

Statement of Case

In Respect of a Section 78(1) Appeal against the refusal of Planning Application

P/OUT/2023/02644

for a Hybrid application consisting of

A full planning application for a mixed-use development comprising a food store, office space, café, and mixed-use space for E class uses (e.g. estate agents, hairdresser, funeral care, dentist, vet), and 2x 2-bed flats. Demolition of redundant agricultural sheds. Plus, a new parking area with 30 parking spaces for St. Gregory's Church and St Gregory's Primary School. Associated landscaping and engineering operations, access arrangements, on land west of Church Hill, Marnhull.

Outline planning application with all matters reserved except for access for up to 120

dwelling on land off Butts Close and Schoolhouse Lane, Marnhull

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1. Introduction

- 1.1 Chapman Lily Planning Ltd submit this statement of case in support of a planning appeal on behalf of the Appellant Mr Paul Crocker, under Section 78(1) of the Town and Country Planning Act 1990 (as amended) in response to the refusal of the Hybrid planning application (planning ref: P/OUT/2023/02644) consisting of

*'A full planning application for a mixed-use development comprising a food store, office space, café, and mixed-use space for E class uses (e.g. estate agents, hairdresser, funeral care, dentist, vet), and 2x 2-bed flats. Demolition of redundant agricultural sheds. Plus, a new parking area with 30 parking spaces for St. Gregory's Church and St Gregory's Primary School. Associated landscaping and engineering operations, access arrangements, on **land west of Church Hill, Marnhull.***

*Outline planning application with all matters reserved except for access for up to 120 dwellings on **land off Butts Close and Schoolhouse Lane, Marnhull'***

- 1.2 Planning application P/OUT/2023/02644 was submitted to Dorset Council and was refused on 16th July 2024. There were 5 reasons for refusal:

1. The proposed development by reason of its location outside of the settlement boundary of Marnhull would be contrary to Policies 2, 6, and 20 of the adopted North Dorset Local Plan Part 1 (January 2016).
2. The proposed development includes main town centre uses (use class E) measuring 2,356 sqm which is not considered to be small scale rural development contrary to Policies 2, 11 and 12 of the adopted North Dorset Local Plan Part 1, and paragraphs 90 and 91 of the National Planning Policy Framework.
3. Insufficient details of the proposed development have been submitted to enable the Highway Authority to fully assess the highway safety and sustainable transport implications of the proposal and, consequently, it is not clear whether the proposal would be likely to endanger road safety or result in other transport problems contrary to Objective 6 – Improving the Quality of Life, and Policies 2 and 13 of the adopted North Dorset Local Plan Part 1, and paragraphs 108 criteria d) and e), and paragraph 117 of the National Planning Policy Framework.
4. The proposed development by reason of its siting, scale (in terms of mass and quantum), and appearance would have a less than substantial harm on grade I listed Church of St Gregory, grade II* listed Senior's Farmhouse and Attached Barn, and Marnhull Conservation Area. It is considered that the harm identified would not be outweighed by the public benefits of the proposal contrary to Policies 2 and 5 of the adopted North

Dorset Local Plan Part 1, and paragraphs 199, 200, and 202 of the National Planning Policy Framework.

5. The proposed development would require financial contributions towards off-site improvements and possibly on-going maintenance, ecology, and affordable housing, that must be secured by a Section 106 legal agreement. The applicant has not submitted such an agreement, contrary to policies 4, 8, 13, 14, and 15 of the North Dorset Local Plan Part 1 (January 2016).
- 1.3 With regards to the first reason for refusal, as of the 26th September 2024 the Council now have the Annual Position statement (APS) agreed with PINs which is 5.02 years HLS. This APS is in place until 31st October 2025. The ministerial statement (July 2024) is considered to be of great importance as are the imminent revisions to the NPPF as indicated in the consultation draft of the NPPF (July 2024). It is anticipated the thresholds for housing delivery and housing land supply area will go up. The consultation draft of the NPPF (which closed for comments on the 24th September 2024) also sought views on getting rid of the seldom used APS process. The revisions to the NPPF may change the guidance on APS and the implications for APS's already signed off by the Planning Inspectorate. As the determination of this appeal is likely to follow publication of the revised NPPF these matters will necessarily be discussed and agreed closer to the inquiry date.
 - 1.4 If having to apply the 'flat balance' the appellant will in any case be arguing that the ministerial statement and the NPPF looks to significantly 'boost' housing supply and the economy. The APS and current housing delivery test thresholds which are both met should not be seen as a tool to have a blanket approach to refusing planning applications outside of the settlement boundary.
 - 1.5 In respect of the second reason for refusal, the appellant is submitting Retail Sequential Tests to cover the towns of Sturminster Newton, Gillingham, Shaftsbury, and Blandford. It is also noted that the case officer expected an impact assessment to have been undertaken to comply with Policy 12 of the North Dorset Local Plan. The requirement for an impact assessment is a matter with which the appellant disagrees given the proposal is below the threshold to trigger the impact assessment.
 - 1.6 In respect of the third reason for refusal, the Appellant, LPA and relevant consultees (Highways officer) are working together to address any outstanding matters ahead of the inquiry. The Appellant has already agreed with the Council highways officer that a technical submission and amendments to the plans (following the judgement in *Holburn Studios v The Council of the London Borough of Hackney* (2018), which refined the "Wheatcroft principles" set out in *Bernard Wheatcroft v Secretary of State for the Environment* (1982,)) are likely to narrow down the areas of dispute if not resolve them in their entirety. In consultation with the Council highways officer the Appellant is submitting a Highways Technical Note which includes:
 - Tess Square proposed parking provision;

- Proposed delivery arrangements supported by Delivery Vehicle Tracking plans (Tess Square parcel);
 - Removing the separate access to the proposed 30 car parking spaces for school drop off/pick up and church users in lieu of an internal link to the school drop off/pick up from the proposed car park serving retail/commercial units (Tess Square parcel) as shown on proposed revised site plan 101 rev.3.
 - Pedestrian connectivity- surfacing of PROWS to all weather surfacing (which can be secured by a condition requiring surfacing details to be agreed);
 - 2m Footways either side of vehicular access onto B3092/Schoolhouse Lane have been removed (Butts Close parcel) as shown on proposed site plan P201 rev 3;
 - Revised modelling- trip generation/trip distribution;
- 1.7 The appellant is happy to work with the Council to explore potential highway works on Schoolhouse Lane, which if achievable can be suitably addressed within a planning obligation.
- 1.8 There is a significant dispute between the Appellant and the LPA in respect of the fourth reason for refusal regarding the weighting given to the less than substantial harm to heritage assets and the significant public benefits (even when arguing the flat balance) this proposal would bring.
- 1.9 The Appellant contends that the issues raised in the fifth reason for refusal are essentially procedural and it is anticipated that they can be suitably addressed through an appropriate planning obligation. A 'draft' s.106 has been submitted as part of this appeal submission.

