JohnsonMowat
Planning & Development Consultants

Gladman Developments Ltd.

Land West of Tattenhall Road, Tattenhall

Outline application for the erection of up to 110 residential dwellings

Planning Proof of Evidence

Mark Johnson – Johnson Mowat Planning Ltd
Appeal Reference: 6013490

3/11/2026

Johnson Mowat References

Client	Gladman Developments Ltd.
Site	Land West of Tattenhall Road, Tattenhall
Development	Outline application for the erection of up to 110 residential dwellings
Local Planning Authority	Cheshire West and Chester
Document Type	Planning Proof of Evidence
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1. Introduction

Personal Statement

1.1 My name is Mark Thomas Johnson, I have been appointed to represent the appellants in respect of Land to the West of Tattenhall Road, Tattenhall. I was appointed by the Appellants, Gladman Developments Ltd (Gladman) on the 30th March 2026 to act as planning consultant.

1.2 I am a member of both the Royal Institution of Chartered Surveyors and the Royal Town Planning Institute. I have a university degree in the economic recovery of minerals. I have 45 years' experience in the mineral surveying, contract management and planning policy sectors. This can be seen below:-

- 1980 – 1988 NCB/British Coal – Mine Surveyor
- 1989 – 1991 British Coal Opencast – Site Contract Manager
- 1991 – 1995 British Coal Opencast Coal – Planning Manager
- 1995 – 1996 VHE Construction – Minerals and Waste Project Surveyor
- 1996 – 2006 RBJ Mining / UK Coal – Senior Planning Manager
- 2006 – 2008 Home Builder Federation (HBF) – Policy Planner
- 2008 – 2013 Head of Planning Dacres Commercial
- 2013 – 2023 Managing Director – Johnson Brook/Johnson Mowat Planning Ltd
- 2023 – 2026 Senior Director – Johnson Mowat Planning Ltd
- 2026 – ongoing Senior Consultant – Johnson Mowat Planning Ltd

1.3 In the period 2008 to 2026 (the last 18 years) I have been appointed in many appeal cases as planning consultant and have presented evidence as an expert witness many times on planning policy and housing land supply. In addition, as a Chartered Surveyor I assist clients with their viability cases in planning submissions. I have a full understanding of all stages of residential development and its associated costs that often hinder the delivery of projects.

1.4 I have worked all across the north of England, including the North West, I am familiar with the locality and planning context of Tattenhall and Cheshire West and Chester Council.

1.5 To be clear, I have no legal qualification and where references are made to legal matters, my evidence does not represent legal submissions (which my clients instruct lawyers to make as required) but sets out my professional understanding of the implications of such judgments in so far as they clarify the correct interpretation of policy.

1.6 The evidence which I have prepared and provided for this appeal in this proof of evidence is true and has been prepared and is given in accordance with professional standards. I confirm that the opinions expressed are true and professional opinions. In providing expert evidence to the inquiry, I am fully aware that my duty is to the inquiry and I provide my honestly held professional view, irrespective of by whom I am employed.

The Appeal

1.7 This Planning Proof of Evidence is prepared on behalf of Gladman Developments Ltd. (Gladman) in relation to land at Land West of Tattenhall Road, Tattenhall. This Appeal relates to the non-determination of application reference 25/01764/OUT by Cheshire West and Chester Local Planning Authority for Outline planning application for the erection of up to 110 residential dwellings (including affordable housing), introduction of structural planting and landscaping, public open

space, sustainable urban drainage system and associated works (all matters reserved except for access).

1.8 The Outline Planning Application was submitted to the Council on 6th June 2025 and subsequently validated on 9th July 2025. The application was due to be determined by the 8th October 2025. Since this time a number of Extension of Time (EoT) agreements were made between the Appellant and the Council, the latest EoT was agreed to the 10th July 2026.

1.9 Although this appeal is an appeal against the non-determination of the application by the Council, the Appellants and the Local Planning Authority (LPA) have maintained a good working relationship in the appeal period and have now substantially narrowed any outstanding matters of dispute. This is set out in the Statements of Common Ground (SoCG) between the LPA and the Appellant. The same is true of Tattenhall Parish Council (TPC), which is a Rule 6 party and the remaining limited areas of dispute are addressed in the SoCG between TPC and the Appellant.

EIA Screening

1.10 As the appeal proposals are for urban development on a site of more than 5 hectares, the proposals fall under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Such projects only require an Environmental Impact Assessment (EIA) if the development is 'likely to have significant effects on the environment by virtue of factors such as its nature, size or location.'

1.11 On the 26th of August 2026, the Planning Inspectorate informed by letter, the appeal site would not be of a scale and nature likely to result in significant environmental effects. Accordingly the letter advised that the appeal proposals are not EIA development.

Description of Development

1.12 The application description is as follows:

> *Outline planning application for the erection of up to 110 residential dwellings (including affordable housing), introduction of structural planting and landscaping, public open space, sustainable urban drainage system and associated works (all matters reserved except for access).*

1.13 The application description has not changed through the course of the application or in the early part of the Appeal process.

1.14 Full details of the site location and characteristics are set out in the documentation supporting this appeal. Of particular relevance is Section 3 – Appreciating the Site of the Design and Access Statement (CD1.06). It is not considered necessary to repeat this in full here and therefore the following commentary provides a brief summary.

Location

1.15 The Appeal site is located to the north of Tattenhall and to the west of Tattenhall Road. Tattenhall is located within the administrative boundary of Cheshire West and Chester and lies approximately 10 km from the Chester City Centre and east of the A41 which travels north and south of the settlement.

1.16 The Application site is located outside of the development limits for Tattenhall (although adjacent to existing built form) and is located in open countryside.

1.17 The site measures approximately 6.3 hectares and is an irregular rectangle in shape.

1.18 The site is situated approximately 800m north of the centre of Tattenhall where a variety of local amenities and facilities can be found including a convenience store, a primary school, a library, a church, a play area, medical facilities and a post office.

1.19 The site has access to public transport services with the closest bus stop approximately 260m from the centre of the site providing services between Chester and Whitchurch.

Characteristics

1.20 The Appeal site consists of one large agricultural field which is enclosed by hedgerow and trees. There is no tree or hedgerow cover within the site, save for boundary planting.

1.21 The site is free from built form save for a small area of hardstanding upon which sit a number of small temporary structures adjacent to Tattenhall Road at the eastern boundary of the site.

1.22 The site relates well to the existing settlement, abutting existing built residential units to the south.

1.23 The north of the site is enclosed by Greaves Meadow which provides access to Greaves Farm, Greaves Farm Cottage and Greaves Meadows Barns. The east of the site is enclosed by Tattenhall Road. Keys Brook travels across the southern boundary of the site.

1.24 The site is relatively flat although gently slopes towards the southern boundary.

1.25 There are no Public Rights of Way (PROW) crossing the site although the PROWs are located approximately 530m to the west and 700m to the east.

1.26 The site is not located in the Tattenhall Conservation Area nor are there any designated or non designated heritage assets on site.

1.27 The site is generally located in Flood Zone 1 however an area of Flood Zone 3 is identified along the southern boundary associated with Keys Brook. No built development is proposed outside of Flood Zone 1.

Statements of Common Ground (SoCG)

1.28 To assist the Inquiry, the Appellants are engaged in the production of two SoCG as follows:-

- Appellant/ LPA SoCG on matters of Planning and separately Ecology
- Appellant/ Parish Council as a Rule 6 Party

1.29 The Planning SoCG with the LPA is now agreed.

1.30 The Ecological SoCG with the LPA is now agreed.

1.31 The SoCG with TPC is now agreed.

Main Issues in this Appeal

1.32 The Main Issues between the parties were until recently largely unknown. However, in recent weeks, the production of putative reasons for refusal by the LPA and introduction of the Parish Council as a Rule 6 Party has now clarified this.

1.33 The Case Management Conference Note (CMC 5th October 2026) when combined with each party's Statement of Case allowed the Inspector to summarise the Main Issues for the Inquiry as follows:

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.

Submission of Additional Ecological Material

1.34 At the time the appeal was lodged, it was recognised that several ecological survey updates were outstanding. These documents have subsequently been submitted and reviewed by the LPA. See below:-

- BNG metric dated 29/09/2026 (CD5.06)
- BNG Report dated Oct 2026 (CD5.05)
- Ecological Impact Assessment dated Oct 2026 (CD5.02)
- Bat Activity Survey Technical Support dated Sept 2026(CD5.04)
- Bat Roost Survey dated 30/09/2026 (CD5.03)

1.35 These documents were considered at the Case Management Conference (CMC) with the Inspector on 5th October 2026. The CMC Note states that the Appellant was to make their case on this material in their Proofs of Evidence and that the material submitted has been accepted into the Inquiry.

1.36 My colleague Liz Seal of TEP addresses the matter of Ecology and BNG in her proof of evidence. This is also addressed in the Ecology SoCG between the Council and the Appellant.

Proofs and Statements

1.37 In addition to this Proof of Evidence, the Appellant's Team are submitting the following Proofs/Statements:

- Landscape – Louise Fitzgerald, TEP
- Ecology – Liz Seal, TEP
- Transport/ Highways – Simon Helme, Ashley Helme
- Affordable Housing – James Stacey, Tetlow King

1.38 In addition to this, at Appendix H to my proof of evidence there is Heritage Statement. This statement has been provided to address a discrete issue which was raised by the Council in their officer report which was appendix A to their Statement of Case. Paragraph 6.140 of that report highlights that the Councils' Conservation Officer had raised the potential that Greaves Farm was "potentially a non-designated heritage asset". Whilst the Council has not raised any particular concerns in relation to this, the appended statement addresses: (a) whether Greaves Farm is indeed a non-designated heritage asset and (b) whether the appeal proposal would lead to any harm to its significance.

1.39 My Proof seeks to summarise the headline points from the above documents and the authors of proofs will be at the inquiry to respond to any detailed questions on their topic areas. I will then rely upon their evidence in reaching a planning balance as part of this proof of evidence.

2. Proposed Development

2.1 The details of the development proposals are set out within the application documentation. To avoid unnecessary repetition only a summary is presented below.

2.2 The appeal relates to Outline proposals, with all matters reserved except for access. The application proposal includes the following:

- Up to 110 residential dwellings (including 30% affordable housing);
- Vehicular access 'T junction' onto Tattenhall Road including footway on both sides within the development;
- Pedestrian crossing on Tattenhall Road with dropped kerb and tactile paving to connect to existing footway which allows onward travel south into the village centre, enhancing connectivity between the site and Tattenhall;
- Structural landscape planting and the retention and positive management of key landscape features;
- 3.21 ha of formal and informal open space comprising a new children's play area, a surface water attenuation basin, structural planting, and landscaping; and,
- The Sustainable Urban Drainage system (SuDS) will be situated at the lowest point of the site (south of the site), to manage the flow of surface water during periods of heavy and persistent rainfall. The attenuation basin will also provide habitat creation.

