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**APPELLANT'S STATEMENT OF CASE
LAND AT PURTON ROAD, SWINDON,
WILTSHIRE
APP/Y3940/W/21/3275053
July 2021**

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Appendix 5 – Appeal ref: 3264280 (Land at Hay End Lane, Fradley, Lichfield)
Appendix 6 – Application ref: 20/02387/OUT (Land at Pound Farm, Lyneham)

1. INTRODUCTION

- 1.1 This updated Statement of Case (SoC) is submitted on behalf of Beechcroft Land Ltd., John Webb, Sally Ballard & Carole Ann Lindsey (hereafter referred to as 'The Appellant') in support of their appeal against Wiltshire Council's decision to refuse outline planning permission for the residential development of up to 79 dwellings and associated infrastructure with all matters reserved with the exception of access, (hereafter referred to as 'the proposal') at Land at Purton Road, Swindon, Wiltshire.
- 1.2 A separate SoC that deals specifically with Housing Land Supply (HLS) and affordable housing provision (hereafter referred to as the 'HLS SoC') has been prepared by Pegasus and should be read alongside this SoC.
- 1.3 When initially lodging the appeal in May 2021, the Appellant sought to pursue the appeal by means of a Public Inquiry and the original SoC submitted at that time was prepared upon the assumption that the Public Inquiry procedure would be adopted. However, it was subsequently determined that the appeal should proceed by means of a hearing and this revised SoC therefore sets out the evidence that would have been produced in the Appellant's proofs of evidence. The appeal reference assigned by the Planning Inspectorate is APP/Y3940/W/21/3275053.
- 1.4 A draft Statement of Common Ground (SoCG) has been prepared by the Appellant and was submitted with the original appeal in May 2021. Discussions with the Council regarding the content of this document are ongoing and a finalised document will be ready in time for the hearing.
- 1.5 The application was validated on 25th November 2020 under application reference 20/10523/OUT. The application was refused under delegated powers, and a decision notice was issued on 9th April 2021. There are three numbered reasons for refusal (RfR):

1. "The proposal is outside of the settlement boundary for Purton, so it is located in the open countryside and has not been allocated for residential development within the Wiltshire Core Strategy (January 2015), The Wiltshire Housing Sites Allocation Plan (February 2020) or the Purton Neighbourhood Plan (2018). The development fails to meet any of the special circumstances for the creation of additional residential development in such circumstances listed under Paragraph 4.25 of the Wiltshire Core

Strategy. Therefore, the proposal is contrary to Core Policies 1, 2 and 19 of the Wiltshire Core Strategy, Saved Policy H4 of the North Wiltshire Local Plan and the Purton Neighbourhood Plan. The proposal is in conflict with the development plan taken as a whole. As such the proposal fails to constitute and secure sustainable development as required by the NPPF, specifically paragraphs 2, 7, 8, 9, 10, 11, 12, 13, 15 and 47 and is contrary to the development strategy of the development plan. In accordance with paragraph 11d (ii) of the NPPF the benefits of the proposal have been fully considered but the adverse impacts would significantly and demonstrably outweigh those benefits, when assessed against the policies in the NPPF taken as a whole.

2. The proposal, including the provision of the new access into the site, would result in the urbanisation of this rural site which would result in harm to the local character, appearance and visual amenity of the immediate locality, including those currently enjoyed. Furthermore, it would result in the erosion and further urbanisation of a local connection that would harm the local landscape function of Old Purton Road with the wider areas in conflict with Wiltshire Core Strategy (2015) Core Policies 51 and 57 as well as paragraph 170(b) of the NPPF.

3. The proposed development does not make any provisions for securing affordable housing on the site; financial contributions towards early years education facility provision, public open space and play equipment and the on-going maintenance and waste and recycling facilities. The application is therefore contrary to Core Policies 3, 42, 45 and 52 of the Wiltshire Core Strategy (2015) and paragraphs 8, 34, 55, 56, 64 and 92 of the NPPF.”

Statement Structure

- 1.6 This statement starts by detailing the site and surrounding area in **section 2**, before providing a review of the planning history of the site in **section 3**. An overview of the appeal proposals is set out in **section 4**, with the planning policy pertinent to the determination of the appeal set out in **section 5**. The Appellant's case against the reasons for refusal is set out in **section 6**. **Section 7** sets out that the 'tilted planning balance' of paragraph 11(d) of the NPPF applies to the proposals. It then goes through each of the proposed benefits of the appeal proposals

and attaches a level of weight to each of those benefits, based on the Appellant's own assessment and also using examples from various relevant appeal decisions where necessary.

2. SITE AND SURROUNDING AREA

Site Description and Location

- 2.1 A full description of the appeal site is contained in the Design and Access Statement which accompanied the application, but a brief overview is set out below.
- 2.2 The appeal site is located to the immediate north-west of the defined urban area of Swindon, although it falls within the Wiltshire County Unitary Authority area. It falls outside of any defined development boundary and therefore constitutes open countryside in planning policy terms.
- 2.3 The administrative boundary of Swindon lies approximately 100 metres to the north of the northern boundary, 300 metres from the eastern boundary of the site and approximately 15 metres from the centre of Old Purton Road and the centre of the railway line.
- 2.4 The part of the site proposed for development measures approximately 3.44 hectares in size and comprises agricultural land. The wider parcel (including the land outlined in red) is approximately 8ha in area. There are several field boundaries within the wider parcel consisting of hedgerow and tree lined boundaries.
- 2.5 The wider parcel site is bound by Old Purton Road to the south-east, the railway line to the south-west and The River Ray to the north-east. Further north of the wider parcel is the Protected Route of the Wilts and Berks Canal and Mouldon Hill Country Park.

Site Designations

- 2.6 The appeal site is entirely within Flood Zone 1 according to Environment Agency mapping. A large proportion of the wider parcel is within Flood Zones 2 and 3.
- 2.7 There are no trees within or immediately adjacent to the site which are subject to Tree Preservation Orders.
- 2.8 The site is not within or adjacent to any international or national landscape designation.

- 2.9 There are no listed buildings or conservation areas within the vicinity of the site.
- 2.10 Access to the site is currently gained by Old Purton Road.
- 2.11 No Public Rights of Way are within the site outlined in red on the Location Plan. PROW PURT77 runs through the western part of the wider parcel, outlined in blue on the Location Plan. This footpath links Purton to the west, with Mouldon Hill Country Park in the north-east. An informal footpath runs along the south bank of the Canal, to the north of the River Ray.
- 2.12 The appeal site and the majority of the wider parcel (totalling 8Ha) is wholly within an area that carries the non-statutory designation of 'County Wildlife Site'. However, the appeal site itself is shown to be one of the least ecologically valuable parts of the Wildlife Site and is in fact of relatively low quality, dominated by coarse grasses as opposed to more valuable species, a point also confirmed by the Inspector who determined the previous appeal at the site¹, as detailed further in the planning history section.

