meeting; however an email from the appellant's agent (Megan Wilson, Marrons) on the 16th January provide a brief summary of discussion topics – importantly, this email sets out the concerns raised by the LPA in regard to the sustainability of the proposed development.

2.0 THE DECISION OF THE LPA

- 2.1 Whilst this appeal is against the non-determination of the LPA, the Inspectorate have requested an indication of what the LPAs decision would have been. The LPA are of the view that the proposed development would have been refused, under delegated powers, for the following reasons:

2.2 Refusal Reason 1:

The proposed development is of such a scale that is disproportionate to the existing built form, rural character and appearance, and available services and facilities of Tilstock; and is inappropriately located so as to not respect the rural street pattern and urban grain, will adversely impact upon the settlements rural function, character and vitality, and result in encroachment to the open countryside, contrary to adopted Policies CS1, CS4, CS5, CS6, MD1, MD2 and MD7a, and NPPF paras 82, 83 and 135 (a)(c)(d)(e)(f).

2.3 Refusal Reason 2:

The planning application, as submitted, has failed to adequately demonstrate that the proposed development will not harm or disturb protected species, namely skylarks, contrary to adopted Policies CS17 and MD12, and NPPF paras 193 and 195. The proposed development has been assessed under the Conservation of Habitats and Species Regulations 2017 and has failed to demonstrate that it would not result in adverse effects on the integrity of protected sites, in the absence of sufficient mitigation to rule out likely significant effects on Cole Mere Ramsar and Brown Moss SAC and Ramsar the LPA is unable to conclude that the proposed development would not harm the designated features of the site.

2.4 Refusal Reason 3:

The planning application, as submitted, has failed to adequately demonstrate that a safe and suitable highways access for vehicles to the site can be achieved. Additionally, the site is in an unsustainable location in relation to access to key facilities with an over-reliance on private car use, due to the limitations of public transport services and wider walking and cycling connectivity, whereby the impacts of the proposal in walking terms have not been adequately demonstrated and nor does the internal street arrangement and layout demonstrate priority-first for sustainable modes. The proposed development is contrary to adopted Policies CS6, CS7 and MD2, and NPPF paras 110 and 117 (a) and (c).

2.5 Refusal Reason 4:

While the presumption in favour of sustainable development is acknowledged, the adverse impact of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. Specifically:

- The site lies in an unsustainable location whereby its development would result in encroachment into the open countryside, causing harm to the rural character and setting of Tilstock, failing to respect the existing built-form and adversely affecting the local landscape and visual amenity of the site and surroundings;
- The development would not secure most efficient use of land through the loss of best and most versatile agricultural land, whereby limited economic benefits are realised as the development is for C3 dwellinghouses only and resulting in a poorly-designed development where future residents are not provided with genuine choice for sustainable and active modes of travel.
- The development is in an unsustainable location, with limited access to services, facilities and public transport, leading to a high dependency on private care use, contrary to the overarching sustainability objectives of the NPPF.

There are no material considerations which indicate that a decision should be made other than in accordance with the development plan.

3.0 **THE APPEAL SITE**

3.1 The appellant in their Statement of Case have provided a comprehensive description of the appeal site and surroundings at paras 1.2.1 – 1.2.3. The LPA agree with this; however, would add that the existing settlement built-form to the south provides for a well-defined edge to the settlement, whereby the land to the north (including this appeal site) site clearly contributes to the rural character of the settlement's setting.

3.2 In agreement with the appellant, the appeal site lies to the north of Tilstock, outside of the settlement and in an area of open countryside. The appeal site only directly adjoins existing residential development along the southern boundary for approx. 30m. The serving highway is to the west, with mostly open fields further afield. Otherwise, the site is bound by undeveloped greenfield land. The appeal site has an intrinsically rural character that is not viewed as forming part of the settlement, rather the site contributes strongly to the verdant and rural nature of Tilstock and the surrounding gently undulating countryside.

3.3 In regard to paras 1.2.4 – 1.2.5 of the Statement of Case, this will be discussed further in the LPAs statement in relation to the settlement hierarchy and accessibility/connectivity of the appeal site.

4.0 **ENGAGEMENT AND INVOLVEMENT**

- 4.1 The appellant's Design and Access Statement (CD5.5) at Section 4.1 provides that pre-application was had with the LPA. To confirm, the pre-application enquiry related to a different development proposal, the details of which can be found at **Appendix 1**. Nonetheless, the LPA provided that residential development at the appeal site would be considered unacceptable and constituting an unsustainable development that would amount to harm and overwhelm the existing settlement and its services/facilities.
- 4.2 No further engagement was had with the LPA prior to the submission of the planning application.
- 4.3 During the course of the planning application, the appellant sought to submit a vast amount of revised/updated information, including technical reports/surveys and plans/drawings. The Case Officer advised the appellant that the LPA would not be accepting any further amendments on the planning application, citing the Inspectors decision at **Appendix 2** (paras 8 – 15 of the Cost Decision). Importantly, the duty on the LPA to work positively and proactively had been discharged as no pre-application engagement had occurred for the proposed development, and the Case Officer had advised the appellant that the LPA had an in-principle objection with the proposed development – amended plans/technical reports would not have been able to overcome or address this.
- 4.4 The appellant's Statement of Community Involvement ('SCI') (CD5.4) states that various methods of engagement were employed, including a leaflet, emails, website and a community workshop. However, the SCI provides no record of the contents of any leaflet or emails and whilst the SCI states at 1.7 how the feedback has informed the evolution of the final proposal. No such discussion is provided. The SCI is incredibly light-touch and provides no evidence of any feedback gathered. It cannot therefore be said that the appellant has undertaken any worthwhile engagement with the local community. Indeed the level of public opposition made by residents of Tilstock and submitted to the planning application would suggest that the community is not supportive of the proposed development.