2.3 In addition, the S106 Agreement that accompanies the Appeal contains Community Infrastructure provisions as follows:

- Healthcare Funding
- Youth Play
- Park and Recreation
- Sports Pitch sum
- Sports Pitch Maintenance sum
- Sports Pitch Changing Facility sum
- Special Educational Needs and/or Disabilities (SEND)
- Ecological Management Monitoring

2.4 The above provisions are provided at the request of the LPA and supported by the LPA's CIL Reg 122 Justification Report.

3. Planning History

3.1 The relevant planning history is briefly set out below.

Site History

3.2 The Appeal site has been subject to two refused Outline applications, both of which were subsequently dismissed at appeal.

3.3 The first Outline application was for up to 137 dwellings. The application was refused in October 2022 due to harm to the rural character of the village and its surrounding landscape (application reference: 12/02353/OUT). An appeal was then made against the refusal for Outline planning permission (appeal reference: APP/A0665/A/12/2185667). The inquiry took place in June 2013, due to a number of material changes in circumstances, such as the making of the Tattenhall and District Neighbourhood Plan and the adoption of the Cheshire West and Chester Local Plan (Part One) Strategic Policies, the inquiry was reopened in November 2015. The appeal was considered alongside two other appeals in the settlement. The Inspector recommended for the appeals to be allowed, however the Secretary of State disagreed and dismissed the three appeals in April 2017. The Secretary of State found the Council were able to demonstrate a five-year housing land supply at the time and so concluded that the development would not be in accordance with the development plan.

3.4 The second Outline application submitted was for 30 dwellings and was subsequently refused in February 2018 (application reference: 13/01329/OUT). The reason for refusal was due to the harm to the intrinsic character and beauty of the countryside and a suburbanising effect on the rural area. An appeal was made and eventually dismissed in December 2018. The appeal decision records (at paragraph 12) that there was no dispute that the Council could demonstrate a five year supply of housing land. In light of this the Inspector found that the proposal breached a number of local plan policies relating to the development sitting outside of any settlement boundary (see para.13) and the Inspector gave these policies full weight (para.19). The Inspector also found some harm to the character and appearance of the area (appeal reference: APP/A0665/W/18/3202053).

Other Relevant Applications/ Appeals

3.5 There are two other relevant applications in the locality of the appeal site which are noted below. These will be referenced, where appropriate, within the case.

- **Taylor Wimpey** (TW): Application Reference 25/02070/FUL : Erection of 110 dwellings, provision of associated access and infrastructure works including roads, drainage infrastructure, car parking, public open space, landscaping and associated works.

3.6 The above application was submitted on behalf of Taylor Wimpey and relates to the land to the south west of the appeal site. The application was validated in August 2025.

3.7 The Taylor Wimpey application has been presented at planning committee twice, on both occasions with recommendation to grant planning consent subject to S106 and conditions. Most recently the application was considered by Members at Planning Committee on the 7th July 2026. The application was refused on grounds that the proposed development fails to provide a housing mix that appropriately reflects the identified housing needs of both the borough and Tattenhall. The scheme was considered disproportionately weighted towards larger three, four and five-bedroom market dwellings and did not provide a sufficient proportion of smaller market homes to address the evidenced need for one and two-bedroom accommodation identified within the Cheshire West and Chester Housing Needs Assessment (2026) and the Tattenhall Housing Needs Report (2023). As such, the proposal would fail to contribute towards the delivery of a balanced and sustainable community and is contrary to Policies SOC3 of the Cheshire West and Chester Local Plan (Part One), DM20 of the Cheshire West and Chester Local Plan (Part Two), and the objectives of the National Planning Policy Framework. In short, the LPAs only point against that proposal was housing mix.

3.8 The TW Appeal remains undetermined. TW have submitted a second planning application on the same site (LPA ref: 26/02414/OUT) for 120 dwellings with a more compliant mix. This application remains with the LPA.

- **Bolesworth Estate**: Application Reference 26/00486/OUT : Outline planning application with all matters reserved (except for principal means of access), for development comprising up to 400 no. dwellings (Use Class C3) and new Medical Centre (Use Class E), with associated open space, landscaping, allotments and other associated works including earthworks and drainage.

3.9 The above application was submitted on behalf of Bolesworth Estate Company Limited and was validated in March 2026. The Bolesworth application remains with the LPA. I note there are reservations from the Council's Conservation Team in relation to the heritage harm caused by that application.

4. Statutory policy context and other relevant policies

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

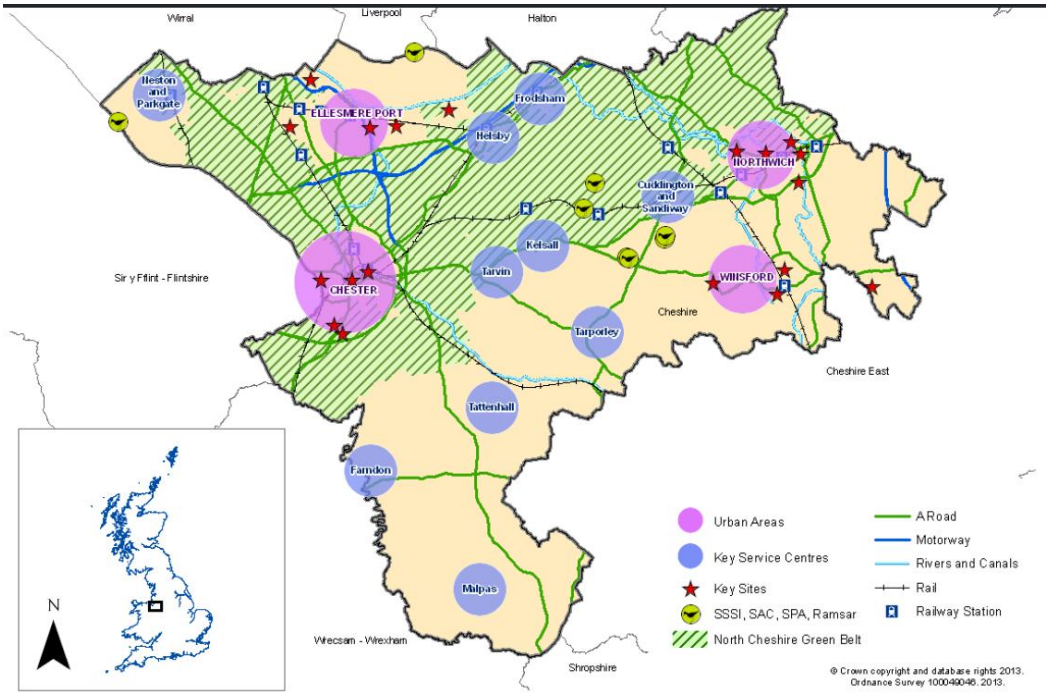
4.2 At the time of writing the current development plan comprises the:

- Cheshire West and Chester Local Plan (Part One) Strategic Policies (adopted July 2015); and,
- Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (adopted July 2019).
- Tattenhall Neighbourhood Plan 2014

Cheshire West and Chester Local Plan (Part One) Strategic Policies

4.3 The Cheshire West and Chester Local Plan (Part One) Strategic Policies (LP1) (CD6.11) was adopted in January 2015 and sets the overarching strategy for growth and development across the authority area over the plan period 2010-2030. The Plan makes provision for 22,000 (net) new dwellings to be delivered over the plan period, equating to an average of 1,100 dwellings per annum (dpa). The Key Diagram is repeated below.

Figure 4.1: Key Diagram



4.4 Paragraph 1.3 of the Part 1 Local Plan states that 329,000 people live in 160,000 homes in the borough. It also informs of a series of larger settlements in the north of the borough which are constrained by the Green Belt. Indeed, Green Belt covers 42% of the borough. Paragraph 1.4 also notes additional and overlapping constraints including a number of internationally and nationally important sites for wildlife. Even taking the issue of Green Belt alone, it is clear that Tattenhall is one of a very limited number of sustainable settlements in the borough which are outside of the Green Belt and which can accommodate growth.

4.5 Paragraph 1.8 tells us the Cheshire West and Chester area is an area where house prices are high and, when considered alongside income levels, housing is relatively unaffordable. Affordable housing is in demand.

4.6 Government requires a review of the Local Plan must be completed every five years. A review of the Local Plan Part 1 was undertaken and reported on the 20th January 2020. It was found that the Local Plan did not need updating. That review was now some six years ago and a further review has not yet taken place. Whilst age alone does not automatically render the plan out of date, the development plan can be considered out of date for other reasons including a severe shortfall in housing land supply. Further, the policies within the plan need to be considered for their consistency with national policy (see paragraph 2 of Annex A to the NPPF).

4.7 The Local Housing Need (LHN) figure, as derived under the Standard Method (SM), for the Cheshire West and Chester district is now 1,931 dpa, a significant increase from the Development Plan requirement for 1,100 dpa. It is clear that the strategic policies in the Development Plan therefore do not align with the national policy requirements to meet the authority's LHN and therefore significantly reduces the weight to be given to those policies.

4.8 Further, the latest Housing Land Monitor Summary Report for the Council explains that the required local housing need figure with a 5% buffer amounts to 2,027 dwellings per annum. In turn this results in a five-year requirement of 10,135 dwellings. The Council's supply is given as 3,269. On that basis the Council's best-case scenario is that it can only demonstrate a 1.6 years housing land supply. This further reduces the weight to be given to the Council's strategic policies.

4.9 The policies of the Local Plan Part 1 that are of relevance to this appeal are as follows:

- STRAT 1 – Sustainable Development
- STRAT 2 – Strategic Development
- STRAT 8 – Rural Area
- STRAT 9 – Green Belt and Countryside
- STRAT10 – Transport and Accessibility
- STRAT 11 - Infrastructure
- SOC1 – Delivering affordable housing
- SOC5 – Health and wellbeing
- SOC6 – Open space, sport and recreation
- ENV1 – Flood risk and water management
- ENV2 – Landscape
- ENV3 – Green Infrastructure
- ENV4 – Biodiversity and geodiversity
- ENV5 – Historic environment

4.10 We are now in a position where the Council's housing land supply has fallen significantly below the five year requirement and the weight to be given to policies that constrain development beyond the Local Plan boundaries (STRAT 1 and STRAT9) is now very limited.

4.11 Policy STRAT8 seeks to distribute levels of housing across various parts of the southern 'rural' area with a focus on the 'key service centres'. Tattenhall is one of the 10 locations with a requirement of 250 dwellings. Again, this figure sought to plan for a level of housing which was significantly lower than the current requirement. It can be given very limited weight in the decision given that:

(a) a significant number of additional sites for housing will be required for the Council to meet its five-year housing land supply; and,

(b) Tattenhall is one of very few sustainable settlements within the Borough which is unconstrained by the Green Belt.

Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies

4.12 The Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (LP2) (CD6.12) was originally adopted on 19th July 2019, in line with national policy, and reviewed in July 2024. The review highlighted some areas where changes to national planning controls at the national level mean some policies are not operating as intended. Those policies are anticipated to be fully reassessed as part of the new plan making system.