Main Issues

- 1.10 The main issues in this appeal are considered by the Appellant are:
- Whether the proposed retail/commercial element on the Tess Square parcel of land would harm the towns centres of Sturminster Newton, Gillingham, Shaftsbury or Blandford. If the inspector finds that a retail sequential test is required by the development plan/NPPF.
 - Whether the proposal would 'endanger road safety or result in other transport problems'.
 - Whether the public benefits of this proposal would outweigh the less than substantial harm to the identified heritage assets.
 - An assessment of the 'public benefits' the retail/commercial element within the northern site 'Tess Square' and the additional housing including a policy compliant level of affordable housing will have on the village of Marnhull.
 - The locational disadvantages fall short of significantly and demonstrably outweighing the benefits overall.

- 1.11 The Appellant will address the relevant planning policy around retail/commercial development. There is a potential tension between the adopted development plan context and that of national policy. Whilst adopted development plan policy does not specifically address the commercial/employment impacts of sites such as the proposed (northern parcel) retail/commercial element of the appeal scheme, it is clear that the NPPF supports sustainable development which encourages regeneration and reduces the need to travel. The Appellant will demonstrate the significant sustainability credentials through the public benefits that the scheme will bring to the locality through the enhancement and introduction of these facilities.
- 1.12 The Appellant has provided additional highways information, as listed in paragraph 1.6, which is considered to meet the two tests from *Holborn Studios Ltd v The Council of the London Borough of Hackney (2018)*, which refined the “Wheatcroft principles” set out in *Bernard Wheatcroft v Secretary of State for the Environment (1982)* which is anticipated to overcome/narrow areas of dispute with regards to reason for refusal no. 3.
- 1.13 The Appellant contends that reason for refusal no. 5 can be overcome with a s.106 planning obligation to secure off-site improvements, on-going maintenance, and affordable housing etc.

2 The appeal proposal, site and surrounds

- 2.1 The Appellant owns a family farming business and is a local landowner. Mr Crocker is a resident of Marnhull and has a keen interest in the sustainable evolution of the village, having contributed in the past through the provision of land for the benefit of the community eg. The village surgery. The provision of affordable housing in the village is a key concern for the Appellant and this forms a core policy-compliant element of the appeal scheme.
- 2.2 This development could be brought forward relatively quickly thereby enabling the attendant benefits from delivering market and affordable housing to both the village and the wider Dorset area.

2.3 The application site is split across two parcels (edged in red) as shown on the location plan, inset below, alongside an aerial photo of the village for context.



2.4 The northern parcel sits to the west of Church Hill. This parcel is fairly level and includes the existing doctor's surgery, pharmacy and car park accessed off Church Hill. Below is an aerial image of the car park and surgery and a street view of the entrance into this parcel from Church Hill.



2.5 The doctor's surgery and pharmacy are clearly community facilities. When they were granted permission in 2002 they were (and still are) on land outside of the settlement boundary (the map was adopted Jan 2003). The appeal proposal is to provide additional local services and community facilities to the south and west of the existing surgery/pharmacy building. Together, these will create a local centre ('Tess Square') for Marnhull which would further support the residential expansion of the village.

2.6 The appeal proposal would provide 139 car parking spaces to the north and east of the new retail/commercial/office buildings and c.1,455sq m of retail (food store) floor space over two

floors of built form and 2 flats. A further 30 car parking spaces for school drop off and patrons of the church is now proposed to be accessed off the extended car park. The existing chicken sheds in the southern part of the site are proposed to be removed with the land reinstated as green space.

- 2.7 The southern parcel (Butts Close) sits to the west of Schoolhouse Lane, east of Butts Close and northeast of Chippel Lane. This site slopes uphill from Chippel Lane to the north. When approaching Marnhull from the south along the B3092 there are distant views of St Gregory's church tower through a gap in the hedge close to the junction with Chippel Lane. An image from Google maps is shown below:



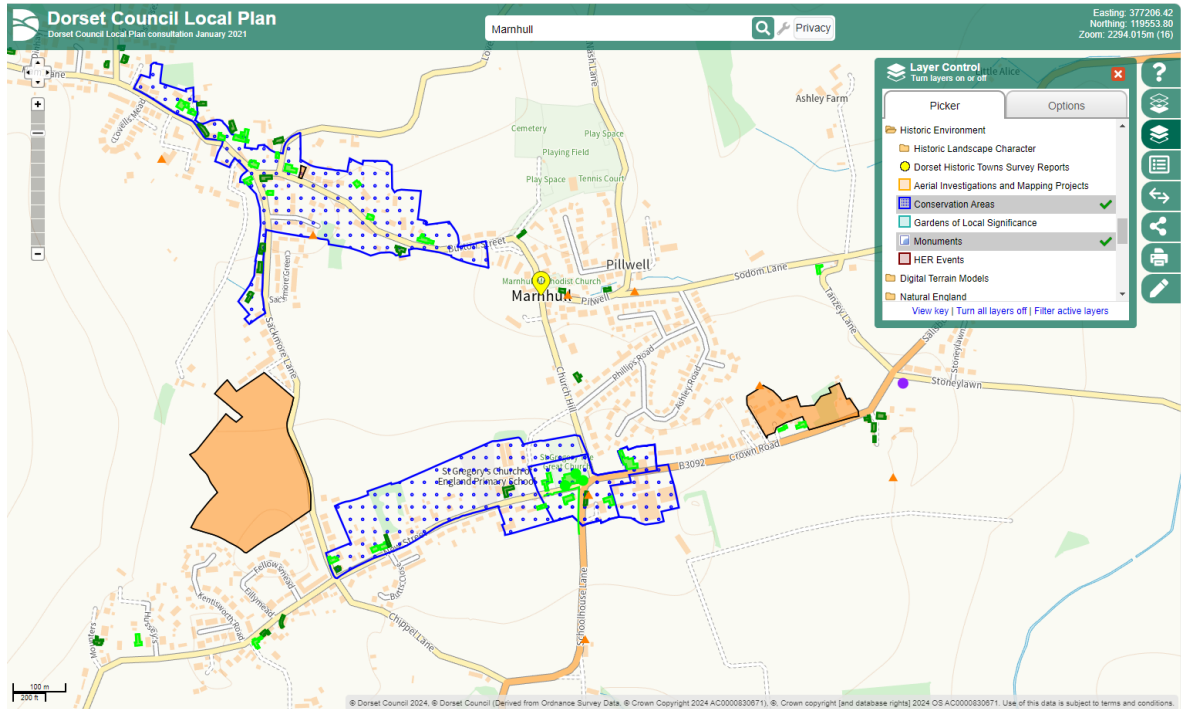
- 2.8 There are also views of the church tower from Butts Close. Residential development of up to 120 dwellings is proposed for this southern parcel with access off Butts Close. The principle of an access has already been established with the approval of a residential outline scheme for 39 dwellings. Dwellings along the northern side of the application site off Butts Close are bungalows. Further south and west of the proposed access point into the site are 2 storey dwellings in Butts Close. The two images below show the application site in relation to that parcel of the application site (the field).



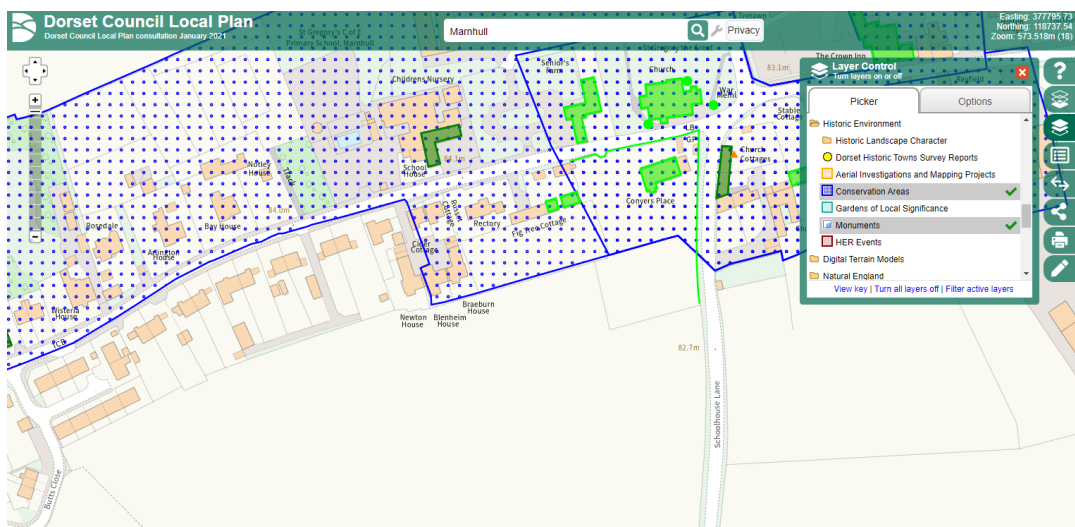


- 2.9 There are existing footpaths which run through the application site. It is proposed to retain and enhance these rights of way (secured by condition).
- 2.10 The sites are in agricultural use and constitute Grade 3 agricultural land.
- 2.11 According to the Environment Agency website, and as identified in the accompanying FRA and drainage reports, both site lies within Flood Zone 1.
- 2.12 Parts of the Tess Square parcel are potentially affected by surface water flooding, however those areas at risk of elevated surface water flooding will not be developed.
- 2.13 The Butts Close site lies in an area with 'Very Low' (less than 1 in 1000 (0.1%)) chance of surface water flooding. There is a very small area of low risk (less than 1 in 100 (1%)) on the western boundary and towards to east. Due to the steep topography of the site, any floodwaters would run downslope away from the development.
- 2.14 In terms of ground water flooding, the Council has not raised this as an issue in the reasons for refusal.

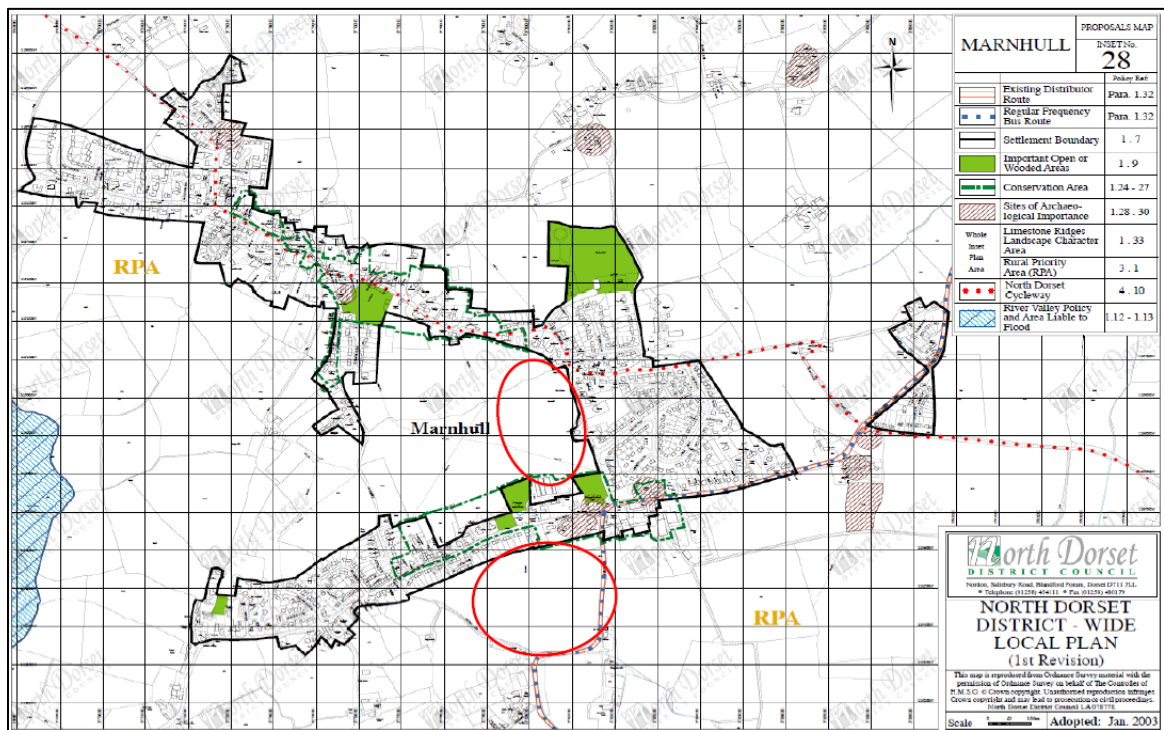
2.15 In heritage terms, the Tess Square parcel of the site sits between, but not abutting, the two conservation areas within Marnhull. The agricultural sheds which are being demolished lie within the northern part of the southern conservation area.