5.0 **PLANNING HISTORY**

- 5.1 Aside from the above-mentioned pre-application enquiry for a different development proposal, there has been no planning history on the appeal site.
- 5.2 Directly adjacent the site, to the south, a planning application (LPA Ref: 22/03682/FUL) was refused (**Appendix 3a and 3b**) for the erection of three bungalows with garages. This was then appealed to the Inspectorate, who following the written reps procedure dismissed the appeal (**Appendix 4**). This application and appeal is considered relevant to this current appeal for the following reasons:
- The site lies to the north of the existing built settlement of Tilstock;
 - The proposal was for residential development;
 - The development would extend into undeveloped countryside;
 - The adopted Development Plan remains the Core Strategy and SAMDev Plan.
- 5.3 It was judged that only three dwellings would have an unacceptable urbanising effect of the settlement and affecting the character on the approaches into the settlement. The Inspector confirmed at para 7 that *"there may be dwellings further north of the site in other parts of the village, but the verdant nature of the site represents a distinct change in character from the main built form. In this way, it does not represent an area of transition between the settlement and countryside. Indeed, the site forms a well-defined 'edge' to the settlement and clearly forms part of, and makes a positive contribution to, the rural character of the village's setting."*

- 5.4 At paragraph 9 the Inspector states that the development “*would also present as an obvious protrusion into the countryside beyond the clear and well established ‘edge’ created by the existing dwellings. The need to remove several trees, significantly altering the verdant character of the site, would exacerbate this impact*”.
- 5.5 At paragraph 12 the Inspector considers the site’s location and finds that “*the site is located outside of the defined development boundary for Tilstock and this is considered to be in the open countryside in policy terms... the development [market dwellings] would also not maintain or enhance countryside character, which is a requirement...*”

6.0 RELEVANT PLANNING POLICY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

6.2 The Adopted Development Plan

The adopted development plan comprises the Core Strategy (adopted March 2011) and the SAMDev Plan (adopted December 2015). There are no made Neighbourhood Plans covering the appeal site.

- 6.3 The development plan supports the Council’s commitment to delivering sustainable development and communities through a range of strategic and non-strategic policies for the management of new development.
- 6.4 The Core Strategy sets out the Council’s vision, strategic objectives and the broad spatial strategy to guide future development and growth in Shropshire during the plan period, to 2026. Those most important policies to this appeal are the following:
- 6.4.1 **CS1: Strategic Approach** – directing development in rural areas to community hub and cluster settlements, whereby outside of these settlements new development will primarily be for economic diversification and to meet the needs of the local communities for affordable housing.
- 6.4.2 **CS4: Community Hubs and Community Clusters** – allowing development that delivers on rural rebalance by providing facilities, economic development or housing for local needs, and is of a scale that is appropriate to the settlement. Ensuring that all development is of a scale and design that is sympathetic to the character of the settlement and its environs.
- 6.4.3 **CS5: Countryside and Green Belt** – new development will be strictly controlled to maintain and enhance the vitality and character of the countryside, whereby new residential development will only be permitted where they relate to meeting a local need (rural workers, affordable housing) or where proposals are able to make a positive contribution to the character of the buildings through conversion.
- 6.4.4 **CS6: Sustainable Design and Development Principles** – requiring proposals likely to generate a significant level of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised. Ensuring that all development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. Ensuring that there is capacity and availability of

infrastructure to serve any new development.

- 6.4.5 **CS17: Environmental Networks** – ensuring that all development protects and enhances the diversity, high quality and local character of Shropshire’s natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets.
- 6.5 The SAMDev Plan sets out proposals for the use of land and policies to guide future development in order to help deliver the vision and objectives of the Core Strategy for the plan period to 2026. The SAMDev Plan sets out further detailed policies for the management of new development across Shropshire, to provide a greater level of detail on a number of planning issues. Those most important policies to this appeal are the following:
- 6.5.1 **MD1: Scale and Distribution of Development** – to make available sufficient land available during the plan period to enable the deliver of development planned for within the Core Strategy. To support sustainable development in identified settlements.
- 6.5.2 **MD2: Sustainable Design** – development to contribute to and respect locally distinctiveness or valued character and existing amenity value through responding appropriately to the form and layout of existing development and the way it functions. Ensuring development demonstrates there is sufficient existing infrastructure capacity.
- 6.5.3 **MD3: Delivery of Housing Development** – granting sustainable housing development that meets the design requirement and includes a mix and type of housing that has regard to local evidence and community consultation. Where an identified settlements housing guideline is to be exceeded, decisions will have regard to the increase in number, the likelihood of delivery, the benefits of the development and the impacts (including cumulative) on the settlement, all taken within the presumption in favour of sustainable development.
- 6.5.4 **MD7a: Managing Housing Development in the Countryside** – new market housing will be strictly controlled outside identified settlements.
- 6.5.5 **MD12: The Natural Environment** – ensuring that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively on any priority species will only be permitted where it can be demonstrated that there is no satisfactory alternative and the social or economic benefits outweigh the harm.
- 6.5.6 **S18.2: Whitchurch Area Community Hub and Cluster Settlements** – Tilstock is identified as a Community Cluster, along with Whitchurch Rural, Ightfield, and Calverhall, whereby development will be supported within Tilstock to contribute to its sustainable growth which respects the local character and context.
- 6.6 National Planning Policy Framework (December 2024)**
- 6.7 The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development and supporting infrastructure in a sustainable manner (Para 7). Sustainable development has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways: economic, social and environmental.
- 6.8 Paragraph 12 confirms that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.

