

**APPELLANT DRAFT STATEMENT OF COMMON GROUND
(SUBMITTED WITH NOTICE OF PLANNING APPEAL)**

APPEAL REFERENCE: TBC

DATE OF INQUIRY: TBC

SITE ADDRESS AND DESCRIPTION OF DEVELOPMENT: LAND WEST OF CHURCH HILL, AND LAND OFF BUTTS CLOSE AND SCHOOLHOUSE LANE, MARNHULL

HYBRID PLANNING APPLICATION CONSISTING OF:

FULL PLANNING PERMISSION FOR A MIXED-USE DEVELOPMENT TO ERECT A FOOD STORE WITH CAFE, PLUS OFFICE SPACE AND 2 NO. FLATS ABOVE. ERECT BUILDING FOR MIXED COMMERCIAL, BUSINESS AND SERVICE USES (CLASS E), (E.G. ESTATE AGENTS, HAIRDRESSER, FUNERAL CARE, DENTIST, VET). FORM VEHICULAR AND PEDESTRIAN ACCESSES AND PARKING. FORM PARKING AREA FOR ST. GREGORY'S CHURCH AND ST GREGORY'S PRIMARY SCHOOL. CARRY OUT LANDSCAPING WORKS AND ASSOCIATED ENGINEERING OPERATIONS. (DEMOLISH REDUNDANT AGRICULTURAL BUILDINGS). LAND WEST OF CHURCH HILL.

OUTLINE PLANNING PERMISSION (TO DETERMINE ACCESS) TO ERECT UP TO 120 DWELLINGS. LAND OFF BUTTS CLOSE AND SCHOOLHOUSE LANE.

APPELLANT: MR P CROCKER

LOCAL PLANNING AUTHORITY: DORSET COUNCIL

This statement addresses the following areas of common ground:

1. The appeal site and its surroundings
2. Planning history of site
3. Application plan and drawings
4. List of new plans and documents
5. Background and reasons for refusal
6. Planning policy and material planning considerations
7. Matters not in dispute
8. Matters in dispute
9. Draft conditions and S 106 obligations
10. Core Documents

Others [e.g. where applicable, agreed traffic (and/or other) data and circumstances]

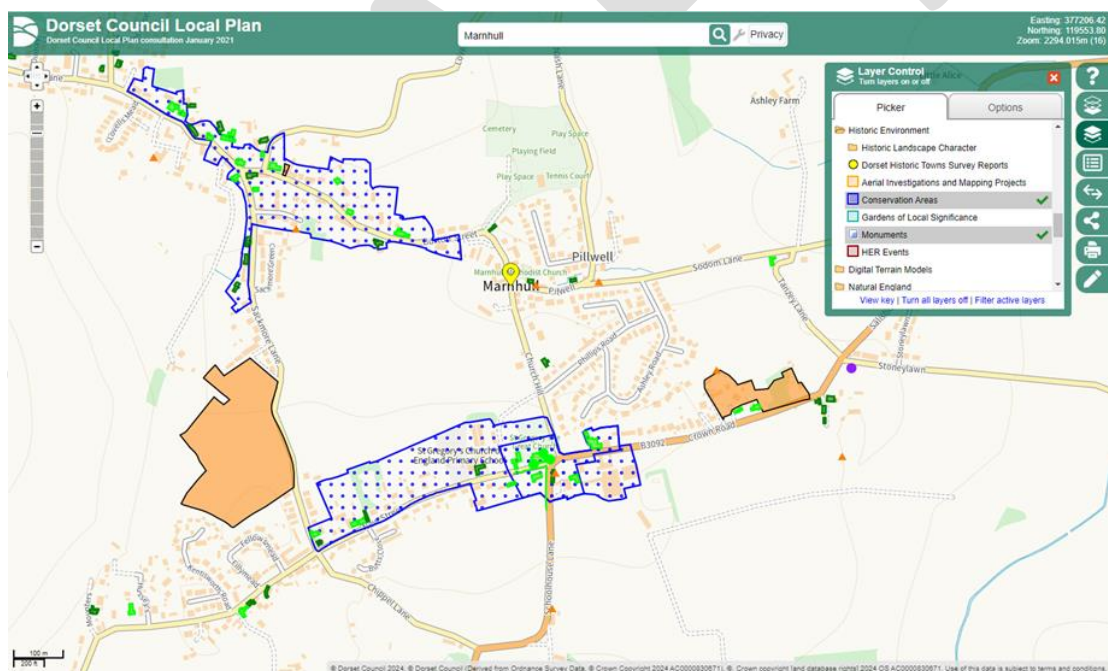
1.0 The appeal site and its surroundings

- 1.1 The appeal 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.

