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Appellant's Statement of Case

Land South of Burford Road, Minster Lovell

Appeal by Catesby Strategic Land Limited against the refusal of application 22/03240/OUT by West Oxfordshire District Council for:

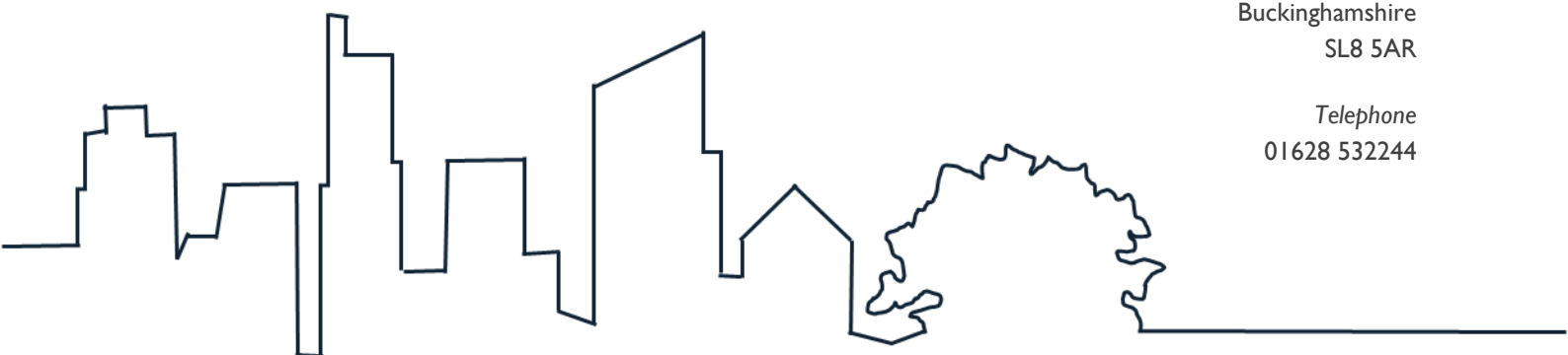
'Outline planning permission for the development of up to 134 dwellings (Use Class C3) including means of access into the site (not internal roads) and associated highway works, with all other matters (relating to appearance, landscaping, scale and layout) reserved'

OCTOBER 2023

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CONTENTS

1	INTRODUCTION.....	1
2	THE APPEAL SITE AND SURROUNDING AREA.....	4
3	APPLICATION DETERMINATION AND PLANNING HISTORY.....	6
4	THE APPEAL PROPOSAL	10
5	DEVELOPMENT PLAN POLICY AND MATERIAL CONSIDERATIONS.....	12
6	THE APPELLANT’S CASE.....	17
7	THIRD PARTY REPRESENTATIONS	28
8	PLANNING OBLIGATIONS AND CONDITIONS	29
9	PROCEDURE AND WITNESSES.....	31
10	CONCLUSION	33

APPENDICES

- Appendix 1 – Notification of Intention to Appeal Letter and Form dated 19th September 2023
Appendix 2 – Consultation response from Stagecoach West dated 15th December 2022
Appendix 3 – Decision Notice dated 21st July 2023
Appendix 4 – Committee Report dated 17th July 2023

I INTRODUCTION

- I.1 This Statement of Case has been prepared on behalf of Catesby Strategic Land Limited (hereinafter referred to as 'the Appellant') in respect of Land South of Burford Road, Minster Lovell ('the Appeal Site').
- I.2 This Statement is submitted in support of a planning Appeal, under Section 78 of the Town and Country Planning Act 1990, against West Oxfordshire District Council's ('WODC') refusal of outline planning permission under application reference 22/03240/OUT.
- I.3 This Statement has been prepared by the Appellant's consultant team, responding to the reasons for refusal and in turn covering matters of planning, landscape, transport, affordable housing need and housing land supply.
- I.4 The outline application was submitted on the 21st November 2022. Further details on the application process are detailed within Section 3 of this Statement.
- I.5 The description of development as submitted was as follows:
- 'Outline planning permission for the development of up to 140 dwellings (Use Class C3) including means of access into the site (not internal roads) and associated highway works, with all other matters (relating to appearance, landscaping, scale and layout) reserved'*
- I.6 Following discussions with the Case Officer, amended plans were submitted and the description of development was amended to the following:
- 'Outline planning permission for the development of up to 134 dwellings (Use Class C3) including means of access into the site (not internal roads) and associated highway works, with all other matters (relating to appearance, landscaping, scale and layout) reserved (amended description) (amended plans)'*
- I.7 The application was then reported to Planning Committee on the 30th May 2023, with an Officer recommendation for approval subject to the completion of a Legal Agreement. After discussions between Members, the application was deferred for a site visit and returned to Planning Committee on the 17th July. The Committee subsequently resolved to refuse planning permission, contrary to the Officer's recommendation.
- I.8 The Decision Notice was issued on the 21st July 2023, and the application was refused for the following reasons:

1. *The proposal does not respect the village character and local distinctiveness as it extends the existing C20 development, which further delineates the historic from the modern. Cumulatively, it is not limited development. It would not protect the local landscape or setting of Minster Lovell. It would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area and the scheme causes localised landscape harm by urbanising a greenfield site. In addition, the site is divorced from key services and facilities on offer in Minster Lovell with future residents reliant on private vehicles to meet their daily needs. While the development would provide up to 134 dwellings to include 40% affordable homes and 5% self-build plots; economic benefits, a children's play area, open space/recreational route, pedestrian and cycle links, biodiversity net gain, and sustainability measures. The adverse impacts identified would significantly and demonstrably outweigh the benefits. As such, the proposal is considered to be unsustainable development and is contrary to policies H2, OS2, OS4, T1, T3 and EH2 of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, and the relevant paragraphs of the National Planning Policy Framework.*
2. *The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing, self build plots, biodiversity net gain or signposting to the Local Wildlife Site; or contributions to education, waste, public transport, sport and leisure, medical facilities, Village Hall, or children's play area. The proposal conflicts with West Oxfordshire Local Plan 2031 Policies OS5, H3, H5, T1, T3, EH3, EH4, and EH5; and the relevant paragraphs of the National Planning Policy Framework.*