- 6.9 Section 5 concerns the supply of homes, with para 61 providing that to significantly boost the supply of homes, sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land is developed without delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.
- 6.10 Paragraph 82 states that in rural areas, decisions should be responsive to local circumstances and support housing developments that reflect local needs, including proposals for community-led development for housing. Para 83 follows this up by providing that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 6.11 Paragraph 110 confirms that significant developments should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- 6.12 Paragraph 116 provides that development should only be prevented or refused on highway 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. With paragraph 117 setting out the context within which highway safety and residual impacts should be considered, of relevance to this appeal are criterion:
- A) Give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus and other public transport services, and appropriate facilities that encourage public transport use; and
 - C) Create places that are safe, secure and attractive – which minimise the scope of conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter and respond to local character and design standards.
- 6.13 Paragraph 135 states that planning decisions should ensure that developments will (*inter alia*); function well and to the overall quality of the area; are sympathetic to local character, including the surrounding built environment and landscape setting; establish or maintain a strong sense of place; support local facilities and transport networks; and create places that are safe, inclusive and accessible which promote health and well-being.
- 6.14 Section 12 of the NPPF emphasises the importance of high-quality and sustainable design, whilst promoting health and well-being that function well to their area and are sympathetic to local character.
- 6.15 **Other Material Considerations**
- Draft Local Plan (to be withdrawn)
- 6.16 Following the adoption of the above development plan and in-line with the NPPF, the Council commenced on a Local Plan Review to provide further certainty and clarity for development and investment. Following a series of consultations, the Council submitted its Draft Local Plan for examination on the 3rd September 2021.
- 6.17 During the course of the Stage 2 Hearings held in October 2024, the Inspectorate wrote to the Council to set out their soundness concerns. The Council responded with a programme

of works to respond to the concerns of the examining Inspectors. However, the Inspectorate have recommended that the Draft Local Plan be withdrawn having considered the fundamental nature of the additional work required to make the Plan sound.

- 6.18 Resultantly, the Council have published their intention to withdraw the Draft Local Plan. However, due to local elections held in May 2025, the formal decision to withdraw cannot be made until the new Council is formed and have considered at full Council – likely to be July 2025.
- 6.19 Nonetheless, following Cabinet approval in February 2025 and in recognition of the amount of work conducted in preparing the evidence base underpinning and supporting the Draft Local Plan, the Council are attaching weight (at a scale to be determined by the decision-maker) to this evidence base in the decision-making process where relevant. To confirm, the LPA are not attaching weight to any of the former draft policies contained within.
- 6.20 Within the Draft Local Plan, Tilstock was remaining as an identified settlement for new growth, retaining its status as a Community Cluster within the hierarchy of settlements, whereby new development was to be delivered through appropriate small-scale windfall development (and any saved SAMDev allocations). However, unlike the current adopted Development Plan, Tilstock was having its development boundary removed, in recognition of the anticipated small-scale growth that would be delivered through the next plan period – small-scale windfall development (less than 0.1ha, clearly within and well related to the built form of the settlement, have permanent and substantial buildings on at least two sides and are for up to a maximum of three dwellings).
- 6.21 Five-year Housing Land Supply
- 6.22 The Council published its most recent assessment of the housing land supply in Shropshire, within the 'Five Year Housing Land Supply Statement (2024)' on the 13th February 2025. This assessment concludes that whilst a very significant supply of deliverable housing land exists in Shropshire of 9,902 dwellings, this falls around 667 dwellings short of a five year housing land supply, based on the new Local Housing Need, constituting a 4.68 years' supply of deliverable housing land (**Appendix 5**).
- 6.23 Footnote 8 and paragraph 11 d) of the NPPF detail the implications of not having a five year housing land supply for decision-making, in the context of the application of the presumption in favour of sustainable development. This does not change the legal principle, set out in section 38(6) of the Planning and Compulsory Purchase Act 2004, that decisions on planning applications are governed by the adopted Development Plan read as a whole, unless other material considerations indicate otherwise.
- 6.24 Rather, paragraph 11 d) of the NPPF requires the decision-maker to apply more weight to the presumption in favour of sustainable development as a significant material consideration, when reaching a decision – i.e. the 'tilted balance'.
- 6.25 The tilted balance maintains the general principle of good planning, in that development should be genuinely sustainable in order to be approved. Indeed, paragraph 11 d) ii) specifically highlights several important considerations for the Council, before concluding whether a proposal is genuinely sustainable.
- 6.26 Furthermore, just because a policy is deemed out of date, this does not mean that any conflict with it should be ignored, nor that it carries no weight in the decision-making process. Para 232 of the NPPF sets out the degree of weight given to any policy deemed to be out of date depends on its consistency with the NPPF as a whole. The greater the consistency, the greater the weight. It is therefore a possibility that a policy deemed out of date due to a lack

of housing land supply can carry substantial weight, nonetheless.

