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Planning Proof of Evidence

APP/D3125/W/23/3331279

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:

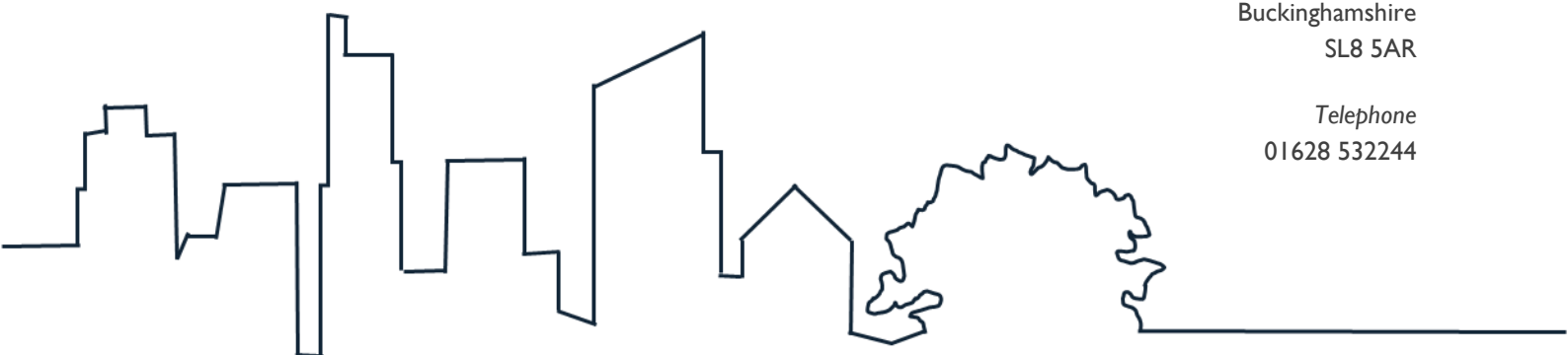
‘Outline planning permission for the development of up to 134 dwellings (Use Class C3)
including means of access into the site (not internal roads) and associated highway works,
with all other matters (relating to appearance, landscaping, scale and layout) reserved’

JANUARY 2024

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I SUMMARY

- I.1 This Planning Proof of Evidence has been prepared on behalf of my clients Catesby Strategic Land Limited – the Appellant.
- I.2 My evidence is in relation to planning balance matters raised by the refusal of planning permission by WODC.
- I.3 The evidence is in support of a Section 78 Appeal following the refusal of outline planning permission by WODC for residential development of up to 134 dwellings, and a means of vehicular and pedestrian access off Burford Road. Details of appearance, landscaping, scale and layout were reserved for future consideration, and therefore all matters are reserved other than access.
- I.4 As set out in my Proof of Evidence, my conclusion is that the Appeal proposal is in general accordance with the adopted Development Plan, when read as a whole. Whilst I identify some limited conflict with Policies OS2 (related to landscape matters) and EH2 (landscape) I consider there is compliance with the overall spatial strategy of the WOLP and the Development Plan when read as a whole (see Table 3).
- I.5 Notwithstanding this, if the Inspector were to conclude that there would be some conflict with relevant policies, I consider that relevant housing policies, would be out date because WODC cannot demonstrate a five year housing land supply. The presumption in favour of sustainable development, contained within Policy OSI and paragraph 11 (d) of the NPPF apply, therefore engaging the ‘titled balance’.
- I.6 I have assessed the benefits of the scheme against the harms, and in the context of the titled balance applying, I consider the benefits of the Appeal proposal significantly and demonstrably outweigh the adverse impacts in this case.
- I.7 However, if the Inspector concludes the titled balance did not apply and instead the normal ‘flat balance’ applies, I consider that there are sufficient material considerations available to justify the grant of planning permission. These benefits are social, environmental and economic and specifically the supply of much needed market and affordable housing (to meet the Government’s objective to significantly boost the supply of homes) where the Local Plan is failing to deliver in both respects over the Plan period.

- I.8 My conclusions support and reflect those of the professional Case Officer at WODC that recommended, to Planning Committee, a resolution to approve the Appeal proposals.
- I.9 The Inspector is respectfully requested to allow the Appeal and grant outline planning permission.

2 INTRODUCTION

Qualifications and Experience

- 2.1 My name is Alan Divall and I am a Director at Walsingham Planning.
- 2.2 I am a chartered Member of the Royal Town Planning Institute (RTPI) and I have worked in the planning industry since 2002. I was awarded a Bachelor of Arts in Planning from the University of Gloucestershire in 2001.
- 2.3 I have worked for a Local Authority (Oxfordshire County Council) in both Planning Policy and Development Management roles. The majority of my work in private practice (since 2011) has involved the planning promotion of land for residential and mixed-use developments across the home counties and southeast of England. This has been through the preparation, submission and monitoring of major and minor residential planning applications, planning Appeals and the promotion of sites through the Local Plan review process.
- 2.4 I act for and provide advice to a range of clients including private landowners, land promoters, house builders, and other organisations.
- 2.5 I am instructed by Catesby Strategic Land Limited to provide evidence in relation to the planning balance matters raised by the refusal of planning permission by West Oxfordshire District Council (WODC).
- 2.6 The evidence which I have prepared and provide for this Appeal in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of the Planning Inspectorate and RTPI and I can confirm that the opinions expressed are my true professional opinions.

Background

- 2.7 This Proof of Evidence 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').
- 2.8 This Proof of Evidence 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 for up to 134 dwellings (as amended) under application reference 22/03240/OUT.
- 2.9 The outline application was reported to Planning Committee on the 17th July 2023 with an Officer recommendation for approval (Core Document C9). The Committee subsequently resolved to refuse planning permission, contrary to the Officer's recommendation.
- 2.10 The Decision Notice (Core Document C11) was issued on the 21st July 2023, and the outline 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.

- 2.11 The Appellant's Statement of Case (Core Document E2) provides an overview of the Appeal site and its surroundings, the outline application and its process for determination and full details of the proposals. The outline application documents provide full details of the proposal.

Scope and Structure of Planning Evidence

- 2.12 My Proof of Evidence addresses the planning policy matters raised, as well as providing the planning balance.
- 2.13 In my Proof of Evidence, I comment on WODC's Statement of Case dated 13 December 2023 (Core Document E14) and the Officer's Committee Report (Core Document C9).
- 2.14 Where necessary and relevant, I refer to and rely on the evidence of other technical experts in relation to the following matters:
- *Transport and Accessibility* - Dave Neale FIHE – Associate Director at DTA Transportation Ltd
 - *Housing Land Supply* – Jeff Richards BA (Hons) MTP MRTPI – Senior Director at Turley
 - *Landscape* - Charles Mylchreest BA (Hons), PGDipLA, CMLI, AIEMA – Director at The Environmental Dimension Partnership Ltd
 - *Heritage* - Gail Stoten BA (Hons) MIFA FSA – Heritage Executive Director at Pegasus Group
 - *Affordable Housing* - Jamie Roberts MPlan MRTPI – Principal Planner at Tetlow King
 - *Flood Risk Surface Water Drainage* - Matthew Cheeseman BSc (Hons) MCIWEM C.WEM – Associate Director at RSK Land and Development Engineering Ltd
 - *Foul Drainage* - Andrew Taylor MSc CMgr FCMI EngTech MICE - Deputy Managing Director & Regional Director at RSK Land and Development Engineering Ltd
- 2.15 The planning evidence has been prepared in the context of the adopted Development Plan and material considerations including the National Planning Policy Framework (NPPF) (Core

Document F1) set against WODC's reasons for refusal and other matters that have been raised by the Rule 6 party, and other parties relating to technical matters and any other matters which would not be capable of being addressed through the suite of planning conditions and Section 106 planning obligations to be secured.

- 2.16 The Appellant intends to agree a Section 106 with WODC and Oxfordshire County Council (OCC) in advance of the Inquiry.
- 2.17 I set out how the planning conditions and planning obligations demonstrate that they are suitable to mitigate the impacts of the development.
- 2.18 Overall, I find that the proposed development accords with the Development Plan when read as a whole. I examine the planning balance and weight to be afforded to the proposal's benefits.

3 THE APPEAL PROPOSAL

- 3.1 The Appellant's Statement of Case (Core Document E2) sets out a full overview of the Appeal proposals. This is agreed within the 'main' and other 'topic based' Statements of Common Ground (Core Documents E4, E5, E6, E7 and E8).
- 3.2 In summary the Appeal proposal comprises residential development of up to 134 dwellings, and a means of vehicular and pedestrian access off Burford Road.
- 3.3 Details of appearance, landscaping, scale and layout were reserved for future consideration, and therefore all matters are reserved other than access.