- 1.9 Walsingham Planning submitted a 'Notification of Intention to Submit an Appeal' to WODC and The Planning Inspectorate on 19th September 2023. A copy of this notification is contained at Appendix I.
- 1.10 The Appellant has requested this planning Appeal progresses by way of a Public Inquiry for the reasons identified subsequently within this Statement, where written justification is provided for this choice of procedure.
- 1.11 The Appellant has prepared a draft Statement of Common Ground (SoCG) which has been provided to WODC for their consideration and comment. It is the intention that the contents of this draft SoCG will be discussed with WODC and other relevant parties to agree common ground relevant to the Appeal, prior to the Public Inquiry. This will include proposed planning conditions should the Appeal be allowed.

- I.12 The Appellant also intends to prepare and submit a legal agreement covering planning obligations, in discussion with WODC and Oxfordshire County Council, prior to the Public Inquiry.

2 THE APPEAL SITE AND SURROUNDING AREA

- 2.1 The Appellant intends to reach common ground with WODC in relation to the character and setting of the Appeal site and the surrounding area.

Appeal Site

- 2.2 The Appeal site is a greenfield site, measuring 8.54ha, location to the south of Burford Road (B4047), on the western edge of the village of Minster Lovell. The existing site comprises agricultural fields, marked with hedgerows along all boundaries, and a number of mature trees along the northern boundary of the site. The extent of the site is detailed on the Location Plan Ref. 16b, submitted as part of the outline planning application.
- 2.3 The Appeal site is not subject to any ecological or landscape designations. The Cotswolds National Landscape (formerly the Cotswolds Area of Outstanding Natural Beauty (AONB) is located to the north, on the opposite side of Burford Road.
- 2.4 There are no Tree Preservation Orders affecting the site and there are no Public Rights of Way within the Site.
- 2.5 The Appeal site is situated within Flood Zone 1 and is therefore at the lowest risk of fluvial flooding. The site is also at a very low risk of surface water flooding.
- 2.6 The Appeal site does not contain any listed buildings, is not within or the setting of a Conservation Area or Scheduled Monument, nor are there any within 200m of the site.

The agricultural land classification of the entirety of the Appeal site is recorded as Subgrade 3b and therefore not 'Best and Most Versatile' (BMV) agricultural land.

Surrounding Area

- 2.7 The adopted West Oxfordshire Local plan identifies Minster Lovell as a 'village' within the settlement hierarchy. It is a sustainable settlement, located close to Witney (approximately 4km west), which is a 'main service centre'.
- 2.8 According to the 2021 census, the Parish of Minster Lovell had a population of 1,436 people. The village offers a range of services and facilities, including two pubs, a post office, convenience store, florist, hairdressers, village hall and primary school, amongst others.

- 2.9 There is a bus service that runs through the village, providing frequent bus services, providing regular access to Gloucester, Cheltenham and Oxford, as well as Witney, Burford, Woodstock and Long Hanborough. The nearest bus stop to the site is located on Burford Road, immediately to the west of the site boundary.
- 2.10 The site lies immediately to the west of the allocated site WIT4 (within the adopted Local Plan), which was granted consent for 126 dwellings and has now been completed by Bloor Homes.

3 APPLICATION DETERMINATION AND PLANNING HISTORY

Relevant Planning History

3.1 Prior to the submission of the outline application, there was no relevant planning history relating to the Appeal site, however adjacent, to the east of the Appeal site, are the following relevant planning applications:

- Application 16/02588/OUT – Residential development of up to 85 dwellings together with a new vehicular access onto Burford Road (B4047), footpath links, areas of public open space, children’s play area, landscaping and land for potential burial ground (means of access only) – Approved 8th May 2018
- Application 17/01859/OUT – Residential development of up to 126 dwellings together with a new vehicular access onto Burford Road (B4047), footpath links, areas of public open space and landscaping – Approved 29th August 2018
- Application 18/03473/RES – Residential development of 126 dwellings together with a new vehicular access onto Burford Road (B4047), footpath links, areas of public open space and landscaping (Matters seeking approval are appearance, landscaping, layout and scale pursuant to 17/01859/OUT) – Approved 7th June 2019

3.2 This development has now been completed by Bloor Homes.

Pre-application Submission

3.3 A pre-application advice request was submitted in September 2022 (22/02461/PREAPP) for a residential development of up to 140 dwellings. A written response was received from WODC on the 9th November 2022.

Screening Opinion

3.4 An EIA Screening Opinion (ref. 22/03089/SCREEN) for a residential development of up to 140 dwellings was submitted to WODC on 7th November 2022. WODC responded on the 20th December 2022 confirming that the proposal was not considered to constitute EIA development.

Public Consultation

- 3.5 The Appellant undertook a public consultation for the proposals in October 2022 and also met with the Parish Council. Leaflets were circulated to local residents and a website was created to provide further information and to allow feedback on draft proposals. A Statement of Community Involvement was submitted with the application that sets out the outcomes of this consultation.

Outline Planning Application 22/03240/OUT

- 3.6 This following section sets out the planning application process chronologically, for outline application 22/03240/OUT, that is the subject of this Appeal.

- 3.7 The outline planning application was submitted to WODC via the Planning Portal on the 17th November 2022, with the following description of development:

'Outline planning permission for the development of up to 140 dwellings (Use Class C3) including means of access into the site (not internal roads) and associated highway works, with all other matters (relating to appearance, landscaping, scale and layout) reserved.