Accessibility

- 2.13 The appeal site is situated in a sustainable location with regard to its accessibility to education facilities, services and employment opportunities via walking, cycling and other sustainable modes of transport.
- 2.14 The table below contains the distances from the appeal site to nearby services and facilities:

¹ See paragraph 33 of appeal reference: APP/Y3940/W/18/3202551

Facility:	Actual Journey Distance (m / km):
Ridgway Farm Bus Stop	590 m
Gairlock Road Bus Stop	380 m
Wood Hall Drive Bus Stop	800 m
Swindon Railway Station	4.8 km
Co-op Peatmoor	900 m
Morrison's Haydon Wick	2.2 km
Moredon Primary School	1.6 km
Nova Hreod Academy	1.5 km
Brook Field Primary School	2.3 km
Post Office	1.6 km
Sparcells Doctors Surgery	700 m
Cheney Manor Industrial Estate	2.5 km
Kembrey Business Park	5.7 km
South Marston Industrial Estate	7.7 km
Swindon Town Centre	4.7 km

3. PLANNING HISTORY

- 3.1 A previous outline planning application was submitted in September 2017 for the erection of up to 81 dwellings and associated works (ref. 17/08188/OUT) at the site. That application was refused by the Council on 2nd March 2018 and an appeal was subsequently lodged against the Council's decision on the 14th June 2018 which was heard in the form of a public inquiry. During the previous appeal process, the scheme was also revised from 81 dwellings to "up to 79" and a condition was recommended to control this number of dwellings. The appeal was determined by the Inspector on that basis.
- 3.2 The focus of the previous appeal related to 3 main issues contained within the Reasons for Refusal (RfR) including:
- RfR 1 – Principle of Development;
 - RfR 2 – Ecology; and
 - RfR 4 - Landscape
- 3.3 The six remaining RfR were not pursued by the Council, with the majority being dealt with by way of a SoCG and legal agreement, and the remaining RfR being withdrawn by the Council.
- 3.4 The inquiry was originally opened in January 2019 but adjourned at the start due to new and unanticipated ecology issues being raised by the Council. This resulted in the need for further survey works and the Inquiry reopened in February 2020 following a resolution on ecology matters.
- 3.5 The appeal was subsequently dismissed on 6th April 2020 (ref. APP/Y3940/W/18/3202551) principally on the grounds that the proposals were considered to conflict with Policies CP1, CP2 and CP19 of the Core Strategy, Policy H4 of the Local Plan, and the made Purton Neighbourhood Plan (NP), and therefore conflict with the development plan taken as a whole, which was attributed significant weight by the Inspector at that time. A copy of that appeal decision is contained at **Appendix 1** of this SoC.

- 3.6 The appeal decision forms a material consideration in the determination of this appeal. Whilst the appeal was dismissed, there are a number of points made by the Inspector that are relevant to the determination of this appeal as detailed later in this Statement. Importantly, since that appeal was determined there has been a material change in circumstances as the Purton NP is now more than 2 years old.
- 3.7 In the previous appeal, paragraph 14 of the NPPF was engaged, owing to the Purton NP being made in the preceding two years. Paragraph 14 of the NPPF advises that the adverse impacts of allowing a development that conflicts with a neighbourhood plan which has been “made” with the preceding 2 years is likely to significantly and demonstrably outweigh the benefits, provided all criteria in 14 a)-d) apply.
- 3.8 Whilst those criteria did apply when the previous appeal was determined, they do not apply to the determination of this appeal due to the age of the Purton NP. Therefore, Paragraph 14 of the NPPF is no longer applicable when determining the appeal proposals.
- 3.9 In addition to the above planning history, on 15 May 2020, the Appellant applied to the High Court for permission to bring a claim for statutory review under section 288. On 9 July 2020, the application for permission was refused by Lang J on the papers. On 16 July 2020, the Applicant renewed the application. On 9 October 2020, the Deputy Judge refused that application after an oral hearing. The Appellant sought permission to appeal the Court Order of the Deputy High Court Judge in the Court of Appeal. However, on 22nd February 2021 permission to appeal was refused by Rt. Hon. Lord Justice Singh.
- 3.10 There is no other planning history of relevance to the appeal site.

4. THE APPEAL PROPOSAL

- 4.1 The appeal proposal seeks outline planning permission for a residential development of up to 79 dwellings and associated infrastructure with all matters reserved except access. The layout plan accompanying the appeal has not changed from the layout previously considered as part of the previous appeal (APP/Y3940/W/18/3202551).
- 4.2 The Appellant proposes that 8no. self-build plots will be provided as part of the development proposal. It is acknowledged that, in correspondence, the Council has indicated that offering some units as self-build constitutes a change to the development proposal, given that there was no mention of self-build plots at the application stage. However, it is respectfully considered that the Council are incorrect about this. The development proposal will remain exactly the same. Indeed, the plans for approval will not change, nor will the description for development need to change. The only thing that is being offered by the Appellant, as a benefit to be secured either by way of condition or s.106 agreement, is how the dwellings are to be built. Namely that they will be constructed as self-build units to assist the Council with meeting its requirement. The Appellant need not make any change to the development proposal to achieve this. Indeed, 'the development' (as defined by s.55 of the Town and Country Planning Act 1990) remains the same.
- 4.3 The proposals also provide for 40% affordable housing, in accordance with policy requirements, which can be secured by a S106 planning obligation. The tenure mix would be provided in accordance with local policy requirements and local needs, to be determined at the Reserved Matters stage/s.
- 4.4 The range of open market dwelling types and sizes would also be controlled and determined at the Reserved Matters stage/s.
- 4.5 Access to the appeal site is a matter for determination with this appeal. Internal access will be dealt with at the reserved matters stage. A new vehicular access into the site is proposed from a new junction with a right-hand turn lane facility on the B4534 Purton Road. Pedestrian footways are to be provided either side of the proposed access.

- 4.6 The existing access for pedestrians, cyclists using Old Purton Road and vehicles associated with landowners adjacent to Old Purton Road would be diverted through the application site as part of the design of the new access. This will be provided with the Old Purton Road crossing the new access road serving the development.
- 4.7 The application was accompanied by the following documentation to which the LPA made its decision on, and are relevant to the appeal:
- Site Location Plan P18-1712_6-2;
 - Illustrative masterplan P18-721_06 Rev B;
 - Planning Statement;
 - Design and Access Statement (inc. energy statement);
 - Transport Assessment and Travel Plan;
 - Landscape Visual Impact Assessment and previous Proofs of Evidence;
 - Ecological Reports (including previous Proofs of Evidence);
 - Flood Risk Assessment and Drainage Strategy;
 - Archaeological Desk Based Assessment;
 - Noise Impact Assessment;
 - Air Quality Assessment; and
 - Waste Minimisation Statement.
- 4.8 The documents listed below were submitted during the application determination process:
- Response to Highways comments 2900 21 02 15 submitted 23 February 2021
 - Refuse tracking plan 2900.T19 submitted 23 February 2021
 - Proposed Access Plan 2900.07B submitted 23 February 2021
 - Refuse tracking plan 2900/T20 submitted 24 March 2021
 - Refuse tracking plan 2900.T12 submitted 01 March 2021
- 4.9 The above suite of documents demonstrates that there are no technical issues relating to the proposals in respect of matters such as highways, drainage, and ecology, which indicate that the appeal proposals should not be allowed.

4.10 As the Officer's delegated report identifies, at the time of determining the planning application there was no objection to the appeal proposals from technical consultees, subject to the imposition of conditions and the provision of necessary developer contributions, with regard to the following matters:

- Highways
- Ecology
- Air Quality
- Noise Impacts
- Arboriculture
- Archaeology
- Drainage
- Waste and Recycling
- Network Rail
- Education
- Affordable housing

5. PLANNING POLICY

- 5.1 In assessing whether planning permission should be granted for the above development, this statement will have regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which states:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise”.

- 5.2 In this case, the Development Plan documents of relevance to the application comprises:
- The Wiltshire Core Strategy 2015
 - The saved policies of the North Wiltshire Local Plan; and
 - The Purton Neighbourhood Plan.
- 5.3 Other material considerations of relevance to the determination of the appeal include the NPPF and the Planning Practice Guidance (PPG) as well as other relevant appeal decisions referred to throughout this Statement.
- 5.4 The Development Plan policies most relevant to the application are firstly outlined below.