2.16 The north east part of the Butts Close parcel of the site abuts a relatively small length of the southern boundary of the conservation area which runs along the rear of Blenheim House, Braeburn House and Fig Tree Cottage.



- 2.17 There are a small number of listed buildings proximate to both parcels of the site as indicated in green on the above plan. The impact of the appeal scheme on all the relevant heritage assets is discussed in the submitted heritage report.
- 2.18 The following footpaths are located on the site:
- N47/28- Butts Close parcel
 - N47/30- Butts Close parcel
 - N47/31- Tess Square parcel
- 2.19 The Appellant was made aware by the Council that the right of way N47/31 is actually plotted incorrectly on the Definitive Map. Consequently, the Council has requested that the application indicate the correct line on the plan and have requested that the Appellant submit an appropriate deed of variation.
- 2.20 Vehicular access to Tess Square will be via the existing vehicular access onto Church Hill.
- 2.21 The buildings proposed for the Tess Square parcel comprise a mix of single and two storeys. The principal building has an 'L' shape footprint which would sit to the west of the doctor's surgery and accommodate a range of Class E uses. The second building has a rectangular footprint with an inner courtyard accommodating the food store at ground floor, and class E use eg. Post office, with a separate office unit proposed at first floor along with a 1 x 1 bed and 1 x 2 bed flat.
- 2.22 The submitted Illustrative master plan for the Butts Close parcel demonstrates how 120 dwellings could be accommodated within a developable area of around 7.99ha. The resultant low density (c15 dph) allows for the integration of the built form into the village to the north and west whilst presenting a sensitive rural edge to the more open countryside to the east.
- 2.23 The local plan map for Marnhull is inset below with the broad location of the application site parcels indicated in red. The inset plan illustrates the location of the site parcels in the immediate vicinity of the settlement boundary. It also shows that the site parcels are relatively unencumbered by planning and environmental designations.



2.24 Both parcels are outside of, but adjacent to, the village settlement boundary.

2.25 In respect of Tess Square it is noted that there is already built form on the north east part of this parcel i.e. the doctor's surgery, pharmacy and car park. This existing development is also outside the adopted settlement boundary.

2.26 The appellant has recently produced a master plan for Marnhull that looks at longer term sustainable growth of Marnhull (this is attached as appendix a to this statement).

3 Relevant planning history

3.1 An outline application to 'Develop land by the erection of up to 39 No. dwellings, form vehicular and pedestrian access, and public open space on land at Butts Close' was granted planning permission on 2 March 2024. This illustrative plan is shown below. This site abuts the western part of the Butts Close parcel of the application site.



4 Development Plan

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise.

Development Plan Context

4.2 In this instance, the Development Plan comprises:

- North Dorset Local Plan Part 1 January 2016
- Saved policies of the North Dorset Local Plan 1st Revision January 2003

Development Plan Strategic Objectives

4.3 The plan's strategic objectives include:

- Meeting the challenge of climate change
- Conserving and enhancing the historic and natural environment
- Ensuring the vitality of the market towns
- Supporting sustainable rural communities
- Meeting the District's housing needs
- Improving the quality of life.

Development Plan Status

- 4.4 Since the application was refused, Dorset Council now have an agreed Annual Position Statement (26th September 2024) with a housing land supply figure of 5.02 years.
- 4.5 When assessing the appeal scheme against the adopted development plan, the first step is to consider whether there are any relevant development plan policies. Despite its age, the development plan does include policies for housing numbers and distribution. It also contains policies concerning environmental and heritage matters. Consequently, the development plan does contain relevant policies.
- 4.10 Notwithstanding the above, the appellant argues that it is still necessary to consider the appeal scheme against the development plan as a whole. This is because the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

Development Plan Policies Relating to the Principle of Development

- 4.11 The following development plan policies relate to the principle of development, housing numbers and distribution:
- Policy 1 – Presumption in favour of sustainable development
 - Policy 2 – Core spatial strategy
 - Policy 6 – Housing distribution
 - Policy 12 – Retail, Leisure and Other Commercial Developments
 - Policy 20 – The countryside
- 4.12 **Strategic Policy 1** echoes the presumption in favour of sustainable development in the NPPF.
- 4.13 **Strategic Policy 2** is a strategic policy which directs housing development towards the Main Towns and Larger Villages, with development within smaller villages and the Countryside tightly controlled. The policy attributes a settlement boundary to Marnhull, being one of 18 larger villages. The village is therefore a sustainable settlement capable of accommodating development. Nevertheless, the policy talks of a focus on meeting local needs rather than strategic ones. The lack of progress with the local plan part 2, meant that the settlements never received development allocations. The result is that the settlement boundary for Marnhull, retained from 2003, is drawn tightly with no obvious or planned locations for the necessary growth in the village for the nearly two decades which have passed since its inception. The approach taken under the policy sub-heading of ‘The Countryside’ is not consistent with the latest iteration of the NPPF, not least because the expectation set out in Local Plan Part 1 at paragraph 3.50 about Local Plan Part 2 further explaining ‘essential needs’ never came forward. In addition, this policy does not reflect the more nuanced national

policy approach towards supporting the rural economy and development needs beyond farm and forestry workers.