- 6.27 In the case of *Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC* [2020] EWHC 518 (**Appendix 6**) it was handed down that where paragraph 11 d) ii) is triggered because of a housing land supply shortage, it is for the decision-maker to decide how much weight should be given to the policies of the Development Plan, including the “most important policies” referred to in paragraph 11 d). This should involve consideration of whether or not the policies are in substance out-of-date and, if so, for what reasons. A decision-maker may also take into account for example the nature and extent of any housing shortfall, the reasons for the shortfall, the steps being taken to remedy the shortfall, and the prospects of the shortfall being reduced in the future. The judgement made clear that decision-makers may conclude that development plan policies should be given substantial or even full weight.
- 6.28 Written Ministerial Statement of 30 July 2024
- 6.29 The appellant has drawn reference to the Ministry of Housing, Communities and Local Government (MHCLG) Written Ministerial Statement (‘WMS’) on ‘Building the homes we need’, in which the Government recognises an *“acute housing crisis”* and set out reforms to *“fix the foundations of our housing and planning system”* through significantly boosting housing delivery to 1.5 million homes over the next five years.
- 6.30 Despite the housing crisis, the Government are clear that homes are built *“in the right places”* (authors emphasis) and recognise that the *“plan making system is the right way to plan for growth and environmental enhancement”* whereby development coming forward in absence of a plan (which can be appropriated to the tilted balance being engaged due to under supply) is piecemeal with fewer guarantees that it is the best outcome for communities.
- 6.31 The WMS sets out that in achieving the ambitious target of 1.5 million homes will require a new generation of new towns, whereby new homes will be directed to *“land separated from other nearby settlements”*, but also *“a larger number of urban extensions and urban regeneration schemes that will work with the grain of development in any given area”* (authors emphasis).