4.13 It should be noted that the LP2 allocates land in line with the housing requirement as set out in LP1. Given the significant increase in the LHN against the housing requirement, together with the current severe level of housing supply shortfall, the Local Plan does therefore not allocate sufficient housing to meet the LHN for the district. The weight to be given to policies which constrained development outside of settlement boundaries is therefore very limited.

4.14 The appeal proposals are in Outline only at this stage, save for the details of the main point of access. The majority of the detailed policies are likely to be more applicable at any subsequent Reserved Matters stage.

4.15 The policies of the Local Plan Part 2 of relevance are set out below:

- GBC2 – Protection of landscape
- T5 – Parking and access
- DM19 – Proposals for residential development
- DM23 – Delivering affordable housing
- DM29 – Health impacts of new development
- DM30 - Noise
- DM31 – Air Quality
- DM32 – Land contamination and instability
- DM35 – Open space and new development
- DM36 – Provision for sport and recreation
- DM40 – Development and flood risk
- DM44 – Protecting and enhancing the natural environment
- DM45 – Trees, woodland and hedgerows
- DM46 – Development in conservation areas
- DM50 - Archaeology

Tattenhall and District Neighbourhood Plan (2014)

4.16 The Tattenhall and District Neighbourhood Plan (NP) (CD6.10) was made in June 2014 and therefore forms part of the Development Plan for Cheshire West and Chester. It must be given consideration when determining planning applications. It is confirmed that the appeal site falls within the designated Neighbourhood Plan Area for Tattenhall.

4.17 The relevant policies of the NP are as follows:

- Policy 1 – Housing Growth
- Policy 4 – Local Facilities
- Policy 5 – Transport and Communications
- Policy 6 – Landscape and Environment

4.18 The made NP does not identify specific housing allocations or development sites nor does it identify a specific housing requirement for the NP area.

4.19 The made 2014 NP is now over 12 years old. It is notable that it does not feature in the case which the Parish Council has chosen to present to the Appeal.

Emerging Policy

The Tattenhall and District Modified Neighbourhood Plan (2026)

4.20 Given the age of the made NP, the Parish Council - the relevant qualifying body - are currently in the process of preparing a modified NP which will cover the period from 2025 to 2045. This Tattenhall Neighbourhood Plan (the 2026 NP) (CD6.05) will contain housing allocations.

4.21 The TNP was submitted for Examination in May 2026. The Plan has been examined in the context of the 2024 NPPF. The Examiners Report was published on 22nd October 2026.

4.22 The Appellant has been engaging with the neighbourhood plan process and this includes raising serious concerns as to the level of housing provided for within allocated sites and also the lawfulness of the Strategic Environmental Appraisal ("SEA").

4.23 On behalf of the Appellants, representations have been made to previous stages of the NP process including the Regulation 14 consultation held in April 2025 and further Regulation 14 consultation in April 2026. The Appellants made a further representation to the Examination in its final stages. See my Appendix A. This was a request for an Oral hearing to consider the relevant planning applications in the TNP area that were being determined largely without any major planning objections from the LPA on points of spatial strategy.

4.24 My Appendix B provides the Examiners response to that request.

4.25 Unlike the made 2014 TNP, the draft Modified 2026 NP identifies proposed housing allocations. The allocations proposed are to the north and south of Frog Lane for a total of 600 dwellings. The 2026 TNP allocations demonstrate a need for additional dwellings within the NP area and a recognition of the capacity for growth in the settlement.

4.26 The 2026 TNP as submitted (the May 2026 Submission version) contains eight policies. In short, these are:

Policy 1: Housing Growth.

- Part A of this policy defines settlement boundaries for the purposes of applying the presumption in favour of sustainable development.
- Part B sets various criteria for housing proposals including the need for affordable housing on site.

Policy 2: Local Character.

- Part A of the policy supports development where it meets certain criteria. Bullet 3 is relevant to this case in that provides that support only where that proposal does not unacceptably erode the important, predominantly undeveloped gaps between the three settlements of Tattenhall, Newton by Tattenhall and Gatesheath. Bullet 3 supports development that respects local landscape quality ensuring that views and vistas identified in Appendix A are maintained wherever possible.
- Part B supports development over 30 dwellings that comprise smaller areas with different types of housing in order to avoid losing the village character.
- Part C addresses loss of trees.
- Part D supports development that certain natural features such as ancient trees, hedgerows, ponds and ancient woodland.

- Part E addresses proposals within or adjacent to designated local wildlife sites or sites of nature conservation value as well as the incorporation of habitat enhancement measures within proposals.

Policy 3: The Local economy: Supports acceptable economic development.

Policy 4: Local Facilities: Part A of this policy requires developments to address impacts upon infrastructure.

Policy 5: Transport and Communication: This policy requires developments to address any traffic impacts and to maximise opportunities to walk and cycle.

Policy 6: Landscape and Environment: This policy designates "Local Green Spaces" which are to be protected from new development unless very special circumstances are demonstrated.

Policy 7: Site Allocations: This policy set particular guidance for the two housing allocations in two phases.

Policy 8: Flood Management: This policy safeguards land for a natural flood risk management scheme.

4.27 Notably, none of the above policies set the 600 dwellings as a maximum. This is agreed in the SoCG with TPC. Further, none of the above policies restrict development to inside the 2026 TNP settlement boundary.

4.28 The Planning SoCG between the LPA and Appellant changed its position in drafting on the matter of weight. At time of exchange, it was agreed it was not a disputed matter.

Emerging LPA Local Plan

4.29 Acknowledging the age of the current Development Plan, the Council have committed to progressing a new Local Plan under the Town and Country (Local Planning) (England) Regulations 2026. The Council published the *Notice of Intention to Commence Local Plan Preparation* on the 12th June 2026. It is anticipated that the Council will start the 30-month plan preparation process on 16th October.

4.30 The emerging Local Plan is in its infancy and can be afforded no weight in the determination of this appeal. The LPA/Appellant Planning SoCG states at para 4.15 the document is to afforded no weight at this time.

Material Considerations

National Planning Policy Framework

4.31 The latest version of NPPF was published on 17th August 2026 and is an important material consideration in the determination of this appeal. This NPPF Update post-dates the Appellant's Statement of Case.

4.32 In Section 5 of this Proof, I update the Appellant's position based upon this new NPPF.

5. The Appellant's Case

5.1 Section 1 of my Proof sets out how the 'Main Issues' in this appeal case have become clearer and the roles of the parties better understood. In short, the LPA's position now appears to be one of generally no objection, subject to a S106 being signed.

5.2 Tattenhall Parish Council's (TPC) position as a Rule 6 Party is objecting but not on any technical point. This is confirmed in:-

- TPC's September 2026 Summary Statement of Case – para 1.5
- The TPC October 2026 detailed Statement of Case which contains no technical objection to the Appeal proposals.

5.3 The 5th October 2026 CMC Note lists the likely main issues as follows:

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.

5.4 Since the CMC Note, TPC have published their detailed Statement of Case (21 October 2026). In short, TPC's case is entirely limited to the location of the appeal site in relation to the emerging TNP. It does not allege that there is any other type of harm which should lead to a refusal of planning permission. This includes any impacts upon the landscape, highways, flooding, heritage, and ecology.

5.5 The Parish Council's objections to approving this appeal site equally apply to any other site that sits outside the proposed settlement boundary of the draft 2026 TNP. TPC consider allowing major development proposals immediately outside the settlement boundary will undermine the plan-making process and threaten a positive TNP referendum and potentially open the floodgates to further proposals. As I explain further below, it is notable that TPC does not allege that the proposal is contrary to any of the emerging TNP policies.

5.6 I note that in addition to the above, for the first time on 2 November 2026 (one day before the exchange of evidence) TPC indicated in its latest revision to the SoCG that it would also argue that the Site is not physically well-related to the settlement, is not of a scale that can be accommodated within existing or proposed infrastructure or in a sustainable location. This last-minute addition to TCP's case is unreasonably late. I have sought to address it in my proof below but given the last-minute nature of TPC's indication I reserve the right to add to it in response to any evidence which TPC might call on these issues.

5.7 This section of my Proof addresses the main issues as set out I the CMC note in sequence.

a) The effect of the proposal on on-site ecology;

5.8 My colleague Liz Seal has been instructed to provide a Proof of Evidence for this inquiry and additionally engaged with the LPA's Ecology expert to draft an Ecological SoCG.

5.9 Without repeating all the points from that proof I can see no designated wildlife sites would be impacted by the proposals. No loss of irreplaceable habitats would arise.

5.10 Impacts on protected and notable species would be avoided and minimised through construction phase safeguards and supportive habitat quality improved through habitat enhancement, creation

and management. Impacts on great crested newts would be mitigated via the GCN District Level Licencing scheme.

5.11 Habitat loss primarily relates to the loss of horse graze paddock of low ecological value. Only two trees and up to 40 metres of hedgerow would be removed. Enhancements within the proposal include planting along existing hedgerows and new hedgerows wetland areas for wildlife and substantial green buffers around the site.

5.12 The BNG feasibility assessment demonstrates A significantly greater than 10% gain in habitat. The Biodiversity Net Gain Feasibility Assessment concludes that the proposed development could deliver on Site an increase in biodiversity units as follows:

- Habitat units - increase of 39.60%
- Hedgerow units - increase of 48.96%
- Watercourse units - increase of 33.40%

5.13 Overall, as set out in Ms Seal's Proof the scheme adopts the mitigation hierarchy and delivers BNG over and above that which is required by statute. It is fully in accordance with best practice principles in that:

- full ecological surveys have been carried out,
- features of ecological interest will be protected (the small loss of hedgerow for access is the exception),
- protected and priority species have been identified and proposals are made for their conservation;
- any unavoidable damage would be minimised and mitigated (i.e. arboricultural method statement, CEMP, wildlife sensitive lighting strategy, RAMS and avoidance of the nesting bird season)
- in respect of general habitats, a biodiversity net gain of significantly greater than 10% will be delivered;
- there is no adverse effect on designated sites; and
- the proposals will provide and enhance wildlife corridors and ecological networks.

5.14 As such, the appeal proposal complies with all relevant local and national policies relating to ecology. In particular it complies with policies ENV4 and STRAT 11 of LP1, policy DM44 of LP2 and policy N2 of the NPPF.

5.15 A number of draft planning conditions are proposed and agreed to ensure ecological matters are protected and enhanced.

b) Whether the proposal would make appropriate provision for affordable housing and local infrastructure

Provision for Affordable Housing

5.16 James Stacey of Tetlow King has provided a Proof of Evidence on the topic of affordable housing.

5.17 The Appeal proposals for 110 dwellings contain 30% affordable to be secured in the S106. This is in full accordance with local plan policy SOC1.

5.18 Supporting the application is a Planning and Affordable Housing Statement (CD1.05). Included at Appendix 2 is an Affordable Housing Statement.

