ONH
Planning for Good

TATTENHALL AND DISTRICT PARISH COUNCIL

Rule 6 Party

PROOF OF EVIDENCE: PLANNING

Leah Coney MA (Oxon) MRTPI CiLCA

ONH Planning for Good

Appeal reference: 6013490

Land at Tattenhall Road (Greenlands), Tattenhall

Application reference: 25/01764/OUT

Appeal against the non-determination by Cheshire West and Chester Council of an outline application for up to 110 residential dwellings, including affordable housing, together with structural planting and landscaping, public open space, sustainable urban drainage and associated works, with all matters reserved except access.

3 November 2026

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1. Introduction, qualifications and scope

Qualifications and experience

1.1 I am Leah Coney, Planning Director at ONH Planning for Good (RCOH Ltd) (ONH). I am instructed by Tattenhall and District Parish Council (TPC), a Rule 6 party to this inquiry, to give planning evidence on its behalf.

1.2 I am a Chartered Member of the Royal Town Planning Institute (MRTPI) and hold the Certificate in Local Council Administration (CiLCA). I have worked at ONH since 2023, and in that time have worked on more than 20 neighbourhood plans and settlement spatial plans. Before that I worked as an officer in the town and parish council sector for nearly 20 years.

1.3 ONH is a small multidisciplinary practice specialising in planning advocacy for town and parish councils and neighbourhood forums. Since 2012 it has worked on the preparation of more than 250 neighbourhood plans across 65 local planning authority areas.

Declarations

1.4 ONH has advised TPC on the preparation of the Modified Tattenhall and District Neighbourhood Plan 2025–2045 (the eTDNP2; Submission Version, CD 6.05) since May 2024 and I have been personally involved in that work during this time. The opinions in this proof are my own independent professional opinions.

1.5 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 my professional institution. I confirm that the opinions expressed are my true and professional opinions.

1.6 In line with the Planning Inspectorate's guidance on the use of artificial intelligence in casework evidence, I confirm that I used an AI system, Claude (Anthropic), in preparing this proof of evidence. I used it to summarise and analyse documents, including the Core Documents, the Statements of Case, draft Statements of Common Ground, relevant appeal citations and to check quotations and paragraph references against source documents.

1.7 I have checked the content against the source documents. The planning judgements in this proof, including the weight I give to each matter, are my own. I take full professional responsibility for the content of this proof.

Scope of this proof

1.8 The site, the proposal, its planning history and the chronology of the application are set out in TPC's Statement of Case (SoC), the Statement of Common Ground between the appellant and TPC (the TPC SoCG) and the draft Statement of Common Ground between the appellant and the Council dated 22nd October 2026 (the Council draft SoCG). I do not repeat them except where

they are needed for a point I make. I give core document (CD) numbers where documents have them, and Appendix 5 lists the documents I refer to.

1.9 The Inspector's note of the Case Management Conference on the 5th October (note dated 8th October 2026) identifies the likely main issues as: (a) the effect of the proposal on on-site ecology; (b) whether the proposal would make appropriate provision for affordable housing and local infrastructure; (c) whether the scale and location of proposed development would be acceptable, having regard to the emerging neighbourhood plan; and (d) the overall planning balance.

1.10 TPC has deliberately narrowed its Rule 6 case to the materially changed neighbourhood plan and national policy context, and in particular to the relationship between the appeal proposal and the eTDNP2 (SoC 1.2; TPC SoCG 6.5). That case includes the planning balance, because TPC's position is that prejudice to the plan should be weighed in the National Planning Policy Framework S5(1) balance if S5(1)(j) applies (SoC 6.3 and 8.3). This proof therefore addresses main issue (c) and main issue (d), the overall planning balance. In that balance I weigh the plan-related harms against the benefits; I do not raise technical objections. My evidence on affordable housing and infrastructure goes to issues (c) and (d) and not to the adequacy of the planning obligation. TPC will take part in the round table sessions on issues (a) and (b) only as appropriate.

2. The statutory and policy framework, and the status of the eTDNP2

The development plan

2.1 The appeal is to be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004). As agreed, the development plan comprises the Cheshire West and Chester Local Plan (Part One) 2015 and (Part Two) 2019, and the made Tattenhall and District Neighbourhood Plan 2014 (CD 6.10) (TPC SoCG 4.2).

2.2 The Framework does not displace the primacy of the development plan. It is a material consideration, and its decision-making policies are read alongside the policies in the development plan (NPPF paragraphs 1 and 3; TPC SoCG 6.6).

The weight of the eTDNP2 rises in defined statutory steps

2.3 The eTDNP2 is not yet part of the development plan. Its weight increases in defined steps, and the Inspector may decide the appeal after one or more of those steps has been reached. (SoC 2.3 to 2.7):

- **Currently.** eTDNP2 is a material consideration. Policy DM4(1) sets the factors that determine its weight: its stage of preparation, the extent of unresolved objections, and how far its relevant policies comply with the Framework's plan-making policies. In my view it merits moderate weight now (Sections 3 and 4).
- **After the Regulation 18 decision.** Once the Council decides under paragraph 12(4) of Schedule 4B to the Town and Country Planning Act 1990 that a referendum is to be held, section 70(2)(aza) requires the decision-maker to have regard to the post-examination draft plan, so far as it is material (section 70(3B)). Section 79(4) applies that duty to this appeal. The Planning Practice Guidance advises that the plan can then be given significant weight (Neighbourhood Planning, para 107, ID 41-107-20200925), and in my view it should be.
- **After a successful referendum.** Section 38(3A) of the 2004 Act provides that the plan forms part of the development plan, even before it is formally made. It is then the statutory starting point under section 38(6), its policies carry full weight, and Policy S6 of the Framework applies (Section 10).