4 PLANNING POLICY AND MATERIAL CONSIDERATIONS

- 4.1 It is a legal requirement under Section 70 (2) of the Town and Country Planning Act 1990 (as amended) and the Section 38 (6) of the Planning and Compulsory Purchase Act 2004 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”*.
- 4.2 The adopted statutory Development Plan for WODC comprises the West Oxfordshire Local Plan 2031 (WOLP), which was adopted in September 2018 (Core Document G1)
- 4.3 There is no adopted or emerging Neighbourhood Plan for Minster Lovell.
- 4.4 Material considerations also include national policy, primarily the National Planning Policy Framework (NPPF) (Core Document F1) and National Planning Policy Guidance (Core Document F3), alongside other additional guidance in the form of Supplementary Planning Documents (SPDs).
- 4.5 The ‘main’ Statement of Common Ground (Core Document E4) sets out in full the principal policies cited in the Officer’s Committee Report (Core Document X) and those set out in the Decision Notice (Core Document C11). The Statement of Common Ground provides confirmation of agreement between WODC and the Appellant that there is no conflict with policies other than those specified in the Reasons for Refusal.
- 4.6 The ‘main’ Statement of Common Ground sets out a list of agreed material considerations.

5 CASE FOR THE APPELLANT: REASONS FOR REFUSAL

- 5.1 Article 35(1)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states that where planning permission is refused, the notice must state clearly and precisely the Local Planning Authority's full reasons for the refusal, specifying all policies and proposals in the Development Plan which are relevant to the decision.
- 5.2 The Decision Notice (Core Document C11) contains two reasons for refusal with policies referenced from the WOLP, the West Oxfordshire Design Guide 2016 and the NPPF.
- 5.3 I set out below a summary of the issues contained within the two reasons for refusal and based upon the Inspector's Main Issues set out in the Post Case Management Conference Note 21 December 2023 (Core Document E3). These issues also reflect the common ground reached to date with WODC and other ground that is capable of being resolved through ongoing discussions on the Section 106.

Issue 1 – Whether the scale and location of the proposed development is appropriate in principle in terms of the policy approach to housing development in Minster Lovell and accessibility to services and facilities;

Issue 2 - The effect of the proposed development on the character and appearance of the area;

Issue 3 - The effect of the proposed development on flood risk and drainage;

Issue 4 - Whether the proposed development would make adequate provision towards local infrastructure requirements, affordable and self-build housing needs and biodiversity net gain;

Issue 5 - Whether the Council can demonstrate a five year supply of housing land; and

Issue 6 - Whether the policies which are most important for determining the application are out of date due to a lack of a five year supply of housing land or any other reason and if so, would any adverse impacts of the proposed development significantly and demonstrably outweigh the benefits.

Issue 1 – Whether the scale and location of the proposed development is appropriate in principle in terms of the policy approach to housing development in Minster Lovell and accessibility to services and facilities

5.4 Issue 1 can be separated into two matters:

- a) *Whether the scale and location of the proposed development is appropriate in principle in terms of the policy approach to housing development in Minster Lovell*
- b) *The Appeal site's accessibility to services and facilities.*

5.5 I review Issue 1 matter a) in relation to the overall spatial strategy within the Development Plan and assessing the proposed development against policies relevant to the principle of development to demonstrate that the Appeal site forms a suitable location for development when having regard to national and local planning policies.

WOLP Policy OS1

5.6 Policy OS1 helpfully sets out the presumption in favour of development (the titled balance) as contained within the NPPF (Core Document F1). Policy OS1 is consistent with paragraph 11 (d) of the NPPF. As confirmed by the evidence of Mr Richards, WODC cannot demonstrate a five year housing land supply and therefore the policies that are most important for determining the application are out of date. The title balance is engaged. Firstly, there are no policies within the NPPF that indicate development should be restricted (NPPF paragraph 11 (d) (i)), and secondly, as I set out within my evidence, there are no adverse impacts from the development that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as whole.

WOLP Policy OS2 (cited in Reason for Refusal 1)

5.7 Policy OS2 sets out the overall spatial strategy for the district based on a settlement hierarchy (Table 4b, page 30 of Core Document G1). Minster Lovell is categorised as a 'village' below the three main 'service centres' and 'rural service centres'.

5.8 Policy OS2 states:

'The villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities. A number of site allocations are proposed to ensure identified needs are met.'

- 5.9 The WOLP allocates site 'Land to the West of Minster Lovell' (Policy WIT4) immediately adjoining the Appeal site to the east for 125 new homes. Policy OS2 confirms that Minster Lovell is a sustainable settlement in Development Plan terms. This policy approach is confirmed at paragraphs 5.11 and 5.12 of the Officers Report (Core Document C9) which state:

'5.11 Policy OS2 sets out the overall strategy on the location of development for the District. It adopts a hierarchal approach, with the majority of new development focused on the main service centres of Witney, Carterton and Chipping Norton, followed by the rural service centres of Bampton, Burford, Charlbury, Eynsham, Long Hanborough, Woodstock and the new Oxfordshire Cotswolds Garden Village (now referred to as Salt Cross), followed by the villages.'

5.12 Minster Lovell is identified as a 'village' in the settlement hierarchy of the Local Plan and policy OS2 states 'The villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities'.

- 5.10 In my view the Appeal proposals are in accordance with the principle aims of Policy OS2 which aim to direct development to the sustainable locations. The village of Minster Lovell is a sustainable location that can and should deliver more new homes. This is confirmed by allocation WIT4 at the settlement and the final sentence of paragraph 9.2.57 of the WOLP (the supporting text to policy WIT4) which states:

'Minster Lovell is a sustainable settlement close to Witney and also offering its own range of service and facilities'.

- 5.11 Policy OS2 states that 'The villages are suitable for limited development....' For the reasons set out further within this Proof of Evidence, WODC cannot demonstrate a five year housing land supply and therefore the title balance is engaged and the weight attributed to policies related to the supply of housing is reduced to limited. OS2 is such a policy. I therefore consider there is limited conflict with OS2 in this regard.
- 5.12 Policy OS2 sets out a number of 'General Principles' that new development should comply with. The following table summarises the proposed development's compliance with each of these General Principles.

Table 1: Policy OS2 – Compliance with General Principles

General Principles	Appellant's Response	Compliance
Be of a proportionate and appropriate scale to its context having regard to the potential cumulative impact of development in the locality;	<p>The Appeal site and proposal is considered proportionate and appropriate in its scale to its context in its own right and cumulatively alongside the WIT4 allocation. The WIT4 allocation was also considered proportionate and appropriate in its scale to its context.</p> <p>It is acknowledged that there is some landscape conflict with policy EH2.</p> <p>All cumulative impacts of the development have been fully addressed as part of the Appeal proposals, this includes mitigation through the Section 106.</p>	Limited conflict.
Form a logical complement to the existing scale and pattern of development and/or the character of the area;	This is dealt with under Issue 2.	Compliant – no conflict.
Avoid the coalescence and loss of identity of separate settlements;	The proposal's location to the west of the village does not cause coalescence with any nearby settlements.	Compliant – no conflict.
Be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants;	The proposed development is compatible with the adjoining residential use to the east of the Appeal site. There is no alleged harm to the amenity of existing occupants. Further details	Compliant – no conflict.

	on the approach to design will be provided at the reserved matters stage.	
As far as is reasonably possible protect or enhance the local landscape and the setting of the settlement/s;	This is dealt with under Issue 2.	Limited conflict.
Not involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area;	This is dealt with under Issue 2.	Compliant – no conflict.
Be provided with safe vehicular access and safe and convenient pedestrian access to supporting services and facilities	This is dealt with under Issue 1.	Compliant – no conflict.
Not be at risk of flooding or likely to increase the risk of flooding elsewhere;	This is dealt with under Issue 3.	Compliant – no conflict.
Conserve and enhance the natural, historic and built environment;	This is dealt with under Issue 2.	Compliant – no conflict.
Safeguard mineral resources;	Not applicable, the site contains no mineral resources.	Not applicable.
In the AONB, give great weight to conserving landscape and scenic beauty and comply with national policy concerning major development;	Not applicable, the site is not in the AONB.	Not applicable.