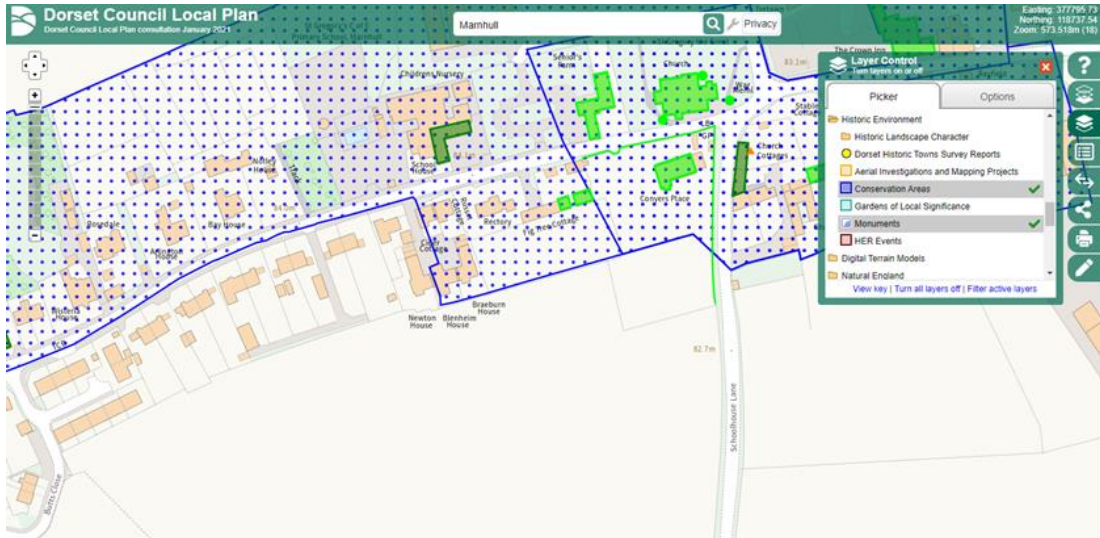


- 1.2 The northern parcel sits to the west of Church Hill. This parcel is fairly level and includes the existing doctors surgery, pharmacy and car park accessed off Church Hill.
- 1.3 The doctors surgery and pharmacy are clearly community facilities. When they were granted permission in 2002 they were (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 doctors/pharmacy building. Together, these will create a local centre ('Tess Square') for Marnhull which would further support the residential expansion of the village.
- 1.4 The southern parcel (Butts Close) sits to the west of Schoolhouse Lane, east of Butts Close and northeast of Chippel Lane. It is c 7.99ha in size. 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.
- 1.5 There are also views of the church tower from Butts Close. 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.

- 1.6 There are existing footpaths which run through the application site. It is proposed to retain and enhance these rights of way.
- 1.7 The sites are in agricultural use and constitute Grade 3 agricultural land.
- 1.8 According to the Environment Agency website and as identified in the accompanying FRA and drainage reports, both site lies within Flood Zone 1.
- 1.9 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.
- 1.10 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.
- 1.11 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.



- 1.12 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.