- 3.8 An acknowledgment letter was received from WODC on the 22nd November, which confirmed receipt of the application, stating it was waiting to be validated. The application was assigned reference 22/03240/OUT.
- 3.9 A letter was subsequently received from WODC on 2nd December confirming the application as valid. This letter stated incorrect details relating to when the application was received and the determination date, and therefore an amended letter was issued by WODC on the same day, confirming the determination date to be 21st February 2023.
- 3.10 Additional information relating to Air Quality was submitted to WODC on 26th January 2023, which provided additional information sought by the Council's Air Quality Officer, and overcame the issues raised.
- 3.11 Additional information in the form of a Transport Note, which responded to points raised within an objection from Oxfordshire County Council Highway's was submitted to WODC on 1st February 2023. This information overcame the Highways Authority Objections.
- 3.12 Additional information in the form of an updated Built Heritage and Archaeological Assessment was submitted on 10th February 2023.

- 3.13 Amended plans which reduced the size of the application site were submitted on the 13th February 2023. These included amended Site Location Plan ref. 16b, Framework Plan ref. P02 Rev F and Illustrative Masterplan ref. P03 Rev F and an updated description of development agreed to:
- ‘Outline planning permission for the development of up to 134 dwellings (Use Class C3) including means of access into the site (not internal roads) and associated highways works, with all other matters (relating to appearance, landscaping, scale and layout) reserved.’*
- 3.14 Additional information in the form of an amended Biodiversity Metric, Baseline Habitat Plan reference RSE_4967c_BIAB_0123_V2R1, and Proposed Habitat Plan, reference RSE_4967c_BIAP_0123_V2R1 were submitted on 17th February 2023 to update the reflected application site boundary.
- 3.15 Additional information in the form a letter responding to comments and an objection from the LLFA was submitted to WODC on 28th February 2023. This information subsequently overcame their objections.
- 3.16 Additional information in the form of an updated Landscape Strategy Plan, reference edp7754_d011b, which reflects the revised application site boundary and in response to comments from WODC’s Landscape Officer was submitted on 24th March 2023.
- 3.17 Additional information in the form of an email to the Case Officer responding to queries raised from WODC’s Ecologist was sent on 11th April 2023. This overcame the concerns raised and the ecologist confirmed they had no objections subject to conditions.
- 3.18 Additional information in the form of a revised Sustainability Statement proposing an increased sustainability specification for the proposed homes (meeting the requirements of the 2025 Future Homes Standard before they come into force – i.e., delivering homes which achieve a 75% carbon reduction and are Net Zero Ready) was submitted to WODC on the 18th April 2023.
- 3.19 Additional information in the form of an Interim Archaeological Evaluation Report was submitted to WODC on the 2nd May 2023. The Final Archaeological Evaluation Report was submitted on 10th May 2023. Oxfordshire County Council’s Archaeologist subsequently removed their objection, subject to the inclusion of conditions.

- 3.20 The application was reported to Planning Committee on 30th May 2023, with an Officer recommendation for approval. The application was subsequently deferred for a site visit, and due to return to Planning Committee on 19th June 2023.
- 3.21 Due to a late objection from the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) received on 8th June 2023, consideration of the application was withdrawn from Planning Committee on 29th June, however a member's site visit still took place on 19th June 2023. Only two members of planning committee attended the site visit.
- 3.22 Additional information in the form of a rebuttal to the objection from BBOWT was submitted to WODC on 20th June 2023.
- 3.23 The application was reporting to Planning Committee on the 17th July 2023, where members voted to refuse permission, contrary to the Officer's recommendation.
- 3.24 A formal Decision Notice was issued on 21st July 2023, and states two reasons for refusal, which are outlined within Section I of this Statement.

4 THE APPEAL PROPOSAL

- 4.1 It is intended to seek common ground with WODC in respect of the description of the Appeal Proposal.
- 4.2 The Proposal comprises residential development of up to 134 dwellings, and a means of vehicular and pedestrian access off Burford Road.
- 4.3 Details of appearance, landscaping, scale and layout were reserved for future consideration, and therefore all matters are reserved other than access.
- 4.4 The following plans were submitted with the application:
- 16a – Site Location Plan
 - P02 Rev E - Framework Plan
 - P03 Rev D – Illustrative Masterplan
 - 23178-02-2 Rev A - Proposed Footway
 - 23178-02-1 Rev A - Proposed Site Access
- 4.5 During the determination of the application, revised plans were submitted to WODC, references Site Location Plan ref. 16b, Framework Plan ref. P02 Rev F and Illustrative Masterplan ref. P03 Rev F. These were to account for a reduction in the size of the application site to the south-east.
- 4.6 The Framework Plan and Illustrative Masterplan demonstrate how up to 134 dwellings could be accommodated on the site, along with proposed landscaping, attenuation features, public open space and play space.

Access Arrangements

- 4.7 The details of access were submitted for determination as part of the outline planning application. The site will be accessed via a priority junction off Burford Road (B4047), in the form of a 5.5m wide access road, with 8m entry/exist radii (as demonstrated on drawing reference 23178-02-1 Rev A Proposed Site Access).

- 4.8 It is also proposed that the exiting 40mph speed limit to the east of the site is extended south-west along Burford Road, so that it extends along the site frontage. A 3m wide cycle/footway is proposed along the south side of Burford Road, to link the development into the village (as shown on drawing reference 23178-02-2 Rev A Proposed Footway).
- 4.9 An additional Transport Note was submitted on 1st February 2023 following an objection from Oxfordshire County Council Highways. Clarification was provided on a number of points, including access arrangements, sustainable transport connectivity, and traffic impact and an updated Travel Plan was included. Oxfordshire County Council as Highways Authority were satisfied with the contents of this, and subsequently confirmed they removed their objection by email on 16th February 2023.