2.4 In the dismissed Shire Way appeal (6008560, 9 October 2026, Appendix N) the Inspector said that, having regard to DM4, the emerging plans could not be given "*any significant weight*" (para 5). The decision describes the eTDNP2 as submitted for examination; that finding reflects the plan's stage at the time. It is consistent with my view that the plan merits less than significant weight until the Regulation 18 decision, and significant weight once that decision is made.

2.5 Other decisions support that stepped approach. In Burghclere (APP/H1705/W/20/3248187, 22 December 2020, SoC Appendix D), the neighbourhood plan had been examined and a Regulation 18 decision statement issued, and the Inspector gave it significant weight, citing PPG paragraph 107 (para 13). In Thorpe (APP/Q3630/W/20/3253944, 21 October 2020, SoC Appendix C), the neighbourhood plan which had completed Regulation 16 publicity but had not yet been examined was found to be at an advanced stage (para 8). In Martham (6009413, 24 August 2026, Appendix O), an Inspector applying DM4 gave moderate weight to an emerging Local Plan policy at an advanced stage whilst still progressing through examination and with outstanding objections (para 3). Here, the eTDNP2 has progressed beyond this point.

2.6 The Regulation 18 decision is due to be issued just before or during the inquiry. TPC will send the Regulation 18 decision statement, and any subsequent referendum result, to the Inspectorate and all parties as soon as each is published (SoC 2.5).

3. Stage of preparation and unresolved objections: DM4(1)(a) and (b)

3.1 Policy DM4(1) directs the decision-maker to weigh relevant emerging plans by reference to their stage of preparation, the extent of unresolved objections to relevant policies, and the degree of

compliance of those policies with the Framework's plan-making policies (SoC 5.1). I deal with the first two here and the third in Section 4.

Stage of preparation

3.2 The eTDNP2 is at an advanced stage. Regulation 16 publicity ended on 30 July 2026. The Examiner's final report was received on 22 October 2026 and recommends that the plan, as modified, proceeds to referendum (CD 6.06, para 5.2). The Council's Regulation 18 decision is due on or before 26 November 2026 (para 2.6).

Unresolved objections

3.3 The appellant (and other land interests) objected to the plan at the Regulation 14 and 16 stages and subsequently during the examination. (SoC 4.1). The Examiner had regard to all the representations and found that the plan, as modified, meets the Basic Conditions. He agreed with the reasons for not allocating the omission sites, including the one subject to this appeal.

3.4 The appellant may continue to disagree with those conclusions. A continuing disagreement is not the same as an objection that remains unresolved through examination for the purposes of DM4(1)(b). Each objection has been considered and determined by the independent Examiner.

3.5 In my opinion the eTDNP2 is at an advanced stage, and no objection to its relevant policies remains unresolved through examination.

4. Compliance with the 2026 plan-making policies: DM4(1)(c)

4.1 Annex A paragraph 6 provides that neighbourhood plans submitted under Regulation 15 on or before 17 August 2026 are examined against the December 2024 Framework. The eTDNP2 was submitted in June 2026, and the Examiner applied the December 2024 Framework accordingly (para 1.7).

4.2 DM4(1)(c) asks a different question: how far the relevant policies of the emerging plan comply with the plan-making policies of the current Framework. For this appeal the relevant policies are Policy 1 (housing growth and the settlement boundary) and Policy 7 (the Frog Lane allocation), together with Policies 2, 4, 5 and 8 insofar as they shape the character, infrastructure, movement and flood management of that growth.

4.3 The plan was prepared with the 2026 Framework in mind, in that it had regard to the consultation draft of the Framework and consistency with the decision-making policies contained within. This was set out in the Basic Conditions Statement (May 2026, Appendix T). The Examiner's modifications replaced any eTDNP2 references to draft policy codes with neutral wording,

because the plan was submitted before 17 August 2026. That changes the cross-references, not the substance of the policies.

4.4 MHCLG has said it considers it "*undesirable for neighbourhood plans to be prevented from taking account of emerging national policy where there is a reasonable prospect that it will, in some form, be in force by the time the plan reaches examination*" (ref TO2026/22227, 28 September 2026, Appendix U). That letter concerned a different plan, and it is introduced by way of context only.

4.5 I have assessed the relevant policies against the plan-making policies of the Framework listed at SoC 5.4, taking account of the Examiner's modifications. In summary:

- **PM5 (neighbourhood plans):** the plan does what PM5 envisages. It allocates land and sets locally specific requirements for infrastructure, design and the environment.
- **PM6, PM8 and PM9 (principles, evidence, and identifying land):** the plan rests on proportionate evidence, community and stakeholder engagement, SEA and a site selection process that tested growth scenarios. The Examiner found the SEA acceptable (para 4.23).
- **S1 and S2 (positive plan-making and spatial strategy):** the plan provides for about 600 homes against an indicative requirement of 526, and defines the settlement boundary, the allocation and safeguarded flood management land on the policies map.
- **HO5 (housing needs of different groups):** Policies 1 and 7 seek a mix of types, sizes and tenures, 30% affordable housing with a local connection cascade, and self and custom build plots.
- **DP1 (design):** Policy 2 applies the Tattenhall Design Code and, as modified, requires large schemes to be designed as a series of distinct but coherent character areas
- **TR1 (sustainable transport):** Policies 5 and 7 build walking, cycling and bus access into the allocation from the outset.
- **HC1 (healthy communities):** Policy 7 identifies the infrastructure the allocation must provide, including land for healthcare, open space, sports pitches and burial space.
- **F2 (flood risk):** Policy 8 safeguards land off Burwardsley Road for natural flood management.
- **N1 (natural environment):** the plan draws on the Cheshire and Warrington Local Nature Recovery Strategy, with which the Examiner found it compatible (para 3.9).