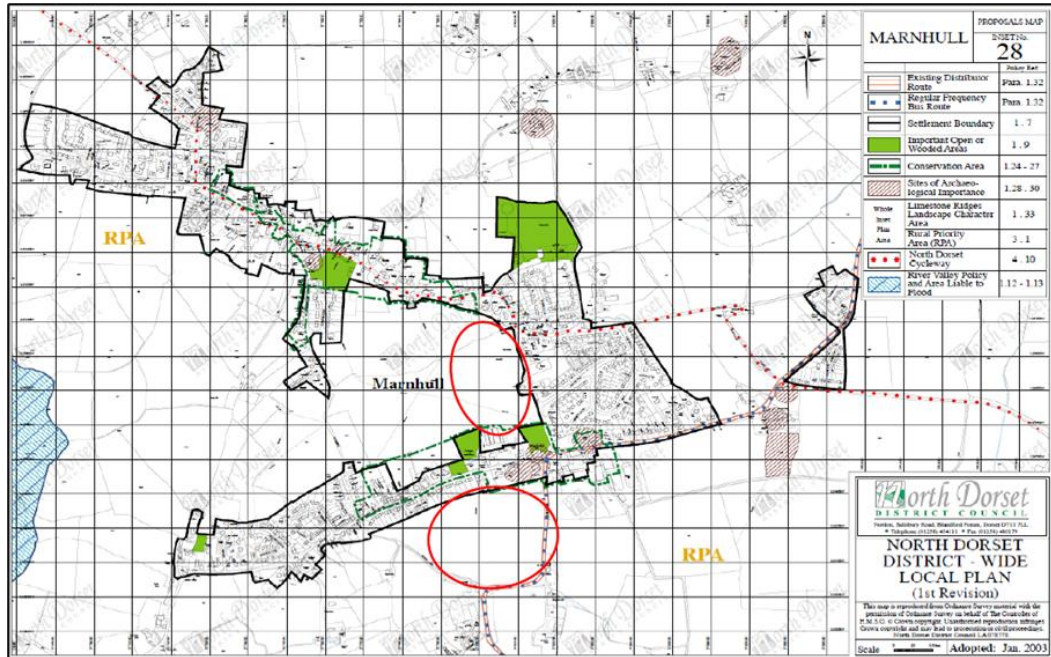
1.13 There are a small number of listed buildings proximate to both parcels of the site as indicated in green on the plans above.

1.14 The following footpaths are located on the site:

- N47/28- Butts Close parcel
- N47/30- Butts Close parcel
- N47/31- Tess Square parcel

1.15 The applicant was made aware that the right of way N47/31 is actually plotted incorrectly on the Definitive Map.

1.16 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.



2.0 Planning History of the site

- 2.1 Prior to the submission of the appeal scheme 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 2023.

3.0 Application plans and documents

- 3.1 The application plans and supporting documents that compromised the planning application at the time that the application was determined is set out in appendix a to this SoCG.

4.0 List of new plans/documents

- 4.1 List of any new plans not previously seen or consulted on by the local planning authority, including a brief explanation of any revisions or amendments with reference to the judgement in *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).

- Geophysical Survey on Butts Close parcel of land
Reason- this was requested within the Archaeology consultee comments.
- Retail Sequential Test for (i) Sturminster Newton, (ii) Gillingham, (iii) Shaftsbury, and (iv) Blandford

Reason-evidence submitted to overcome reason for refusal no. 2 on the decision notice should the Inspector consider that the proposed retail is not small scale rural development.

- Highways Response Technical Note by Paul Basham Associates which includes the following within:
 - Tess Square Parking provision
 - Proposed Delivery Arrangements supported by Delivery Vehicle Tracking plans
 - Pedestrian Connectivity- surfacing of PROWs can be secured by condition and 2m footways either side of vehicular access onto B3092/Schoolhouse Lane have been removed (Butts Close parcel).
 - Revised Modelling -trip generation/trip distribution

Reason- To overcome reason for refusal no. 3/narrow areas of dispute

- Plans-Tess Square Proposed site layout plan no. 101 rev 3
 - 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.
 - showing the definitive PROW as trodden rather than the definitive map (which is incorrectly plotted).

Reason- To overcome reason for refusal no. 3/narrow areas of dispute.

- Plans- Butts Close proposed site layout plan no. P201 rev 3
 - Removing the 2m pedestrian footpath onto Schoolhouse Lane (B3092)

Reason- To overcome reason for refusal no. 3/narrow areas of dispute.

- For completeness the landscape plans for Tess Square parcel of land the full element of the appeal proposal has been amended for completeness
 - Softworks Plan (Whole Sheet 1 of 5) LHC-00-XX-DR-L -94.01 rev P5 scale 1:500@ A1
 - Softworks Plan (Sheet 3 of 5) LHC-00-XX-DR-L -94.03 rev P4 scale 1:250@ A1
 - Softworks Plan (Sheet 4 of 5) LHC-00-XX-DR-L -94.04 rev P4 scale 1:250@ A1
 - Hardworks Walls & Fencing Plan-Detail LHC-00-XX-DR-L -93.01 rev P5 scale 1:500@ A1
 - Hardworks Walls & Fencing Plan-Detail LHC-00-XX-DR-L -93.02 rev P4 scale 1:250@ A1

5.0 Background and reasons for refusal

5.1 Planning application P/OUT/2023/02644 was refused on the 16th July 2024 for the following reasons:

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).