Core Documents

- 4.10 Supporting documents have been submitted as part of this Appeal. A Core Document List will be prepared and updated as the Appeal progresses.

5 DEVELOPMENT PLAN POLICY AND MATERIAL CONSIDERATIONS

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “*if regard is to be had to the development plan for the purposes 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 The adopted statutory Development Plan comprises the West Oxfordshire Local Plan 2031, which was adopted in September 2018.
- 5.3 There is no adopted or emerging Neighbourhood Plan for Minster Lovell.
- 5.4 Material considerations also include national policy, primarily the National Planning Policy Framework (NPPF) and National Planning Policy Guidance, alongside other additional guidance in the form of Supplementary Planning Documents (SPDs) that are set out below.

Emerging Local Plans

- 5.5 In August 2022, it was announced that the preparation The Oxfordshire Plan 2050 was to be abandoned, given the five LPA's could not reach an agreement on the approach to future housing needs. As such, Local Plans will now provide the framework for the future planning of Oxfordshire.
- 5.6 West Oxfordshire is therefore preparing a new Local Plan covering the period up to 2041.
- 5.7 An initial scoping consultation (Reg 18) was undertaken between August and October 2022. This sought views on what main topics the new Local Plan should cover. The next step is a focused consultation on draft plan objectives, spatial strategy options, alongside a call for sites (reg 18), which is currently live, and closes on the 25th October 2023. A further consultation on preferred policy options/approach (Reg 18) is due to take place in winter 2023.
- 5.8 The Local Development Scheme for West Oxfordshire (dated April 2022) states that the Council should be in a position to publish the formal Regulation 19 pre-submission draft version of its new Local Plan in June 2024, with a view to submitting it for Examination in November 2024, and anticipated for adoption in 2025.

The Development Plan

5.9 It is the intention of the Appellant to seek to reach common ground with WODC in respect of the specific development plan policies relevant to the determination of the application. The Officer's Report also highlights and identifies the key policies of relevance as being:

- OS1 Presumption in favour of sustainable development
- OS2 Locating development in the right places
- OS3 Prudent use of natural resources
- OS4 High quality design
- OS5 Supporting infrastructure
- H1 Amount and distribution of housing
- H2 Delivery of new homes
- H3 Affordable Housing
- H4 Type and mix of new homes
- H5 Custom and self build housing
- H6 Existing housing
- T1 Sustainable transport
- T2 Highway improvement schemes
- T3 Public transport, walking and cycling
- T4 Parking provision
- EH1 Cotswolds AONB
- EH2 Landscape character
- EH3 Biodiversity and Geodiversity

- EH4 Public realm and green infrastructure
- EH5 Sport, recreation and childrens play
- EH7 Flood risk
- EH8 Environmental protection
- EH9 Historic environment
- EH11 Listed Buildings
- EH12 Traditional Buildings
- EH13 Historic landscape character
- EH14 Registered historic parks and gardens
- EH15 Scheduled ancient monuments
- EH16 Non designated heritage assets
- WIT6 Witney sub-area strategy
- WIT4 Land west of Minster Lovell

Local Plan Review

- 5.10 The West Oxfordshire Local Plan 2031 became 5 years old on 27th September 2023, and as such, WODC have undertaken a Regulation 10a review of the Plan. This review was approved by Members on 11th October 2023.
- 5.11 This review confirms that whilst many of the Local Plan Policies remain generally consistent with the current national policy, the vast majority would benefit from being updated, including its strategic housing policies. As a result, for the purposes of paragraph 74 of the NPPF and footnote 39, the Council's five year housing land supply will now be considered against West Oxfordshire's Local Housing Need, calculated by using the Government's standard method requirement.

- 5.12 The Council has not yet prepared an updated housing land position statement reflecting their position against the standard method requirement, but state that it is anticipated that this will be published in October 2023.

Material Considerations

- 5.13 A number of material considerations are also relevant to this Appeal. The main documents include, but are not limited to:

National Planning Policy Framework (NPPF) (September 2023)

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision Making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 6 – Building a strong, competitive economy
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Other documents and legislation

- West Oxfordshire Design Guide (adopted April 2016)
- WODC Affordable Housing SPD (adopted October 2021)
- WODC Developer Contributions SPD (adopted July 2023)
- Planning Practice Guidance

- 5.14 The above list is not exhaustive and the Appellant will seeks to reach agreement with WODC regarding key material considerations and a Core Documents List.

6 THE APPELLANT'S CASE

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that development proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.

6.2 Through evidence, the Appellant will set out why planning permission should be granted on the basis that:

- The proposals accord with the Development Plan, when read as a whole;
- The proposals accord with the National Planning Policy Framework, which is a material consideration;
- WODC is unable to demonstrate a 5 year housing land supply, which engages the tilted balance;
- With regard to Paragraph 11 of the NPPF, there is no reason for this to be disengaged;
- The impacts alleged by WODC will not significantly and demonstrably outweigh the benefits of the proposal;
- The overall planning balance weighs in favour of granting planning permission, subject to conditions and obligations.

6.3 The Appellant contests WODC's reasons for refusal on the following grounds:

Reason for Refusal 1:

'The proposal does not respect the village character and local distinctiveness as it extends the existing C20 development, which further delineates the historic from the modern. Cumulatively, it is not limited development. It would not protect the local landscape or setting of Minster Lovell. It would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area and the scheme causes localised landscape harm by urbanising a greenfield site. In addition, the site is divorced from key services and facilities on offer in Minster Lovell with future residents reliant on private vehicles to meet their daily needs. While the development would provide up to 134 dwellings to include 40% affordable homes and 5% self-build plots; economic benefits, a children's play area, open space/recreational

route, pedestrian and cycle links, biodiversity net gain, and sustainability measures. The adverse impacts identified would significantly and demonstrably outweigh the benefits. As such, the proposal is considered to be unsustainable development and is contrary to policies H2, OS2, OS4, T1, T3 and EH2 of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, and the relevant paragraphs of the National Planning Policy Framework.'