In the Green Belt, comply with national policies for the Green Belt; and	Not applicable, the site is not in the Green Belt.	Not applicable.
Be supported by all necessary infrastructure including that which is needed to enable access to superfast broadband.	A Section 106 will be agreed between the parties including all infrastructure requirements that have been requested of the Appellant.	Compliant – no conflict.

- 5.26 I conclude in the table above that there are General Principles not relevant to Appeal proposal and there are those where the Appeal proposal is compliant and there is no conflict. The only limited conflict that I have identified is in relation to Appeal proposal is new development in the landscape. However, it is inevitable that any new development on a greenfield site adjoining the built up area of a village is going to result in an impact on the landscape to some degree. I set out further in this Proof of Evidence the implications of this limited conflict in the planning balance.

WOLP Policy H1

- 5.27 Policy H1 sets out the housing requirement for the District of at least 15,950 new homes over the Plan period 2011-2031. This is split between 13,200 new homes to meet West Oxfordshire's identified housing needs and 2,750 new homes (in the period 2021-2031) to meet the apportionment of Oxford's unmet housing needs that was agreed to be taken by WODC.
- 5.28 In accordance with the spatial strategy set out in Policy OS2, the distribution of new homes to meet West Oxfordshire's needs is as follows (these figures include 2,750 new homes within the Eynsham-Woodstock Sub Area to meet Oxford's unmet needs):

Witney Sub Area – 4,702 new homes

Carterton Sub Area – 2,680 new homes

Chipping Norton Sub Area – 2,047 new homes

Eynsham-Woodstock Sub Area – 5,596 new homes

Burford-Chalbury Sub Area – 774 new homes

5.29 The Appeal site is within the Witney Sub Area.

5.30 The text within Policy HI states (with my emphasis):

'This is an indicative distribution based on past completions and anticipated future supply and should not be taken as an absolute target for each sub-area or maximum ceiling to limit development'.

5.31 The allocations within the WOLP (Core Document GI) do not meet in full the housing requirement needed to be delivered within plan period. It was always the intention of the Plan that 'windfall sites' would need to be delivered to meet the residual housing requirement. This is confirmed at Table 9.2b of the WOLP which identifies an anticipated windfall allowance of 276 new homes in the Witney Sub Area in the period 2017-2031 after taking into account allocations, completions and commitments.

5.32 Paragraphs 9.2.26 and 9.2.27 of the WOLP also state that (with my emphasis):

'9.2.26 In terms of future housing provision the anticipated housing delivery for this sub-area is 4,702 new homes in the period 2011 – 2031. In accordance with the overall strategy, the majority of these new homes will be located at Witney which is ranked as the District's most sustainable settlement and offers a number of opportunities for further development.

9.2.27 It is anticipated that this will be provided through a combination of homes already completed (2011 – 2017), existing commitments, windfall development, two allocated Strategic Development Areas (SDAs) and two 'non-strategic' housing allocations. This is summarised in the table right. Further sites will also be identified through any subsequent review of this Local Plan'.

5.33 I therefore conclude that that there is a clear policy objective of the WOLP that sites that are not allocated would need to come forward through planning applications to deliver the housing requirement for each sub area, and that identified housing requirement is not a 'cap' or 'ceiling' to limit development. The proposed development therefore complies with Policy HI in this regard.

5.34 The text within Policy HI also states:

‘Development will be monitored annually to ensure that the overall strategy is being delivered’.

- 5.35 I refer to Mr Richard’s evidence later in this Proof of Evidence that concludes WODC cannot demonstrate a five year housing land supply in accordance with the requirements of the NPPF and the WOLP is failing to deliver its housing requirement over the Plan period.
- 5.36 I conclude that the Appeal proposal complies with Policy H1, but in any event, this is a policy that relates to the provision of housing and therefore owing to the lack of five year housing land supply it is afforded limited weight in the planning balance.

WOLP Policy H2 (cited in Reason for Refusal 1)

- 5.37 The second part of Policy H2 of the WOLP accepts that sites that are not allocated for new dwellings in the Plan or within a Neighbourhood Plan will be permitted subject to certain circumstances. Those circumstances are set out within the bullet points under the following heading within Policy H2 - Main service centres, rural service centres and villages. The policy does not require proposals to comply with all bullet points, only those that are relevant. In the case of the Appeal proposal the relevant bullet point is (the fourth):

‘On undeveloped land adjoining the built up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in accordance with other policies in the plan in particular the general principles in Policy OS2’.

- 5.38 Firstly, the wording of the policy is positively worded in that new dwellings ‘*will be permitted*’.
- 5.39 Secondly, the Appeal proposal complies with the requirement of the bullet point for the site to be ‘*undeveloped land adjoining the built up area*’. The policy accepts that this can be undeveloped greenfield sites as the Appeal proposal is.
- 5.40 Thirdly, the bullet point requires ‘*convincing evidence*’ to be demonstrated that the proposal meets identified housing needs. As set out in the evidence presented by Mr Richards and Mr Roberts, the affordability issues within the WODC area **serious and worsening**, there is a **substantial** shortfall of new homes within the five year period (subject of the five year housing land supply assessment), and the WOLP is seriously failing to deliver the number of new homes that it should do within the Plan period (as required by the first part of Policy

H2). This evidence does clearly in my opinion represent the ‘*convincing evidence*’ that the policy requires.

5.41 Policy H2 is clear that greenfield sites adjoining built up areas of villages can be suitable for development. The application of the titled balance at paragraph 11d of the NPPF applies in this instance and this also means that sustainable greenfield sites on the edge of settlements can be considered suitable for development.

5.42 I accept that policy H2 cannot be read in isolation, as the fourth bullet point referenced above requires the Appeal proposal to comply with the distribution of housing set out in Policy H1 and is in accordance with other policies in the plan, in particular Policy OS2. I have set out above how the Appeal proposal represents a windfall development in accordance with the housing distribution within Policy H1. I have also set out below how the proposals comply with the general principles in Policy OS2.

WOLP Policy H3

5.43 Policy H3 requires the proposed development to provide 40% affordable new homes – this equates to up to 54 new homes of the 134 proposed.

5.44 I refer to the Affordable Housing Appeal Statement produced by Mr Roberts included at Appendix 3 to this Proof of Evidence which deals with the need for affordable housing and the weight that should be attributed to that need in the planning balance.

5.45 In summary, Mr Roberts concludes:

‘There is a wealth of evidence to demonstrate that there is a national housing crisis in the UK affecting many millions of people who are unable to access suitable accommodation to meet their housing needs.

What is clear is that a significant boost in the delivery of housing, and in particular affordable housing, in England is essential to arrest the housing crisis and prevent further worsening of the situation.

Market signals indicate a worsening trend in affordability across West Oxfordshire Borough over the Local Plan period from 2011/12 to date; an already challenging situation has persisted for over twelve years. By any measure of affordability, this is an authority which is facing serious and worsening affordability pressures, and one through which urgent action must be taken to deliver more affordable homes.

Against the scale of unmet need across West Oxfordshire District, there is no doubt in my mind that the provision of 40% affordable homes or up to 54 dwellings will make a significant contribution. Considering all the evidence I consider that this contribution should be afforded substantial weight in the determination of this appeal’.

- 5.46 The level of affordable housing that is proposed within the development is not disputed by WODC and therefore, subject to the completion of the Section 106 the proposed development complies with the requirements of policy H3. This is addressed under Issue 4 below.
- 5.47 Mr Roberts makes a clear and compelling argument that the affordability issues facing WODC are serious and worsening. I agree that, given these affordability issues, the weight that should be attributed to the delivery of up to 54 affordable new homes that forms part of this development is **substantial**.

WOLP Policy WIT4

- 5.48 Policy WIT4 allocates land to the west of Minster Lovell for 125 new homes. WODC have accepted, through the allocation of this site, that the settlement of Minster Lovell is a sustainable location for new homes and development on the west of the village can be accommodated. The Appeal proposal is no different in this regard.
- 5.49 The West Oxfordshire Local Plan 2031 Inspector’s Report, August 2018 (Core Document G4) confirms the following with regards to the allocation of WIT4:
- ‘As a relatively modest development in one of the plan’s defined villages, and in fairly close proximity to Witney, the allocation accords with the overall spatial strategy of limited dispersal of development to settlements other than the main towns. In principle, therefore, the allocation is soundly-based’.***
- 5.50 Again, the Appeal proposal is no different with regards to development taking place in accordance with the overall spatial strategy of development coming forward in the settlements other than the main towns.
- 5.51 I highlight in paragraph 5.10, the supporting text to Policy WIT4 which confirms Minster Lovell is a sustainable settlement close to Witney. WODC produced a ‘Settlement Sustainability Report’ in 2016 (Core Document G9) as an evidence base document to support the review of the adopted WOLP. This document provides an assessment of the sustainability of

settlements across West Oxfordshire. Paragraphs 4.4 and 4.6 of this document identifies a ranking of settlements based upon their 'positive indicators'. Those positive indicators are services and facilities within each settlement. Minster Lovell is confirmed (in paragraph 4.6) as the second most sustainable 'village' within WODC (out of 31 villages) when assessed using the weighted and unweighted scores. Minster Lovell is the 11th most sustainable settlement (out of 41 that are categorised) in the whole of WODC. This reinforces my view that the village of Minster Lovell is a suitable and sustainable location for the development proposed.