5.19 Mr Stacey's Proof sets out how the borough is amid an affordability crisis, under delivering on affordable homes and experiencing increased affordability issues. This is reinforced by the LPAs in the LPAs 7th July Committee Report for Taylor Wimpey's application reference 25/02070/FUL, at paragraph 6.154 it is stated:

> *"6.154 The weight to be afforded to the affordable housing provision is further reinforced by the Council's latest monitoring data, which identifies a continuing shortfall in delivery. With 5,720 affordable dwellings competed against a requirement of 6,600 up to 2030, there remains a clear deficit across the borough. The proposal would directly contribute towards reducing this shortfall and therefore carries significant positive weight in the planning balance, delivering a policy-compliant level of affordable housing (30%)."*

5.20 I have summarised the key points from James Stacey's Proof below.

5.21 Since the production of the Council's Local Plan there have been two assessments on affordable housing needs. The 2013 SHMA sets out an affordable housing need of 714 dwellings per annum. The most recent 2026 HNA more than doubles that target to 1,694 dwellings per annum.

5.22 The amount of affordable housing delivery in the borough since 2018/2019 has been 394 dwellings per annum, significantly short of the 1,694 dwellings per annum requirement.

5.23 As of October 2026, the Council's Housing Register reports 6,351 applicants, a 7% rise from the 2025 5,931 applicants. This must be set within the context of an overall new housing delivery falling year on year since 2020/21.

5.24 The Council's 2026 Housing Land Monitor (HLM) (CD6.03) informs of a forward-looking five year supply of 3,269 dwellings, and even if 30% affordable was achieved in that supply equating to 981 dwellings then, only 196 affordable housing dwellings per annum would be delivered, a fraction of the actual annual requirement.

5.25 NPPF 2026 Policy H07 states that in applying policies in the Framework, substantial weight should be given to the benefits or providing homes which contribute towards meeting the evidenced accommodation needs of the community as identified through needs assessments prepared for the area. There is an acute need for affordable housing within the borough, substantial weight should be attributed to the delivery of up to 33 affordable homes on the appeals site.

Local Infrastructure

5.26 The site lies adjacent to Tattenhall, a key service centre as identified in the hierarchy under policy STRAT2.

5.27 STRAT2 sets out that development should be directed towards the City of Chester, followed by the three main towns, key service centres and finally local service centres. It is acknowledged that an appropriate level of growth is expected in Tattenhall to support new homes, economic and social development in the settlement. In recognition of its sustainability and suitability for growth, 250 dwellings were allocated to Tattenhall between 2010 and 2030 under policy STRAT8. The 250 figure is not derived from any local infrastructure capacity assessment.

5.28 The proposal is consistent with the aims of Policy STRAT2 and STRAT8 by directing new development to a recognised Tier 2 'Key Service Centre' that is suitable, sustainable and deliverable with an existing range of local services and opportunities for employment.

5.29 My colleague, Simon Helme provides a Proof of evidence into this inquiry on matters of transport. At Section 4 of his Proof 'Sustainable Travel' at para 4.1.2.2 he lists the walking distances to a range of

local services in Tattenhall. The list includes, playgrounds, primary school, shops, takeaway food outlets, library, pubs, pharmacy, a doctors' surgery, church and a community centre. The list demonstrates a high level of local infrastructure, all within a reasonable walking distance of the site. As set out under the planning balance below, the sustainability of the site's location (with so many facilities within walking distance) is a significant benefit of the appeal proposals.

5.30 A draft S106 Agreement will be presented to this inquiry with agreement between the parties on its contents which include:

- 30% Affordable Housing.
- Payments relating to: Youth Play, Park and Recreation, Sports Pitch sum, Sports Pitch Maintenance sum, Sports Pitch Changing Facility sum.
- Special Educational Needs and/or Disabilities (SEND).
- Healthcare.
- Ecological Management Monitoring.

5.31 The absence of a S106 Agreement formed the basis for Reason for Refusal No.2. Following continued dialogue on the provisions of a draft S106 throughout this appeal, it can now be stated the LPA takes no issue with the appeal proposals as regards to available infrastructure provided that an agreed and justified S106 Agreement is made available to the inquiry to satisfy the Councils objection in Reason for Refusal 2 and Local Plan policies STRAT11 and SCO1. At the time of writing, the Council has insisted on preparing the s106 agreement and the Appellant has chased this from the Council so that it can be provided to the Inquiry in good time.

5.32 The TPC October 2026 Statement of Case expresses a concern over a community infrastructure impacts that flow from one of more unallocated sites. Para 6.2 of that document states the TPC recognise Policy S5.1j(i) requires a proposal to be of a scale that can be accommodated within or proposed infrastructure in that settlement. The TPC do not state the appeal proposals fail that test but then express concern that the unallocated nature of the proposal presents a problem in that simply fitting into local infrastructure is not the same as providing betterment that can be achieved through the plan-led system.

5.33 There is no suggestion the appeal site when combined will the draft TNP allocations will create an unacceptable strain on local infrastructure. The TPC Statement of Case points to no specific items of infrastructure currently under strain.

5.34 I note NPPF S5.1.j(i) does not require betterment, it simply requires a proposal to be accommodated. In any event this proposal does provide wider public benefits through making additional recreational greenspace available to all residents. Payments through the S106 towards sports improvement will be a benefit to the wider community. I further note that Regulation 122 of the Community Infrastructure Levy Regulations 2010 prevents a planning obligation from being a reason to grant planning permission unless it is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. As such, to the extent that TPC is seeking to argue that the Appeal proposals should provide section 106 contributions which go beyond these tests, those contributions could not represent a reason for granting planning permission.

5.35 As regards education, I note that the education service's consultation response (CD3.10) confirmed that the development could be accommodated in relation to pre-school, primary, secondary and sixth form places. The insufficient places for special educational needs is being addressed through the s106 payment.

5.36 On health I note the healthcare consultation response from the NHS Cheshire and Merseyside ICB sought a S106 contribution towards the re-development of GP surgery (CD3.03). The consultation response provides:

> "Given this is one of many housing developments within the Tattenhall Area, s106 is requested prior to commencement due to the requirement to redevelop the site (12-18 month process) and the need for enabling monies in order to undertake the identified works. A feasibility review of options for the site is currently in development to progress this at pace."

5.37 Therefore, the Appeal proposals are mitigating their impact on the GP surgery through the payment of the requested s106 contribution which will go towards funding the re-development of the surgery, a project which is already in train and is continuing at pace.

5.38 With regards to amenity greenspace, I note that the Council's Open Space Officer has confirmed (CD3.29) that the allotment provision, amenity greenspace and semi natural open space are in line with policy or exceed policy requirements. Further, no onsite sports provision is required rather mitigation for this issue is required to be provided through the s106 agreement, which is now provided for.

5.39 I note draft Policy 4 of the emerging TNP Part A expects proposals to mitigate their impacts on infrastructure in a proportionate manner. Part B of the policy supports proposals that provide wider benefits. The Appeal proposal meets these requirements.

5.40 I have gone further to consider whether there is any indication from consultees that the appeal proposal would not be acceptable if considered cumulatively with other applications/appeals in and around Tattenhall. I have therefore consulted the Statutory Consultation responses in relation to the TW and Bolesworth Estates applications referenced in Section 1 of my Proof above and there is no indication that all of these proposals cannot come forward in a manner which would not be accommodated by local infrastructure. I can confirm that in relation to those applications/appeals:

- There are no objections on the grounds of educational capacity.
- There are no objections on the grounds of highway capacity.
- There are no objections on the grounds of recreational capacity.
- There are no objections on the grounds of retail capacity.

5.41 Matters in relation to services infrastructure are site specific and dealt with via planning conditions with the agreement of statutory undertakers.

5.42 Overall, it is clear that the proposals do make appropriate provision for affordable housing and local infrastructure. As such they comply with LP Part1 and Part2 policies, NPPF Policies and emerging NP draft policies.

c) Whether the scale and location of proposed development would be acceptable, having regard to the emerging neighbourhood plan.

5.43 It is acknowledged that the site is in a countryside location. The LPA's Statement of Case at Para 6.1 states there is a conflict with existing Local Plan policies which to direct development to certain locations but only within the defined settlement limits. It states that regard is to be had to Policies STRAT2, STRAT8 and STRAT9.

5.44 As set out above, the weight to be given to strategic development plan policies can only be very limited in circumstances where those policies are not seeking to meet the full housing requirement of the borough and where there is a severe shortfall in the borough's five year housing land supply (as set out below, this is also a factor which relates to the emerging neighbourhood plan).

5.45 The LPA recognises, at para 6.2 of their Statement of Case, that as the Council is currently unable to demonstrate a 5 year housing land supply, Policy S5.1j(i) of the NPPF is engaged. The Council accepts that the site is "physically well related to an existing settlement". Further, the parties are now agreed that, based upon the provision made within the planning obligation, the proposal is of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure. On that basis, and as addressed further in the planning balance below the NPPF strongly supports the view that the location of the development on the appeal site is acceptable and should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects.

5.46 I conduct a full planning balance of the appeal scheme below, however I note at this point that the location of the site is sustainable and there are no technical reasons upon which consent should be refused. I now turn to the Emerging Tattenhall NP 2026.

The Emerging Tattenhall NP 2026

5.47 At the time of writing this Proof, the matters for consideration (which arise out of the main issue and also out of TPC's October 2026 Statement of Case) are as follows:

a. What weight should be attached to the draft 2026 TNP?

b. Does the appeal proposal conflict with the Emerging TNP?

c. Would approving the appeal proposal prejudice the Emerging TNP?

d. In circumstances where the Emerging TNP is adopted, what effect ought that to have on the planning balance?

5.48 I address each in turn:-

Weight to be attached to the emerging TNP

5.49 It is known the Appellants have serious concerns over the examination of the emerging TNP. Some of these are documented in the Appellants letter at my Appendix A. It is not my intention to repeat those points here. The Appellants continue to make these points outside this appeal.

5.50 Policy DM4 of the 2026 NPPF provides guidance on what weight is to be applied to emerging development plans in the decision-making process. DM4.1 states emerging development plans may be given weight according to the stage of preparation, the extent to which there are unresolved objections, the degree of compliance of the relevant policies in that plan with the framework. I note the emerging TNP has been examined under the provisions of the 2024 NPPF.

5.51 In the case of the emerging TNP, and at this time of writing, I note the Examiner has concluded the examination and reported in the Examination, and, subject to some minor amendments, advises the document can now be taken forward to its referendum. However, the Appellant has written to the Council to explain that the examination process has unlawfully failed to test the indicative housing requirement and also that the emerging TNP is not accompanied by a lawful strategic environmental assessment ("SEA"). That letter is at Appendix A. Given the nature of these serious objections, I consider that it remains the case that the emerging TNP should be given limited weight. Notwithstanding this, I confirm that I have considered the planning balance below on the basis that the emerging TNP is given significant weight.

Does the appeal proposal conflict with the Emerging TNP?

5.52 My short answer to this question is no. I make the following comments upon each policy.

5.53 Policy 1: Housing Growth – The emerging TNP defines a settlement boundary for Tattenhall. The draft version (CD6.05) explains that this is "for the purposes of applying the NPPF National Decision-Making Policy (NDMP) S3 on the presumption in favour of sustainable development".