4.14 **Strategic Policy 6** is a strategic policy more than five years old, which apportioned the former district's housing need to identified settlements. Because the Local Plan Part 2 was never progressed, no sites were allocated to deliver Policy 6. Notwithstanding this, the policy attributes a local need figure of 825 dwellings across the villages over the plan period. This 825 figure is not a cap on the upper number of new dwellings that are permissible across the villages.

4.15 **Strategic Policy 12** sets a hierarchical approach to the location of retail, leisure and other commercial developments within Town Centres. The preamble to this policy at paragraph 6.78 states that:

*'6.78 The Council will apply the sequential test in national policy to planning applications for main town centre uses that are not in an existing centre and are not in accordance with the development plan, **unless the application is for small-scale rural offices, or other small-scale rural development.**'*

4.16 However, Marnhull is a 'village' and consequently whether or not Policy 12 is engaged is an issue. Irrespective of this being a matter of contention, the Appellant has in response to reason for refusal no. 2 submitted Retail Sequential Tests for the towns of Sturminster Newton, Gillingham, Shaftsbury and Blandford. The appellant would like to draw attention to a recent appeal decision in Dorset which proposed a village centre, was also required to submit a retail sequential test. The inspector for this appeal (APP/D1265/W/23/3336518) likewise debated whether a retail sequential test was required. (Copy attached as appendix b to this statement) They went on to conclude:

77. As the proposed village centre is meant to serve the new development and existing village, it is doubtful whether the requirement for a sequential approach and retail impact assessment cited in reason for refusal 7 of the Council's decision notice was strictly necessary.

4.17 The preamble to Policy 12 addresses the threshold requirement for which a retail impact assessment (RIA) is required. Paragraph 6.82 indicates the need for a RIA for retail, leisure or office development of 2,500sqm or more. The Tess Square proposal is under the development plan threshold requirement for a RIA in SP12 and similarly below (the same) default threshold indicated in paragraph 94 of the NPPF. Consequently, there is no conflict with SP12 (or the NPPF) in respect thereof. Despite this, the Appellant did submit a Retail Technical Note prepared by Lichfields which concluded that the level of commercial/retail floor space/need could exceed that currently proposed.

4.18 **Strategic Policy 20** continues to espouse the 'focussed' approach towards Stalbridge and the 18 larger villages (for which no sites were allocated because the Local Plan Part 2 was never

progressed) and takes a strict approach to proposals outside of settlement boundaries. The settlement boundaries were conceived over 20 years ago and the development plan was adopted against a different national policy context. Consequently, appeal scheme accords with the spatial strategy of the development plan as a whole

Development Plan Policies Relating to Matters of Detail

4.22 The following development plan policies relate to matters of detail which, on the whole, are not relevant to the outline planning application (Butts Close parcel) because they will be dealt with at the later reserved matters stage:

- Policy 3 – Climate change
- Policy 7 – Delivering homes
- Policy 8 – Affordable housing
- Policy 13 – Grey infrastructure
- Policy 14 – Social infrastructure
- Policy 15 – Green infrastructure
- Policy 23 – Parking
- Policy 24 – Design

4.23 **Strategic Policy 3** requires development to reduce climate change impacts through site specific and design matters which will be covered at reserved matters stage for Butts Close, but also through location in accordance with policy 2. As discussed above the site is sustainably located in relation to policy 2 and therefore, insofar as this policy is relevant to the outline element of this planning application, it is compliant with it. Criterion 3a) looks to locate new buildings in areas served by a good range of everyday facilities. Tess Square will enhance the everyday facilities available to the expanding village of Marnhull, and therefore accords with the policy through the provision of enhanced services and facilities thereby reducing the need for travel and aiding climate change aims.

4.24 **Strategic Policy 7** concerns housing mix and type; detailed matters which the outline element of this planning application does not cover. Compliance or otherwise with policy 7 will be determined at the reserved matters stage. However, the illustrative layout plan shows that a variety of types and sizes of dwelling are capable of being accommodated on the site and, in time, reflecting likely local needs, provision of affordable and accessible homes will add to the local mix and facilitate dynamism within the local housing market whereby other housing is freed up.

4.25 **Strategic Policy 8** sets the affordable housing provision for development in North Dorset. In this location the development plan aims for an affordable housing provision of 40%. This planning application proposes a policy-compliant 40% affordable housing likely/intended to be constituted by 17% affordable rent, 52% first homes and 31% shared ownership.

- 4.26 Where (as is the case here) there is a shortage of affordable housing, the weight to be given to this aspect of the development increases accordingly and should be given at least the “great weight” suggested in paragraph 70(c) of the NPPF.
- 4.27 **Strategic Policy 13** concerns grey infrastructure provision and sets out Dorset Council’s strategic approach to grey infrastructure provision. It provides no development management decision making criteria. The Butts Close element of this planning application is in outline and consultees can respond on the matters covered by policy 13, when the reserved matters submission(s) is made. For decision making the submitted utilities statement and other submission documents such as the transport assessment, provide information on the infrastructure potential of the proposal. Any infrastructure required to support the development will be provided via s106 contributions because North Dorset does not operate the Community Infrastructure Levy (CIL).
- 4.28 **Strategic Policy 14** concerns social infrastructure provision and sets out the Council’s strategic approach to social infrastructure provision. It provides no development management decision making criteria. The Butts Close element of this planning application is in outline and consultees will respond on the matters covered by policy 14, at the reserved matters stage providing the necessary detail for a final determination on infrastructure provision and plan compliance when the final quantum of development is known. Any social infrastructure required to support the development will be provided via s106 contributions because North Dorset does not operate the Community Infrastructure Levy (CIL).
- 4.29 **Strategic Policy 15** concerns green infrastructure provision and sets out Dorset Council’s strategic approach to green infrastructure provision. Criteria a to f set out the Council’s strategic approach at the plan-level. The remainder of the policy provides decision making criteria that will be relevant to the reserved matters stage of the process for Butts Close. However, the indicative layout plan provides comfort that Butts Close will be able to accede to the policy requirements at the reserved matters stage when the final quantum of development is known. In relation to Tess Square, the detailed layout provides a significant area of public open space and pedestrian connectivity between the school, the new parking area and Tess Square and the rights of way crossing the area. This is a significant benefit deriving from this hybrid planning application in green infrastructure terms.
- 4.30 **Development Management Policy 23** sets the parking requirements for development. The Butts Close element of this planning application is in outline at this stage, compliance or otherwise cannot yet be judged until the reserved matters submissions have been made and when the final quantum of development is known. The indicative layout plan provides comfort that Butts Close should easily be able to adhere to Dorset Council’s parking requirements. In relation to Tess Square the parking ‘requirement’ generated by reference to the “initial, pragmatic county-wide guide” is around 141 car parking spaces. Tess Square provides 137 spaces (plus the additional 30 spaces intended to aid school drop off in the village) but is able to be counted towards the overall parking provision for the retail and commercial element at Tess Square.