The Wiltshire Core Strategy

- 5.5 The Wiltshire Core Strategy (WCS) was adopted in 2015 and replaced large parts of the North Wiltshire Local Plan.
- 5.6 Notwithstanding the importance of the policies outlined below for determining this appeal, they must be considered out-of-date under the provisions of the NPPF because the Council cannot currently demonstrate a deliverable five-year housing land supply, as detailed later in this Statement.
- 5.7 In addition, the CS is now more than five years old and its strategic policies have not been reviewed and found not to require updating.

Core Policy 1 – Settlement Strategy

- 5.8 Core Policy 1 sets out the settlement strategy for the area, identifying a hierarchy of settlements to which development will be directed with the aim of achieving sustainable development. Purton is identified as a 'Large Village', defined as settlements with a limited range of employment, services and facilities and where development will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.

Core Policy 2 – Delivery Strategy

- 5.9 Core Policy 2 sets out a development strategy for Wiltshire which for the period 2006 to 2026 includes the provision of 42,000 homes. It disaggregates those dwellings between three identified housing market areas in Wiltshire and the area of 'West of Swindon', which footnote 26 confirms is not an HMA, as follows:

- East Wiltshire HMA: 5,940
- North and West Wiltshire HMA: 24,740
- South Wiltshire HMA: 10,420
- West of Swindon: 900

- 5.10 These figures are expressed as minimums.

- 5.11 Core Policy 2 goes on to explain that development proposals should be in sustainable locations and in general conformity with the aforementioned distribution. It also sets out that within the limits of development, there is a presumption in favour of sustainable development and that outside of the defined limits of development, development is not permitted unless the circumstances identified at paragraph 4.25 are met.

- 5.12 The supporting text is helpful in explaining how Core Policy 2 should be applied. Paragraph 4.20 explains that:

"The indicative figures also allow a flexible approach which will allow the council, including through the preparation of the Site Allocations DPD, and local communities preparing neighbourhood plans, to respond positively to opportunities without being inhibited by an overly prescriptive, rigid approach which might otherwise prevent

sustainable development proposals that can contribute to delivering the strategic objectives of the plan.”

- 5.13 Paragraph 4.27 sets out that: *“The Core Strategy allocates sites and broad locations for growth that are strategically important for the delivery of the Plan for Wiltshire....”*

Core Policy 3 – Infrastructure Requirements

- 5.14 Core Policy 3 states that all new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development.

Core Policy 19 – Spatial Strategy for the Royal Wootton Bassett and Cricklade Community Area

- 5.15 Core Policy 19 of the Core Strategy is specific to the Royal Wootton Bassett and Cricklade Community Area within which the appeal site is located. It states that in terms of housing provision, 1,455 homes are required for the area of which 1,070 will be provided at Royal Wootton Bassett and the remaining 385 will be provided elsewhere within the Community Area. The Policy also requires that proposals comply with Core Policies 1 and 2 and the criteria set out at paragraph 5.102.
- 5.16 The supporting text to the policy is also useful for understanding how the policy should be applied. Paragraphs 5.104 – 5.105 which are entitled ‘Planning for Swindon’ state that:

“5.104 Although Swindon falls within a separate administrative area, its proximity to the Royal Wootton Bassett and Cricklade Community Area means that planning for future growth in Swindon should be considered holistically and with appropriate co-operation between neighbouring authorities, and involve collaborative working with the Wiltshire and Swindon Local Enterprise Partnership and the Wiltshire and Swindon Local Nature Partnership.

5.105 The strategy for future growth in Swindon is to support the most sustainable pattern and scale of development, ensuring that the level of new housing is more balanced with employment opportunities, to ensure Swindon is more self-contained and the need for out commuting is reduced.”

Core Policy 43 – Providing Affordable Homes

- 5.17 Requires that development proposals of five or more dwellings provides affordable housing at a rate of at least 30% within the 30% affordable housing zone and at least 40% on sites within the 40% affordable housing zone. The provision and tenure of affordable housing may vary on a site-by-site basis taking into account evidence of local need, mix of affordable housing proposed and, where appropriate, the viability of the development. Affordable housing units should be dispersed throughout a development and designed to a high quality, so as to be indistinguishable from other development. The application site is within the 40% zone.

Core Policy 45 – Meeting Wiltshire's Housing Needs

- 5.18 Regarding the type, mix and size of new housing the policy requires that New housing, both market and affordable, must be well designed to address local housing need incorporating a range of different types, tenures and sizes of homes to create mixed and balanced communities.
- 5.19 Adding that housing size and type, including any distinction between flats and houses, will be expected to reflect that of the demonstrable need for the community within which a site is located. The Wiltshire Strategic Housing Market Assessment identifies the housing needs of Wiltshire. Any variation to this will need to be justified through the production of new, sound evidence from either an updated Strategic Housing Market Assessment or other credible evidence source. In relation to affordable housing, other sources of credible evidence include the council's housing register and local needs surveys.

Core Policy 50 – Biodiversity and Geodiversity

- 5.20 Core Policy 50 explains that development proposals must demonstrate how they protect features of nature conservation and demonstrate how the ecological value of such features is maintained. Where it is demonstrated that such features cannot be retained, the anticipated ecological impacts must be mitigated as far as possible and appropriate compensatory measures provided to ensure no net loss of the local biodiversity resource.
- 5.21 Disturbance of sensitive wildlife species and habitats should be avoided and reduced.
- 5.22 Biodiversity enhancement is required through restoring, enhancing and creating valuable habitats, ecological networks and ecosystem services and shall be relevant to the local landscape character.
- 5.23 Specifically, in terms of Local Sites, the policy requires that “Sustainable development will avoid direct and indirect impacts upon local sites through sensitive site location and layout, and by maintaining sufficient buffers and ecological connectivity with the wider environment.” Damage to such sites will be unacceptable other than where impacts:
- Cannot reasonably be avoided;
 - Are reduced as far as possible;
 - Are outweighed by other planning considerations in the public interest;
 - Where appropriate compensation measures can be secured through planning obligations or agreements.
- 5.24 Development proposals affecting such sites are also required to make a reasonable contribution to their favourable management in the long-term.

Core Policy 51 – Landscape

- 5.25 Core Policy 51 requires that development proposals protect, conserve and where possible enhance landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures informed by the Landscape Character Assessment and any other relevant assessments. Particular regard will be had for, inter alia:
- the distinctive pattern and species of natural features;
 - the locally distinctive character of settlements and their settings;

- the separate identities of settlements and the transition between man-made and
- natural landscapes at the urban fringe; and
- important views and visual amenity.

Core Policy 52 – Green Infrastructure

- 5.26 Promotes the retention and enhancement of Wiltshire's green infrastructure network. Development should retain and enhance existing on-site green infrastructure, make provision for accessible open spaces, ensure appropriate long-term management of green infrastructure, amongst other things. If damage or loss of existing green infrastructure is unavoidable, the creation of new or replacement green infrastructure equal to or above its current value and quality, that maintains the integrity and functionality of the green infrastructure network will be required.

Core Policy 57 - Ensuring High Quality Design and Place Shaping

- 5.27 Core Policy 57 requires a high standard of design for all new developments. Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. This policy then lists a set of 14 criteria which, if followed, will ensure that the proposal will make a positive contribution to the character of Wiltshire.

Core Policies 60 and 61 – Transport

- 5.28 These policies generally advise that the Council will use its planning powers to help reduce the need to travel by planning development in sustainable locations thus reducing the need to travel by car.

Core Policy 62 - Development impacts on the transport network

- 5.29 Core Policy 62 essentially requires that development proposals provide appropriate mitigating measures to offset any adverse impacts on the transport network.