5.54 The policy does not prohibit housing from coming forward outside of the settlement boundary. Indeed, the reference in the draft version which was consulted upon indicates that the TNP itself recognises that development may come forward outside of settlement boundaries so long as it complies with policy S3 of the NPPF. Further, the explanatory text at paragraph 3.7 reinforces this.

5.55 I note that the Examiner to the Neighbourhood Plan has recommended deleting the words "National Decision-Making Policy (NDMP) S3" (see CD6.06, p.24) due to the fact that the plan was examined under a previous version of the 2024 NPPF. However, this does not change the basic point that the plan sets out the settlement boundary but does not provide that housing should not come forward outside of that settlement boundary.

5.56 The second part of Policy 1 sets out some requirements for housing proposals of more than ten dwellings. The proposal meets these requirements or will be able to meet these requirements through the Reserved Matters process.

5.57 I understand that this interpretation accords with the approach of the High Court in R(Chichester District Council) v Secretary of State for Housing, Communities and Local Government [2018] 2386 (Admin) (CD8.01). I understand that the Appellant's counsel will address this matter in submissions.

5.58 Policy 2: Local Character – I address this further under the planning balance below. The evidence of Ms Fitzgerald on Landscape and Views demonstrates the proposals to be acceptable and policy compliant in terms of their impact on Local Character having regard to existing and proposed vegetation. In the event that the limited landscape harm is considered to conflict with this policy then I would give that conflict very limited weight on account of the fact that the policy would be inconsistent with the approach of NPPF Policy N2. Further, I note that many of the requirements of Policy 2 can be addressed at the reserved matters stage. This includes in relation to design and materials.

5.59 Policy 3 Local Economy: relates to economic development proposals which are not applicable to this application.

5.60 Policy 4: Local Facilities – requires proposals to mitigate their impacts and have regard to cumulative impacts that arise from more than one development. In the main mitigation is required on-site but also recognises this may include off-site mitigation in the way of financial contributions through planning obligations. The appeal proposals comply with Policy 4.

5.61 Policy 5: Transport and Communication – requires proposals to identify realistic levels of traffic movement another movement across all modes including walking cycling and public transport. Proposals should maximise opportunities to walk cycle and use public transport between the various settlements. Developments should also make provision for internet connection. The appeal proposals comply with Policy 5. 5 and this is addressed in more detail in the proof of evidence of Simon Helme.

5.62 Policy 6: Landscape and the Environment – this seeks to protect multiple areas of open space and sites of nature conservation value. Part B of the policy requires new development to protect and where possible enhance wildlife value on the application site, surrounding sites and wildlife corridors. It requires that proposals respect local landscape character and support the creation of a network of green spaces for outdoor recreation. The appeal proposals comply with Policy 6.

5.63 Policy 7: Site Allocations. This policy provides for allocations for two sites to provide up to 600 homes between them. The policy does not prevent housing from being provided elsewhere within the Emerging TDP area. Nor does it provide that the 600 homes is a maximum figure.

5.64 Policy 8: Flood Management - Identifies areas of flood risk and in area for a natural flood risk management scheme. The appeal proposals have no conflict or impact on that scheme.

5.65 I therefore conclude that there is no conflict with the Emerging TDP.

5.66 I note that the TPC does not identify any emerging policy with which the appeal proposal is said to conflict. Furthermore, I note that paragraph 3.6 of TPC's Statement of Case confirms that the "600-home figure is not relied upon by TPC as an absolute ceiling on development at Tattenhall".

Would approving the appeal proposal prejudice the Emerging TNP?

5.67 Part 2 of NPPF policy DM4 explains that:

> *2. Development proposals should not be refused on the grounds of being premature, other than in the limited circumstances where both:*
>
> > *a. The development proposal is so substantial, or its cumulative effect alongside other development proposals would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and*
> >
> > *b. The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. An emerging plan is unlikely to be in an advanced stage if a draft spatial development strategy, local plan, minerals and waste plan or supplementary plan has yet to be submitted for examination; or, in the case of a neighbourhood plan, the local planning authority publicity period on the draft plan has not ended. 3. Where planning permission is refused on grounds of prematurity, the reason for the refusal should indicate clearly how granting permission for the development proposal would prejudice the outcome of the plan-making process.*

5.68 With regards to paragraph b above, as stated in my proof above, I recognise the emerging TNP has reached an advanced stage, notwithstanding the fact that there remain serious concerns over the lawfulness of the plan which have been expressed in the letter at my Appendix A.

5.69 With regards to paragraph a above, it is clear to me that this criterion is not met. First, as set out above, the emerging TNP does not seek to limit development proposals other than the 600 homes which it has allocated. Nor does it seek to limit development proposals to within the settlement boundary. On that basis, I cannot see how this proposal would undermine the plan making process.

5.70 Further, even if it were the case that the appeal proposals were contrary to the TNP, they are not so substantial on their own (110 dwellings), or when combined with the TW Appeal site (110 dwellings) so as to undermine the emerging TNP process. In short, I cannot see any reason why (if adopted) the allocated sites could not be developed alongside this appeal proposal as well as the TW Appeal, which together make up only c.1/3 of the proposed allocated housing in the emerging TNP.

5.71 I have addressed the issue of infrastructure above. Ultimately, each application which comes forward will need to demonstrate how it will mitigate its impact upon local infrastructure. This may be through provision of infrastructure on site (such as the amenity greenspace on the appeal site) or through the provision of s106 obligations. There is no evidence that granting permission for this appeal (even together with the TW proposal) would mean that the emerging TNP allocations would somehow be unable to mitigate their own impact.

5.72 Subject to minor modifications the document appears to be heading towards its referendum. I have seen no evidence that would suggest the current planning applications and appeals on non allocated sites interrupting that process. On the basis the NP does not prevent development beyond the proposed settlement limits then I see no case as to why the referendum process should be interrupted.

5.73 It is my view that the Appeal Site is not so substantial on its own (110 dwellings), or when combined with the TW Appeal site (110 dwellings), making extra 220 dwellings in total, so as to undermine the NP plan-making process. Especially in light of current land supply shortfalls.

5.74 The TNP contains two allocations for 600 dwellings. Further, I note that the SEA for the emerging TNP and was tested in the process considered an option of accommodating up to 1,500 dwellings (CD6.15). Even at that upper level it was only Primary School Capacity that was considered a barrier. The education authority has not raised any concern in relation to the availability of places in respect of either this appeal scheme, the TW Appeal or the Bolesworth application. These two appeal sites in Tattenhall have been found acceptable on the point of Primary School capacity.

5.75 Given the fact that there is no reason why the Appeal proposals (together with the TW Appeal) would prevent the emerging TNP's allocations from coming forward, it is incorrect for the TPC to state that the Appeal site represents an "alternative direction of growth" (see e.g. para 5.9). The allowing of this appeal would not prevent the emerging TNP from proceeding to referendum.

5.76 I note that the TPC Statement of Case relies upon two appeal decisions. I address these below.

5.77 Appendix C of TPC's Statement of Case relates to Appeal Ref: APP/Q3630/W/20/3253944 , Land off Rosemary Lane, Thorpe, Surrey TW20 8PH. This is a 2020 decision that predates the 2024 and 2026 NPPF. It predates the higher governments housing requirements set through the standard method. The proposal at Thorpe was for 88 dwellings in a village that had an up-to-date neighbourhood plan which sought to allocate land for 74 dwellings over 3 sites. The neighbourhood plan at the time the decision on the appeal was decided was not examined but regarded to be at an advanced stage. The appeal proposals were of a scale greater than all three of the allocations put together. Conflict with a neighbourhood plan was one of only three elements in the appeal decision that weighed against allowing the appeal. It is my opinion this appeal at Tattenhall, is distinctly different in that the scale of the proposal at 110 dwellings is less than 20% of the neighbourhood plan allocations. Further, the appeal proposal is not in conflict with the emerging TNP which does not set a maximum level of housing or provide that housing should only come forward within the settlement boundary.

5.78 Appendix D, of the TPC Statement of Case the Burghclere appeal case (Appeal Ref: APP/H1705/W/20/3248187) Land on the South and South East side of Harts Lane, Burghclere, Hampshire, again informs of a neighbourhood plan at an advanced stage and being a material consideration of significant weight. In that case the appeal proposals for 35 dwellings and significantly greater in scale than the proposed 15 dwellings being sought to be allocated in this relatively small settlement located within an AONB. It is my opinion the appeal case at Tattenhall is again distinctly different in that the scale proposed when considered alongside the role of the settlement in terms of growth and meeting needs are not the same. Further, the consistency of the proposal with the emerging TNP is a clear point of difference with this appeal decision.

5.79 I note that TPC's Statement of Case states as follows:

> *"3.7 TPC recognises that the appellant may seek to demonstrate through an agreed section 106 obligation and other mitigation measures that the impacts of the 110 homes proposed on the appeal site can be made acceptable for the purposes of Policy S5(1)(j). That does not however establish that the proposal would secure the same settlement-wide outcomes as the comprehensive strategy or represent the long-term spatial strategy preferred by the community, and nor could it given its peripheral location on the other side of the village. The ability to mitigate one proposal does not answer the separate DM4 question of whether piecemeal permissions would prejudice the coordinated delivery of growth and infrastructure through an advanced plan."*

5.80 I do not understand this point. The appeal proposal would not prevent the allocated sites from coming forward. Further, no party to the appeal has alleged that the cumulative impact of the appeal proposal together with the allocated sites would somehow place an unacceptable burden upon infrastructure. To the contrary there have been no objections from relevant statutory consultees on

this issue. The Appeal Scheme will fully mitigate its impact through the provision of the s.106 obligation. In such circumstances I do not see how it can be said that the Appeal Scheme (even when considered together with the TW Appeal, were it to be granted) would somehow "prejudice the coordinated delivery of growth and infrastructure" through the Emerging TNP.

5.81 To the extent that this issue is addressed further in TPC's evidence, I reserve the right to respond to it.

5.82 At paragraph 5.11 of their Statement of Case TPC expresses the view that if this proposal were granted there is a real prospect that the plan will not pass the referendum. In my view this is unexplained and speculation. First, as set out above, the emerging TNP does not itself prevent development additional to the site allocations from coming forward. It would be wholly irrational for the grant of consent for additional development to represent a reason for rejecting the plan. Second, TPC recognises that the NPPF allows for a number of situations where development may come forward outside of settlement boundaries. Indeed, this is expressly referenced in Policy 1 of the emerging TNP. It is unclear therefore why following national policy should somehow prevent the emerging TNP from passing the referendum. Third, the TPC is no doubt promoting the TNP on the basis that it supports development, including on its allocated sites. It is unclear why support for the allocated sites would somehow fall away if much-needed housing were to come forward elsewhere in Tattenhall.

5.83 It is my opinion the proposals are not so substantial on their own or when combined with the TW application/appeal to threaten the referendum DM4,2 starts with the words

> *"Development proposals should not be refused on the grounds of being premature, other than in limited circumstances…."*

5.84 This is a high bar to pass, even more so when the Council's housing land supply has fallen to 1.6years and delivery rates in recent years are on a downward trajectory. I do not consider a case for prematurity is made in this case.