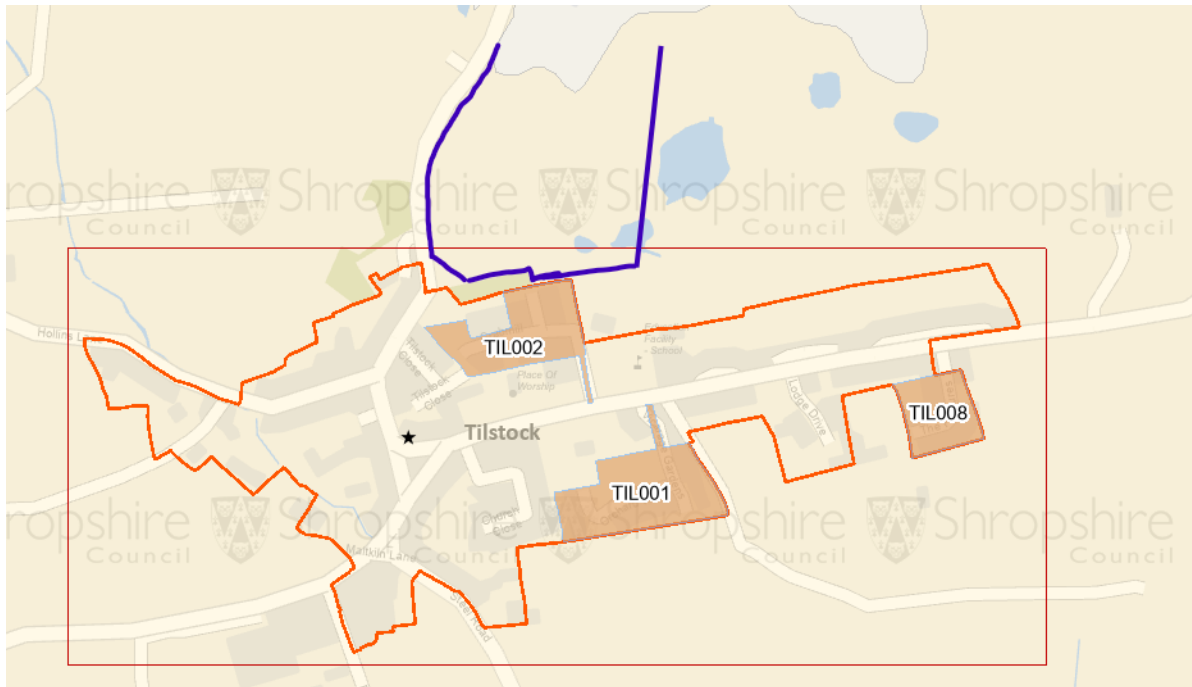
7.0 THE MAIN ISSUES

- 7.1 This Statement will focus solely on those areas of disagreement, with specific reference to the refusal reasons, and will not respond to matters which have been agreed through the Statement of Common Ground.
- 7.2 The appellant at para 2.8 of their Hearing Statement have sought to define the main issues. However, the first bullet – ‘whether Tilstock as a settlement is a sustainable location for growth’ – is not agreed by the LPA as being a main issue. For the very reason that the Case Officer in the cited email at 2.4 of the Hearing Statement confirms that Tilstock is an identified settlement for growth within the adopted development plan. A development that is in accordance with the adopted development plan and within the settlement confines of Tilstock is therefore said as being sustainable. Rather the main issue is whether the appeal site represents sustainable development by virtue of its location outside of Tilstock, scale and proximity to services/facilities, impact on the function of the settlement and whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits of the presumption in favour of sustainable development.

7.3 Location of the appeal site

- 7.4 As confirmed by the appellant within the Hearing Statement of Case, the appeal site lies

outside of the defined development boundary for Tilstock (S18- Inset 3) (approx. appeal site shown in blue):



As a result, the appeal site is regarded as holding an open countryside location, whereby policies CS5 and MD7a are clear in that new open market housing will be strictly controlled and only those developments which maintain and enhance countryside vitality and character, and contribute to improving the sustainability of rural communities through bringing local economic and community benefits will be permitted. The proposed development would be contrary to this in delivering a large number of new dwellings (relative to the size of Tilstock) and would deliver very little economic and/ or community benefit over and above those which would be apparent regardless of its location (construction benefits and council tax receipts) – with **Appendix 6** confirming that it is legitimate to take into account the presence or absence of a ‘unique’ quality about a development’s benefits and the decision-maker is to determine the weight to be attached to the presence or absence of that quality.

- 7.5 The explanatory text to policy CS5 provides at 4.72 that proposals which would result in out of scale, badly designed or otherwise unacceptable development, or which may either individually or cumulatively erode the character of the countryside, will not be acceptable. The proposed development would encroach into the undeveloped countryside, would extend the built-up settlement and disrupt the character of this small rural village to such a degree that it would erode the character of the countryside in this location and the small-scale nature of Tilstock.

7.6 Tilstock Village Character

- 7.7 In agreement with the appellants LVIA (CD10.1) Tilstock is a small rural settlement and very much characterised by historical patterns of development and surrounding agricultural land use, with an organic street pattern whereby the historic core is characterised by narrow lanes, strong boundaries and edges to the settlement with heavy planting (Figure 1 and Figure 2). The built form of Tilstock is very varied, with no single common vernacular, which reflects its modest expansion over time, whilst also contributing to its rural character.



Figure 1: OS Six Inch - 1888 – 1915



Figure 2: OS 1:10,000 - 1949 - 1974

- 7.8 Whilst Tilstock has received new development in recent years, these have been provided through small-scale cul-de-sac developments on greenfield infill plots and small gaps within the existing built-form. These small-scale developments have been able to reflect the incremental growth of the settlement and have not extended the village confines by a significant degree in any direction. **Appendix 7** shows the evolution of Tilstock from 1999 and how development has been piecemeal and infilling of clear gaps within the built form. The proposed development, in contrast, for 70 dwellings is completely disproportionate to the size of Tilstock and when considering the incremental growth the village has received, which would have severe impacts upon the character and setting of the settlement by virtue of its size alone.
- 7.9 On approach into the settlement from the north, along the B5476, there is a very soft sense of arrival, whereby the settlement does not fully reveal itself until from within the village entry signs. Development along the B5476 at the outer peripheries is characterised by loose knit development, irregular in form and style. There is a very clear transition between the countryside and the settlement edge. The proposed development would disrupt the entry into the village and along the verdant approach through the presence of new development positioned that begins well before any current sense of arrival. The plans and drawings are clearly aware of this and as such have proposed a landscape buffer along the highway edge. Whilst this will go some in way in limiting the harm, it nonetheless demonstrates how the appeal site is read as part of the countryside as opposed to being within, or on the edge of the settlement. Furthermore, in providing a landscape buffer around the perimeter of the

appeal site, this has the effect of creating an island-development, which other than the proposed pedestrian link, bears no relationship with the settlement, be it visual or social. The development would be viewed as an outlier and whilst the development may assimilate into the wider landscape over-time, it would unlikely assimilate to being within or even part of the settlement. The development therefore conflicts with adopted Policies CS4, CS6, MD2 and para 135 of the NPPF, with paragraph 139 of the NPPF providing that permission should be refused for development that is not well designed.