Core Policy 67 – Flood Risk

- 5.30 Seeks that all new development will include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage) unless site or environmental conditions make these measures unsuitable.

North Wiltshire Local Plan

- 5.31 The North Wiltshire Local Plan (NW Local Plan) was adopted in 2006 and the secretary of state issued a direction setting out the policies of the plan which should be 'saved' in 2009. The NW Local Plan was largely replaced as the local plan for Wiltshire by the Core Strategy upon its adoption. However, Appendix D to the Core Strategy titled 'Saved policies and policies replaced' sets out that some of the saved policies of the NW Local Plan "*continue to sit alongside the policies of the Core Strategy*".
- 5.32 Policy H4 (residential development in the open countryside) is the main policy of relevance to the proposals. Essentially, the policy only allows for new dwellings in the open countryside outside the framework boundaries where, it is connected to a rural based enterprise or it is a replacement for an existing dwelling as long as the building has not been abandoned, is incapable of retention in its current state and is similar in size and scale to the existing dwelling within similar curtilage.
- 5.33 However, as the Inspector who determined the previous appeal acknowledged, saved policy H4 is no longer entirely consistent with the NPPF in that it is more restrictive on development in the countryside and was written some time ago, in a different policy context and when the need for housing differed.

Purton Neighbourhood Plan

- 5.34 The Purton Neighbourhood Plan (Purton NP) was made on 5th November 2018. The Plan is therefore more than 2 years old. The policies of the Purton NP which are most relevant to this appeal are set out below.

Policy 4

5.35 Policy 4 requires that proposals identify and implement ecological enhancement wherever possible in accordance with Core Policy 50 of the Core Strategy and the NPPF in an attempt to achieve net biodiversity enhancement.

5.36 It goes on to state that local sites of ecological interest are to be retained and enhanced wherever possible in any development proposal. They include the County Wildlife Sites, Sites of Nature Conservation Interest and areas of woodland and other wildlife sites shown on Map 3 (page 14).

Policy 6

5.37 Policy 6 requires that:

“Development on the land between the western edge of the Swindon urban area and the eastern boundaries of Purton and Purton Stoke, and the hamlets of The Fox and Hayes Knoll should not either individually or cumulatively lead to the coalescence of these settlements and Swindon in order to retain the rural quality and value of these settlements and their setting.”

Policy 13

5.38 Policy 13 sets out that land is identified within the settlement boundary for Purton for approximately 75 homes at specified locations. It also sets out criteria for the allocated sites on matters such as design, size and affordable housing.

5.39 The Policy also sets out specific provisions for considering the environmental factors of the village including the Conservation Area, the setting of Purton's historic buildings, landscape, biodiversity, mature trees and hedgerows.

Policy 14

- 5.40 Policy 14 identifies an area to accommodate a site for up to 40 smaller homes including affordable housing, houses for first-time buyers, smaller properties for those who wish to downsize. It rehearses the environmental criteria of Policy 13 but this time, given that it is in relation to one specific site, it lists the specific environmental features which should be protected or enhanced. It also makes requirements of the site's development in respect of vehicular and pedestrian access.

National Planning Policy Framework

- 5.41 The latest iteration of the NPPF was published in February 2019 and came into immediate effect. It sets out the national policy which guides Local Planning Authorities on planning making and decision taking. It does not affect the primacy of the Development Plan (paragraph 12) however it is a material consideration for planning decisions (paragraph 2).
- 5.42 Key paragraphs of the NPPF of relevance to the determination of the application proposals are set out below. Other paragraphs of the NPPF will be referred to where necessary in the following chapter of this Planning Statement.
- 5.43 Paragraph 11 explains that there is a presumption in favour of sustainable development which for decision taking means:
- c) "approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear 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."*

5.44 Paragraph 14 sets out the weight to be afforded to Neighbourhood Plans where paragraph 11(d) applies. It explains that:

“In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;*
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and*
- d) the local planning authority’s housing delivery was at least 45% of that required over the previous three years.”*

5.45 Paragraph 73 relates to maintaining the supply and delivery of homes. It explains that:

“Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- a) 5% to ensure choice and competition in the market for land; or*
- b) 10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan³⁸, to account for any fluctuations in the market during that year; or*

c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.”

5.46 Paragraph 74 sets out how an authority can demonstrate a five year supply of deliverable housing sites, with the appropriate buffer, where it has been established in a recently adopted plan, or in a subsequent annual position statement which:

“a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and

b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.”

5.47 Footnote 38 explains that, “for the purposes of paragraphs 73b and 74 a plan adopted between 1 May and 31 October will be considered ‘recently adopted’ until 31 October of the following year; and a plan adopted between 1 November and 30 April will be considered recently adopted until 31 October in the same year”.

Planning Practice Guidance (PPG)

5.48 The Government published the PPG in 2014 and have since updated relevant parts as appropriate. The PPG provides further guidance to accompany the NPPF. Due regard has been given to the relevant chapters of the PPG, and where applicable, relevant paragraphs are referred to later in this Statement.

Other Material Considerations

5.49 The Council cannot currently demonstrate a 5-year housing land supply, which represents an important material consideration.

5.50 The previous appeal decision at the site (contained at Appendix 1) also represents an important material consideration in relation to the proposals. The Inspector raised several points which are of relevance to the current application proposals including:

- The provision of new housing in the context of the Council's lack of deliverable five-year housing land supply and the demonstrable need for affordable housing both attracted significant weight in the planning balance.
- It was acknowledged that the proposed ecological benefits of the scheme attracted significant weight. Furthermore, it was considered that there would be benefit to improved drainage which also weighed in favour of the proposals.
- The economic benefits arising from the proposals, including from construction works, employment and local expenditure from the new occupants was also considered to attract weight.
- It was also noted by the Inspector that the delivery of housing close to the large urban area of Swindon could also provide opportunities to reduce commuting distances if existing Wiltshire residents that commute to the town could move closer. This was a benefit that was also considered to weigh in favour of the proposals.

5.51 In addition to the above, circumstances have changed since the determination of the appeal as the Purton NP is now more than 2 years old, therefore the advice contained at Paragraph 14 of the NPPF is no longer relevant to the application proposals as discussed further below.

6. THE APPELLANT'S CASE

- 6.1 This section of the Statement addresses each of the RfR before the planning balance exercise is undertaken in Section 7.0
- 6.2 As previously set out, the Council refused permission pursuant to three RfR, namely:
- in principle conflict with the development plan when taken as a whole ('RFR1');
 - landscape harm caused through the creation of the access into the site ('RFR 2'); and
 - the lack of a s.106 agreement ('RFR 3').

Reason for Refusal 1 - Principle of Development

- 6.3 The site sits outside the defined settlement boundary of Purton and therefore, in planning policy terms, falls within the open countryside. It is therefore accepted that the appeal proposals conflict with Core Policies 1, 2 and 19 of the WCS, saved Policy H4 of the North Wiltshire Local Plan and the Purton Neighbourhood Plan by virtue of the site's location beyond the defined settlement boundary and the fact it does not accord with any of the exceptions listed at paragraph 4.25 of the WCS.
- 6.4 Notwithstanding the importance of the policies outlined above for determining this appeal, they must be considered out-of-date under the provisions of the NPPF for the reasons as set out below.
- 6.5 The WCS was adopted in January 2015 and is now more than 5 years old. The NPPF makes it clear at paragraph 73 that in this circumstance the Council's HLS must now be assessed against Local Housing Need for the whole of the Wiltshire Council area, rather than the previous Housing Market Areas as defined in the WCS.
- 6.6 This point is reaffirmed by the recent appeal APP/Y3940/W/20/3249284 for Land South of Broad Town Primary School, Wiltshire (dated 27th May 2021)². In that decision, when considering the need to assess the Council's HLS across the whole district, the Inspector's approach is clear:

² Appeal decision attached at Appendix 2

10. It has been demonstrated that the Royal Wootton Bassett and Cricklade Community Area, which is the community area wherein the appeal site falls, has exceeded its requirement for housing supply more generally. Nevertheless, community area requirements and the findings within the parish plan are indicative thresholds and should not restrict or place a cap on the delivery of housing, which should be calculated and delivered based on broader housing market area requirements, within which the majority of household moves take place, and where there is no evidence to require further disaggregation to assess need.