In circumstances where the Emerging TNP is adopted, what effect ought that to have on the planning balance?

5.85 As set out above, in my professional view there is no conflict between the Appeal proposals and the Emerging TNP. Therefore the short answer is that the adoption of the Emerging TNP does not tip the balance against the proposal under NPPF S5.1.j(i).

5.86 I note that NPPF policy S6 provides that:

> "For development proposals involving the provision of housing, the benefits of approving development are likely to be substantially outweighed by the adverse effects where a proposal would conflict with a neighbourhood plan, provided the following apply:
>
> a. The neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
>
> b. The neighbourhood plan contains allocations to meet its identified housing requirement (see policy HO2)."

5.87 As already stated, there is no conflict with the emerging TNP policies and therefore policy S6 simply does not apply for that reason.

5.88 Furthermore the emerging TNP has not met a housing requirement identified in the Local Plan, rather it has sought to meet merely an "indicative figure" provided by the LPA and which has not been tested through any plan-making process. Again, for this reason policy S6 does not apply. As stated earlier in my Proof, the borough has many constraints to consider in its emerging Local Plan.

The task of allocating new sites in that Local Plan will be significant. The potential for new allocations in Tattenhall in addition to those in the emerging TNP cannot be ruled out.

5.89 I have considered the position if S6 were to apply and a conclusion were reached that there was conflict with the emerging TNP. I consider that the planning balance would remain in favour of a grant of permission. This is for the following reasons:

a. Policy S6 provides that the "benefits of approving development are likely to be substantially outweighed by the adverse effects where there is conflict with a neighbourhood plan" and the circumstances in (a) and (b) apply. Thus, the policy does not disapply the tilted balance in policy S5 but simply gives a view on "likelihood" of the balance tipping back, rather than setting out a view that conflict with a neighbourhood plan would always be a "trump card";

b. Here the conflict with the Neighbourhood Plan alleged by TPC appears to be solely that the proposal is outside of the settlement boundary. TPC do not allege any other harm which could conceivably lead to a refusal of permission, there is no reference to any policy breach in their Statement of Case. Even if there were considered to be some policy conflict by virtue of impact upon the landscape, that conflict would be very limited given the low level of harm;

c. The level of five year housing land supply is one of the worst in the country. The figure of 1.6years is less than one third required to meet the five-year supply and delivery rates are on a downward path;

d. The level of affordable housing need is acute as set out in the proof of evidence of James Stacey;

e. The appeal site is in a sustainable location and would bring a myriad of other weighty benefits as I set out in my planning balance below; and,

f. Tattenhall is one of only a handful of sustainable settlements within Cheshire West which is unconstrained by the green belt.

5.90 It is also relevant to note that the allocations for 600 homes within the emerging TNP were arrived at through the provision of an "indicative figure" provided by the LPA. This indicative figure has not been tested at all. It was not tested through the examination process for the NP nor has it been tested through any other development plan process. This is addressed in the letter which the Appellant has sent to the Council at my Appendix A.

5.91 The document setting out the indicative figure (LPA May 2026 CD6.09) explains that:

> Para 1.1 – the borough wide figure of 1,928 dpa may increase this year due to dwelling stock increases.
>
> Para 8.1 informs the indicative figures provided to NPs are to be caveated on the basis they numbers in the local plan could change.
>
> Para 8.2 recognises allocations in neighbourhood plans will assist the LPA in their housing land supply task but go on to state final housing requirements by area will only be known when the local plan has reached an advanced stage and until the council can demonstrate a five-year housing land supply speculative applications may still be made.

5.92 This final point above is equally visible in the LPA' response to the examination of the Emerging TNP which also made clear that Tattenhall may well expand to the north. See My Appendix C, LPAs response to Question 5C. These factors further support the view that any conflict with the emerging TNP should be given limited weight even if it were to be adopted.

5.93 The previous 2024 version of the NPPF included an almost identical policy to S6 (2024 NPPF Policy 14). I note that there have been a number of relevant appeal decisions where conflict with an up-to-

date neighbourhood plan did not tip the balance towards refusal. I bring the following appeal decisions to the Inspector's attention.

My Appendix D: Chalgrove, South Oxfordshire district, appeal decision February 2026.

Appeal Ref 3370273.

5.94 This is a recent decision for a site of up to 160 dwellings. Paragraph 7 of the decision informs the district wide Local Plan was adopted in 2020 and allocated land in Chalgrove as a larger village, a location for growth. Paragraph 8 recognises conflict with the development plan on the basis the appeal proposals sit outside the development limits of Chalgrove. Paragraph 9 informs of conflict not only with the Local Plan development limits but also the neighbourhood plan development limits.

5.95 Paragraph 9 of the decision recognises that Policy C1 of the Chalgrove Neighbourhood Development Plan 2018 to 2033 (the CNDP) sets out, amongst other things, that proposals for residential development outside of the built-up area of Chalgrove will only be supported if it is necessary or suitable for a countryside location and is consistent with development plan policies. There was no support for the appeal proposals in the policy.

5.96 Paragraph 71 and paragraph 72 inform of a housing land supply dispute where the appellant presents a case of 3.13 years housing land supply. The Council's case was higher at 4.39 years. Paragraph 115 the Inspector concludes the range to be in 3.6 years and 3.8 years, well short of a five-year land supply. Though I note that even the lower of these figures is more than double that of this LPA. Paragraph 168 and paragraph 169 informs paragraph 11(d) of the 2024 NPPF is in play.

5.97 Paragraph 170 then considers the role of the neighbourhood plan with respect to paragraph 14 of the 2024 NPPF for which two tests for the neighbourhood plan to apply need to be passed. While the neighbourhood plan had been refreshed within the past five-years, test 1, there was uncertainty whether test 2 was complied with as the refresh to the neighbourhood plan do not introduce additional housing allocations.

5.98 Paragraph 173 and paragraph 174 informed the Inspector considered the appeal case with NPPF paragraph 14 in play. Even with paragraph 14 in play, the Inspector concluded the harms of granting (including conflict with the neighbourhood plan (NPPF para 14)), would not significantly outweigh the benefits. In short, the benefit of housing supply in a district with less than five years land supply outweighed all the considered harms and conflicts.

5.99 Here in Tattenhall, the position is even more in favour of a grant of permission. The housing land supply here is less than half of that found by the Inspector. Affordable housing need is acute. Other parts of the borough are heavily constrained by the Green Belt and delivery rates in recent years are on a downward trend. Supply options are limited.

5.100 This Chalgrove appeal decision shows that even when the 2024 NPPF paragraph 14 is in play, the appeal site can be approved on grounds of land supply in 2024 NPPF Paragraph 11(d). This policy position is no different now in the positions between 2026 NPPF Policy S5.1.j(i) and Policy S6.

My Appendix E Appeal decision Wootton, Bedfordshire appeal decision of July 2026. (App Ref 6004689).

5.101 This is also relatively recent 2026 decision. The appeal was for 90 dwellings and was allowed.

5.102 Paragraph 8 of the appeal decision informs there was a neighbourhood plan in place and that NP was made in 2022 and contained allocations for 105 dwellings. The allocations requirement was not based upon the district wide standard method calculation. Paragraph 11 informs the appeal proposals sat outside the development limits as defined in both the local plan and the

neighbourhood plan. The decision informs NP Policy W1 did not support development outside the settlement boundary.

5.103 Paragraph 33 informs the land supply in the district was below five years. Paragraph 52 informs the land supply was close to 2.38 years supply. Still significantly above that which applies in this LPA's borough. Paragraph 53 informs the land supply position was unlikely to get any better in the in the next few years on the basis that the local plan would take time to be reviewed.

5.104 Paragraph 71 informs how the site sits outside the development limits of the local plan and the neighbourhood plan but that any such conflict needs to be considered needs to be considered within the context of a failing land supply position. Paragraph 74 informs that paragraph 11 of the 2024 NPPF is engaged in this failing land supply scenario. Paragraph 75 then directs us to 2024 NPPF paragraph 14 and states that where there is conflict with a neighbourhood plan then this conflict would likely significantly and demonstrably outweigh the benefits of the appeal proposal.

5.105 Paragraph 76 informs that paragraph 14 of the 2024 NPPF contains 2 tests, both of which need to be passed for this conflict to carry this high level of weight against the proposal. Test 1 is for the neighbourhood plan to be less than five years old. That was the case in this appeal. Test 2 is for the neighbourhood plan to meet its own needs as set within the wider local plan context. While there was some debate over the housing target within the neighbourhood plan, the final position on this matter was unclear but the Inspector gave the benefit of doubt in favour of the neighbourhood plan. Therefore paragraph 14 was fully engaged and the conflict brought about by the appeal proposals would set this higher bar for the appeal proposals to be tested against.

5.106 Paragraph 78 states correctly that the wording of paragraph 14 of the 2024 NPPF is not absolute although is 'likely' to be applied. The Inspector recognises that the word 'likely' does not mean it should apply to all cases. Note Policy S6 of the 2026 NPPF repeats this same approach.

5.107 Paragraph 79 and 80 sees the Inspector grapple with the significant housing land supply shortfall in the District and the potential for that shortfall to persist in the coming years.

5.108 I have repeated below the conclusions contained within paragraphs 81 and 82 where the Inspector concludes that this shortfall of land supply for housing overrides the conflict with the neighbourhood plan.

> 81. Weighing the harms and benefits is not a mathematical exercise but I find that although there will be harm and conflict with the development plan, this is an occasion which, given the above context, the adverse impacts of conflicting with the neighbourhood plan would not significantly and demonstrably outweigh the benefits.
>
> 82. The material considerations in this case therefore indicate that planning permission should be determined other than in accordance with the development plan.

5.109 Despite conflict with the Neighbourhood Plan and the weight against the proposals that flows from paragraph 14 of the 2024 NPPF, the Inspector allowed the appeal accepting the proposals did not conform with the development plan.

> 91. The proposed development would not adhere to the development plan but material considerations indicate that a decision should be made other than in accordance with it. Accordingly, the appeal succeeds subject to the conditions in the attached schedule.

My Appendix F: LAND SOUTH OF SNARLTON FARM, SNARLTON LANE, MELKSHAM, Appeal Ref APP/Y3940/W/25/3373278

5.110 This decision was made by Matthew Pennycook MP, Minister of State for Housing and Planning, on behalf of the Secretary of State (SoS), on 28th July 2026, again very recent.

5.111 The appeal site was for an outline application for up to 300 dwellings. The Inspector allowed the appeal and the SoS recovered the decision in January 2026 and agreed with the Inspector with it being allowed.

5.112 In that case, there was "clear conflict" with the NP (para. 14) which was is under five years old (made in August 2025). The NP allocated sites for 415 dwellings which was greater that the figure of 270 dwellings directed to the NP area for the period 2020-2038 which was noted (see para.27 of the decision letter (DL)). That case is similar to that in Tattenhall and the LPA's indicative figure.