- 5.52 WODC also prepared a Strategic Housing and Economic Land Availability Assessment (SHEELA) in 2016 (Core Document G10). Whilst the site subject of the Appeal proposals was not put forward for inclusion in this document, the site subject of the WIT4 allocation was. The site is identified as site 388 – Land South of Burford Road, Minster Lovell. The Council's assessment of site 388 in Core Document G10 includes the following (with my emphasis):

Appendix 2 – Summary of Assessment Findings (page 87)

The site is considered to represent a sustainable location for new residential development. It is within comfortable walking distance of local services and facilities in Minster Lovell and is within walking and cycling distance of the main employment area to the west of Witney.

Appendix 3 – Detailed SHEELAA Assessment Findings (pages 109 to 110)

The site is located close the main services and facilities of the village most of which are located along the B4477 Brize Norton Road. Access by foot or cycle would be achieved via a connection in the north east corner of the site into Upper Crescent and also potentially into Ripley Avenue and Wensric Drive via the adjoining area of open space to the east of the site. Alternatively access could be achieved via the B4047 Burford Road to the north. The employment areas in the west of Witney are around 2km from the site therefore within walking and cycling distance.

- 5.53 The above references within Core Document G10 support the findings of Mr Neale that the Appeal proposal site is also a sustainable location based upon WODC's previous assessment of the adjoining WIT4 allocation.
- 5.54 The site was subject of three planning application between 2016 and 2018. Details of these applications are shown in paragraph 3.1 of the Appellant's Statement of Case (Core Document E2). The site achieved Reserved Matters planning permission for 126 new homes under

application 18/03473/RES. This was broadly in line with the WOLP. The development has been completed.

5.55 Paragraph 9.2.58 of the WOLP states (with my emphasis):

‘Importantly, the site is next to an existing area of relatively dense, more modern development that is not characteristic of the historic core of Minster Lovell which has a very linear form and single plot depths running along the B4477 reflecting the chartist origins of the settlement. The scale of proposed development is such that it would integrate with rather than dominate the existing village’.

5.56 This paragraph further reinforces Ms Stoten’s evidence that development on the west of the village will not impact on the historic core of the settlement of Minster Lovell. The paragraph also confirms that the WIT4 allocation integrated, rather than dominated, the existing village. This in my opinion is no different to the Appeal proposal.

5.57 The paragraph also confirmed that the WIT4 allocation would be built next to an area of relatively dense, more modern development that is not characteristic of the historic core of Minster Lovell. The Appeal proposal will be built immediately to the west of the WIT4 allocation and therefore it must follow that the proposal will also be built next to (and within close proximity) of areas of the village that are not the historic core of the village.

Issue 1 (matter a) – Summary

5.58 My evidence has demonstrated that the Appeal proposals have limited conflict with the spatial strategy of the plan and relevant housing distribution policies. As I set out later in this Proof of Evidence, those policies that are most important to the determination of the Appeal are out of date. I also find that the affordable housing issues in WODC are serious and worsening. I also find that there are matters with regards to the allocation of site WIT4 in the WOLP that are directly related to the Appeal proposal in terms of demonstrating that the Appeal proposals are in a sustainable and accessible location.

5.59 I now review Issue 1 matter b).

5.60 I refer to the Appellant’s Transport and Accessibility Proof of Evidence (Core Document E10) prepared by Mr Neale which deals with this substantive issue.

5.61 In summary, Mr Neale concludes:

'It is clear from the above [Mr Neale's proof – my emphasis] that the Appeal Site is well connected to local services with bus, foot and cycle links within the settlement and good road links to the principal road network.

As part of the development proposals, the developer will provide a 3.0m footway/ cycleway along Burford Road connecting into the new Bovis Link and Upper Crescent.

Accessibility to nearby service and facilities are within the typical walking and cycling distances, with bus services providing regular access to Witney and Oxford.

It is my conclusion that the site is accessible, and the Appeal Scheme accords with relevant policy requirements. In particular, it is consistent with the accessibility requirements of the NPPF and policies T1 and T3 of the adopted local plan'.

WOLP Policy T1 (cited in Reason for Refusal 1)

- 5.62 Mr Neale assesses the proposed development against the requirements of policy T1.
- 5.63 The objective of Policy T1 is to locate 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.
- 5.64 As explained at paragraph 4.3.1 and Appendix DN4 of the Transport and Accessibility Proof of Evidence, Minster Lovell clearly has a 'good' range of services and facilities that serve the existing and future population of the village. Walking distances and times to those services facilities are clearly set out in Table 1 of Mr Neale's Proof of Evidence.
- 5.65 Mr Neale also assesses the opportunities to access services, facilities and employment at Witney (and linking to other destinations) through walking, cycling and public transport. I agree that the site is accessible to those opportunities.
- 5.66 Through the provision of a new footway/cycleway along Burford Road, and through providing connections into (and through) the adjoining Bovis development, the proposed development will be well designed to maximise opportunities for walking, cycling and the use of public transport.
- 5.67 I concur with Mr Neal that Policy T1 is complied with.

WOLP Policy T3 (cited in Reason for Refusal 1)

- 5.68 Policy T3 requires all new development to be located and designed to maximise opportunities for walking, cycling and the use of public transport. As set out within Mr Neale's Proof of Evidence, there are opportunities that are being maximised for residents of the proposed development to walking, cycle and the use of public transport to access services, facilities and employment opportunities in Minster Lovell, Witney and to other destinations. Because those opportunities can be maximised and are not limited, there is no requirement to consider other measures to reduce car use.
- 5.69 The proposed development will contribute to public transport improvements (services and infrastructure) through the requested financial contributions from Oxfordshire County Council. These will be agreed within the Section 106. Walking and cycling infrastructure will be delivered on and off site through the off site footway/cycleway on Burford Road and the connections to the Bovis development.
- 5.70 I concur with Mr Neale that Policy T3 is complied with.

Issue 1 (matter b) – Summary

- 5.71 In all respects the proposed development is accessible to services, facilities and employment opportunities and makes adequate provision for measures to encourage the use of non-car modes of transport.

Issue 2 - The effect of the proposed development on the character and appearance of the area

- 5.72 The Inspector's Case Management Conference Note of the 21 December 2023 (Core Document E3) confirmed that issue 2 '*related to a range of matters, including landscape and visual impact and built and historic heritage*'.
- 5.73 I refer to the Appellant's Landscape Proof of Evidence (Core Document E11) prepared by Mr Mylchreest and the Heritage Proof of Evidence (Core Document E12) prepared by Ms Stoten which deal with this issue separately.
- 5.74 In summary, Mr Mylchreest (who deals with landscape and visual impact) concludes:

'It is agreed that the appeal site does not form part of a Valued Landscape for the purposes of NPPF paragraph 180 (a) and therefore the proposals are required to 'recognise' the landscape rather than 'protect and enhance' it. This means any residual harm carries proportionately less weight.

The appeal site does not have any statutory status or identified quality in the development plan and is technically unconstrained and undesignated in environmental and landscape terms. It is therefore nowhere near special enough to preclude development in principle.

I find that the proposals have taken account of the prevailing topography, the existing settlement pattern (by echoing settlement pattern to the east), the existing vegetation framework, and the key perceptual sensitivities of the underlying landscape. On this basis, I consider the agreed very localised harm to the site character and its immediate surroundings, to be acceptable.

The site's location benefits from containment to the east (by the built fabric of Minster Lovell), to the west (by detached dwellings and vegetation) and to the north (by vegetation along the site boundary and the northern side of Burford Road), and as such realises acceptable levels of impact to both the CNL and its setting, within which the appeal site lies.

The appeal site comprises parts of two rectilinear arable agricultural field parcels, with a hedgerow running north to south between them and one, which follows round a private dwelling, forming the western boundary. A tree line borders Burford Road which forms the northern site boundary. Some minimal loss will occur to the northern site boundary and internal hedgerow to facilitate the site and internal access points. The remaining vegetation in the site boundaries will be retained and enhanced.