11. On this basis, even if the Royal Wootton Bassett and Cricklade Community Area was meeting its indicative threshold, it would not provide a sound rationale for resisting development that would meet an otherwise prevailing need within the broader housing market area, where there is only 4.29 years of housing land supply. This is because, logically, those in need could move to the community area to access housing that might not otherwise be available elsewhere in the wider housing market area.

- 6.7 As above, the Council also cannot currently demonstrate a deliverable five-year housing land supply. As set out in more detail in the accompanying HLS SoC prepared by Pegasus, it is the Appellant's position that the Council's housing land supply position currently stands at **4.07 years**.
- 6.8 This is a significant material consideration. When the previous appeal at the site was considered in 2019/2020 and determined in April 2020, the housing land supply shortage in Wiltshire was only recently recognised and was considered to fall between 4.42-4.62 years supply at that time. Indeed, the shortfall in Wiltshire was identified for the first occasion during that appeal, against the backdrop that the Council had previously reported a positive 5 year supply position. Thus, the previous Inspector still afforded significant weight to the development plan when determining the previous appeal. However, we are now 18 months on, and the Council still do not have a 5 year supply and, indeed, the Council's position has worsened.
- 6.9 The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. It requires local planning authorities to identify

and regularly update a supply of specific deliverable sites sufficient to provide 5 years' worth of housing land supply. Footnote 7 of Paragraph 11d of the NPPF sets out that the policies that are most important for determining an application are considered out-of-date in situations where the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites (with the appropriate buffer).

6.10 Therefore, Core Policies 1,2 and 19 and saved policy H4 which are all policies that are most important for determining the application are to be considered out of date under the provisions of the NPPF. The weight to be given to these policies in the planning balance should therefore be tempered, as detailed further in Section 7.0 of this Statement.

6.11 In addition, as acknowledged by the previous Inspector at paragraph 19, saved policy H4 of the LP is no longer entirely consistent with the NPPF in that it is more restrictive on development in the countryside and was devised some time ago, in a different policy context and when the need for housing differed. Further, none of these policies provide for any self-build housing types and thus are inconsistent with paragraph 61 of the NPPF.

6.12 Paragraph 61 of the NPPF says (with emphasis):

*Within this context, the size, type and tenure of housing needed for different groups in the community **should be assessed and reflected in planning policies** (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers²⁵, people who rent their homes and people wishing to commission or **build their own homes**²⁶).*

6.13 Footnote 26 to the NPPF says:

Under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.

6.14 Accordingly, the NPPF expects local planning authorities to assess and reflect in planning policies a need for self-build units. However, the Council's development plan does not do this. This further underscores why the development plan policies are out of date and should be afforded reduced weight.

6.15 It is of note that in a recent appeal which included C2 units, the lack of policies reflecting the needs for older people was sufficient to engage the tilted balance (Appeal Reference: APP/K3415/W/20/3264280) (**Appendix 5**). Inspector Price said as follows on the issue:

60. As noted, LPS policies H1 and Frad4 promote the delivery of housing to meet the needs of an ageing population. However, whilst providing a statement to this effect, these policies fall short of actually assessing and then reflecting these needs, such as through indicative figures or allocations. These policies were based on the 2012 SHMA. This had not highlighted Lichfield's current unmet need for C2 units nor its comparatively high and growing proportion of older people, more recently revealed by the 2020 HEDNA.

61. As the policies most important for determining an appeal relating to a scheme geared to serve the varying needs of an ageing population, neither LPS CP 1 or 6 reflect the Framework paragraph 61 requirement to assess and reflect this housing need. In the context of this particular proposal, these development plan policies are thus shown to be out-of-date. This is sufficient to engage the so-called 'tilted balance' of Framework paragraph 11d)ii, to ascertain whether the presumption in favour of sustainable development applies.

6.16 Accordingly, it is common ground that the appeal proposal is contrary to the development plan. It is acknowledged that the previous Inspector concluded that this conflict was sufficient to justify a refusal. However, significantly, this was in the context that the Inspector found that paragraph 14 of the NPPF was engaged, owing to conflict with the Purton Neighbourhood Plan.

6.17 The Purton NP is now more than 2 years old as it was made in November 2018. This represents a key material difference since the previous appeal proposals were determined as the circumstance set out in paragraph 14 of the NPPF no longer applies.

- 6.18 Paragraph 14 is clear that in situations where the presumption (at paragraph 11(d)) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the 4 listed criteria are met.
- 6.19 Criterion (a) of Paragraph 14 requires that a neighbourhood plan became part of the development plan 2 years or less before the date on which the decision is made. Therefore, as the Purton NP is now more than 2 years old, paragraph 14(a) of the NPPF is not triggered. It follows that paragraph 14 is no longer engaged.
- 6.20 Accordingly, the weight to be afforded to the conflict with the development plan must now be reconsidered in light of paragraph 14 of the NPPF no longer being engaged, as discussed further in Section 7.0.
- 6.21 Overall, it is clear that the 'tilted balance' applies whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Reason for Refusal 2 – Landscape

- 6.22 The Council, within its second RfR, contend that the appeal proposals would result in the urbanisation of the site which it considers would result in harm to the local character, appearance and visual amenity of the immediate locality, and the loss of local landscape features that are currently enjoyed. Further, they consider that the proposals would result in the erosion and further urbanisation of a local connection that would harm the local landscape function of Old Purton Road with the wider areas. It is therefore stated that there is conflict with Core Policies 51 and 57 of the Core Strategy, as well as Paragraph 170 b) of the NPPF.
- 6.23 When considering the previous appeal, the Inspector concluded that the landscape effects would be "*very localised and the harm arising would be limited*".³ The Officer's delegated report does not seek to challenge this conclusion.

³ See paragraph 50 of APP/Y3940/W/18/3202551

- 6.24 The Appellant does not wish to trivialise this issue; however, it is common ground that the appeal needs to be determined in the context of the tilted balance within paragraph 11(d)(ii) of the NPPF. In that context, plainly a 'limited' harm is insufficient, in and of itself, to significantly and demonstrably outweigh the benefits of the proposal, including the provision of market and affordable housing. Accordingly, RFR2 should not justify a refusal by itself.

Reason for Refusal 3 – Planning Contributions

- 6.25 Finally, RfR3 relates to the lack of S106 legal agreement for securing affordable housing on site, financial contributions towards early years education facilities, public open space and play equipment and the on-going maintenance and waste and recycling facilities. The Council therefore considers the proposals fail to comply with Core Policies 3, 42, 45 and 52 of the Wilshire Core Strategy (2015) and paragraphs 8, 34, 55, 56, 64 and 92 of the NPPF.
- 6.26 The Appellant will submit a legal agreement which secures affordable and self-build housing and the above stated financial obligations to address this RfR before the hearing. Therefore, RfR3 should fall away by the time of the Inquiry.
- 6.27 The Officer's delegated report acknowledges this point stating: *"this matter can be dealt with through entering into a planning obligation and the lack of the obligation carries no weight in the planning balance."*
- 6.28 In the event the Council is unable to execute a S106 agreement, a Unilateral Undertaking will be submitted.