- 7.10 Views of the settlement from further north along the B5467 are visible, however, this represents a strong edge to the settlement, with a very much linear pattern of development along Tilstock Lane running through the centre of the village. Of notable interest is the prominent church spire of Tilstock Christ Church (Grade II listed), which provides a focal point and landmark that contributes to Tilstock's identity:



- 7.11 The appellant's LVIA (in support of the planning application) at 2.4 identifies the Church but provides that there is no intervisibility with surrounding listed buildings. The above image clearly shows the church spire visible from along the edge of the appeal site. The development of this site would result in visual harm through encroachment into the open countryside and eroding the strong built-form, urban grain and character of the existing settlement. The magnitude of change that the proposal would bring about to the appeal site and to Tilstock Road would be significant, and have a clear adverse impact on the intrinsic rural character of the appeal site and local landscape.
- 7.12 The appellants LVIA summary of visual effects (6.14) provides that across the three receptor groups, the effect ranges from major to moderate across both the Year 1 and 15 assessments, with the worse effects during years 1-14. Whilst the development would be screened from Tilstock Road through a landscape buffer, the development would for the most part be visible from the public highway and Right of Way for a considerable period of time. The proposed development would result in significant harm to the landscape setting and character, with the worse effect on the local context and immediate visual setting of the site and nearby settlement, therefore contrary to Policies CS6, CS17, MD2 and MD17.
- 7.13 Scale of Development**
- 7.14 Tilstock is an identified settlement and able to accommodate new housing, in accordance with SAMDev Policy S18.2(ii). S18.2(ii) provides that Tilstock is a Community Cluster settlement, along with Ash Magna/Parva, Prees Heath, Ightfield and Calverhall. Whilst the appellants CD16.24 is recognised, indeed the Core Strategy is built on rural-rebalance which would support this 'sharing' of services. However, the appellant has incorrectly regarded Tilstock as a 'hub', the adopted Plan is clear that Tilstock is a cluster settlement. Its cluster settlement status confirms that Tilstock is one of Shropshire's smaller settlements, which have fewer facilities, services and infrastructure, whereby it takes greater effort to raise their sustainability and new development is required to make sufficient contribution to improving the sustainability of the community.

- 7.15 Notwithstanding Tilstock being a sustainable location for new development in accordance with the adopted development plan, adopted policy is clear that new development should be of a scale that is proportionate and commensurate to the existing built form – infilling, groups of houses. The allocated sites within the SAMDev Plan for this Cluster of settlements ranges from between 5 and 25. This is reflective of the rural character and setting, and the need for incremental growth. The proposed development of 70 dwellings is not incremental to the growth of Tilstock and would adversely impact upon the character and setting of Tilstock. The appellant's LVIA confirms that the effect on the character of the site and immediate context results in a medium magnitude of change and a moderate adverse effect.
- 7.16 The proposed development is of such a scale that is disproportionate to the existing settlement, that is harmful to its core functions and vitality, whereby a total of 70 new dwellings without any direct enhancements or improvements to existing services or indeed new services, is likely to stretch infrastructure and community goodwill to breaking point. Whilst the proposed development would result in new occupants to the village, thereby supporting the limited existing services/facilities, the proposal is for residential development only. It does not provide any mix of uses that would contribute to the wider function of the settlement, or deliver any infrastructure/service improvements beyond those required to make the development acceptable or as a result of Shropshire being a CIL charging authority, whereby the likely CIL payment alone is unlikely to fund additional services/facilities and in any event these would be limited to public functions – the settlement would still be devoid of other essential services/facilities.
- 7.17 Tilstock does not have the everyday services and facilities to support the everyday needs of residents, including no shop, no secondary school, no GP, no post office, no petrol station and no employment opportunities (a number of which are considered as primary services/facilities that are essential to everyday life). To introduce 70 new dwellings in this location, at one time, would create an imbalance and place undue pressures on local services and infrastructure, negatively affecting community well-being and sustainability. The proposed development would provide a new footpath connection to the village centre, but this is only limited in its function and to what services/facilities it serves. The footpath link does not result in making the appeal site 'sustainably located', and its inclusion is assumed to be in recognition of the unsafe pedestrian alternative, along Tilstock Road.
- Tilstock village has several bus stops along Tilstock Lane; however, this is serviced by only a single bus route – Shrewsbury – Wem – Whitchurch (511 and 512) and providing an hourly service Monday – Saturday. For peak travel the service terminates in Whitchurch at only either 08:35 or 10:00, outside of normal working-day start time. It does nonetheless terminate in Shrewsbury at 09:35, however this journey takes approximately 1 hour and 20 mins, as opposed to a 35-minute journey by private car. Other large-scale and significant employment opportunities exist at locations unserved by direct and commutable public transport – Market Drayton and Wrexham. The proposed development is regarded as in conflict with para 110 of the NPPF which provides that significant development should be focused on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.
- 7.18 The proposed development and its scale would significantly exceed what is an appropriate expansion of Tilstock and its setting, thereby undermining the character, appearance and function of the settlement. The development would dominate the rural nature and small-scale of Tilstock, disrupt the established pattern of development and result in visual harm and a loss of local distinctiveness. The proposal is contrary to adopted Policies CS5, CS6, CS8, MD2 and MD8, and para 135 of the NPPF.