4.31 **Development Management Policy 24** sets the design requirements for development. The submitted design and access statements for both elements of the scheme set out the design rationale and response to both sites insofar as it is relevant to each level of detail.

Development Plan Policies Relating to Specific Topics Aside from Principle and Design

4.32 The following development plan policies relate to topic-specific matters for which a number of supporting reports and surveys have been provided with this outline planning application:

- Policy 5 – The historic environment

4.33 **Strategic Policy 5** concerns the historic environment. The relevant part of this policy states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

4.34 The appellant considers that the proposals make a significant contribution to housing provision within the county and will contribute towards the sustainability of the settlement, illustrated by the proposed commercial centre which demonstrates the confidence that Marnhull has a viable future as a settlement. Furthermore, and to a degree, any harm has been mitigated through the sensitive layout of the sites as illustrated by the submitted plans which demonstrate an awareness and response to the significance of heritage assets within proximity of the proposed developments.

4.34 To the extent that policy 5 is relevant to the elements of this planning appeal, the supporting documents clearly show that the principle of development is or can be made acceptable and that any site-specific issues are clearly identified in advance of future detailed design proposals where relevant.

5 Material considerations

Written Ministerial Statement

5.1 On 30 July 2024, a new Written Ministerial Statement was published which expresses the firm intention to raise housing targets and facilitate housing delivery. This is now part of current national planning policy. Published alongside it were consultation drafts of a revised National Planning Policy Framework to replace the 2023 version, and a new standard method for calculating local housing need. There may also be changes to the use of APS. The statements regarding housing delivery in the Written Ministerial Statement express a strong policy

direction which should be accorded great importance. This Written Ministerial statement seeks to boost the economy as well.

The National Planning Policy Framework

5.2 The National Planning Policy Framework (NPPF) sets out that the purpose of the planning system is to contribute to the achievement of sustainable development, defined as encompassing economic, social and environmental dimensions:

- An **economic** objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- A **social** objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- An **environmental** objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

5.3 The NPPF is obviously a significant material consideration in the determination of the appeal. It is not necessary to repeat herein all the relevant policies of the NPPF but the following sections are considered most relevant to the assessment of the application:

- Achieving sustainable development (2)
 - Boosting supply of homes (5)
 - Promoting healthy and safe communities (8)
 - Promoting sustainable transport (9)
 - Making effective use of land (11)
 - Achieving well designed places (12)
 - Meeting the challenge of climate change, flooding and coastal change (14)
 - Conserving and enhancing the natural environment (15)
 - Conserving and enhancing the historic environment (16)
- 6.5 At the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 11 explains that for decision-taking this means:

(At the heart of the NPPF is the presumption in favour of sustainable development)

- 5.4 Paragraph 9 confirms that ‘decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area’.
- 5.5 Paragraph 38 requires councils to *‘approach decisions on proposed development in a positive and creative way... and work proactively with applicants to secure development that will improve the economic, social and environmental conditions of the area. Decision makers at every level should seek to approve applications for sustainable development where possible’*.
- 5.6 The NPPF encourages the delivery of a wide choice of high-quality homes and widening the opportunity for home ownership and the creation of sustainable, inclusive and mixed communities (chapter 5).
- 5.7 Paragraph 60 of the NPPF supports the Government’s objective of **‘significantly boosting the supply of housing’**, stating that *‘it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay’*.
- 5.8 Paragraph 70 promotes the development of small and medium-sized sites, which *‘can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly... local planning authorities should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes’*.
- 5.10 Paragraph 83 indicates that *‘to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby’*.
- 5.11 Chapter 6 is about building a strong, competitive economy. Paragraph 88 supports a prosperous rural economy: (emphasis added)

88. Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and **well-designed beautiful new buildings**;*
- b) the development and diversification of agricultural and other land-based rural businesses;*
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.***

- 5.12 Paragraph 89 states that: (emphasis added)

*Planning policies and decisions should recognise that **sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements**, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and **sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.***

- 5.13 Chapter 7 considers the vitality of town centres. Paragraph 91 is very clear about when to apply the sequential test: (emphasis added)

*Local planning authorities should **apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan.** Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.*

- 5.14 Thereafter, important clarification on the application of a sequential test is provided as follows: (emphasis added)

*93. This sequential approach **should not be applied to applications for small scale rural offices or other small scale rural development.***

94. When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal;

and

b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

- 5.15 Chapter 8 is about promotion of and healthy and safe communities:

*96. Planning policies and **decisions** should aim to achieve healthy, inclusive and safe places and beautiful buildings which:*

- a) **promote social interaction**, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, **strong neighbourhood centres**, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;*
- b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and*
- c) **enable and support healthy lifestyles**, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, **local shops**, access to healthier food, allotments and layouts that encourage walking and cycling.*

97. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
- d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
- e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

5.16 Chapter 9 addresses the need to promote sustainable transport. Paragraph 114 states that:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

5.17 Beyond this Paragraph 115 is very clear that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.

- 5.18 Chapter 11 addresses the need for making effective use of land. The NPPF at paragraph 124, makes clear that planning decisions should promote the effective use of land in meeting the need for homes and other uses, encouraging multiple benefits, where possible. In achieving appropriate densities paragraph 128 indicates that decisions should support the effective use of land and take into account, inter alia, the identified need for the proposed development along, the availability of suitable land, the capacity of infrastructure and services (both existing and proposed) along with the potential for their improvement and the promotion of sustainable travel modes:

128. Planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) the importance of securing well-designed and beautiful, attractive and healthy places.*

- 5.19 Chapter 12 is entitled ‘Achieving well-designed and beautiful places’ . Paragraph 131 states *‘the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.’* Design is not raised as a reason for refusal and the D&A further demonstrates that there is no identified conflict with these national policies.