4.6 In my opinion the relevant policies of the eTDNP2 show a high degree of compliance with the current Framework plan-making policies. Taken with Section 3, the DM4(1) factors support the weight I set out in Section 2.

5. The housing figure and the plan's strategy

5.1 The eTDNP2 plans for about 600 homes, more than the indicative 526 figure. TPC does not treat 600 as a ceiling; it is part of an integrated spatial and infrastructure strategy (SoC 3.6). The Examiner agreed that the figure "*is described as an approximation and, in any event, such provision is not a maximum target*" (para 4.40). He said this when agreeing to keep a small parcel of land near the existing Millbrook Meadow development, inside the settlement boundary, (which a resident had requested be removed) rather than "*reduce the amount potentially available for housing development*" (para 4.40). In my opinion that can be read as the plan therefore allowing for more than 600 homes within the revised settlement boundary.

5.2 The housing figure belongs to the examination, however, I expect the appellant to challenge the Council's indicative figure of 526 homes and the 600 homes allocated by Policy 7. In my view the inquiry should not be drawn into re-running that debate:

(a) the appellant told the Examiner that the 600-home figure "fails to be tested through this NP examination" (Johnson Mowat letter to the Examiner for Gladman, 28 September 2026, Appendix R), and it has now been tested;

(b) the Council told the eTDNP2 Examiner that "*the live planning applications and appeals should not become a proxy for the examination of the Neighbourhood Plan*" (The Council Response to Gladman letter to examiner 30 September 2026, Appendix S); and

(c) in the Hunsdon appeal (6008063, 6 October 2026, para 38, Appendix P) the Inspector held that, where a neighbourhood plan had been through independent examination, "*it is not the function of this appeal to re-consider the housing requirement identified in it".* That case concerned a made plan, but the principle applies here because the figures have been examined and found to meet the Basic Conditions.

5.3 The Council's indicative figure and its basis are set out in CD 6.09. I do not invite a re-examination of them.

5.4 The Council SoCG records that the Council can demonstrate a supply of 1.6 years at 1 April 2026. TPC accepts that a five-year supply cannot be demonstrated. TPC's point is narrower in that the neighbourhood area's share of need is planned for by an advanced plan that exceeds the Council's indicative requirement.

6. Delivery of the Frog Lane allocation

6.1 Policy 7 allocates land north and south of Frog Lane for a phased development of up to 600 homes: about 400 homes south of Frog Lane in Phase 1 (Clause A) and about 200 homes north

of Frog Lane in Phase 2 (Clause B). This section is context for DM4(2); I do not seek to open a debate on the merits of the allocation.

6.2 The land is owned by the Bolesworth Estate. The Estate has made representations to this appeal on the progress of its Phase 1 outline planning application (the Bolesworth representations, IP 5). I rely on them for the position on that application, its availability and deliverability.

6.3 Its draft section 106 agreement offers a medical centre of not less than 600 sq m or an equivalent facility. The Estate's representations sets out the detail of the marketing, the planning obligations and a draft unilateral undertaking (IP5 and Appendices). The allocation provides a route to Policy 7's settlement-wide infrastructure, which the appeal proposal, in. my opinion, does not (Table 2).

6.4 Phase 2 does not yet have an application. Phase 2 (Policy 7) requires access from both Frog Lane and Chester Road, (with potential onward links on to Rocky Lane), so that traffic need not pass through the village centre.

6.5 In my opinion the allocation is available and is being brought forward now, through an application that follows Policy 7. As such, the plan does not depend on the appeal site to meet the indicative requirement nor would the appeal site deliver the longer-term infrastructure the village needs.

7. Prematurity: DM4(2)

7.1 Policy DM4(2) provides that development should not be refused as premature other than in limited circumstances, where both of its limbs are met. Limb (a) is that the development, alone or cumulatively with other proposals, would be so significant that granting permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of development central to the emerging plan. Limb (b) is that the emerging plan is at an advanced stage but is not yet formally part of the development plan.

7.2 DM4(3) requires a refusal on prematurity grounds to explain how granting permission would prejudice the outcome of the plan-making process. I set that out at the end of this section.

7.3 I accept that these are limited circumstances. In my opinion they are met here.

Limb (b): an advanced plan that is not yet part of the development plan

7.4 The eTDNP2 has passed the Regulation 16 publicity period and completed examination. It is at an advanced stage and is not yet part of the development plan. Limb (b) is met as a matter of fact (SoC 5.7).

7.5 If the plan is approved at referendum before the appeal is decided, it will form part of the development plan (s38(3A)). Limb (b) would then no longer apply, but the proposal would fall to be assessed against the plan directly under s38(6), and Policy S6 would apply.

Limb (a): scale

7.6 The appeal proposes up to 110 homes. That is about 21% of the Council's indicative requirement of 526. It is not a small or incidental proposal in the context of the settlement or the strategy (SoC 3.8). Scale is judged against local circumstances.

Limb (a): location

7.7 The site lies outside the settlement boundary in the adopted Local Plan and that proposed by eTDNP2 Policy 1. It is on the opposite side of the village from the Frog Lane allocation, and would establish a separate major direction of growth (SoC 3.11 and 5.8).