The Landscape Strategy shows how the appeal proposals will provide significant additional landscaping and vegetation, including (illustratively) 225 new native trees, circa 0.9km of new native hedgerows, and over 3ha of new grassland. This will bring significant biodiversity benefits and provide attractive areas of POS within the residential layout. The landscaping and POS proposals will provide a high-quality setting to the new housing development and the new settlement edge of Minster Lovell, which will provide a contiguous and consistent, and soft, relationship between the settlement and surrounding countryside.

The eastern boundary to the northern part of the site comprises existing residential dwellings within the new Bovis development (and their curtilage) on the edge of Minster Lovell, with the western part of the southern part of the site sitting adjacent to dwellings on Ripley Avenue. Residential form exerts a prominent influence across the

site, and I do not agree with the Council's contention that the appeal site is "an important part of the rural setting of the historic rural village of Minster Lovell (Charterville)" nor that "the proposal would involve the loss of an important green open space that has become more important following the building out of the Bovis site".

I consider above in evidence the different facets of the appeal site which might contribute to the setting of the village and conclude that there is no evidence to suggest it plays a particularly important or prominent role in this regard. There will be some harm through developing on the open countryside on the edge of the (expanding) village, but this is partly mitigated by the form of the proposals, by modern built influences and by the lack of any characteristics of the appeal site which might take it beyond the ordinary.

In this respect I consider that the proposals would protect the setting of Minster Lovell as it is experienced from the approaches and surroundings to it. The broad character of the settlement will remain (as a mixture of linear and nucleated settlement, as set out in the West Oxfordshire Design Guide), and the existence of the village as a settlement within a predominantly agricultural landscape will remain. Indeed, the landscape framework within which the built development sits will ensure the proposals respect the juxtaposition of the settlement and its western hinterland, whilst the extensive areas of POS and landscaping will provide an attractive and valuable feature for new and existing residents.

My evidence demonstrates that the appeal proposals would effectively just move the edge of the village westwards into an area of unremarkable agricultural land which is already influenced by the existing settlement edge. There would be a limited level of (inevitable) harm to the landscape character of the appeal site and its immediate context, and to local visual receptors'.

WOLP Policy EH2 (cited in Reason for Refusal 1)

- 5.75 Policy EH2 protects the quality, character and distinctiveness of WODC's natural environment, including its landscape character.
- 5.76 A landscape and visual appraisal (LVA) was submitted with the application, and there was no criticism of this report or its findings during the application's determination. 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)).

- 5.77 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.
- 5.78 The Appeal Proposal 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.
- 5.79 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.
- 5.80 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.
- 5.81 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.
- 5.82 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.
- 5.83 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.

- 5.84 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.
- 5.85 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.
- 5.86 In concur with the findings of Mr Mylchreest and consider there is limited conflict with Policy EH2.
- 5.87 In summary, Ms Stoten (who deals with built and historic heritage) concludes:

‘The matter in dispute is whether the proposals would harm the heritage significance of the Non-Designated Heritage Asset of Minster Lovell (MLNDHA). No party appears to be alleging that the heritage significance of the Listed buildings within Minster Lovell would be harmed, and I agree with this, as the setting of these assets comprises their plots and the other contemporary buildings of the Chartist Settlement.

With regards to MLNDHA, this has been defined by a Planning Inspector as the houses and plotlands of the Chartist settlement of Charterville. The LPA have chosen to define a different area, omitting several Listed Chartist buildings. I do not agree with their defined area, which I consider should cover the whole Chartist settlement.

Irrespective of the area MLNDHA covers, its significance is derived from the buildings and plots within it, and this was indeed stated by the Planning Inspector for the 2019 Appeal.

The dwellings are arranged in the settlement to face onto thoroughfares and road, and the layout of the buildings was such that there were no designed views from the rear to land beyond. The layout of the plots within the settlement was to maximise the landholdings, rather than to give designed views outwards.

The overall shape of the settlement was chance, relating to the landholding purchased from the trustees of the late John Walker, rather than relating to any Chartist ideals. It does not contribute to the heritage significance of the asset.

The proposed development site, which comprises arable fields beyond the Chartist settlement area and largely separated from it by modern housing, does not contribute to the heritage significance of the MLNDHA through setting. Its intrinsic character does not contribute and it does not better reveal the significance of the asset through views to it or from it. The proposed development will cause no harm to the heritage significance of the asset through setting.

Recent Inspectors decision have sometimes found some harm to the heritage significance of either MLNDHA or Listed buildings therein, but proposed developments have been within the area of the MLNDHA itself, eroding the historic plots. The proposed development lies beyond the area of the historic plots’.

WOLP Policy EH16

- 5.88 There is no alleged harm to designated heritage assets (Listed Buildings) as a result of the Appeal proposals (Ms Stoten’s Proof of Evidence – paragraph 2.15 – Core Document E12).
- 5.89 The matter that Ms Stoten addresses in her Proof of Evidence is that relating to alleged harm to the non-designated heritage asset of the settlement of Minster Lovell as this is confirmed within the Council’s Statement of Case (Core Document E14). The Rule 6 Party (The Society for the Protection of Minster Lovell) reference the adverse affect on the historic site of the Chaterville development. I address the Rule 6 Party’s comments later in this Proof of Evidence and this has been dealt with in Ms Stoten’s Proof of Evidence.
- 5.90 Although not referenced within the Council’s Reason for Refusal (Core Document C11), Policy EH16 of the WOLP is concerned with non-designated heritage assets. Policy EH16 seeks to protect non-designated heritage assets.
- 5.91 Ms Stoten’s Proof of Evidence provides a thorough assessment of whether the Appeal proposal would cause harm to the non-designated heritage asset of Minster Lovell. I concur with the conclusions of Ms Stoten that the Appeal proposal will cause no harm to the heritage significance of the asset through setting. I am of the view therefore that there is no conflict with Policy EH16 of the WOLP.

WOLP Policy OS4 (cited in Reason for Refusal 1)

- 5.92 Policy OS4 relates to high quality design. Policy OS4 requires new development to respect the historic, architectural and landscape character of the area.
- 5.93 The Appeal proposals are in outline form and detailed architectural matters associated with design will be subject of future reserved matters applications. Ms Stoten has confirmed that there is no harm to the heritage significance of the non designated heritage asset of the village of Minster Lovell. I consider there is no conflict with Policy OS4 in this regard. Mr Mylchreest identifies the effect on wider landscape character – including the CNL and its setting – would be localised and at a limited level. I consider there would be limited conflict with Policy OS4 in this regard.

Issue 2 – Summary

- 5.94 I have identified that there is no landscape harm identified from the Appeal proposals that goes beyond ‘limited’ and the relevant policies within the Development Plan accept that some harm is inevitable from development. With regards to harm to non-designated heritage assets it is clear that there will no harm from the Appeal proposals.

Issue 3 - The effect of the proposed development on flood risk and drainage

- 5.95 Issue 3 does not relate to a Reason for Refusal.
- 5.96 I refer to the Technical Notes relating to a) Flood Risk and Surface Water Drainage and b) Foul Drainage produced by Mr Cheesman and Mr Taylor included at Appendix 1 and 2 to this Proof of Evidence which deals with these issues.

a) Flood Risk and Surface Water Drainage

- 5.97 In summary Mr Cheesman concludes:

The outline planning application was refused by WODC in July 2023 with no Reasons for Refusal relating to matters pertaining to flood risk or drainage.

Statutory consultees including TWUL as the Local Water Authority, OCC acting as the LLFA and the EA have not objected to the development proposals (subject to planning condition).

The points raised by the Rule 6 Parties have been addressed in this statement and the previously submitted flood risk assessment and drainage strategy.

With respect to flood risk and surface water drainage, the proposed development will not have an adverse effect on the adjacent property (Repeater House).

Based on the comments set out in this Technical Note, flood risk and surface water drainage is not a constraint to development and satisfies the relevant national and local planning policies.