- 5.20 Chapter 16 of the NPPF sets out national policy in respect of conserving and enhancing the historic environment. Paragraph 200 requires the applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraphs 206, 207 and 208 are clear on the need to consider heritage assets and weigh harms against benefits.

Emerging Marnhull Neighbourhood Plan

- 5.21 Dorset Council website implies that a neighbourhood plan has been commenced for Marnhull and a neighbourhood plan area designated.
- 5.22 Referring to the Parish Council's website, it appears that since the appeal application was submitted there has been movement on the preparation of a Neighbourhood Plan for Marnhull. Minutes of meetings re the Neighbourhood Plan dated from October 2023 can be found on the Parish Council website. A Design Guidance and Codes, Draft Report (April 2024) has been written and a Reappraisal of the Marnhull Conservation Area (Draft Proposals) dated May 2024 has very recently been undertaken. Marnhull Neighbourhood Plan are carrying out a consultation on both of these documents on 2nd July 2024 at the village hall. Given the early stages of this Neighbourhood Plan preparation in line with NPPF paragraph 48 minimal weight can be attributed to any neighbourhood plan at this time.

Emerging Dorset Local Plan

- 5.23 Dorset Council is in the early stages of a Dorset-wide local plan, replacing the area's various local plans, including that of North Dorset. The local plan timetable has now been pushed back to proposed adoption being May 2027.
- 5.24 In line with NPPF paragraph 48, minimal weight can be attributed to the emerging plan at this stage.

6 Planning conditions and obligations

- 6.1 The NPPF provides overarching guidance on the topic of planning conditions and obligations. It states:

"Planning conditions and obligations

55. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

56. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

57. Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*

c) fairly and reasonably related in scale and kind to the development.”

- 6.2 Within that framework guidance, the applicant acknowledges the likely need for the development to contribute towards local infrastructure needs or demands created by the development. These will include:
- Securing the provision of affordable housing in a legal agreement
 - Public open space provision and management
- 6.3 But may also include:
- Education contributions
 - Healthcare contributions
 - Landscaping requirements
 - Biodiversity enhancements
- 6.4 The Appellant has provided a draft S.106 agreement. It is anticipated that the Council provides feedback and work together the appellant to having a signed S.106 agreement ahead of the inquiry date.

7. Appeal procedure and presentation of evidence

- 7.1 The Appellant contends that a **Public Inquiry** would be the most appropriate appeal procedure in this case.
- 7.2 It is hoped that the issues in dispute can be narrowed down in Statements of Common Ground (SoCG). However, given the scale and nature of the development proposals and the reasons for refusal a significant number of complex issues will remain unresolved.
- 7.3 It will be necessary for the inquiry to consider the proposals in the context of the adopted Local Plan and the ‘relevant’ National Policy. It will also need to consider the Ministerial statement (July 2024) which expresses the firm intention of raising housing targets and facilitate housing delivery. Published alongside this were consultation drafts of a revised NPPF to replace the 2023 version, and a new standard method for calculating local housing need is likely. It also anticipated there may be amendments to the APS. Furthermore, given this ministerial statement expresses a strong policy direction to boosting housing supply and the economy, it should be accorded of ‘great importance’.
- 7.4 With regards to the retail sequential test and the need or otherwise for a retail impact assessment, the findings of a previous appeal decision of there being doubt that a retail sequential test and a retail impact assessment was required for a village centre serving the new development and existing village, needs exploring.
- 7.5 Likewise the ‘weighting’ of the less than substantial harm to heritage assets against the public benefits needs exploring. As will any remaining highways issues.

- 7.6 The related planning policy issues, including the overall planning balance in play at the time of the inquiry needs to be debated. All of these topics will require the submission of detailed evidence, presentation and cross examination. These are likely to involve legal submissions in the context of whether any related impacts/concerns can also be addressed through conditions or planning obligations.
- 7.7 This appeal is an unusual scheme in that it proposes the development of the retail/commercial element of the scheme in conjunction with the residential element, and all in the context of the residential growth that has already been permitted in and around Marnhull. Important issues arise as to the relevance or otherwise of 'Town Centre' policies (both development plan and national) and/or the need for RIA and, if so, the scope and implications thereof. This will require detailed evidence, presentation and cross examination.
- 7.8 The need for housing (market and affordable) is beyond doubt when having regards to the strong policy direction of the Ministerial Statement (July 2024). The Appellant will explain the benefits of the proposal in arguing the 'flat balance'.
- 7.8 The above issues all give rise to complex legal and planning policy considerations for the decision maker. The issues can only be properly tested through formal evidence and questioning of Expert Witnesses by an Advocate, which would not be permissible under the Informal Hearing procedure.
- 7.9 The application also generated considerable public interest and this is a further reason why a public inquiry is most appropriate.
- 7.10 This appeal will take more than 2 days to be heard (which exceeds normal practice for an informal Hearing). The Appellant considers that the evidence will take at least **4 to 6 days** to be heard.
- 7.11 The appellant would hope that any remaining highways issues should be capable of being addressed mainly through updated SoCG alternatively through a round table discussion.

8 The Appellant's Case and Response to the Reasons for Refusal

- 8.1 This planning appeal, submitted on behalf of P and D Crocker Ltd. a proven and conscientious landowner and developer, is for up to 120 dwellings on land west of Schoolhouse Lane and east of Butts Close, and for a range of retail and commercial units in the village centre referred to as Tess Square.
- 8.2 The application is in hybrid format, with the residential parcel being in outline and the commercial parcel in full.

7.3 The latter is in full in order to give the local planning authority and the community comfort with regard to the applicant's resolve to deliver facilities and services to the village to balance organic growth.