6.0 Planning Policy and Material Planning Considerations

6.1 This section identifies the planning policies and guidance that will be of most relevance to this appeal.

The Development Plan

6.2 At the time of preparing this SoCG, the Statutory Development Plan covering the appeal site consists of:

- North Dorset Local Plan Part 1 January 2016

6.3 The policies and SPDs cited in the Decision Notice included:

- North Dorset Local Plan Part 1 January 2016: Policies 2, 4, 5, 6, 8, 11, 12, 13, 14, 15 & 20, which are set out in the table below:

LPA 'most important' policies	Appellant 'most important' policies
<p>North Dorset Local Plan Part 1(2016):</p> <p>Policy 2 - which guides the distribution of development and sets the defined development boundaries.</p> <p>Policy 4 - which relates to the Natural environment</p> <p>Policy 5 - which relates to the Historic Environment</p> <p>Policy 6 - which guides the distribution of housing development</p> <p>Policy 8 – which guides the amount and location for affordable housing</p> <p>Policy 11- which relates to economic development</p> <p>Policy 12 – which relates to retail & commercial development</p> <p>Policy 13 - concerning the grey infrastructure</p> <p>Policy 14 - concerning the social infrastructure.</p> <p>Policy 15 - concerning the green infrastructure network</p> <p>Policy 20 - regarding acceptable development within the countryside.</p>	<p>North Dorset Local Plan Part 1 (2016):</p> <p>Policy 1 - Presumption in favour of sustainable development</p> <p>Policy 2 - which guides the distribution of development and sets the defined development boundaries.</p> <p>Policy 4 - which relates to the Natural environment.</p> <p>Policy 5 - which relates to the Historic Environment</p> <p>Policy 6 - which guides the distribution of housing development.</p> <p>Policy 8 – which guides the amount and location for affordable housing</p> <p>Policy 11- which relates to economic development</p> <p>Policy 12 – which relates to retail & commercial development</p> <p>Policy 13 - concerning the grey infrastructure</p> <p>Policy 14 - concerning the social infrastructure.</p> <p>Policy 15 - concerning the green infrastructure network</p> <p>Policy 20 - regarding acceptable development within the countryside.</p> <p>Policy 23- parking requirements for development.</p>

	Policy 24- Design requirements
--	--------------------------------

Other material considerations

6.4 There are a number of policy statements and guidance dealing with planning policy at the national level which comprise other material considerations in the determination of the appeal. These include the revised National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

LPA 'other' relevant policies/material considerations	Appellant 'other' relevant policies/material considerations
<p>NPPF:</p> <p>Chapter 7 Ensuring the vitality of town centres- paragraphs 90 & 91</p> <p>Chapter 9 Promoting sustainable transport – paragraphs 108 parts d) & e); and 117</p> <p>Chapter 15 Historic Environment – paragraphs 199, 200 & 202</p>	<p>NPPF:</p> <p>Chapter 2 Achieving Sustainable Development</p> <p>-paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF provide a clear reason to refuse the proposed development.</p>

	<p>-paragraphs 9 & 38 directs the decision maker to approving applications for sustainable development.</p> <p>Chapter 5 Delivering a sufficient supply of homes</p> <ul style="list-style-type: none"> -paragraph 60 and the instruction to support the Government’s objective of ‘significantly boosting the supply of homes’. -paragraph 70 promoting small and medium sized sites. <p>Chapter 6 Building a strong, competitive economy</p> <ul style="list-style-type: none"> - paragraph 85 and the significant weight to be given to economic development – housing development support economic development and the direct construction industry and the secondary professional services it requires/supports are vital element of the UK economy. - paragraph 88 supports a prosperous rural economy which includes the development of accessible local services and community facilities such as local shops, meeting places and open space. - paragraph 89 requires decisions to recognise that sites to meet local business and community needs in rural areas may have to be found adjacent or beyond existing settlements. <p>Chapter 7 Vitality of Town Centres</p> <ul style="list-style-type: none"> -paragraph 94 sets out the thresholds for retail impact assessment. <p>Chapter 8 Promotion of healthy and safe communities</p> <ul style="list-style-type: none"> -paragraph 96 advises decisions should promote social interaction for example through strong neighbourhood centres and will enable and support healthy lifestyles which includes local shops
--	--