7.8 Location is the central choice the plan makes. The plan tested growth scenarios through the settlement spatial plan engagement (Appendix K) and the SEA. The Examiner found that the consultation met the legal requirements and, accepting TPC's explanation that the growth scenarios were the reasonable alternatives, that the SEA is acceptable (Examiner's report, paras 3.6 and 4.23). The appeal site was then specifically considered as an omission site at examination, and the Examiner agreed with TPC's reasons for not allocating it. Granting permission would reverse that outcome through an appeal rather than through the plan.

Limb (a): phasing

7.9 Policy 7 phases about 400 homes and then about 200, and ties each phase to defined community infrastructure. The appeal scheme would come forward ahead of, and outside, that phasing, without contributing to the settlement-wide infrastructure on which the strategy depends.

Limb (a): cumulative effect

7.10 DM4(2)(a) expressly requires consideration of the "cumulative effect alongside other development proposals" (SoC 3.12). Table 1 lists the live proposals outside the eTDNP2 strategy.

Table 1: Live housing proposals outside the eTDNP2 strategy

Site	Reference	Homes	Status
Land at Tattenhall Road (Greenlands): the appeal site	Appeal 6013490 (25/01764/OUT)	up to 110	This appeal
Land at Chester Road	Appeal 6014080 (25/02070/FUL)	110	Refused 20 July 2026 on housing mix (SoC Appendix G); appeal by written representations
Land at Chester Road (same land as row above)	26/02414/OUT	120	Pending application

Site	Reference	Homes	Status
Land north of Chester Road (Muller Property Group)	Pending submission	about 130	Public consultation, September 2026 (SoC Appendix H)

7.11 At their highest stated capacities, these proposals would provide about 350 to 360 homes outside the strategy (SoC 3.11). That is about two-thirds of the Council's 526 figure and close to 60% of the homes the plan allocates. If all were permitted alongside the allocation, Tattenhall would grow by about 950 homes, or about 87% of its existing stock, against the increase of around 55% in eTDNP2, which the Council told the Examiner "*would generally be regarded as significant*" (response of 30 September 2026, Appendix S).

7.12 I do not assume that any of the other proposals will be permitted; each must be decided on its merits. But as live proposals affecting the same spatial choices, they are part of the forward-looking assessment that DM4(2)(a) requires. Granting this appeal would itself establish a substantial component of an alternative direction of growth (SoC 5.9). Nor is the pressure new. In 2017 the Secretary of State dismissed the appeal site as part of the three linked appeal sites (APP/A0665/A/12/2185667, CD 8.11).

7.13 The Chester Road appeal (6014080) is proceeding by written representations and may be decided before this inquiry. My assessment under DM4(2)(a) does not depend on its outcome:

(a) if it is dismissed, the cumulative pressure is reduced, although the 120-home application on the same land and the Muller proposal for about 130 homes would remain. Limb (a) is met by the scale and location of this proposal alone; and

(b) if it is allowed, Chester Road becomes a commitment outside the strategy. That does not reduce the harm from this appeal; it adds to it. The two schemes together would amount to about 220 homes, around 42% of the indicative requirement, in a direction the plan did not choose, turning an alternative direction of growth from a proposal into an established pattern. Each further permission in that direction makes it harder for a plan-led approach, rather than appeals, to deciding where Tattenhall grows.

How granting permission would prejudice the plan (DM4(3))

7.14 In my opinion, granting permission would:

(a) predetermine the location of growth, by permitting a major scheme on a site the examination has just considered and not allocated;

(b) predetermine the scale of growth, by adding about a fifth of the indicative requirement in a single decision, and opening the way to some 350 to 360 homes outside the strategy;

(c) undermine the phasing of growth and its link to settlement-wide infrastructure as set out in eTDNP2 Policy 7; and

(d) decide the location of growth through an appeal rather than through the plan, undermining confidence in the plan-led process.

7.15 In the Stanton by Dale appeal (APP/N1025/W/23/3319160, Appendix Q, paras 116 and 117), the Inspector rejected the argument that the appeal homes would simply add to the plan's allocations. In my opinion the same applies here: permitting a strategic-sized site outside the eTDNP2 would undermine its spatial strategy and increase the potential for further speculative proposals.

8. Undermining plan-making: the choice of location and community confidence

8.1 DM4(2)(a) asks whether permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of development central to the emerging plan. The harm lies in the predetermination itself, which I set out in Section 7. It does not depend on a forecast of how the community will vote at referendum. That is a matter for the community, and neither I, TPC nor the appellant can know its outcome. The planning harm I rely on is prematurity and the loss of confidence in the plan-led process that would follow, not a prediction of the referendum result.

8.2 SoC 5.11 records what TPC has been told in its consultations. I do not put it forward as a prediction, and my case does not depend on it, although it is a plausible outcome. The planning point concerns the question the community is asked. At referendum, the community is asked to support about 600 homes in the location the plan has chosen. If this appeal were allowed, that question would not change, but the context in which it is answered would. The community would vote knowing that, in effect, the village would take about 710 homes, a further 110 of them in a direction the plan did not choose. With Chester Road that would be about 820, and with the other proposals in Table 1 about 950. The same question asked in a materially different context is, in substance, a different proposition from the one the eTDNP2 puts to the community (SoC 5.10). The answer may differ as a result. The harm I rely on is that the proposition has been changed by an appeal decision rather than through the Plan.

8.3 The Interested Party representations to this appeal point the same way. Residents ask that the location of growth be decided through the eTDNP2. They point out that it directs growth to the

opposite side of the village, that an application giving effect to it is before the Council, and that the current cluster of applications needs a consistent basis for decision, which the plan provides.