5.113 However, the SoS took into account the fact that there was uncertainty over the housing figure which had been derived from the local plan which had itself been withdrawn due to concerns over soundness. The SoS also took into account the fact that there would be likely to be a higher housing requirement for Melksham and that it was a sustainable location for growth (para.28). Overall, the SoS considered that given the substantial shortfall of housing land supply at 2.16 years (including affordable housing) as well as the withdrawal of the emerging Local Plan (eLP) allowing the development did not significantly and demonstrably outweigh the benefits and conflict with the neighbourhood plan was not determinative (para.30). The SoS took into account the NP's housing figure was derived from the eLP, the eLP was withdrawn due to issues of soundness some of which related to housing. It was agreed the adopted plan's housing figures were out of date and the Standard Method was to be used.

Conclusions on appeal decisions

5.114 Overall, it is clear that there have been many instances where conflict with a neighbourhood plan (even recently adopted) has been held not to significantly and demonstrably outweigh the benefits of a development proposal. As I have already stated, here, the Appeal proposals do not conflict with the emerging TNP's policies.

5.115 However, even in circumstances where the emerging TNP were to be adopted and where the Appeal proposals were somehow seen as conflicting with its policies, the conflict with the plan would not be determinative. It remains the case that all relevant factors need to be considered on their merits. I have set out above how, in the circumstances of this case, the balance would remain in favour of a grant of consent and do not repeat those factors here.

5.116 It is clear from the recent appeal decisions above that the Government's drive to significantly increase housebuilding is reflected in the weight attached to delivery when considering conflict with made neighbourhood plans. The tests in the 2024 and 2026 are materially the same. The 2024 NPPF Para 14 did not "trump" Para 11d in the same way that 2026 NPPF Policy S6 does not "trump" Policy S5.

5.117 The appeal case is similar to those appeal cases although I would argue the supply case in this appeal case is worse (1.6 years) and the case in favour of allowing the appeal even greater.

d) The Overall Planning Balance

5.118 The development plan is the starting point for decision-making, the presumption in favour of sustainable development.

5.119 The Development Plan is outlined in Section 4 of my Proof. I provide brief commentary on the compliance with these policies as follows.

5.120 The policies of the Local Plan Part 1 that are of relevance to this appeal are as follows:

5.121 **STRAT 1 – Sustainable Development**

5.122 This is it a general sustainable development policy common to most local plans. I note the final part of the policy states that where there are no Local Plan policies relevant to the application or relevant policies are out of date at the time of making the decision, the Council will grant permission unless material considerations indicate otherwise, taking into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the National Planning Policy Framework, or specific policies in the Framework indicate that development should be refused.

5.123 It is clear that the Local Plan's policies are out of date due to the lack of a five year housing land supply. As such, the development plan provides that permission should be granted unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As I set out below (as part of my consideration of policy S5(1)(j) of the NPPF, which contains a similar policy test. The adverse impacts of granting consent here clearly do not outweigh the benefits. As such, this policy test is met.

5.124 **STRAT 2 – Strategic Development**

5.125 This Policy sets the quantum and spatial distribution for the local plan. While the housing target is no longer up to date, the spatial distribution remains relevant. The policy seeks to maintain the vitality and viability of rural areas, an appropriate level of new development will be brought forward to support new homes and economic and social development. It states development will be focused in the key service centres of Cuddington and Sandiway, Farndon, Frodsham, Helsby, Kelsall, Malpas, Neston and Parkgate, Tarporley, Tattenhall and Tarvin, which represent the most sustainable rural locations.

5.126 Tattenhall Is referenced as a location for growth. The appeal proposals a compliant with this policy.

5.127 **STRAT 8 – Rural Area**

5.128 This policy sets a target for the rural areas including Tattenhall. The targets are no longer up to date. In any event, there is no conflict with this policy which sets out that Tattenhall will accommodate "at least" 250 dwellings.

5.129 **STRAT 9 – Green Belt and Countryside**

5.130 This policy seeks to protect the Green Belt and countryside recognising the intrinsic character and beauty of the Cheshire countryside. It states these areas will be protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. The appeal proposals are in conflict with this policy on the basis the proposals sit outside of Tattenhall and do not align with the short list of development that is acceptable in such a location.

5.131 However, the weight a position as well as the inconsistency of this policy with the NPPF as it does not recognise the number of scenarios where the NPPF positively supports development outside of settlement boundaries in policy S5.

5.132 **STRAT10 – Trasport and Accessibility**

5.133 Under this policy, new development will be required to demonstrate that additional traffic can be accommodated safely and satisfactorily within the existing, or proposed, highway network. It requires satisfactory arrangements can be made to accommodate the additional traffic before the development is brought into use. It seeks appropriate provision is made for access to public transport and other alternative means of transport to the car. It requires measures to be incorporated to improve physical accessibility and remove barriers to mobility, especially for disabled and older people. The safety of all road users should be taken into account in the design and layout of new developments.

5.134 This policy is complied with as I address further below.

5.135 **STRAT 11 – Infrastructure**

5.136 This policy requires the timely delivery of infrastructure to ensure the settlement has the ability to accommodate the proposal. Subject to agreeing the draft S106, this policy is complied with.

5.137 **SOC1 – Delivering affordable housing**

5.138 This policy sets the target for affordable housing within each scheme. This policy is complied with.

5.139 **SOC5 – Health and wellbeing**

5.140 This policy contains a mix of health and well-being requirements for each site which combine good design with accessibility to services. Through a combination of matters in the S106 and design measures controlled through planning condition, this policy is complied with.

5.141 **SOC6 – Open space, sport and recreation**

5.142 This policy seeks to protect and enhance existing greenspace, improve access to greenspace and create additional greenspace through development opportunities. Through a combination of S106 proposals and planning conditions, this policy is complied with.

5.143 **ENV1 – Flood risk and water management**

5.144 This policy seeks to reduce flood risk, promote water efficiency measures, and protect and enhance water quality. It requires all development to follow the sequential approach to determining the suitability of land for development, directing new development to areas at the lowest risk of flooding and where necessary apply the exception test, as outlined in national planning policy. Developers will be required to demonstrate, where necessary, through an appropriate Flood Risk Assessment (FRA) at the planning application stage, that development proposals will not increase flood risk on site or elsewhere, and should seek to reduce the risk of flooding. New development will be required to include or contribute to flood mitigation, compensation and/or protection measures, where necessary, to manage flood risk associated with or caused by the development.

5.145 The ability to avoid flood risk areas and control run-off to acceptable rate is detailed in the appeal proposals.

5.146 In addition, the policy requires proposals within areas of infrastructure capacity and/or water supply constraint to demonstrate that there is adequate wastewater infrastructure and water supply capacity to serve the development or adequate provision can be made available.

5.147 This is a matter that can be conditioned. On that basis, the whole of Policy ENV1 is complied with.

5.148 **ENV2 – Landscape**

5.149 This policy seeks to protect and, wherever possible, enhance landscape character and local distinctiveness. This will be achieved by the identification of key gaps in the Local Plan (Part Two) Land Allocations and Detailed Policies Plan between settlements outside the Green Belt that serve to protect and maintain their character. The policy supports the designation of Local Green Space, protects the character of the borough's estuaries and undeveloped coast. It requires new development to take full account of the characteristics of the development site, its relationship with its surroundings and where appropriate views into, over and out of the site. Also, to recognise, retain and incorporate features of landscape quality into the design.

5.150 In line with the proof of evidence of Louise Fitzgerald, this policy is complied with. I would add that if this policy is interpreted as preventing any level of impact upon landscape character, then this would be inconsistent with the terms of 2026 NPPF Policy N2 and any policy conflict would have to be weighed accordingly.

5.151 **ENV3 – Green Infrastructure**

5.152 This policy supports the creation, enhancement, protection and management of a network of high quality multi-functional Green Infrastructure. The appeal proposals deliver additional greenspace and comply with this policy.

5.153 **ENV4 – Biodiversity and geodiversity**

5.154 This policy requires development to not result in any net loss of natural assets and should seek to provide net gains. Where there is unavoidable loss or damage to habitats, sites or features because of exceptional overriding circumstances, mitigation and compensation will be required to ensure there is no net loss of environmental value.

5.155 To some extent this policy has been overtaken by the Government's BNG requirements. In this case, those requirements can be achieved and exceeded. The proposals comply with this policy.

5.156 **ENV5 – Historic environment**

5.157 The policy states development should safeguard or enhance both designated and non-designated heritage assets and the character and setting of areas of acknowledged significance. The degree of protection afforded to a heritage asset will reflect its position within the hierarchy of designations. In addition, development will be required to respect and respond positively to designated heritage assets and their settings, avoiding loss or harm to their significance. Proposals that involve securing a viable future use or improvement to an asset on the Heritage at Risk register will be supported.

5.158 The application and appeal proposals are supported by a number of heritage and archaeology documents. In addition, in responding to the Council's Statement of Case which includes a reference to a potential non-designated asset (Greaves Farm), I have appended to my Proof a response from Pegasus.

5.159 That statement considers Greaves Farm and concludes that it does not qualify as a non-designated heritage asset. Indeed, I note that the policy itself specifies that non-designated assets are those identified in the Cheshire Historic Environment Record, including local assets. Greaves Farm does not sit within this record.

5.160 I am satisfied this policy has been complied with. Even if Greaves Farm were to be considered a non-designated heritage asset, the impact upon it would clearly be limited and (as acknowledged by the Council's Conservation Officer) could be addressed through reserved matters.

Part 1 Local Plan Conclusion

5.161 Overall, I consider the Appeal proposals comply with the Part1 Local Plan policies when read as a whole.

5.162 While there is conflict with Policy STRAT9, the weight to be given that conflict is reduced significantly in light of the LPAs housing land supply position and the fact that the Local Plan does not provide for adequate allocations to meet the borough's housing requirement. Furthermore, Strat 1 itself acknowledges that in circumstances where the development plan policies are out of date the tilted balance is to be applied in any event.

Part 2 Policies

5.163 In the text below, I list the Part 2 policies relevant to the case. I do not go into the detail of those policies on the basis that they are largely an extension to the Part 1 policies.

- GBC2 – Protection of landscape
- T5 – Parking and access
- DM19 – Proposals for residential development
- DM23 – Delivering affordable housing

- DM29 – Health impacts of new development
- DM30 - Noise
- DM31 – Air Quality
- DM32 – Land contamination and instability
- DM35 – Open space and new development
- DM36 – Provision for sport and recreation
- DM40 – Development and flood risk
- DM44 – Protecting and enhancing the natural environment
- DM45 – Trees, woodland and hedgerows
- DM46 – Development in conservation areas
- DM50 - Archaeology

5.164 Many of the above policies are policies of detail to be addressed in the Reserved Matters application. All will be addressed through appropriate planning conditions attached to the Outline or through the S106.

5.165 I note that Policy GBC2 states that the countryside will be protected in line with Local Plan policy Strat 9 and a similar provision is included in DM19. As such, as there is a breach of Strat 9 there is also a technical breach of policies GBC2 and DM19.

5.166 The Council's Statement of Case references a number of policies in the list above, only ENV4 and DM44 appear in the Reason for Refusal 1 on ecological matters. This dispute and conflict with policy is now resolved. Policies STRAT11 and SOC1 are referenced in Reason for Refusal 2. These are now resolved through the obligations within the S106 agreement.