- 6.4 This reason for refusal has a number of separate components which are considered in turn below.

Limited Development

- 6.5 With regards to the scale of the development, it will be demonstrated that the provision of 134 dwellings is proportionate to the settlement of Minster Lovell, and that the village is capable of supporting the proposed development.

Character, Landscape and Visual Impact

- 6.6 The first Reason for Refusal states that *'the proposal does not reflect the village character and local distinctiveness as it extends the existing C20 development, which further delineates the historic from the modern. Cumulatively, it is not limited development. It would not protect the local landscape setting of Minster Lovell. It would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area and the scheme causes localised landscape harm by urbanising a greenfield site'*.
- 6.7 A landscape and visual appraisal (LVA) was submitted with the application, and to date there has been no criticism of this report or its findings. The LVA provides both a summary of the process by which landscape and visual matters have been used to inform the design of the appeal proposals from the outset, whilst also providing an analysis of the likely landscape and visual effects of the appeal proposals on the baseline landscape and visual resource. This includes local landscape and visual receptors and the Cotswolds National Landscape CNL (formerly the Cotswolds Area of Outstanding Natural Beauty (AONB)).
- 6.8 The Appellant will demonstrate that the Appeal proposals are, or can be made, acceptable for the following reasons:

- In terms of landscape value, the site lies within an undesignated parcel of land, adjacent to existing development comprising the evolving edge of Minster Lovell, and adjacent to Burford Road.
- The Appeal Proposals would retain existing features on the site boundaries and enhance these as part of the proposals. This is particularly so for the northern boundary, which along with the vegetation along the northern side of Burford Road, provides a visual screen to the CNL.
- The existing vegetation patterns, which are characteristic of the area, would be retained and enhanced. These features give structure to the local landscape and form natural boundaries from a landscape and visual perspective. Additional tree and shrub planting would increase vegetation cover within and adjacent to the site, and provide additional green infrastructure links across the Site, to the benefit of new and existing residents and biodiversity.
- Whilst there would be some visual change, it is not considered that any specific views valued highly by the general public essential to the appreciation of the area would be unduly harmed by the Appeal proposals. In addition, the site would be viewed as an extension to the existing settlement, as emphasised by the retained boundary features and the proposed development's juxtaposition with other local features and development.
- The northern boundary of the development coincides with a minor ridge along the Windrush Valley, although visibility to the north would be largely screened by vegetation. Views to the south are foreshortened by the open plateau landscape.
- While the proposed development would affect the site wide character through the (unavoidable) loss of agricultural land, the effect on wider landscape character – including the CNL and its setting – would be localised and at a limited level.
- Given the extent and magnitude of the predicted effects, the scale and extent of the Proposed Development as an extension to the existing built-up area of Minster Lovell, would not unacceptably impact the village setting or character.

6.9 The overall conclusions of the original LVA summarise that the partial loss of agricultural land, when considered in the local context, would not constitute an unacceptable impact on the local landscape fabric or character. As such, there are no reasons why the change of use of

land should be found to be so harmful as to be unacceptable in terms of the effects on the landscape character and visual amenity.

- 6.10 In terms of relevant policies, Policy EH2 is clear in stating that *“New development should conserve and, where possible, enhance the intrinsic character, quality and distinctive natural and man-made features of the local landscape, including individual groups of features and their settings, such as stone walls, trees, hedges, woodlands, rivers, streams and ponds”*. Policy EH2 must be considered in the context that any new development upon a green field site will change the underlying landscape given the change of use (and therefore result in some impact). The policy is clearly worded with acknowledgement that development can occur, and still achieve the desired policy aims.
- 6.11 The Appellant will provide landscape evidence as part of the Inquiry to demonstrate this position.
- 6.12 With regards to Built Heritage, the Built Heritage and Archaeological Assessment submitted with the application concluded that no harm would occur to the heritage significance of the Listed buildings of the chartist settlement of Charterville through changes in setting.
- 6.13 The Officer’s committee report states that no comments were received from the Design and Consultation Officer. Despite this, the committee report stated *‘modest harm is attributed to the impact to Minster Lovell as a non-designated heritage asset’* and found *‘modest conflict with Local Plan Policy EH16 and the NPPF insofar as they apply to the impact to Minster Lovell as a non-designated heritage asset.’*
- 6.14 However, matters relating to Built Heritage did not form the basis of a Reason for Refusal, and the Decision Notice did not make mention of conflict with Policy EH16.
- 6.15 The Appellant seeks to confirm that no harm would occur to the heritage significance of the Listed buildings of Charterville, that no harm would occur to the Chartist settlement as a whole if considered to be a non-designated heritage asset, and that there would be no conflict with Local Plan Policy EH16 nor policies of the NPPF relating to heritage.

Sustainability of the Site

- 6.16 The first Reason for Refusal states that *‘the site is divorced from key services and facilities on offer in Minster Lovell with future residents reliant on private vehicles to meet their daily needs’*.