8.4 Granting permission for a major alternative growth location, on a site the examination has just considered and not allocated, would signal that where Tattenhall grows is decided by appeal rather than through the plan. That would undermine confidence in neighbourhood planning whatever the outcome of the referendum. As the Inspector put it in the Thorpe appeal (SoC Appendix C) "*Neighbourhood planning is a key part of the development plan process and it is important that the community retains confidence in the process and their ability to shape their neighbourhood*" (para 5).

9. Infrastructure: plan-led strategy and site-specific mitigation

9.1 I accept that a planning obligation and other mitigation may be relevant to whether the scale of the proposal can be accommodated, taking into account the availability of infrastructure, under S5(1)(j)(i) (SoC 3.7 and 6.2). I do not comment on the adequacy of the obligation for the development itself.

9.2 However, an obligation can only secure what is necessary to make the individual development acceptable and is directly related to it. It cannot secure settlement-wide outcomes which come through a plan led approach, not through a series of separate permissions (SoC 3.11 and 6.2).

9.3 Table 2 compares what eTDNP2 is designed to secure with what the appeal proposal offers.

Table 2: Infrastructure: eTDNP2 and the appeal proposal

Infrastructure	eTDNP2 Policies	Appeal proposal (draft Council SoCG, DAS, CD 1.06)
Healthcare	Policy 7 Land safeguarded on site for a new medical centre; financial contributions secured by legal agreement	Financial contribution towards healthcare
Road network	Policy 7 Access designed for a secondary link to Rocky Lane (Phase 2 link between Chester Road, Frog Lane and potentially Rocky Lane to avoid village centre).	Single priority junction on Tattenhall Road.
Village centre parking	Policy 7 Off-site car park and community event space near Barbour Square, with an option to transfer to TPC	None

Infrastructure	eTDNP2 Policies	Appeal proposal (draft Council SoCG, DAS, CD 1.06)
Walking and cycling	Policy 7 Former railway line as a greenway and a new circular walk off-road links from Frog Lane to Chester Road	Crossing to the existing footway on Tattenhall Road; on-site paths; Travel Plan
Open space and sport	Policy 7 Open space to Local Plan DM 35 standards; sports pitch (as evidenced by need) with an option to transfer pitches to TPC	On-site open space and play; off-site contributions to parks, youth play, cricket, hockey and football
Burial ground	Policy 7 Land for additional village burial space, transferred to TPC	None
Education	Policy 7 Obligations where the education authority identifies a shortfall	SEND contribution
Flood management	Policy 8 Coordinated site-wide drainage; land off Burwardsley Road safeguarded for natural flood management	On-site SuDS discharging to Keys Brook
Affordable housing	Policy 1 and 7 30%, with a local connection cascade	30% (up to 33 homes), tenure to be agreed

Healthcare & Education

9.4 I use these two examples to show how the plan making process has carefully considered and addressed infrastructure provision and how this would be undermined by pre-determining decisions on sites outside of the eTDNP2 which will impact upon it.

9.5 In its response to 26/00486/OUT (15 April 2026, Appendix L), NHS Cheshire and Merseyside Integrated Care Board (ICB) assessed GP capacity. It found that the Tattenhall and Farndon surgeries had 384 sqm of floorspace against a requirement of 650.67 sqm for their weighted patient list, a shortfall of 266.67 sqm, and that the surgeries “do not have the capacity to absorb any additional residents”. Its preferred mitigation was “a new build facility”.

9.6 Since the ICB’s response, the conversion of 1 Barbour Square to medical use has been approved (26/02679/S73, 30 October 2026), and the Frog Lane Phase 1 application proposes a medical centre, which reflects Policy 7. The appeal heads of terms include a healthcare contribution, which TPC does not dispute. My point is not that the contribution is inadequate for this scheme. It is that the ICB has found the existing surgeries cannot absorb additional residents, so new premises are needed, and the eTDNP2 has considered and planned for that through a particular scale and phasing of growth, including land safeguarded at Frog Lane should it be required.

9.7 The Education Service found sufficient mainstream school places for this scheme, and it is understood that the appellant has been asked to make a SEND contribution (Education Service response, 4 August 2025, CD 3.10). I do not advance education as a reason for refusal. It is relevant because eTDNP2 coordinates the scale and timing of growth with school capacity, and cumulative growth outside the plan cuts across that.

9.8 The figures show that link. (Appendix M) Tattenhall Park Primary School has 218, places in reception to Year 6, reduced from 315 when its admission number fell from 45 to 30 in September 2025. Those places exclude its nursery places. “Get Information About Schools” records 199 pupils on roll, but that total includes nursery children. The headteacher’s figures for February 2026, provided to TPC as part of the eTDNP2 stakeholder engagement, notes 184 pupils in reception to Year 6 and 17 in the nursery. Their total of 201 is consistent with the published figure. I therefore compare the 184 school-age pupils with the 218 school places, so that neither includes nursery, which leaves about 34 spare places. On the Education Service’s pupil yield for this scheme (CD 3.10), the 600 homes allocated by Policy 7 would generate around 125 pupils. That would bring the roll to around 309, within the 315 places that would be available if the former admission number were reinstated. This scheme on its own could be accommodated within the current spare places, but any significant growth outside eTDNP2 would draw on the places the allocation is relying upon, thus pre-determining decisions about phasing of new development.

Conclusion on infrastructure

9.9 The appeal scheme may be able to mitigate its own impacts. It cannot deliver the settlement-wide outcomes that the plan-led allocation is designed to secure (SoC 3.7). That is why I consider infrastructure as part of the DM4(2) harm rather than as a separate objection (Section 10).