Summary

- 6.29 Overall, when considering the above RfR, the Appellant takes the view that the principal adverse impact in relation to the appeal proposal is therefore essentially the conflict with the development plan when read as a whole.
- 6.30 Whilst the previous Inspector concluded that this conflict was sufficient to justify a refusal, this was in the context that the Inspector found that paragraph 14 of the NPPF was engaged at that time, owing to conflict with the Purton Neighbourhood Plan. However, there has been

a material change in circumstances since the previous appeal was determined in that the Purton NP is now more than 2 years old and the provisions of paragraph 14 are therefore no longer engaged.

7. THE PLANNING BALANCE

- 7.1 It has been set out in Section 6.0 of this Statement that the 'tilted balance' applies whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This section of the statement therefore assesses the proposals against the 'tilted balance' as required by paragraph 11(d) of the NPPF, with reference to relevant appeal decisions where necessary.

The adverse impacts of the appeal proposal

Conflict with the Development Plan

- 7.2 As set out in Section 6.0 of this Statement, it is common ground that the appeal proposal is contrary to the development plan. Furthermore, it is acknowledged that the Inspector considering the previous appeal at the site concluded that this conflict was sufficient to justify a refusal. However, significantly, this was determined in the context that the Inspector found paragraph 14 of the NPPF was engaged, owing to conflict with the Purton Neighbourhood Plan.
- 7.3 Matters have now moved on. The Purton NP became part of the development plan over two years ago and thus paragraph 14(a) of the NPPF is not satisfied. It follows that paragraph 14 is no longer engaged.
- 7.4 Accordingly, it is the Appellant's position that the weight to be afforded to the conflict with the development plan must now be reconsidered in light of paragraph 14 of the NPPF no longer being engaged.
- 7.5 It is recognised that policies that are considered to be out-of-date as a result of a shortage in the 5-year housing land supply are still capable of carrying weight in the planning balance and that the weight to be attributed to those policies is a matter for the decision-maker, as set out most recently in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37.

7.6 However, there are two recent appeal decisions in particular that the Appellant considers are of relevance to this matter:

- Land south of Westwells Road, Neston (appeal reference: APP/Y3940/W/19/3243873⁴); and
- Land south of Broad Town Primary School (appeal reference: APP/Y3940/W/20/3249284⁵).

7.7 In both appeals it was common ground that the Council cannot demonstrate a 5 year housing land supply.

7.8 In the Westwells decision, the Inspector found limited weight to the conflict with the development plan, including finding that Policy CP2 of the WCS was inconsistent with the NPPF, for being too restrictive.

7.9 In the Broad Town decision, the Inspector found that the conflict with the development plan should only be afforded moderate weight owing to, *'the persistent lack of affordable housing and current shortage of housing land supply more generally'*.

7.10 It is considered that these appeals are relevant material considerations to bear in mind. Furthermore, as detailed in Section 6.0 of this Statement, the previous appeal was considered at a time when Wiltshire's housing land supply shortage was only recently recognised.

7.11 Whilst the previous Inspector afforded significant weight to the development plan when considering the previous appeal some 18 months ago, the position has now moved on and further worsened in respect of the Council's HLS. Thus, this is why Inspector Page acknowledged the 'persistent' problem with housing delivery in Wiltshire.

7.12 It is therefore considered that no more than moderate weight should be attributed to the proposal's conflict with Core Policies 1, 2 and 19 of the Core Strategy, Saved Policy H4, and the Purton NP as a whole. In addition, it is acknowledged that the previous Inspector

⁴ Full appeal decision contained at Appendix 3 of this SoC.

⁵ Full appeal decision contained at Appendix 2 of this SoC.

considered there to be limited conflict with policies CP50 of the WCS and PP4 of the Purton NP when determining the previous appeal and that circumstances have not changed in this regard.

7.13 In addition to the above, it is noted that despite the fact that the Council must now assess its HLS against the local housing need for the whole of the Wiltshire Council area (rather than the housing market areas defined in the WCS by virtue of para 73 of the NPPF) paragraph 26 of the Officer's delegated report still seeks to highlight that there is a surplus of housing when considered against the indicative requirement set by the WCS in the Royal Wootton Bassett Community Area remainder and Royal Wootton Bassett itself.

7.14 However, it is noted that when determining other recent applications, for example, Land at Pound Farm, Lyneham (application ref: 20/02387/OUT)⁶ Officers have stated the following in respect of the HMAs:

“As noted above, it is acknowledged that recent planning approvals and commitments in the Cricklade and Royal Wootton Bassett Community Area mean that the indicative housing requirements for the Cricklade and Royal Wootton Bassett Community Area (up to 2026) have been met. However, it is important to consider that for the purposes of paragraph 73 and the presumption in favour of sustainable development set out in the NPPF, housing supply is assessed at the Wiltshire wide level – where, as set out previously, the Council cannot currently demonstrate an adequate supply of housing. Whilst the fact that the indicative requirements have been met in this community area is a consideration, given the circumstances of this particular application, as outlined below and in the planning balance, it is not considered that this can be determinative in this instance.”

7.15 Even if it was to be considered a determinative issue, the accompanying HLS SoC, prepared by Pegasus, identifies the following:

⁶ See Appendix 6

*“The appeal site is similarly located in the North and West Wiltshire HMA, which has the lowest land supply of any of the three HMAs, with only a **4.29 year land supply with a shortfall of 980 homes** according to the Council based on a requirement for 6,885 homes and a supply of 5,905 homes.*

*Based solely upon the high-level review of the deliverability of the sites within this HMA above, there is actually a supply of 5,425 which would provide for a **3.94 year land supply and a shortfall of 1,460 homes.**”*

- 7.16 Either way, it is concluded that the operation of the policies in the Development Plan have not been and will not be effective in maintaining a five-year land supply against the housing requirement of the Development Plan and the shortfall is significant. It is therefore appropriate to reduce the weight afforded to such policies accordingly.

Landscape Effects

- 7.17 The Inspector considering the previous appeal proposals concluded that the landscape effects arising from the proposals would be *“very localised and the harm arising would be limited”* and the Officer’s delegated report does not seek to challenge this conclusion. The Appellant also accepts that limited landscape harm would arise from the appeal proposals.

Benefits of the appeal proposal

Provision of Open Market Housing

- 7.18 The provision of open market housing is a benefit of the appeal proposal which should be attributed substantial weight in favour of the development.
- 7.19 As set out in Chapter 3 of the accompanying HLS SoC, it is the Appellant's position that the Council can only demonstrate a **4.07 year housing land supply**, which represents a **shortfall of 1,998 homes**. To make matters worse neighbouring Swindon Borough Council are also unable to show a 5YHLS, as set out in paragraphs 5.9 and 5.10 of the HLS Statement of Case by Pegasus.
- 7.20 Chapter 4 of the HLS SoC considers the length of time the shortfall is likely to persist and finds that even based on the unrealistic trajectory of the council, a five-year supply of land will not be restored for at least 2 years.