- 6.17 A full Transport Assessment and Residential Travel Plan were submitted in support of the application. A transport note was submitted in response to comments received from Oxfordshire County Council as Local Highway Authority that responded to initial concerns about sustainable transport. This resulted in OCC removing their objection to the application which was confirmed directly with the County's Area Liaison Officer by email on the 16th February 2023.
- 6.18 A consultation response was received from the local bus operator Stagecoach West (enclosed at Appendix 2) that confirmed future residents would have a 30min to hourly service within reasonable walking distance of the site. Stagecoach went on to state that in their opinion cycling to local employment was a credible option, with the Downs Road local employment area being closer to the site than the North and East Witney strategic allocations.
- 6.19 The submitted transport work provided an assessment of access to facilities and concluded that with the provision of a new footway/ cycleway and new bus stops the site is in an accessible location that would offer realistic travel choice for future residents to that of the private motor vehicle.
- 6.20 The provision of formalised bus stops at White Hall Cottages (as agreed with County Highways) would provide access to an hourly bus service for future residents within 500m of the furthest property as shown on the illustrative masterplan. A half hourly bus service would be accessible from the White Hart at the Brize Norton/ Burford Road junction which is 1.2km from the furthest property, which is a c15 min walk.
- 6.21 St Kenelm's Primary School is c800m from the furthest property via the recently completed footpath across the open space onto Ripley Avenue.
- 6.22 The Post Office and Local Stores is also 800m from the furthest property via the same link and Cotswold Close.
- 6.23 The Appellant will demonstrate that the site is not *"divorced from key services and facilities on offer in Minster Lovell"* and future residents would not be *"reliant on private vehicles to meet their daily needs"*.
- 6.24 Policy T1 states that *"priority will be given to locating new development in areas with convenient access to a good range of services and facilities and where the need to travel by private car can be minimised, due to opportunities for walking, cycling and the use of public transport"* with policy T3 stating that *"All new development will be located and designed to maximise opportunities for walking,*

cycling and the use of public transport. here opportunities for walking, cycling and using public transport are more limited, other measures will be sought to help reduce car use as appropriate (e.g. measures to promote home working or the opportunity for linked trips e.g. through mixed-use development). New development will be expected to contribute towards the provision of new and/or enhanced public transport, walking and cycling infrastructure to help encourage modal shift and promote healthier lifestyles with particular regard to be given to safe and convenient routes to school”.

- 6.25 The Appellant will demonstrate that the proposals meet the policy tests of T1 and T3 of the West Oxfordshire Local Plan 2031 as well as those set out in the NPPF regarding accessibility and residual impact of development. It will be demonstrated that the primary school, local stores and recreation area as set out above are within the 20 minute walking round trip as referenced in the committee report.
- 6.26 The Appellant will provide evidence relating to sustainable transport as part of the Inquiry to demonstrate this position.

Reason for Refusal 2:

‘The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing, self build plots, biodiversity net gain or signposting to the Local Wildlife Site; or contributions to education, waste, public transport, sport and leisure, medical facilities, Village Hall, or children's play area. The proposal conflicts with West Oxfordshire Local Plan 2031 Policies OS5, H3, H5, T1, T3, EH3, EH4, and EH5; and the relevant paragraphs of the National Planning Policy Framework.’

- 6.27 The Appellant considers that this reason for refusal is capable of being resolved through discussions on common ground and through the preparation of a planning obligation.
- 6.28 The Appellant had no objections in principle to the contributions requested by Oxfordshire County Council and WODC during the application process, subject to the reduction in the application site and number of units being taken into consideration.
- 6.29 The Appellant will enter into discussions regarding the contributions requested by the Parish Council prior to the inquiry.

Other material considerations

Housing Delivery and Housing Land Supply

The Housing Requirement in West Oxfordshire and the Progression of Local Plan Strategic Allocations

- 6.30 Policy H1 of the Local Plan, 'Amount and distribution of housing', sets out that provision will be made for at least 15,950 homes in the period 2011 – 2031.
- 6.31 In order to deliver this housing requirement, the plan identifies a Strategic Location for Growth north of Eynsham to deliver a new 'Oxfordshire Cotswold Garden Village', 4 larger housing allocations referred to as 'Strategic Development Areas' and 11 smaller, 'non-strategic' housing sites.
- 6.32 However, the Appellant will show that Strategic Development Location and Strategic Development Allocations are not progressing in accordance with the assumed trajectory in the Local Plan, and many are significantly behind in terms of their expected delivery or progress. Given the planning status of applications (if any) across all the Strategic Development Allocations sites, the Appellant will show that there will be substantial delays with the delivery of homes with the expectation that there will be a significant shortfall against the Local Plan minimum housing requirement at the end of the Plan period (2031).
- 6.33 The Appellant will show that the Council's housing delivery strategy has failed and there is a need to permit more sites that will deliver homes now, in order to address both shortfalls in the Council's five-year housing land supply and to also address the significant shortfalls in housing delivery that will occur at the end of the plan period.

The Council's Five Year Housing Land Supply

- 6.34 Currently, WODC accepts that it is unable to demonstrate a sufficient housing land supply. The Council's latest November 2022 position statement claims that it can demonstrate only a 4.1 year supply (a shortfall of 1,008 homes).
- 6.35 However, the Appellant will show that there have been a number of Appeals that have considered the Council's housing land supply, since its November position statement that have confirmed that the Council's supply is considerably lower than claimed.
- 6.36 In the Land West of Wroslyn Road, Freeland Appeal¹ (issued in January 2023), the Inspector found the supply to be closer to the lower end (Appellant's) figure of 2.5 years rather than the Council's upper end figure of 4.1 years.