10. The planning balance

The development plan

10.1 The appellant acknowledges conflict with STRAT 9 and made Policy 1 (Gladman SoC, paras 6.4 and 6.5), and “some, albeit limited, conflict with the development plan and the spatial strategy” (para 7.3), to which it gives very limited weight (para 6.8). Its case is that the proposals comply with the development plan when considered as a whole (TPC SoCG 6.2). The draft Council SoCG records agreement that “any identified conflict with LP1 policy STRAT9, the wider spatial strategy of the Local Plan and Policy 1 of the NP would attract very limited weight in the planning balance” (para 5.4).

10.2 Annex A paragraph 2 of the Framework provides that development plan policies which are materially inconsistent with the national decision-making policies should be given very limited

weight. Other policies, including those in made neighbourhood plans (footnote 67), should not lose weight simply because they were adopted before the Framework was published.

10.3 I accept that the restriction on housing in the countryside in STRAT 9, and the scale limit in made Policy 1, carry reduced weight where S5(1)(j) applies. If S5(1)(j) does not apply, STRAT 9 is not materially inconsistent with S5 for this proposal and should not lose weight.

10.4 Policy 2 (Local Character) of the made Neighbourhood Plan requires development to respect local character and local landscape quality, and protects the important, predominantly undeveloped gaps between Tattenhall, Newton-by-Tattenhall and Gatesheath. In my view, nothing in the policy is inconsistent with the Framework's national decision-making policies, so under Annex A paragraph 2 it should not lose weight because of its age. In the Land West of Tattenhall Road Appeal APP/A0665/W/18/320253 (Appendix V) in 2018, (part of the current appeal site), conflict with made NP Policy 2 was cited (para17) in the conclusion that the site did not constitute an appropriate location for housing. In 2026, In the Shire Way appeal, decided under the August 2026 Framework, the Inspector found that a scheme on the edge of Tattenhall also conflicted with made Policy 2 and with the development plan as a whole (appeal 6008560, Appendix N, paras 15 and 38).

10.5 TPC presents no landscape character evidence, and the main parties agree that landscape harm is limited. Whether the proposal conflicts with Policy 2 is a matter of judgement for the Inspector. The relevant part of the policy in my view would be the gap clause. The appellant's Design and Access Statement accepts that the proposal would change the undeveloped landscape between Tattenhall and Newton-by-Tattenhall (CD 1.06, p31). The clause concerns the separate identities of the settlements, not the quality of the landscape, a distinction the Examiner drew (Examiner's report, para 4.12), so a conflict with it does not depend on the landscape harm being more than limited. If there is a conflict, it is with a locally specific policy in the development plan, which Policy DP3(3) treats as a reason for refusal unless clearly justified. In Hunsdon, the loss of a short length of hedgerow of local value conflicted with a neighbourhood plan policy broadly consistent with DP3, and that conflict "weighs substantially against the proposal" (para 20); the conflict with DP3 engaged S5(2) (para 36).

The national decision-making policies

10.6 The site is outside the settlement, so Policy S3 directs the decision to Policy S5. The Council cannot demonstrate a five-year supply, and the appellant relies on S5(1)(j). The appellant and the Council agree that the site is physically well related to the settlement (draft Council SoCG, para 5.5), and the infrastructure limb is to be addressed through the planning obligation (draft Council SoCG, para 9.3). It is not accepted that S5(1)(j) is engaged (TPC SoCG 6.9). I accept that the scheme's own infrastructure needs can be addressed through the planning obligation but both

conditions of S5(1)(j) must be met to be engaged. Whether the site is physically well related to the settlement is a matter of planning judgement for the Inspector. In the Shire Way appeal, the scale of a site on the edge of Tattenhall could be accommodated, but it was found not to be physically well related because it adjoined the settlement "*along one side only*" and would be "*an outwards extension and not rounding off",* so S5(1)(j) did not apply (6008560, Appendix N, paras 9 and 40). This site adjoins the built-up area only along its southern boundary, across Keys Brook, and lies outside the settlement boundary in both the Local Plan and the eTDNP2. If S5(1)(j) does not apply, the proposal falls within none of the categories in S5(1), and S5(4) allows it only in exceptional circumstances. In Shire Way, the Inspector found these were not shown because the benefits would not substantially outweigh the adverse effects (para 42). I do not depend on that, however: even if S5(1)(j) is engaged, it is my opinion that the benefits are substantially outweighed for the reasons below.

10.7 Being physically well related to the settlement under S5(1)(j) and being well located for access to services on foot are different questions (Hunsdon, 6008063, Appendix P, para 11; Shire Way, 6008560, Appendix N, paras 9, 34 and 40).

10.8 TPC does not advance location and access to services as a separate objection, and presents no technical evidence on it. But where growth goes is part of main issue (c), and how the site relates to the village and its facilities is a matter of planning judgement in the balance. To inform that judgement I have looked at the likely walking routes from the proposed site access on an online map. As such the distances are approximate. On that basis, only the play area and the Greenlands bus stops appear to be within 800 metres, the ten-minute walk the Design and Access Statement takes from Manual for Streets as defining a walkable neighbourhood (CD 1.06, p18). The shop, post office, pubs, church, library and primary school are about 860 to 950 metres away, and the GP surgery about 1,060 metres. That is consistent with the Design and Access Statement's own acknowledgement that most amenities are "located within a 15-minute walk of the Site" (CD 1.06, p43).

10.9 In my opinion the site's location therefore attracts no more than limited weight in the balance.

10.10 S5(2) sets out circumstances in which the benefits are likely to be substantially outweighed by adverse effects. They include, but are not limited to, a failure to comply with a national decision-making policy that says proposals should be refused in specific circumstances. DM4(2) is not framed in that way; it sets out the limited circumstances in which development may be refused as premature. But in my reading, the list in S5(2) is not a closed one. In my opinion, where both limbs of DM4(2) are met, the prejudice to an advanced plan is a further circumstance in which the benefits are likely to be substantially outweighed.