7.21 Chapter 6 of the HLS SoC sets out the weight to be afforded to the provision of housing by other decision makers in similar contexts. Paragraph 6.4 of that report states:

“In this context, even where a greater supply than currently identified by the Council has been demonstrated to exist, the Secretary of State has consistently found that the provision of housing should be afforded significant weight where a Council is able to demonstrate a five-year land supply, or substantial weight where a Council is unable to do so. Examples include:

- *In paragraph 20 of the recovered appeal decision at 97 Barbrook Lane, Tiptree, Colchester (ref: 3223010), the Secretary of State afforded substantial weight to the provision of market and affordable homes in an LPA that could demonstrate a 4.7 year land supply;*
- *In paragraph 16 of the recovered appeal decision at Pale Lane Farm, Fleet, Hart (ref: 3204011), the Secretary of State affords the provision of open market and affordable housing significant weight notwithstanding the fact that as set out in paragraph 15, the Council were able to demonstrate a 9.2 year land supply; and*
- *In paragraph 28 of the recovered appeal decision at Land off Audlem Road/Broad Lane, Stapeley, Nantwich (ref: 2197532), the Secretary of State affords the provision of market housing in a sustainable location significant weight notwithstanding that the Council were able to demonstrate a five-year land supply of between 5.7 and 6.6 years.”*

7.22 As such, even on the basis that it was to be considered that the Council could demonstrate a 4.56 year land supply (as purported by the Council in the Officer's delegated report and its December 2020 HLS Statement), it is clear that the provision of housing arising from the application proposals should still be afforded substantial weight.

Provision of affordable housing

7.23 The appeal proposal's provision of affordable housing (40%) is also a significant material consideration that should also attract substantial weight in favour of the proposals.

7.24 As set out in the accompanying HLS SoC, in the period 2011-20, the MHCLG Live Tables identify that there have been 5,765 additional affordable dwellings provided in Wiltshire and 241 right to buy sales which provides for 5,524 net additional affordable homes, or an average of 614 per annum. In the period 2011-20, there has therefore been a shortfall of 326 affordable homes compared to the target for 650 affordable homes identified in the Core Strategy, which itself was insufficient to meet affordable housing needs even without taking account of the new definition (as demonstrated within paragraphs 7.1-7.4 of the HLS SoC.)

7.25 Similarly, in the period 2016-20, the MHCLG Live Tables identify that there have been 2,685 additional affordable dwellings provided in Wiltshire and 102 right to buy sales which provides for 2,583 net additional affordable homes, or an average of 646 per annum. In the period 2016-20, there has therefore been a shortfall of 292 affordable homes compared to the need for 719 per annum identified in the SHMA of 2017. This equates to 6 households not being provided the housing they need per month over this period.

7.26 The separate HLS SoC also makes the following observation:

“These shortfalls arise against assessments of need which do not take into account the affordable housing needs as required by the current NPPF, or in the latter case against an assessment of affordable housing need that does not accord with the Development Plan. In reality the shortfalls are likely to be far greater, but even on this basis are significant.”

7.27 The position arrived at within the accompanying HLS SoC is also consistent with the Inspector's findings in the recent appeal decision at Land South of Broad Town Primary School⁷ which states inter alia:

“Within the wider local authority area, there is a general need for affordable housing and this need has become increasingly more acute since 2016. Consequently, lack of affordable housing appears to be a long-term issue that the existing WCS spatial

⁷ Full appeal decision attached at Appendix 2 of this SoC.

strategy has not been successful in addressing and needs direct intervention to resolve.”

- 7.28 In the recent SoS decision for Oxford Brookes University, Wheatley Campus, Oxford⁸ the Inspector asserted that in the context of a lengthy housing register of 2,421 households “*It is sometimes easy to reduce arguments of housing need to a mathematical exercise, but each one of those households represents a real person or family in urgent need who have been let down by a persistent failure to deliver enough affordable houses...*”
- 7.29 He went on to state that “*Although affordable housing need is not unique to this district, that argument is of little comfort to those on the waiting list*” before concluding that “*Given the importance attached to housing delivery that meets the needs of groups with specific housing requirements and economic growth in paragraphs 59 and 80 of the Framework, **these benefits are considerations of substantial weight.***” (my emphasis)
- 7.30 In the planning balance the Inspector stated that, “***The Framework attaches great importance to housing delivery that meets the needs of groups with specific housing requirements. In that context and given the seriousness of the affordable housing shortage in South Oxfordshire, described as “acute” by the Council, the delivery of up to 500 houses, 173 of which would be affordable, has to be afforded very substantial weight.***” (my emphasis)
- 7.31 In determining the appeal, the SoS concurred with these findings, thus underlining the importance of addressing needs on the Housing Register, in the face of acute needs and persistent under delivery.
- 7.32 The social need for affordable housing is clearly an important material planning consideration and making social progress in tackling such needs is an important element of sustainable development running through the NPPF. Accordingly, it is my view that the provision of 31 affordable homes as part of the appeal proposals, particularly where there is

⁸ Full decision contained at Appendix 4 of this SoC.

a housing land supply deficit, would make a very valuable contribution towards addressing the shortfall and should attract substantial weight in the planning balance.

Provision for Self-Build Housing

- 7.33 The proposals also include the provision of 8no. self-build housing plots. It is the Appellant's position that this is a further benefit and material consideration that weighs in favour of the proposals.
- 7.34 The Self-Build and Custom Housebuilding Act 2015 (The Act) as amended places a statutory duty on Council's to keep a register of people and groups who want to construct a self-build/custom build property, and to have regard to that register when making planning decisions. The Act also states that a Council must give sufficient permissions for self-build/custom build housing to meet demand within each 'base period'. Each 'base period' is one year. Councils are provided with three years grace from the end of each 'base period' to provide the required planning permissions.
- 7.35 However, in a recent appeal decision relating to Land south of Westwells Road, Neston within the district (APP/Y3940/W/19/3243873), an Inspector found at paragraph 63 that the Council has a shortfall in planning permissions for self-build/custom build homes against its requirement for the current monitoring period. At Paragraph 64 the Inspector attributed moderate positive weight to the proposed provision of 8 self-build/custom build houses as part of the appeal scheme, in the context that the UU secured eight of the proposed houses as self-build for one year and following that they could revert to market homes.
- 7.36 Therefore, in line with the Westwells Road appeal decision, it is the Appellant's position that the provision of 8no. self-build plots should also be attributed moderate weight in the planning balance.

Ecological Benefits

- 7.37 As concluded by the Inspector when considering the previous appeal at the site, it is the Appellant's position that the ecological benefits of the scheme should attract significant weight, and that whilst there is some limited conflict with policies CP50 and PP4 of the Purton NP, these benefits are sufficient to outweigh the limited conflict with those policies.

7.38 At paragraph 33 the Inspector previously stated:

“The appeal site itself is shown to be one of the least ecologically valuable parts of the CWS and is in fact of relatively low quality, dominated by coarse grasses as opposed to more valuable species. That is not to say that it has no ecological value or that it might not be capable of supporting the species necessary to qualify as priority habitat in the future, but there is no evidence to suggest that it would at present...”

7.39 At paragraphs 44-45 the Inspector concluded:

“44. Core Policy 50 (CP50) of the CS seeks to protect and enhance biodiversity. Features of nature conservation value should be retained, buffered and managed favourably. With reference to local sites, such as the CWS, development should avoid direct and indirect impacts through sensitive site location, layout and design. Damage and disturbance are generally unacceptable, other than in exceptional circumstances. Purton Policy 4 (PP4) of the NP seeks the retention and enhancement of local sites of ecological interest wherever possible and an overall net gain in biodiversity.”

“45. The appeal proposal would result in development on part of the CWS, which even if not currently in favourable condition, could be improved and might become of more value in the future. It cannot be said that the development could not be reasonably avoided given my conclusions above in relation to the first main issue and so there is a conflict with policies CP50 and PP4. However, the proposed site location within the CWS, the design, ecological enhancement and management measures proposed would reduce impacts as far as possible and appropriate compensation measures could be secured. The ecological benefits that would arise would also, in my view, outweigh the loss of part of the CWS to development. Having regard to all of these matters, the ecology benefits attract significant weight, sufficient to outweigh the limited conflict with policies CP50 and PP4 in this case.”