¹ Appeal reference APP/D3125/W/22/3301202 (to be included in core document list)

- 6.37 In the Land North of Cote Road, Aston Appeal ² (decision issued in July 2023), the Council signed a Statement of Common Ground confirming that the Council's Housing Land Supply falls between 2.7 years and 3.14 years (a shortfall of between 1,987 homes and 2,640 homes) and agreed that this shortfall should be considered serious and significant.
- 6.38 However, the Local Plan turned 5 years old in September 2023. The Council took a report to its Executive on the 11th October 2023 with a Regulation 10A Review of the Plan, which Members subsequently approved. The Review confirms that the Council considers that its strategic housing policies require updating. As a result, for the purposes of paragraph 74 of the NPPF and footnote 39, the Council's five-year housing land supply should now be considered against West Oxfordshire's Local Housing Need, calculated by using the Government's standard method requirement.
- 6.39 The Council has not prepared any updated housing land supply position using that requirement although the same Executive Report confirms that it intends to do so in October 2023. It is not clear if the Council intends to also update its five-year housing land supply position based on a 1st April 2023 base date (as opposed to the current 1st April 2022 base date), and it is also not clear if the Council now intends to claim that it is able to demonstrate a sufficient housing land supply.
- 6.40 At the current time, the Council's position is that it is unable to demonstrate a sufficient supply, and recent Appeals have found that the supply is considerably lower than the 4.1 years the Council claims in its November 2022 Position Statement.
- 6.41 The Appellant will consider any updated Housing Land Supply Position Statement that may be produced ahead of the Inquiry and produce evidence as required on the Council's claimed deliverable supply, any reductions it considers should be made, and the resultant overall five year housing land supply position. The Appellant will also set out the implications for decision taking as a result of any shortfalls in housing land supply.

Affordable Housing

- 6.42 The Appeal proposals seek permission for up to 134 dwellings, of which 40% are proposed as affordable which equates to a total of 54 affordable homes. This level of provision complies with the expectations of policy H3 of the adopted Local Plan. The tenure split of the affordable housing offer comprises 66% affordable housing for rent (up to 36 dwellings); 25% First Homes

² Appeal reference APP/D3125/W/23/3317512 (to be included in core document list)

(up to 13 dwellings) and 9% shared ownership (up to 5 dwellings) which will be secured through a Section 106 agreement.

6.43 The Appellant will provide evidence on the wider national housing crisis and the effects that arise from a failure to deliver enough affordable homes to meet needs. When looking at the local level, evidence will be presented to look at the corporate policies and priorities of West Oxfordshire District Council, including the following documents:

- West Oxfordshire Local Plan (adopted 2018);
- Emerging Local Plan Review;
- Affordable Housing Supplementary Planning Document (adopted 2021);
- West Oxfordshire Preventing Homelessness Strategy 2018 to 2023; and
- West Oxfordshire Council Plan 2023 to 2027.

6.44 Evidence on the annual ongoing need for affordable housing need will be presented, considering the evidence contained in the Oxfordshire Strategic Housing Market Assessment 2014, the Oxfordshire Growth Needs Assessment 2021, and the Housing and Economic Needs Assessment 2022.

6.45 Evidence will also be presented on past and future market and affordable housing delivery and comparisons will be made with the identified affordable housing needs against delivery performance.

6.46 The Appellant will consider a number of affordability indicators in West Oxfordshire and in the Minster Lovell local area; for example, the number of households on the West Oxfordshire Housing Register. In their comments dated 20 December 2022, the Strategic Housing and Development Officer confirmed there were 154 applicants on the Housing Register with a local preference for Minster Lovell and a further 2,175 applicants on the register overall. The evidence will explore other affordability indicators which include:

- Waiting times and average numbers of bids through the Council's HomeseekerPlus system;
- House Prices;
- Affordability Ratios; and

- Private Rents.

6.47 Evidence will be presented looking at other material considerations such as Secretary of State and Inspectors' decisions including other recent decisions in West Oxfordshire.

6.48 The Appellant will conclude that there is an acute need for more affordable housing in West Oxfordshire and the benefit of 40% affordable housing weighs heavily in favour of the appeal.

Conflict with adopted Development Plan Policies

6.49 The first Reason for Refusal outlines WODC's position that the proposed development would conflict with Local Plan Policies. As set out below, it is envisaged that agreement can be reached regarding the second Reason for Refusal, relating to a legal agreement.

6.50 The policies cited within the first reason for refusal relate to the principle of development, landscape impacts and the sustainability of the site and public transport, including policies H2, OS2, OS4, T1, T3 and EH2 of the West Oxfordshire Local Plan 2031. The Appellant will demonstrate how these policies are either out of date, or how the development proposals comply with these.

6.51 As such, the Appellant will demonstrate how the development proposals comply with the adopted Development Plan as a whole.

Planning Balance

6.52 As outlined above, the Appellant will explain and demonstrate that the development proposals comply with the Development Plan.

6.53 However, the Appellant's position is that given WODC are unable to demonstrate a five years' worth of housing land supply, the presumption in favour of sustainable development as set out in Local Plan Policy OSI and paragraph 11d of the NPPF is relevant. This sets out that where policies are out of date, planning permission should be granted unless material considerations indicate otherwise, taking into account whether the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

6.54 The Appellant will demonstrate that there are no material considerations that justify not granting planning permission for the proposal.

- 6.55 The Appellant will identify a range of benefits arising from the proposed residential development, on a social, economic and environmental basis, and will also identify any potential adverse impacts.
- 6.56 Both the benefits and adverse impacts will be assessed in terms of the weighting they should be afforded and the Appellant will demonstrate that the adverse impacts do not significantly and demonstrably outweigh the benefits of the proposal, and that planning permission should be granted, subject to planning conditions and the completion of a S106 agreement.

7 THIRD PARTY REPRESENTATIONS

- 7.1 The application received a total of 157 third party objections and 2 comments of support from third parties, which are summarised within the Officer's Report at Section 2. A further 3 third party objections were received after the Committee Report was published. A petition was also submitted with 20 signatures objecting to the application.
- 7.2 Section 1 of the Officer's Report sets out a summary of consultation responses received. Throughout the application, the Appellant overcame objections from in relations to highways, archaeology, drainage, air quality and ecology subject to the inclusion of a number of conditions.
- 7.3 Minster Lovell Parish Council objected to the application, primarily relating to the location of the proposed development, the impact on the Cotswold National Landscape, the lack of infrastructure for proposed residents and the provision of public and sustainable transport. They did however request S106 contributions should the application be approved.
- 7.4 Following the presentation of the application at the first Planning Committee on the 30th May, WODC received an objection from the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) relating to the impact on a Local Wildlife Site, the impact upon UK priority species, and Biodiversity Net Gain.
- 7.5 The Appellant's ecologist subsequently prepared a rebuttal, which was submitted to WODC on 20th June.
- 7.6 The WODC Ecologist's response was published on the 26th June 2023 which confirmed that the comments from BBOWT did not change their view that the application was acceptable, subject to a number of conditions. As such, the Officer's recommendation for approval did not change.
- 7.7 Matters raised by third parties are dealt with under the planning balance and do not change the conclusions that planning permission should be granted subject to planning conditions and planning obligations.