10.11 Policy S6 does not apply now. If the eTDNP2 is approved at referendum before the appeal is decided, S6 will apply and by definition would indicate that the benefits of approving a proposal that conflicts with the neighbourhood plan are likely to be substantially outweighed by its adverse effects where it is less than five years old and meets its housing requirement. The requirement is the Council's indicative figure, which HO2(5) expressly provides for where a local plan is out of date. In Hunsdon (Appendix P) the Inspector held that a later change in local housing need did not disapply S6, and that it is not the function of an appeal to reconsider an examined requirement (paras 37 and 38).

Benefits and adverse effects

10.12 Table 3 sets out my assessment. I use the conventional scale of weight, in ascending order: very limited, limited, moderate, significant, substantial and very substantial.

Table 3: Benefits and adverse effects

Benefit or adverse effect	My weight	Reason
Benefits		
Housing (about 110 homes)	Substantial	HO7 requires substantial weight to homes meeting evidenced needs, and the district supply is 1.6 years. I do not increase it to very substantial, because the neighbourhood area's share of that need is already planned for through the eTDNP2, above the Council's indicative figure, and is coming forward now (Section 6). The benefit is not specific to this site.
Affordable housing (up to 33 homes, 30%)	Significant	The 33 homes are part of the 110 already given substantial weight under HO7. The additional weight reflects the local affordable need, which the eTDNP2 also meets: Phase 1 alone would provide about 120 affordable homes. Stanton by Dale gave policy-compliant affordable housing significant weight (para 148).
Economic benefits	Limited	Construction employment and spending are temporary and common to any housing site.
Open space and play	Limited	Largely the policy requirement for the scheme itself.
Biodiversity net gain	Subject to main issue (a)	The statutory gain is a requirement; it is only gain above it which is a benefit. TPC calls no ecology evidence; the Council's objection on ecology is for main issue (a) (TPC SoCG 5.10).
Access and highway works	Neutral	Mitigation for the scheme.

Benefit or adverse effect	My weight	Reason
Location and access to services	Limited	Some facilities are within walking distance, but most are beyond the 800 metres the Design and Access Statement adopts (paras 10.7 to 10.9). The Shire Way site, closer to the village centre, attracted moderate weight (6008560, para 41).
Adverse effects		
Prematurity: prejudice to the plan-making process (DM4(2))	Substantial, until a successful referendum	Both limbs met (Sections 7 and 8): about a fifth of the indicative requirement in a different direction; about 350–360 homes cumulatively; the location of growth decided through an appeal rather than the plan. Consistent with Stanton by Dale, where prematurity was given substantial weight (para 160). This concerns the plan-making process, not the plan's content, and arises because of this proposal's scale, location and phasing. This harm falls away after a successful referendum, when DM4(2)(b) no longer applies.
Conflict with eTDNP2 Policies 1 and 7 (DM4(1))	Moderate now; significant after the Regulation 18 decision	Concerns the plan's content: the site is outside the Policy 1 settlement boundary and is not the Policy 7 allocation. The weight follows the weight of the plan (Sections 2 to 4; PPG para 107). It would arise from any housing outside the boundary, whatever its size. After a successful referendum, it becomes a conflict with the development plan itself (s38(6)).
Conflict with STRAT 9, the Local Plan spatial strategy and made NP Policy 1	Very limited if S5(1)(j) applies; Substantial if it does not apply.	If S5(1)(j) applies, STRAT 9 has no equivalent to it and is materially inconsistent with S5 for this proposal. The conflict then carries very limited weight, as agreed between the appellant and the Council (draft Council SoCG, para 5.4). If S5(1)(j) does not apply, the proposal falls to S5(4), and STRAT 9's restriction points the same way as national policy. It is then not materially inconsistent with the Framework and should not lose weight because of its age (Annex A para 2; para 10.3).
Conflict with made NP Policy 2, if the Inspector finds it	Substantial	Consistent with DP3; may engage S5(2) (Hunsdon paras 20 and 36).
Agricultural land shown as Grade 3a on DEFRA's 2026 predictive map (TPC SoCG 2.2)	Limited	Strategic-scale mapping, no lower grade alternatives.

10.13 The conflict with eTDNP2 Policies 1 and 7 and the prejudice to the plan-making process are separate adverse effects. The first concerns what the plan says, and its weight follows the weight of the plan under DM4(1). The second concerns the process of making the plan, and arises only because of the scale, location and phasing of this proposal. The Inspectors in Stanton by Dale (paras 157 and 160) and Burghclere (para 63) weighed them separately. The PPG's "significant weight" is the weight of the plan.

10.14 Taken together, once the Regulation 18 decision is made, the prematurity and the conflict with Policies 1 and 7 together carry very substantial weight against the proposal. They are different harms, but they arise from the same proposal and bear on the same choice the plan has made, and in my opinion their combined weight is greater than either alone (Stanton by Dale, para 162).