8.4 This hybrid planning application has been assessed against the policies of the development plan, insofar as they are relevant.

Reason for Refusal No. 1

8.5 The site is not allocated for development and is outside of the settlement boundary for Marnhull. Although the Council identified housing figures for the villages and countryside, it failed to ground them in allocated sites because the Local Plan Part 2 was never written.

8.6 Whilst the proposal finds no direct site-specific strategic policy support from the adopted development plan, the proposal is in accordance with the strong policy direction on boosting housing supply and the economy as set out in the Written Ministerial Statement (July 2024) which is considered to be of 'great importance'.

8.7 The Appellant will contend that the PFSD is engaged through SP1 of the development plan which informs the spatial strategies of the development plan. When assessed against the policies of the development plan the appeal scheme generally accords with the spatial strategy of the development plan as a whole. This approach has recently been endorsed by the High Court in *Basingstoke and Dene Borough Council v The Secretary of State for Levelling Up, Housing and Communities and Anor* [2024] EWHC 1916 (Admin). (Copy attached as appendix c to this statement)

Reason for Refusal No. 2

8.9 Development plan policies 2, 11 and 12 and the NPPF only determine those circumstances where a Retail Impact Assessment or sequential test needs to be applied. There is no policy embargo on larger scale development if the relevant sequential and impact test (where it is required) is satisfied. Moreover, the retail element of the appeal scheme falls below the adopted development plan floorspace threshold and that indicated in the NPPF.

8.10 The Appellant's primary contention is that a RIA is simply neither required nor justified by either the development plan or the NPPF. However, as part of this appeal submission the appellant has now submitted retail sequential tests (RST) for the towns of Gillingham, Sturminster Newton, Shaftsbury and Blandford. The provision of this RST at this stage causes no prejudice and is consistent with the 'Wheatcroft' principles (as refined in *Holborn Studios*). Furthermore, the appellant considers the recent inspectors appeal decision for a village centre, which concluded that it was doubtful that a RST and a RIA were strictly necessary. The Appellant contends that this part of the reason for refusal therefore now falls away.

Reason for Refusal No. 3

8.11 The submission of the Highways Response Technical Note (October 2024) (HRTN) from Paul Basham Consultants which responds to the LPA's concerns associated with RfR3. This HRTN includes

- Tess Square proposed parking provision;
- Proposed delivery arrangements supported by Delivery Vehicle Tracking plans (Tess Square parcel);
- Removing the separate access to the proposed 30 car parking spaces for school drop off/pick up and church users in lieu of an internal link to the school drop off/pick up from the proposed car park serving retail/commercial units (Tess Square parcel) as shown on proposed revised site plan 101 rev.3.
- Pedestrian connectivity- surfacing of PROWS to all weather surfacing (which can be secured by a condition requiring surfacing details to be agreed);
- 2m Footways either side of vehicular access onto B3092/Schoolhouse Lane have been removed (Butts Close parcel) as shown on proposed site plan P201 rev 3;
- Revised modelling- trip generation/trip distribution;

8.12 The provision of this information at this stage causes no prejudice and is also consistent with the '*Wheatcroft*' principles (as refined in *Holborn Studios*).

8.12 The Appellant will work with the LPA and the consultee (highways officer) ahead of the inquiry with the expectation that any outstanding highways issues can be satisfactorily resolved so as to remove any outstanding issues before the appeal is heard.

8.13 Notwithstanding the above, the Appellant's proof of evidence on this issue (if required) will build upon the points detailed above to demonstrate compliance Objective 6 – Improving the Quality of Life, and Policies 2 and 13 of the adopted North Dorset Local Plan Part 1, and paragraphs 108 criteria d) and e), and paragraph 117 of the National Planning Policy Framework.

Reason for Refusal No. 4

8.14 The Appellant's proofs will demonstrate that there would be less than substantial harm to any heritage assets and it is clear that the public benefits weigh heavily in favour of this proposal. Specifically, the Appellant will adduce the expert heritage evidence submitted with the appeal application. This demonstrates that the appeal scheme would have no unacceptable impact upon non-designated heritage assets and that the impact upon identified designated heritage assets would be slight and at the lowest end of the scale of less than substantial harm. Furthermore, the significant public benefits that would ensue from the appeal scheme outweigh any identified harm.

Reason for Refusal No. 5

8.15 The Appellant's proofs will also demonstrate that suitable mitigation can be secured to avoid any conflict with policies 4, 8, 13, 14, and 15 of the North Dorset Local Plan Part 1 (January 2016) through a suitably worded planning obligation to be progressed as part of the appeal.

The Planning Balance

8.16 The Appellant will demonstrate that having due regard to local and national planning policies, the appeal application is supported by the presumption in favour of sustainable development and there are no identified material considerations to indicate otherwise.

8.17 The Appellant will explain the numerous and significant benefits that will be delivered through the appeal scheme, to demonstrate that the planning balance weighs significantly in favour of granting permission. These will include the following:

- The development will deliver a policy-compliant 40% affordable housing.
- The delivery of much needed market housing.
- The economic benefits that will be generated by the delivery of housing, both short and long term.
- The proposal also includes a large proportion of open space which will benefit both the development and the wider village.
- Occupants of the new dwellings will help support local facilities via increased patronage and will add new economic investment/growth thereby contributing to the increased viability and vitality of the growing community.
- The scheme will thereby add to the already proved sustainability credentials of the village.

8.18 In planning terms, the village has already been classified as 'sustainable'.

8.19 The Council has not actively planned development for this village for decades. This lack of proactivity means rural communities cannot grow and their fortunes reverse as local facilities and services are lost, and the demographic skews.

8.20 This planning appeal represents a vital injection of long-overdue life and investment into Marnhull. This planning appeal meets the objectives and is in line with strong policy direction as set out in the Written Ministerial Statement (July 2024) to boost housing supply and the economy.

8.21 In terms of impact on heritage assets the Appellant will demonstrate that there would be less than substantial harm and it is clear that the public benefits weigh heavily in favour of this proposal.

8.22 Consequently, it will be respectfully contended that the appeal scheme represents an exemplary example of sustainable development and the Planning Inspector will be requested



to allow this appeal and grant planning permission for this important sustainable development without further delay.