8 PLANNING OBLIGATIONS AND CONDITIONS

8.1 The Appellant intends to submit a draft Section 106 Agreement in advance, within the planning appeal timetable and under the appeal inquiries regulation. The Appellant will engage with both WODC and Oxfordshire County Council in respect of the contents of this document.

8.2 At this time, it is not expected that any contentious matters will arise during these discussions or the preparation of this document, given the consultation responses and discussions with the Case Officer during the application process. Draft Heads of Terms are anticipated in respect of:

- Affordable Housing
- Self-build plots
- Public transport services
- Public transport infrastructure
- Travel Plan Monitoring
- Primary and nursery education
- Secondary education
- Special education
- Household Waste Recycling Centres
- Oxfordshire Clinical Commissioning Group
- Sports and leisure facilities
- Biodiversity Net Gain and signposting to Local Wildlife Site
- Minster Lovell Village Hall Project

8.3 As part of the Minster Lovell Parish Council's comments on the application, S106 contributions were requested relating to the completion of the new village hall project, a new tennis court, expansion of pre-school facilities, repair of the riverbank, and the renovation and

re-modelling of Wash Meadow Pavilion. Officers considered the request for contributions towards the new village hall project to meet the tests of paragraph 57 of the NPPF, and the Appellant is in agreement with this. The additional contributions requested were not considered to meet these tests.

- 8.4 The Appellant also intends to engage with WODC in respect of draft planning conditions. These will be included within the final Statement of Common Ground and discussed throughout the Inquiry process.

9 PROCEDURE AND WITNESSES

- 9.1 The Procedural Guide: Planning Appeals – England, dated October 2023 sets out guidance on the procedures for handling Appeals.
- 9.2 The Appellant has considered the criteria for determining this Appeal by way of an Inquiry and considers that this procedure is the most appropriate, the reasons for which are set out below.
- Firstly, it is considered necessary that evidence is presented associated with the compliance with the Development Plan, including matters associated with landscape and visual impact, and the sustainability of the location of development. This evidence will need to be tested through cross examination, which can only be achieved by way of an Inquiry.
 - The issues associated with the Appeal are complex, and therefore the Planning Inspector will need to test the evidence presented by questioning and will likely need to seek clarification on specific matters through an Inquiry.
 - There are disagreements between the Appellant and WODC regarding 5 Year Housing Land Supply. These are complex matters that need to be dealt with through the examination of evidence at an Inquiry.
 - Given the level of third-party representations received in response to the outline application, the Appeal matters are in the public interest and should therefore be dealt with by way of an Inquiry.
- 9.3 Given the above, it is considered that the written representations and informal hearing procedures are not appropriate for this Appeal.
- 9.4 The Appellant suggest 5/6 days for an Inquiry based on the key issues and witnesses considered relevant to determination of this appeal.
- 9.5 The matters identified are complex and therefore will need to be subject to expert consideration. It is anticipated that the extent of evidence and witnesses to be called will be limited to the reasons for refusal and other material considerations, and therefore the matters of landscape, transport, affordable housing, housing land supply, and planning.

- 9.6 The Appellant reserves the right to present evidence and call upon witnesses, as appropriate, in order to respond to WODC's position which will be set out within its Statement of Case and the potential involvement of any Rule 6 or other interested parties.
- 9.7 The Appellant considers that evidence will be required in respect of:
- Housing Land Supply
 - Affordable Housing
 - Landscape and Visual Impact
 - Transport Matters
 - Planning Matters
- 9.8 The Appellant also reserved the opportunity to add to evidence and the above items should be become apparent that WODC seek to contest matters beyond the scope considered in this Statement of Case.
- 9.9 Overall, we consider than in accordance with the Town and Country Planning Act and consideration of the Procedural Guide: Planning appeals -England, the inquiry procedure is suitable for this planning Appeal.

10 CONCLUSION

- 10.1 This Statement of Case has been prepared by Walsingham Planning on behalf of Catesby Strategic Land Limited in respect of Land South of Burford Road, Minster Lovell.
- 10.2 This Statement of Case contains an outline of the case put forward by the Appellant to make for this Section 78 planning Appeal, in respect of WODC's decision to refuse outline application 22/03240/OUT.
- 10.3 The Appellant reserves the right to evolve the case through engagement with WODC on the Statement of Common Ground and through the preparation of Proofs of Evidence.
- 10.4 It is considered that the proposed development constitutes sustainable development and accords with the Development Plan as a whole.
- 10.5 In addition, it is evidenced and admitted by WODC that there is an insufficient supply of housing within the District, and therefore the tilted balance is engaged under Paragraph 11 of the National Planning Policy Framework. It has been demonstrated that there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal, and as such planning permission should be granted.
- 10.6 Furthermore, the application was recommended for approval by Council Officer's, however the Planning Committee overturned this recommendation, and subsequently refused planning permission.
- 10.7 The Appellant has assessed the Appeal under the Procedural Guidance and request that this Appeal follows the Inquiry procedure, and anticipate the Inquiry will take 5/6 days.
- 10.8 It is expected that agreed planning conditions and planning obligations will be reached in discussions with WODC and Oxfordshire County Council.
- 10.9 Our request is that planning permission is granted for the proposal, subject to planning conditions and planning obligations.