10.15 The balance is a judgement, not a sum. The Framework sets the test against which they are judged. Until a successful referendum, the proposal is premature under DM4(2) whether or not S5(1)(j) applies:

(a) if S5(1)(j) is not engaged, S5(1) gives the proposal no support, and S5(4) allows it only in exceptional circumstances, where the benefits substantially outweigh the adverse effects (para 10.6). In my opinion they do not;

(b) if S5(1)(j) is engaged, the prejudice to the plan-making process is an adverse effect of substantial weight in its own right, and the conflict with Policies 1 and 7 adds significant weight once the Regulation 18 decision is made; together they carry very substantial weight (para 10.14). DM4(2) identifies the limited circumstances in which refusal on grounds of prematurity is justified, and neither of its limbs depends on the state of housing supply. Both are met here, and I have explained the prejudice as DM4(3) requires. If the housing benefits of a proposal outside the plan were always enough to outweigh that prejudice where supply is short, DM4(2) would have no work to do in the very circumstances in which such proposals arise. In my opinion, where both limbs are met, the benefits are substantially outweighed, as S5(2) indicates is likely (para 10.10); and

(c) if the eTDNP2 is approved at referendum before the decision, the proposal conflicts with the development plan, and Policy S6 indicates that the benefits are likely to be substantially outweighed (para 10.11).

10.16 My conclusion does not depend on a conflict with made Policy 2; if the Inspector finds one, it adds to the adverse effects (Table 3). Nor do I seek to diminish the housing benefits, to which I give substantial weight. My conclusion rests on the test the Framework applies in each case, and on the role DM4(2) plays within it, not on a comparison of labels.

10.17 Weight is ultimately a matter for the Inspector. For the reasons above, in my opinion Policy S5 does not support the proposal, because it is premature under DM4(2), and its benefits are substantially outweighed by its adverse effects.

11. Conclusions

11.1 The Framework maintains a genuinely plan-led system, and neighbourhood planning is part of it (SoC 2.2). In Tattenhall the community has planned positively for more homes than the Council's indicative figure, chosen where they should go, and had that choice tested through examination. The Examiner agreed with TPC's reasons for not allocating this site (Sections 3 to 5).

11.2 Both limbs of DM4(2) are met, so prematurity is central to this decision. Granting permission would decide through an appeal what the eTDNP2 has just decided through examination: the scale, location and phasing of growth in Tattenhall. That is the prejudice to the plan-making process that DM4 guards against, and it would undermine confidence in the plan-led process.

11.3 The plan's standing does not rest on the Framework alone. Once the Regulation 18 decision is made, section 70(2)(aza) of the 1990 Act, applied to this appeal by section 79(4), requires the decision-maker to have regard to the eTDNP2 as a post-examination draft neighbourhood plan, so far as material. That duty arises from statute. The Framework and the advanced plan are then both material considerations, and the plan carries significant weight (para 2.3). After a successful referendum, it becomes part of the development plan (s38(3A)), and Policy S6 applies.

11.4 In my opinion the proposal conflicts with the development plan as a whole, because it conflicts with STRAT 9, the Local Plan's spatial strategy and made Policy 1, which together govern where housing goes and at what scale (paras 10.1 to 10.3). That conflict carries reduced weight where S5(1)(j) applies. The conflict with eTDNP2 Policies 1 and 7 is separate: until a successful referendum, it is a material consideration rather than a conflict with the development plan. I give substantial weight to the benefit of housing and significant weight to the affordable housing. Against them, the prematurity and the conflict with Policies 1 and 7 together carry very substantial weight once the Regulation 18 decision is made. Whether or not S5(1)(j) applies, Policy S5 does not support the proposal, because it is premature under DM4(2) and its benefits are substantially outweighed by its adverse effects (paras 10.14 to 10.17). The material considerations, including the Framework, do not indicate a decision other than in accordance with the development plan, and the eTDNP2 points the same way.

11.5 For these reasons, I respectfully ask that the appeal be dismissed.

Appendices

Part A: Documents already submitted by TPC before the Inspector

Document	Where to find it	Core document
TPC note of appeal decisions (CMC note, para 26)	Submitted with this proof	
eTDNP2 Submission Version (May 2026)	SoC Appendix A	CD 6.05
eTDNP2 Referendum Version	awaited	
The Council, Indicative Housing Requirements: Tattenhall (May 2026)	SoC Appendix B	CD 6.09
Thorpe appeal decision APP/Q3630/W/20/3253944, 21 October 2020	SoC Appendix C	
Burghclere appeal decision APP/H1705/W/20/3248187, 22 December 2020	SoC Appendix D	
25/02070/FUL decision notice, 20 July 2026	SoC Appendix G	
Muller Property Group consultation material	SoC Appendix H	
Examiner's report on the eTDNP2, 22 October 2026	SoC Appendix J	CD 6.06

Part B: Documents appended to this proof

Document	Where to Find it	Core document
ONH file note: Tattenhall SSP community engagement outputs (December 2025, 192 responses)	Appendix K	
NHS Cheshire and Merseyside ICB response to 26/00486/OUT, 15 April 2026	Appendix L	
Education Appendix	Appendix M	
Shire Way appeal decision 6008560, 9 October 2026	Appendix N	
Martham appeal decision 6009413, 24 August 2026	Appendix O	
Hunsdon appeal decision 6008063, 6 October 2026	Appendix P	
Stanton by Dale appeal decision APP/N1025/W/23/3319160, 31 January 2024	Appendix Q	
Johnson Mowat letter to the Examiner for Gladman Developments, 28 September 2026, with the Education Service response of 4 August 2025 (redacted)	Appendix R	
The Council letter to the Examiner responding to the Johnson Mowat letter, 30 September 2026 (redacted)	Appendix S	
eTDNP2 Basic Conditions Statement (May 2026)	Appendix T	
MHCLG letter ref TO2026/22227, 28 September 2026	Appendix U	

Document	Where to Find it	Core document
Land West of Tattenhall Road Appeal Decision APP/A0665/W/18/3202053 (December 2018)	Appendix V	