WOLP Policy EH7

- 5.98 Policy EH7 of the WOLP requires development proposals to be managed using the sequential risk-based approach set out within the NPPF and for proposals of greater than 1 hectare to provide a Flood Risk Assessment (FRA).
- 5.99 An FRA was prepared and submitted to support the Appeal proposal. This was consulted upon by WOLP and Thames Water Utilities (as the Local Water Authority), Oxfordshire County Council (as the Lead Local Flood Authority) and the Environment Agency raised no objections to the proposal. WOLP included no reason for refusal related to flood risk or surface water drainage.
- 5.100 The application site is within Flood Zone 1 (low probability). The requirements of the sequential approach within the NPPF have been met in locating new development on land at the lowest risk of flooding.
- 5.101 A drainage strategy is proposed which utilises infiltration to ensure that runoff generated from the site follows the drainage hierarchy and limits offsite discharges. The current uncontrolled run off from the site (the present situation) will be managed within the proposed drainage system to reduce run off downstream. Full details of this drainage system will be prepared and approved through the subsequent reserved matters application for the site.
- 5.102 I concur with the findings of Mr Cheeseman and I am of the view that there is no conflict with Policy EH7 of the WOLP.

b) Foul Drainage

- 5.103 In summary Mr Taylor concludes:

The outline planning application was refused by WODC in July 2023 with no Reasons for Refusal relating to matters pertaining to foul drainage.

Statutory consultees including TWUL as the Local Water Authority, OCC and the EA have not objected to the development proposals.

Correspondence with TWUL confirms that they have concerns with regards to current capacity within their existing sewer network to meet the needs of the full development, however TWUL will undertake modelling work to design a solution and construct the necessary upgrade and improvement works to their network.

TWUL have identified the need to increase the capacity of the local sewer network and are currently undertaking improvement works, which includes Witney STW.

Developers have a statutory right to connect new sewers to existing public sewer networks under Section 106 of the WIA 1991, and that Local Water Authorities have a statutory duty under WIA 1991 to improve and upgrade the receiving sewer network to ensure the requirements of the proposed development can be met.

A carefully worded planning condition could be utilised to ensure that the infrastructure phasing plan and occupation of dwellings are programmed with any necessary upgrading and improvement works identified by TWUL, to ensure that the proposed development does not have a detrimental impact on the local sewer network.

The points raised by Parish Council, WASP, and the Rule 6 Party have been addressed in this statement.

Based on the comments set out in this Technical Note, foul drainage is not a constraint to development and relevant planning policies.

WOLP Policy OS5

- 5.104 Policy OS5 of the WOLP requires new development to deliver or contribute towards the timely provision of essential supporting infrastructure. This will be delivered as part of the development, through planning obligations or planning conditions.
- 5.105 Mr Taylor provides a clear and comprehensive analysis of what is required to deliver the necessary infrastructure upgrades to deal with matters associated with foul drainage. I concur

with this assessment and consider that, subject to conditions that the Appellant is agreeable to, the proposal complies with the requirements of Policy OS5.

Issue 3 – Summary

- 5.106 The technical evidence that has been presented demonstrates matters associated with flood risk, surface water drainage and foul drainage can be mitigated subject to conditions and there is no conflict with policies EH7 and OS5.

Issue 4 - Whether the proposed development would make adequate provision towards local infrastructure requirements, affordable and self-build housing needs and biodiversity net gain

- 5.107 Issue 4 relates to Reason for Refusal 2 which solely relates to the lack of a Section 106 agreement at the point of refusal of the Appeal proposal. Reason for Refusal 2 lists relevant policies (OS5, H3, H5, T1, T3, EH3, EH4, and EH5) related to the provision of infrastructure and other requirements. This includes:

- The provision of affordable housing;
- The provision of self build plots;
- The provision of biodiversity net gain;
- Required signposting to a Local Wildlife Site;
- Contributions to enhanced education facilities;
- Enhancements to waste services;
- Public transport improvements (services and infrastructure);
- Enhancements to sports and leisure facilities;
- Enhancements to medical facilities;
- Contributions to a new village hall project.

- 5.108 It is agreed common ground with WODC that subject to the completion of an agreed Section 106, compliance will be demonstrated with policies OS5, H3, H5, T1, T3, EH3, EH4, and EH5

and the NPPF. The Section 106 will be submitted to the Planning Inspectorate in advance of the opening of the Inquiry.

Issue 4 – Summary

- 5.109 I consider that the Appeal proposal makes appropriate provision for infrastructure and other listed requirements to ensure the proposed development is acceptable in planning terms. I consider that, subject to the completion of the Section 106, compliance can be demonstrated with policies OS5, H3, H5, T1, T3, EH3, EH4, and EH5.

Issue 5 - Whether the Council can demonstrate a five year supply of housing land

- 5.110 I refer to the Appellant's Housing Land Supply Proof of Evidence (Core Document E13) prepared by Mr Richards which deals with this substantive issue in relation to the requirements of the NPPF (Core Document F1) and the Planning Practice Guidance (PPG) (Core Document F3).

- 5.111 In summary Mr Richards concludes:

The West Oxfordshire Local Plan covers the period 2011 to 2031 and was adopted in September 2018.

Policy H1 of the Plan, 'Amount and distribution of housing', sets out that provision will be made for at least 15,950 homes in the period 2011 – 2031.

In order to deliver this housing requirement, the plan identifies a strategic development location 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.

Having considered the planning status and progress of the Local Plan Allocations, my evidence concludes that the Allocations, and particularly its Strategic Growth Location and Strategic Development Allocations, are not progressing as expected.

At the Strategic Development Allocations, the only homes that have been delivered are from planning applications that were already commitments at the time the Local Plan was adopted (and so such delivery would have been expected). However, progression of other planning applications to enable the anticipated delivery in the Local Plan trajectory have not progressed as expected and, given the planning status of

applications across all the Strategic Development Allocations sites, there will be substantial delays with the delivery of homes with the high likelihood that thousands of homes can be expected to not deliver in the plan period. This clearly has serious consequences for the delivery of the Council's minimum housing requirement and for its overall housing delivery strategy.

My evidence also considers the NPPF requirement for local planning authorities to identify and update annually a supply of specific deliverable site sufficient to provide 5 years' worth of housing against their housing requirements. This includes a review of recent appeal decisions in the District that have considered housing land supply and where clear conclusions have been reached by a number of Inspectors on sites raised by the Council in its deliverable supply.

The latest position statement from the Council is set out in the Housing Land Supply Position Statement which is dated October 2023. The Council claim to have sites projected to deliver a total claimed deliverable supply of 3,318 dwellings. This equates to a supply of 5.4 years, a surplus of 258 dwellings.

My evidence has assessed all large sites of 10 or more units included by the Council in its supply trajectory on an individual basis in order to determine the realistic figure for the delivery of new homes from those sites within the 5-year period. It also considers other sources of supply.

Having concluded this exercise, I have found that there are several sites which should not be included in the Council's deliverable supply (when considered against the NPPF definition of 'deliverable') or where other reductions in supply should be made.

Overall, having carefully analysed all sites that the Council lists as delivering housing in the five-year period, I conclude that 1,063 homes should be removed from the Council's deliverable housing supply. This equates to an overall supply in the five-year period (2023-2028) of 2,255 homes.

This results in a supply in West Oxfordshire of only 3.95 years, a shortfall of 595 homes. It is clear from my evidence that West Oxfordshire Council cannot demonstrate a five year housing land supply in accordance with paragraph 77 of the NPPF. The shortfalls in supply in the District are serious and significant.

Furthermore, given the delay I have identified with the delivery of the strategic allocations and given that the housing requirement will rise in subsequent five year the shortfall in housing land supply is expected to persist for many years.

Indeed, the consequences of my assessment of deliverable supply in the 5 year period would leave 6,659 homes (and average of 2,219 homes) to be delivered in only a 3 year period. Such delivery would be to just to meet the Local Plan minimum housing requirement. This will not be achieved based on the evidence of actual or predicted average or peak delivery evidence, and there will be substantial shortfalls in delivery at the end of the Plan period.

- 5.112 Accordingly, Mr Richards concludes that WODC cannot demonstrate a five year housing land supply and sets out his position at Table JRTS2 of his Proof of Evidence. For completeness I have summarised the results from this table as follows:

Table 2: Appellants Five Year Housing Land Supply Position

Step	
A – Housing Requirement (2023-2028)	2,850
B – Jeff Richards Assessment of Deliverable Supply	2,255
C – Five Year Supply	3.95 years
D – Shortfall in Deliverable Supply	595 homes

- 5.113 Paragraph 60 of the NPPF (Core Document F1) confirms the Government’s objective of:

‘....significantly boosting the supply of homes....’

- 5.114 Mr Richards confirms that WODC can only demonstrate a 5 year housing land supply of **3.95 years**.