Economic Benefits

7.40 It is considered that moderate positive weight should be attributed in favour of the proposals in the ‘titled planning balance’ to the economic benefits that would arise from the development.

7.41 Paragraph 80 of the NPPF mandates that ‘Significant weight should be placed on the need to support economic growth and productivity’. It is not in dispute that the proposal will provide economic benefits (in accordance with Inspector Boniface’s previous decision per paragraph 51 of the decision) and thus these benefits must be afforded significant weight.

- 7.42 The proposals will contribute to this objective by providing housing which is deliverable, and which would bring value to the local economy in the form of local construction jobs for the medium term and in the long terms through an increase in expendable income in the area.
- 7.43 In this case the Home Builders Federation Housing Calculator is a useful tool in estimating some of the key benefits building new homes can generate for the national and regional economy as well as for a local community's wellbeing and sustainability.
- 7.44 In this instance, the HBF Calculator estimates that building 79 homes could:
- Support the employment of 244 people
 - Increase open space, community sport, leisure spending by £63,689.8
 - Generate £952,187 in tax revenue, including £89,227.34 in council tax revenue
- 7.45 The economic benefits of the proposals were also acknowledged by the Inspector when determining the recent appeal and were considered to weigh in favour of the proposals.

Reduction in Commuting

- 7.46 The application site is clearly sustainably located on the edge of Swindon. The WCS indicates at paragraph 4.9 that the problem of out-commuting, to Swindon in particular, is a significant hurdle to be addressed by the WCS. Indeed, the WCS identifies that all of the settlements within Wiltshire that are in proximity to Swindon are affected by this. For example:
- Calne, a market town, suffers from a low level of self-containment, with people often travelling to Swindon for jobs and services (see para 5.38 of the WCS);
 - People in Chippenham often choose to shop in larger settlements such as Swindon, despite it having a relatively strong retail offer within the town (see para 5.44 of the WCS);
 - Marlborough is 'overshadowed by its proximity to Swindon, but is too far away to benefit from spin-off activity' (see para 5.78 bullet point 3 of the WCS);
 - Royal Wootton Bassett has a 'dormitory role to Swindon' (para 5.98 of the WCS).
- 7.47 It is therefore clear that all settlements near Swindon face this out-commuting issue. As a consequence, it is reasonable to conclude that prospective residents of the appeal proposal

will feel this same pull towards Swindon given that, in practical effect, they will live on the urban edge of Swindon.

7.48 Furthermore, as was found in the Ridgeway Farm appeal decision (ref APP/Y3940/A/11/2166277 paragraph 354):

“... although the site is in Wiltshire and it is WC that would be responsible for servicing it, it would be Swindon that would mainly benefit from the additional housing and would be where the residents could be expected to work, shop and visit for leisure activities.^[156] However, another identified benefit of the Ridgeway Farm site would be that residents would be most likely to work in Swindon and thus help to alleviate the problem of longer range commuting that is acknowledged to occur in Wiltshire.^[117]”

7.49 There is no reason why the same would not be true of those that live on the appeal site in market houses.

7.50 Accordingly, it can reasonably be deduced that the appeal proposal would help to alleviate the problem of longer ranged commuting to Swindon, which is a major concern for the WCS and thus this constitutes a benefit of the proposal.

7.51 This was also acknowledged by the Inspector in the determination of the recent appeal who concluded that this weighed in favour of the proposals at paragraph 51 of the appeal decision.

Drainage

7.52 The Inspector determining the previous appeal concluded that there would be a net gain in biodiversity and some benefit from improved drainage at paragraph 51 of the previous appeal decision at the site. This benefit therefore still applies to the current appeal proposals.

Other Material Considerations

- 7.53 As set out in the Statement of Common Ground, the following matters pertaining to the remaining material considerations of the appeal proposals have been agreed with the council:
- 7.54 It is agreed that there is no objection on archaeological grounds, subject to the imposition of a standard condition to secure a programme of archaeological work.
- 7.55 The proposals would not result in the increase of flood risk on site or elsewhere.
- 7.56 No objection is raised in terms of the appeal site's ability to accommodate the proposed quantum of development in an appropriate manner through determination of reserved matters details.
- 7.57 It is agreed that technical information provided in support of the application in respect of noise and air quality is acceptable and there is no objection to the proposals on grounds relating to noise or air quality.
- 7.58 The level of open space provided is considered to be acceptable and detailed provision could be secured through the reserved matters application and section 106 agreement.
- 7.59 The third reason for refusal can be removed subject to a s106 legal agreement being agreed between the Council and the Appellant. For this reason, the third reason for refusal does not weigh into the planning balance.

Conclusions on the Planning Balance

7.60 Overall is common ground that the appeal is to be determined in the context of the tilted balance. The benefits of the scheme can be summarised as follows:

Type of Benefit	Scale of Benefit
The provision of open market housing	Substantial
The provision of affordable housing	Substantial
Ecological benefits	Significant
The provision of self-build housing plots	Moderate
Economic Benefits	Significant
Reduction in Commuting	Limited
Drainage benefits	Limited

7.61 Balanced against those benefits is the limited harm to landscape and the moderate conflict with the development plan. Overall, it is the Appellant's position that the adverse impacts cannot be said to significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and therefore planning permission should be granted.

8. CONCLUSION AND SUMMARY

- 8.1 This Statement of Case (SoC) is submitted on behalf of Beechcroft Land Ltd., John Webb, Sally Ballard & Carole Ann Lindsey (hereafter referred to as 'The Appellant') in support of its appeal against Wiltshire Council's decision to refuse outline planning permission for the residential development of up to 79 dwellings and associated infrastructure with all matters reserved with the exception of access, (hereafter referred to as 'the proposal') at Land at Purton Road, Swindon, Wiltshire. It is proposed that 40% of the dwellings will be affordable homes and 10% (ie. 8 units) will be self-build plots. The remaining 50% will be market homes.
- 8.2 The context to this appeal is that there is a previously determined appeal for the same development of the Site from 18 months ago. However, there are a number of material considerations that justify the appeal being determined positively, namely:
- i. the scheme needs to be determined in the context of the tilted balance;
 - ii. the provisions of Paragraph 14 of the NPPF no longer apply to the determination of this appeal;
 - iii. the Council's housing supply position has remained below 5 years for over 18 months (and it has actually worsened during this period) and has been recognised by other inspectors as being 'persistent' (paragraph 21 of the Broad Town appeal decision appeal reference: APP/Y3940/W/20/3249284);
 - iv. the only tangible planning harms identified that are site specific are the landscape harm arising from the creation of an access, for which the parties all agree is a limited and localised harm (in accordance with Inspector Boniface's decision at paragraph 50);
 - v. there are significant benefits, including the provision of housing, economic benefits (which must be given significant weight per paragraph 80 NPPF) and ecological benefits;
 - vi. the proposal will provide self-build plots, in the context that the Council has failed in its statutory duty to provide sufficient planning permissions to meet its self-build requirement (see Inspector Woodward's decision in the Westwells appeal paragraphs 62 – 64 appeal reference: APP/Y3940/W/19/3243873);
 - vii. the Site sits on the edge of Swindon - the Wiltshire Core Strategy acknowledges that the level of out-commuting to Swindon is one of the key challenges for the

development plan and thus the proposal will reduce out-commuting to Swindon as well as provide housing for a neighbouring authority who also lack a 5 year housing land supply.

- 8.3 Overall, it has been demonstrated that the landscape harm and conflict with the development plan do not significantly and demonstrably outweigh the benefits in the context of the tilted planning balance.
- 8.4 Accordingly, the Appellant respectfully invites the Inspector to allow this appeal.

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