7.20 Affordable Housing

- 7.21 The proposal is to provide 10 affordable dwellings on-site, with a financial contribution equivalent to 0.5 dwellings to be secured by a S106 agreement. This equates to a 15% affordable housing contribution based on 70 new dwellings. In accordance with Policy CS11, new open market housing is required to make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate.
- 7.22 As part of the soon-to-be withdrawn Draft Local Plan, Shropshire Council undertook a Delivery and Viability Study (July 2020) in which it was evidenced that a minimum requirement of 10% affordable housing is required in all areas, with a 20% requirement across the southern areas of the county deemed appropriate due to the likely scale of developments to come forward. The appeal site lies in the northern areas of the county, whereby a 10% requirement is considered appropriate.
- 7.23 The proposed development would represent an over-provision of affordable housing, by 5%. Whilst this is considered a material benefit, it should be noted that at the time of making the planning application, the appellant's Affordable Housing Statement at 5.5 confirm that the proposal was to provide a policy compliant provision, in accordance with the prevailing rate at the time of making the application. It is only since the Cabinet decision of the 12th February to attach weight to the evidence base underpinning the Draft Local Plan has the rate reduced and the scheme is now able to demonstrate an over provision.
- 7.24 Housing Land Supply**
- 7.25 The appellant has submitted their own assessment of the Council's housing land supply, to which the LPA's rebuttal is set out in **Appendix 5**, the conclusions of which reiterate the Council's position in regard to the methodology used in the assessment, that is both proportionate and robust, responsive to and consistent with the NPPF and PPG, and also reflects local circumstances. Nonetheless, the Council acknowledge that following deductions as highlighted by the appellant, the revised figure stands at 4.68 years' supply of deliverable housing land.
- 7.26 Highways and Connectivity**
- 7.27 During the course of this appeal, consultee comments have been received by the Local Highways Authority (**Appendix 8**), which raise objection to the proposed development on several grounds. The LPA wish to rely on these comments in defending their recommended refusal relating to Reason 3.
- 7.28 Ecology and Biodiversity**
- 7.29 Skylarks**
- 7.30 The appellants Hearing Statement provides at 1.31 that it can be concluded there are no ecological reasons upon which development should be precluded. However, the appellants Ecology and BNG Hearing Statement confirm that targeted skylark surveys have been commissioned to take place between 12th May and 11th July 2024. The appellant is therefore unable to conclude as they have done in 1.31.
- Nonetheless, with the LPA aware that the appellant has commissioned on the required skylark survey work (notified by email on the 21st February, one week before the appellant issuing their intention to appeal), following which it is anticipated that they will submit alongside this appeal - this is obviously a decision for the Inspector as to whether to accept this information so late on in the process. However, the LPA accept that if accepted and subject to the findings of the survey work, part of the refusal for Reason 3 may no longer be defended by the LPA.
- 7.31 The LPA is legally obligated to consider the potential effects of the proposed development

on protected species. Until such time sufficient information has been provided, the development fails to comply with adopted Policies CS17 and MD12 and NPPF Section 15.

7.32 Biodiversity Net Gain

As part of this appeal, the Councils Ecologist has provided a separate addendum (**Appendix 9**) which responds to the matters of BNG as raised by the appellant.

7.33 Effects on Protected Sites

Also contained within **Appendix 9**, the Councils Ecologist has commented on the proposed developments effect on the protected sites of Cole Mere Ramsar and Brown Moss SAC & Ramsar. The Councils Ecologist has completed a Habitats Regulations Assessment (HRA) for the proposed development, which resulted in this failing as there are likely significant effects and effects on integrity (recreational pressures), with no mitigation proposed.

Whilst it is accepted that subject to mitigation, the effects on the protected sites would be considered acceptable, with this mitigation secured through s106 Agreement. Nonetheless, to-date this mitigation has not been forthcoming, so the Council's Ecologist has had no option but to fail the HRA.

7.34 Great Crested Newts

Within **Appendix 9**, the Councils Ecologist has completed test 3 of the European Species Protected Species matrix. Tests 1 and 2 remain outstanding, whereby it is understood that the Inspector would undertake this assessment and conclude on the '3-tests' as the decision-maker of the proposed development.

8.0 **PLANNING BALANCE**

- 8.1 The proposed development conflicts with the spatial strategy of the adopted development plan in relationship to its nature, scale and poor relationship to facilities and services, particularly by sustainable modes of travel. The proposed improvements to the PROW and developer contributions cannot overcome these locational disadvantages of the site or materially reduce the reliance on private vehicles.
- 8.2 Following the revised NPPF, the adopted housing targets are now inconsistent with the standard method required, and the under-supply of housing land results in those policies which set housing figures and targets are deemed out-of-date, in accordance with para 11 of the NPPF. The appeal proposal must be assessed in the context of the presumption in favour of sustainable development. This requires that where the development plan policies most important for determining are out-of-date (NPPF footnote 8 of relevance), planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.
- 8.3 Para 11 d) ii) requires decisions to have particular regard to the following:
- **Sustainable location** – the appeal sites lies outside of any identified settlement, in an area of open countryside, whereby the proposed development would have an over reliance on private motor vehicle for most day-to-day and essential services and failing to provide genuine choice for sustainable modes of transport. Furthermore, the proposed development would adversely impact upon the setting, character and function of the receiving settlement, whereby there are limited economic and

community benefits to support the development.