- 5.115 The shortfall in the delivery of new homes in the 5 year period is **595**.
- 5.116 Despite the Appellant's position above, in the eventuality of a five year housing land supply being found, there is a need to demonstrate a rolling five year housing land supply and to comply with paragraph 75 of the NPPF which requires strategic policies (within the Development Plan) to include a trajectory of expected housing delivery over the Plan period.
- 5.117 Mr Richards provides compelling evidence at Section 4 of his Proof of Evidence that the WOLP has not delivered its Local Plan allocations (in particular its Strategic Growth Location and Strategic Development Allocations) as expected. There will be substantial shortfalls in the delivery of new homes at the end of the Plan period and therefore paragraph 75 of the NPPF has not been complied with.
- 5.118 WODC have persistently been unable to demonstrate a five year housing land supply. Mr Richards Proof of Evidence at Section 3 provides six Appeal decisions since 2022 where Inspectors have concluded there was no 5 year housing land supply.
- 5.119 It is also clear that there is a severe breach of policy requirements in so far as the Plan delivering the required new homes within the Plan period.

Issue 5 – Summary

- 5.120 WODC cannot demonstrate a five year housing land supply and therefore the titled balance is engaged under paragraph 11 (d) of the NPPF. The direct consequence of the lack of five year housing land supply and engagement of the titled balance is that the most important Development Plan policies are reduced in weight. Those policies in relation to this Appeal relate to the provision of housing and should therefore be afforded limited weight in the planning balance.
- 5.121 Given the extent of the substantial shortfall of new homes within the five year period, and the evidence presented that the Plan is seriously failing to deliver new homes within the Plan period, I attach **substantial weight** to these shortfalls.

Issue 6 - Whether the policies which are most important for determining the application are out of date due to a lack of a five year supply of housing land or any other reason and if so, would any adverse impacts of the proposed development significantly and demonstrably outweigh the benefit

- 5.122 I address this issue within the overall planning balance contained in Section 7 of this Proof of Evidence.
- 5.123 To conclude this section, I provide Table 3 below which provides a summary of compliance of the Appeal proposals with policies in the Development Plan.

Table 3: Summary of Compliance with West Oxfordshire Local Plan 2031 Policies/Design Guide 2016

Policy	Policy Title	Compliance
Reason for Refusal I		
OS1	Presumption in Favour of Sustainable Development	Compliant – no conflict
OS2	Locating Development in the Right Places	Limited conflict with regards to landscape matters The policy is out of date
OS4	High Quality Design	Limited conflict with regards to landscape matters
H1	Amount and Distribution of Housing	Compliant – no conflict The policy is out of date
H2	Delivery of New Homes	Compliant – no conflict

		The policy is out of date
H3	Affordable Housing	Compliant – no conflict
EH2	Landscape Character	Limited conflict with regards to landscape matters
EH16 (not referenced within the Reason for Refusal)	Non-Designated Heritage Assets	Compliant – no conflict
T1	Sustainable Transport	Compliant – no conflict
T3	Public Transport, Walking and Cycling	Compliant – no conflict
Reason for Refusal 2		
OS5	Supporting Infrastructure	Compliant – no conflict
H3	Affordable Housing	Compliant – no conflict
H5	Custom and Self-Build Housing	Compliant – no conflict
T1	Sustainable Transport	Compliant – no conflict

T3	Public Transport, Walking and Cycling	Compliant – no conflict
EH3	Biodiversity and Geodiversity	Compliant – no conflict
EH4	Public Realm and Green Infrastructure	Compliant – no conflict
EH5	Sport, Recreation and Children's Play	Compliant – no conflict
Other Policies		
EH7	Flood Risk	Compliant – no conflict

6 RULE 6 PARTY MATTERS

The Society for the Protection of Minster Lovell

- 6.1 The Society for the Protection of Minster Lovell's note (not a full Statement of Case) dated 19 December 2023 (Core Document E15) objects to the Appeal proposals on a number of grounds. This note was supplemented by a 'Site Report' (Core Document E16) dated 17 December 2023 that was received after the 21 December 2023 Case Management Conference. These grounds are set out below and I respond to them in turn.

- Existing on-site flooding affecting houses adjoining the proposed site (with witness).

Response: This is addressed in Issue 3 above.

- Foul drainage problems which exist to the village as a whole already will be aggravated by this development.

Response: This is addressed in Issue 3 above.

- The adverse effect the development will have on the Historic site of the Charterville development, for which the village is famous.

Response: This is addressed in Issue 2 above.

- Disadvantages to the new occupiers of the development, if granted, will include that it is located too far from the village to walk, hence cars will be used, highlighting the lack of parking in the village.

Response: This is addressed in Issue 1 above.

- Most work opportunities lie to the East of the village and so the closest route to the A40 Eastbound is via the Brize Norton Road, through the centre of the village.

Response: This is addressed in Issue 1 above.

- Those existing inhabitants of the village will have seen the population increase by half over four years.

Response: This is addressed in Issue 1 above.

- The dangerous junction between the Brize Norton Road and the B4047 will have increased traffic.

Response: Matters associated with highways safety and increased traffic do not form a reason for refusal. The Local Highway Authority (Oxfordshire County Council) do not object.

- The site is not in the Local Plan.

Response: This is addressed in Issue 1 above.

- It is a speculative Planning Application for financial gain.

Response: This is not considered to be a planning matter.

- A Consent granted will leave open the possibility of expansion of the village into a town to the west.

Response: Matters associated with future possible planning applications that are not subject of the Appeal proposal are not relevant.

- No accommodation in the Village Primary School which will be full in November 2024, with no room to expand.

Response: The local Education Authority (Oxfordshire County Council) have raised no objection to the application subject to financial contributions to secure local education improvements. These have been agreed by the Appellant and are included within the Section 106.

7 THIRD PARTY REPRESENTATIONS

7.1 The following third-party representations have been received to the Appeal:

- Lack of infrastructure

Response: This is addressed in issue 4 above. Statutory consultees have requested financial contributions to improve local infrastructure – including education, health and public transport. These have been accepted by the Appellant and are secured within the Section 106.

- Inability of Thames Water to supply enough water to homes in the area, Victorian sewage systems incapable of accommodating 134 additional houses, and will lead to increased blackouts which have been more frequent since Bovis development.

Response: Discussions have taken place with Thames Water which confirms there will be sufficient capacity in our clean water network to serve the 140 residential units. This confirmation is shown at Appendix 4.

- Insufficient sewage treatment capacity leading to illegal untreated sewerage discharges into watercourses.

Response: This is addressed in Issue 3 above.

- Concerns regarding additional traffic on Burford Road, which would lead to further accidents on the road with narrow or non-existent pavements.

Response: Oxfordshire County Council as Highway Authority raise no objection in terms of additional traffic from the Appeal proposals on the Local Highway network.

- Lack of space at existing primary school, and doctors' surgery.

Response: This is addressed in issue 4 above. Statutory consultees have requested financial contributions to improve local infrastructure – including education, health and public transport. These have been accepted by the Appellant and are secured within the Section 106.

- Concerns regarding noise and disturbance.

Response: No objections have been raised to the Appeal proposals from Environmental Health Officers. The impacts of construction activities can be addressed through suitably worded planning

conditions. Future reserved matters applications will provide a detailed site layout which will address matters associated with the amenity of neighbouring residential development.

- Impact to general character of the area and coalescence with Witney.

Response: This is addressed in Issue 2 above. Witney is located to the east of Minster Lovell, the Appeal proposals are located to the west of the village and there is no issue with coalescence with Witney.

- Should remain as agricultural land and not allocated within the Local Plan 2031.

Response: Matters associated with the principle of development in this location are addressed in Issue 1 above.

- Impact to the Non-Designated Heritage Asset that is Minster Lovell, and its linear plan of Chartist dwelling (some of which are Grade II listed). This has been recognised by at least four Planning Inspectors previously.

Response: This is addressed in Issue 2 above and the evidence prepared by Ms Stoten.

- Development would have no integration into the village and would result in extensive car usage by new residents as facilities are too far to walk.

Response: This is addressed in Issue 1 above and the evidence prepared by Mr Neale.

- Development would detract from the setting of the AONB and the surrounding landscape.

Response: This is addressed in Issue 2 above and the evidence prepared by Mr Mylchreest.

- Development does little to provide opportunities for walking, cycling and use of public transport. The existing footpath along the B4047 is in a poor state of repair and is dangerous in places.

Response: This is addressed in Issue 1 above and the evidence prepared by Mr Neale.

- No safe cycle provision into the village of Witney – the ‘Sustrans’ cycle route from ML to Witney is overgrown and runs through an area used by OCC to store road chippings.