	<p>-paragraph 97 advises how decisions should plan provide social and recreational facilities and services the community needs.</p> <p>Chapter 9 Promoting sustainable transport -paragraph 115 advises 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.</p> <p>Chapter 11 Effective use of land -paragraphs 124 and 128 state that planning decisions should promote effective use of land for housing and other uses, encouraging multiple benefits where possible.</p> <p>Chapter 12 Achieving well designed places -paragraphs 131 and 135 considers good design.</p> <p>Chapter 15 Historic Environment – paragraphs 206, 207 & 208 in relation to considering the heritage assets and weighing harms against the ‘public benefits’.</p>
--	---

Other Material considerations:

Case Law:

The approved judgement- Basingstoke and Dean Borough Council and Secretary of State for Levelling Up, Housing and Communities and Belwey Homes plc., confirms that the decision maker has to consider whether the development would conform with the development plan as a whole whether or not the development plan is out of date.

(Appendix b)

Appeal decisions:

Land to the south of Alderholt, between Hillbury Road and Ringwood Road, and land to the west of Ringwood Road, Dorset APP/D1265/W/23/3336518

This appeal proposal included a new village centre. The inspector at paragraph 77 debated the need for a retail sequential test and stated:

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 were strictly necessary.

(Appendix C)

'Great Importance' Ministerial Statement (July 2024)

The inspector at the Alderholt appeal APP/D1265/W/23/3336518 also considered that the Ministerial statement is of great importance. The inspector stated:

13. 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. These could be subject to change, so the 2023 National Planning Policy Framework and the 2019 standard method set out in Planning Practice Guidance remain current at the time of writing. Nevertheless, the statements regarding housing delivery in the Written Ministerial Statement express a strong policy direction which should be accorded great importance.

This ministerial statement is also of great importance in terms of 'Building Infrastructure to grow the economy'.

7.0 Matters not in dispute

7.1 This section sets out the matters not in dispute between the Appellant and the LPA.

Areas of agreement		
Reason for Refusal	Appellant	LPA
1	Housing Delivery and Housing Land Supply areas to be discussed and agreed and a separate topic specific SoCG is anticipated in due course, following the publication of the new NPPF. This is expected to include raising housing targets and amendments to the Annual Position Statement.	
2	The appellant has submitted Retail Sequential Tests for the towns of Sturminster Newton, Gillingham, Shaftsbury and Blandford.	
3	The appellant has been working with the Councils Highways Officer in providing additional information to overcome/narrow the areas of dispute.	
4	The proposed development would have '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. Areas around Heritage Assets are to be discussed and agreed and a separate topic specific SoCG is anticipated in due course.	
5	That a Section 106 legal agreement secured prior to the inquiry which includes financial contributions towards off-site improvements and possibly on-going maintenance, ecology, and affordable housing would remove this current reason for refusal.	

8.0 Matters that remain in dispute

8.1 The issues that remain in dispute between the appellant and the LPA are as follows:

Areas of disagreement	
Reason for Refusal	Commentary
2	That the appellant does not need to undertake a Retail Impact Assessment as the proposed cumulative floor space is below the preamble to policy 12 of the NDLP and below the threshold within the NPPF.
3	Whether the development would cause an unacceptable impact on highway safety. To be discussed and agreed a separate topic specific SoCG only if the LPA maintain an objection following the submission of the Highways Response Technical Note by Paul Basham Associates under ‘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 accompany this appeal submission.
4	Whether the ‘less than substantial harm’ identified would be outweighed by the public benefits of the proposal. To be discussed and agreed a separate topic specific SoCG is anticipated in due course.

9.0 Draft Planning Conditions and Obligations

9.1 The appellant will work with the LPA to draw up a draft list of planning conditions and the appellant has prepared a draft S.106 planning obligation.

10.0 Core Documents

10.1 The Appellant will work with the LPA to jointly prepare a list of Core Documents upon which they intend to rely at the forthcoming inquiry.