- **Making effective use of land** – the appeal site is not brownfield land, it is undeveloped agricultural land (and includes best and most versatile land) that is completely devoid of any existing development. The proposal is for residential C3 dwellings only, there is no mixed-use benefit being offered. Nonetheless, the proposal is delivering gains through enhanced public access via a new footpath, although its benefits are somewhat limited in function. Whilst the proposed development is at a density commensurate to its surroundings, it cannot be said that to develop this site would represent effective use of land.
- **Securing well-designed places** – good design is not just aesthetic; it also relates to wider sustainability and community matters. The above Statement has demonstrated how the proposed development fails to respond to the local character, would disrupt the existing built form and would result in an over-reliance on private vehicle use. **Appendix 8** provides how the development does not sufficiently respond to the vehicle access, pedestrian access and street hierarchy to demonstrate priority-first for sustainable modes. The proposed development cannot therefore be considered as well-designed.
- **Providing affordable homes** – the development would represent an over-supply of affordable housing, which represents a material benefit.

8.4 The LPA do not disagree that the appeal scheme will deliver a range of clear and measurable benefits, these include:

- The delivery of 70 new dwellings, contributing to local housing supply, including 10 on-site affordable dwellings and a financial contribution equivalent to 0.5% (at a rate of 15%). However, it is acknowledged that the extent of under-supply within Shropshire is not significant, and the LPA are proactively seeking to boost this supply through the approval of genuinely sustainable developments, along with progressing a new Local Plan to identify sufficient land to achieve our housing need – this is attached **significant weight**
- New areas of public open space and enhanced pedestrian provision through extending the Right of Way – this is attached **moderate weight**, in recognition that whilst pedestrian provisions will be enhanced, the development still fails to provide a genuine choice for active travel and sustainable modes of transport (to be discussed below).
- Economic benefits through construction period, and additional council tax receipts during occupation – this is attached **moderate weight** on the basis that the development is not providing any unique economic benefits.

8.5 However, the LPA do disagree with the appellants Hearing Statement 3.10 in that the proposed development will result in the following adverse impacts and harm:

- Result in a large new development in an unsustainable location, that would result in encroachment into the open countryside, disrupt the existing built form of the nearby settlement and represent a disproportionate scale of development that would be harmful to the setting and character of Tilstock – this is attached **substantial weight**.
- The site's unsustainable location in relation to access to essential and day-to-day facilities with a reliance on private car use, due to limitations in public transport and lack of wider walking and cycling connectivity – this is attached **substantial weight**.

- The internal layout does not sufficiently respond to the vehicle access, pedestrian access and street hierarchy to demonstrate priority first for sustainable modes – this is attached **significant weight**.
- Insufficient information has been provided to demonstrate that safe and suitable highways access for the site can be achieved – this is attached **significant weight**.
- Insufficient information has been provided to demonstrate that the proposed development would not result in harm or disturbance to protected species or negatively impact on protected sites – this is attached **significant weight**.
- Adverse visual impact to the site and surrounding context, and for users of the public Right of Way and Tilstock Road, ranging from major to minor adverse– this is attached **significant weight in years 1 to 14**, reducing to **moderate weight in years 15+**.
- The impacts of the proposals, in walking terms, have not been acceptably demonstrated in terms of impacts on an existing Public Right of Way, whereby a limited number of journeys would be made using this route for purposeful journeys to work, to shops, to leisure destinations or to school (aside from primary school) – this is attached **moderate weight**.
- A lack of meaningful engagement with key stakeholders to identify potential issues and incorporate adjustments to benefit the local community – this is attached **limited weight**.

The cumulative weight of these issues leads the LPA to conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits, even in the context of the tilted balance under paragraph 11 of the NPPF.

- 8.6 It is accepted that no objections, subject to conditions, were received by certain consultees during the determination of the planning application, although of note is the request for additional information made by a number of consultees, prior to providing their formal stance as set out in **Appendix 10**. Nevertheless, a technical consultee's 'no-objection' does not suggest that planning permission should be granted. Rather, the consultee comments get weighed in the planning balance, whereby it is ultimately the job of the decision-maker to undertake the balancing exercise having considered all material considerations.

9.0 Conclusion

- 9.1 The above statement has demonstrated how, in the LPAs judgement, the appeal proposal for 70 dwellings on land at the outside edge of Tilstock would represent an unsustainable form of development that would result in significant and demonstrable harm. While the LPA acknowledges the benefits of the scheme, including the provision of housing and affordable dwellings, these are outweighed by the adverse impacts when assessed against the policies of the NPPF as a whole. There are no material considerations which indicate a decision otherwise than in accordance with the adopted development plan.
- 9.2 The proposed development lies outside of the defined development boundary for Tilstock and constitutes an encroachment into the undeveloped open countryside, contrary to the spatial strategy set out in the adopted Development Plan. The scale and form of the development are disproportionate to the existing settlement, undermining it's function, rural character and setting.

- 9.3 The appeal site is in an unsustainable location with poor access to key services and facilities, resulting in an over-reliance on private car use. The proposal fails to demonstrate safe and suitable access arrangements and does not prioritise sustainable modes of transport, contrary to both local and national policy objectives.
- 9.4 Furthermore, insufficient ecological information has been provided to assess the impact on protected species, particularly skylarks, and the proposal fails to demonstrate that it would not result in harm and/or disturbance to protected species.
- 9.5 For these reasons and contained within our supporting appendices, the LPA respectfully request that this appeal be dismissed. Should the Inspector be minded to allow the appeal, the LPA request that this be subject to a legal agreement and the imposition of conditions as set out in **Appendix 11**.