Response: This is addressed in Issue 1 above and the evidence prepared by Mr Neale.

- Lack of facilities close by – no doctor, dentist or chemist so access to these would be via car or bus.

Response: This is addressed in Issue 1 above and the evidence prepared by Mr Neale.

- Impact of additional parking on the two main roads within the village.

Response: Oxfordshire County Council as Highway Authority raise no objection in terms of additional traffic/parking from the Appeal proposals on the Local Highway network.

- Concerns regarding flooding and high water table. Ground is saturated with puddles and concerns where the water will go. Concerns regarding the bacteria and viruses carried in the water.

Response: This is addressed in Issue 3 above.

- Impact to local wildlife.

Response: No objections have been received to the Appeal proposals from ecologist consultees. The Appeal proposals provide a Biodiversity Net Gain (BNG) of more than 10%.

- Comments regarding deliverability of the development due to a Covenant on the land.

Response: This is not considered to be a planning matter.

- Thames Water highlight previous concerns relating to water/wastewater infrastructure capacity and network upgrades can take 18 months to 3 years to complete. If appeal is granted, a condition is required to ensure necessary upgrade works to the network are completed prior to occupation of the development.

Response: This is addressed in Issue 3 above. Planning conditions (on a without prejudice basis) have been agreed with WODC.

- Oxfordshire County Council have commenting stating the development is unacceptable without a S106 agreement to mitigate the demands places on infrastructure and services as a result of the development. The justification for these is set out within the document.

Response: This is addressed in issue 4 above. Statutory consultees have requested financial contributions to improve local infrastructure – including education, health and public transport. These have been accepted by the Appellant and are secured within the Section 106.

8 THE PLANNING BALANCE

- 8.1 In this section I explain how I believe the decision maker should approach the determination of this Appeal, including the planning balance.

The Decision Making Framework

- 8.2 The starting point for the determination of any planning application or appeal is the Development Plan. The planning system is “plan led” and requires that applications for planning permission be determined in accordance with the Development Plan, unless other material considerations indicate otherwise.
- 8.3 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, the task is not to decide whether, on an individual assessment of a proposal’s compliance with the relevant policies it could be said to accord with each and every one of them, but rather to establish whether the proposal is in accordance with the development plan as a whole, given that it is not at all unusual for Development Plan policies to pull in different directions. I am advised that accordance with the Development Plan is a matter of planning judgment for the decision-maker (see *R (Corbett) v Cornwall Council* [2020] EWCA 508 at [41]-[45]) (Core Document O28).
- 8.4 In my view, the appeal proposal accords with the Development Plan.
- 8.5 Planning applications which accord with the adopted Development Plan should be approved without delay unless material considerations indicate otherwise.
- 8.6 Should the Inspector find conflict with any policies, I consider that key policies are out of date due to the lack of five year housing land supply, which would engage the ‘tilted balance’. In considering the benefits and adverse impacts associated with the Proposed Development, it is my opinion that the adverse impacts of the Proposed Development would be significantly and demonstrably outweighed by the benefits, were it to be found that the Proposed Development did not accord with the Development Plan as a whole.
- 8.7 In the eventuality that the Inspector considers that the Appeal proposal conflicts with the adopted Development Plan, and that the ‘tilted balance’ does not apply, I consider that there are sufficient material considerations available to justify the grant of planning permission. These material considerations are the benefits of the Appeal proposal which include the

sustainable location of the Appeal Site and the contribution to deliver housing, in particular affordable housing.

The Planning Balance

8.8 The following section identifies the benefits and adverse impacts of the Appeal proposals.

8.9 In considering the weight to be afforded to each considering the planning balance, I apply the following scales of weight:

- Substantial (High)
- Significant
- Moderate
- Limited (Low)

The Adverse Impacts

8.10 I have identified that there is conflict with Policy OS2, OS4 and EH2 with regards to landscape character. The evidence presented by Mr Mylchreest demonstrates that landscape harm would be localised and at a limited level. I consider the conflict with policies OS2, OS4 and EH2 should be afforded **limited weight**.

The Benefits

8.11 The following table provides a summary of the benefits associated with the Appeal proposals.

Table 4: Planning Benefits

Benefits	Weight to be Afforded
<i>Social</i>	
Provision of 134 new homes to help boost the supply of housing and to meet an	Substantial Weight

identified housing need where there is a significant shortfall in five year housing land supply.	
Provision of 134 new homes to help boost the supply of housing and to meet an identified housing need where there is a significant shortfall in delivery across the adopted Plan period.	Substantial Weight
Provision of 54 new affordable homes to help address a serious shortfall.	Substantial Weight
Provision of a mix of housing choice from the delivery of 134 new homes to meet the needs of local people and diversify the housing stock in WODC.	Moderate Weight
Development in a sustainable location within close proximity to services and facilities and employment opportunities.	Substantial Weight
Economic	
Investment in the local area.	Moderate Weight
New economically active residents.	Moderate Weight
Local spending increase.	Moderate Weight

Direct and indirect employment opportunities (including construction jobs).	Moderate Weight
Construction spend.	Moderate Weight
Section 106 contributions, including financial contributions towards to sports and leisure facilities, medical facilities, education facilities and public transport facilities.	Moderate Weight
<i>Environmental</i>	
Provision of green infrastructure, including a biodiversity net gain of gain of 13.10% (above the future mandatory requirement of 10%).	Moderate Weight

Overall Planning Balance

- 8.12 My primary position is that the Appeal proposal is in accordance with the adopted Development Plan when read as whole.
- 8.13 It is my opinion that the benefits of the Appeal proposal that I have identified, would significantly and demonstrably outweigh the adverse impacts were it to be found that the proposal did not comply with the Development Plan when read as a whole.
- 8.14 Should the Inspector find conflict with any Development Plan policies, I consider that key policies are out of date due to WODC's lack of five year housing land supply.
- 8.15 Should the Inspector consider that the 'titled balance' not apply, I consider there are sufficient material considerations identified that would justify the grant of outline planning permission. Those material considerations are the substantial benefits of the Appeal proposal, including the delivery of new market and affordable homes to meet a significant shortfall in delivery across the Plan period.

- 8.16 My opinion in the overall planning balance is supported and consistent with the professional assessment of the WODC Case Officer who considered that outline planning permission should be granted (Core Document C9).

9 SUMMARY AND CONCLUSIONS

- 9.1 This Planning Proof of Evidence has been prepared on behalf of my clients Catesby Strategic Land Limited – the Appellant.
- 9.2 My evidence is in relation to planning balance matters raised by the refusal of planning permission by WODC.
- 9.3 The evidence is in support of a Section 78 Appeal following the refusal of outline planning permission by WODC for residential development of up to 134 dwellings, and a means of vehicular and pedestrian access off Burford Road. Details of appearance, landscaping, scale and layout were reserved for future consideration, and therefore all matters are reserved other than access.
- 9.4 As set out in my Proof of Evidence, my conclusion is that the Appeal proposal is in general accordance with the adopted Development Plan, when read as a whole. Whilst I identify some limited conflict with Policies OS2 (landscape matters) and EH2 (landscape) I consider there is compliance with the overall spatial strategy of the WOLP and the Development Plan when read as a whole (see Table 3).
- 9.5 Notwithstanding this, if the Inspector were to conclude that there would be some conflict with relevant policies, I consider that relevant housing policies, would be out date because WODC cannot demonstrate a five year housing land supply. The presumption in favour of sustainable development, contained within Policy OS1 and paragraph 11 (d) of the NPPF apply, therefore engaging the ‘titled balance’.
- 9.6 I have assessed the benefits of the scheme against the harms, and in the context of the titled balance applying, I consider the benefits of the Appeal proposal significantly and demonstrably outweigh the adverse impacts in this case.
- 9.7 However, if the Inspector concludes the titled balance did not apply and instead the normal ‘flat balance’ applies, I consider that there are sufficient material considerations available to justify the grant of planning permission. These benefits are social, environmental and economic and specifically the supply of much needed market and affordable housing (to meet the Government’s objective to significantly boost the supply of homes) where the Local Plan is failing to deliver in both respects over the Plan period.

- 9.8 My conclusions support and reflect those of the professional Case Officer at WODC that recommended, to Planning Committee, a resolution to approve the Appeal proposals.
- 9.9 The Inspector is respectfully requested to allow the Appeal and grant outline planning permission.

10 CONDITIONS

- 10.1 A set of planning conditions on a without prejudice basis has been agreed with WODC within the 'main' Statement of Common Ground (Core Document E4).