5.167 I consider that the Appeal proposal complies with each of the above policies, save for GBC2 and DM19.

Tattenhall Neighbourhood Plan 2010-2030 (made 2014)

5.168 The 2014 Tattenhall NP has played little part in the consideration of this appeal. It contains no housing allocations, this was left to the LPAs Local Plan Part2.

5.169 Policy 1 of the TNP is a policy that permits housing growth as a general principle and states to enable managed housing growth in the Parish, proposals involving up to 30 homes will be allowed within or immediately adjacent to the built-up part of Tattenhall village over the period 2010 to 2030.

5.170 As the proposal is larger than 30 houses, I accept that it is in conflict with this policy. However, I give this conflict limited weight due to the significant level of shortfall in housing land supply.

5.171 There is no conflict with other policies within the neighbourhood plan. In particular, the development respects the local character and historic natural assets of the surrounding area, respects local landscape quality ensuring that views and vistas are maintained wherever possible (Policy 2) and respects local landscape character and forms part of a network of green spaces for outdoor recreation (Policy 6).There is no reason why, at the reserved matter stage, the proposals could not comply with the design-related policy requirements of the made TNP.

5.172 In the event that policies requiring respect to local character are interpreted as requiring no change or no level of harm, however localised, then this is inconsistent with the balanced approach of NPPF Policy N2 and should be given limited weight.

Conclusion on Compliance with the Development Plan

5.173 I have reviewed the policies of the Development Plan and find the appeal proposals to be in accordance with the plan when read as a whole. I accept the conflict with policy STRAT9, GBC2, DM19 and made TNP Policy 1 but attach a low level of weight and harm to that conflict given the Council's 1.6 year housing land supply position.

5.174 I accept the TNP is advancing at a pace and could possibly be made a formal part of the development plan by the time the decision on this appeal is made. I have considered the policies of the emerging TNP above and found no conflict. Therefore, my view on compliance remains the same even if the emerging 2026 TNP is adopted.

Material Considerations – the 2026 NPPF

5.175 Policies of the NPPF are a material consideration of critical importance and in the main take a more important role in the decision-making process where the Development Plan is undermined by the LPA not having a 5-year supply.

5.176 The 2026 NPPF sub-divides its policies into 20 chapters in 5 separate parts.

5.177 Paragraph 7 states that the national decision-making policies in the NPPF should also be read as a whole (including relevant footnotes and annexes). Some of these policies indicate how much weight the Government would expect a particular consideration to be given, including cases where it is appropriate to give substantial weight to certain benefits, and the limited circumstances in which it is expected that permission would be refused.

5.178 In the text above, I have addressed Policy DM4 that considers the timing of emerging plans and in particular the emerging TNP. I have concluded there no grounds for a dismissal of this appeal on the topic of prematurity.

5.179 There is no claim of viability concerns in Policy DM5, the scheme can deliver the 30% affordable housing and other agreed S106 obligations.

5.180 In Chapter 4, 'Achieving Sustainable Development' , Policy S3 is a decision-making policy – it is titled "Presumption in Favour of Sustainable Development'. It states that for proposals outside development limits (as is the case here), Policy S5 is the starting point.

5.181 It should be noted that none of the parties in this appeal (LPA or TPC) have made a case that the proposals are not sustainable.

5.182 NPPF Policy S5(1) lists a number of types of development where the NPPF states that development should be approved unless the benefits of doing so would be <u>substantially outweighed</u> by the adverse effects when assessed against the decision-making policies in the Framework. Paragraph S5(1)(j) provides that:

> j. Development which would address an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, and where the development would:
>
> (i.)Be physically well-related to an existing settlement (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure; or

5.183 Here the housing land supply of just 1.6 years means that the appeal proposal would address an evidenced unmet need.

5.184 It is therefore necessary to consider whether the development would be 'physically well-related to an existing settlement' and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure.

5.185 It is clear to me that both of these tests are met. I note that the LPA agrees that both tests are met and that TPC did not raise any issue with regards to these two factors in its Statement of Case. However, in its response to the SoCG TPC has indicated that it may now seek to disagree that the proposal meets these tests. It is unclear to me on what basis TPC might seek to make this case and I would reserve the right to respond to any points made in their evidence.

5.186 First, with regards to being well related to the existing settlement, I note that the site abuts the developed area of Tattenhall. I note that when the site was assessed by TPC as part of its consideration of the emerging TNP it did not raise any issue with regards to the site being not well related to the settlement. The development proposal successfully integrates the Keys Brook on the southern boundary, providing public open space which will sit within the settlement of Tattenhall. The appeal site also well related to the settlement in terms of the accessibility of the centre of the settlement from the site and all of its facilities, it is directly connected to the settlement by footpath.

5.187 The issue of whether an appeal proposal was well related to a settlement was recently considered by an Inspector at Land North of the A507, West of A10, Buntingford SG9 9ER (6008238, Appendix G).

5.188 This provides some useful observations on the nature of the test. I note that in that appeal the site was separated from the settlement by a large road, the A10 (see para.21). However, the Inspector noted that the site was well connected including through active travel links the fact that there is no intervening countryside between the settlement edge and the proposed development, the existence of intervisibility between the site and development within Buntingford and overall proximity.

5.189 I consider these factors are in play here. The site is immediately adjacent to Tattenhall and there is intervisibility between the appeal site and the adjacent housing. The Keys Brook is not a "landscape break". The site is well connected into the settlement by the footpath and there is no intervening countryside between the appeal site and the settlement. Overall it is clear that the appeal proposals are physically well related to the settlement of Tattenhall.

5.190 I additionally note the appeal decision in relation to Paddock land adjoining 39a Stone Lane, Lydiard Millicent (6001260, Appendix H). At paragraph 24 the Inspector confirmed that they did not "read Policy S5 of the Framework as requiring a site to adjoin the principal built form of a particular settlement or to be served by a continuous segregated footway. Rather the policy requires an assessment of whether a site is physically well-related to an existing settlement". I agree. However, I note that in this case the proposal does adjoin the settlement and is connected to the settlement by a footway.

5.191 Second, it is clear that the scale of the proposal can be accommodated within existing and proposed infrastructure. I have addressed this fully above under main issue two. In short, the proposal would fully mitigate its impact through the provision of the s106 obligation. Furthermore, the provision of amenity space as part of the appeal proposals would also benefit the wider community.

5.192 Thus, it is clear to me that NPPF Policy S5.1.j.(i) is engaged.

Known and alleged Harms

5.193 Policy S5.1.j(i) starts with the notion this appeal proposal should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects.

5.194 The words "substantially outweighed"' clearly mean something. This is a not a case where combing a few limited harms tip the case towards a refusal. The harms need to amount to something substantial which outweighs all of the benefits of the proposal taken together.

5.195 The harms and alleged harms in this case are few. Neither the LPA or TPC are presenting any technical objection to the proposal. I address the following topic areas in turn: loss of Grade 3a land, landscape impact and potential heritage impact.

Grade 3a Land

5.196 There are minor harms to the loss of Grade 3a land. I note from the emerging TNP the whole settlement is surrounded by Grade 3a land, this includes the sites selected in that document for housing. There are no lower grades available as an extension to Tattenhall. For that reason, I give this harm **limited weight**.

Landscape

5.197 The Appellants have appointed Louise Fitzgerald of TEP to provide a Proof of Evidence on matters of Landscape. I summarise below the key points from that Proof.

5.198 The planning application was accompanied by an LVA prepared by TEP.

5.199 The proposed development would result in the approximate loss of 6.3 hectares of agricultural land and the change of that use to a mixture of residential development and green space images of the proposal can be seen in the DAS (CD1.06) and in various indicative Masterplan and landscape drawings. The detail design will follow at the Reserved Matter stage.

5.200 The proposed development would extend the settlement edge of Tattenhall to the north of Keys Brook. The proposed development has been designed to retain Keys Brook with a substantial green infrastructure corridor, reinforced by additional planting and open space. Together with the proposed structural landscaping along with the northern boundary, this would create a strong and attractive settlement edge and ensure that the development is appropriately contained and integrated into its landscape setting.

5.201 The visual effects have been assessed and regarded to be localised and concentrated on the areas closest to the site which include nearby residents, users of local roads end users of surrounding public rights of way. It is accepted some receptors will experience adverse effects, particularly during the early years during and following construction.

5.202 However, the visual envelope of the development is restricted by existing vegetation, built and the generally flat landfall. As the proposed planting matures, visual effects would reduce substantially. The majority of long-term effects are assessed as minor adverse or negligible. The development would not materially affect the important views identified within the 2026 TNP, including wider views towards Peckforton Hills and Sandstone Ridge.

5.203 Cumulative effects have been considered from other proposed developments. Evidence indicates that cumulative landscape and visual effects would remain geographically contained. The developments would continue to be perceived as separate additions to the settlement rather than a continuous or coalesced area of development.

5.204 The proposed development would give rise to a degree of localised the landscape and visual change. However, the effects will be limited in extent, reduce over time, and would not result in substantial harm to landscape character or visual amenity.

5.205 Policy ENV2 in the LP requires development to, wherever possible, enhance landscape character and local distinctiveness. Policy 2 of the made TNP requires development to respect local character and take every opportunity through design and materials to reinforce local distinctiveness and a strong sense of place. Policy 6 of the current TNP contains similar provision with regards to respecting local landscape character. Draft Policy 6 of the emerging TNP also requires new development to respect local landscape character and important views identified in the Village Design Statement.

5.206 Policy 2 of the Neighbourhood Plan requires development to safeguard or enhance local character and to take every opportunity through design and materials to reinforce local distinctiveness and a

strong sense of place. It also requires proposals to respect local landscape quality and to maintain certain views where possible.

5.207 NPPF Policy N2 contains a number of provisions relating to the landscape. Of particular relevance here are the requirements for proposals to:

> "a. Consider the environmental qualities of land proposed for development, including habitats, landscape character and the natural beauty of the countryside, and identify opportunities for those qualities to be conserved or enhanced (including through requirements for biodiversity net gain where these apply);
>
> d. Conserve and enhance existing natural features of visual, historic or nature conservation value (such as established trees and hedgerows) where possible; and use appropriate landscaping to help create a well-designed place and integrate the development into its surroundings"

5.208 The site is not subject to nor within proximity to any landscape quality designations. The site, nor the immediate landscape, contains any rare or unusual landscape features and so it is concluded the site does not comprise a valued landscape.

5.209 There has been no landscape objection raised against the development proposals from statutory consultees. It is considered that the provisions of policies ENV2 and ENV3 of the LP1, policies 2 and 6 of the made TNP and emerging TNP draft policies 2 and 6 are met. I also consider that the provisions of NPPF Policy N2 are met. In so far as any of the development plan policies are interpreted as allowing for no impact or change to landscape character then I consider that they would be inconsistent with the more balanced approach of the NPPF in policy N2.

5.210 Overall I consider that the landscape impact here does not go beyond that which would ordinarily be expected from the development of a green-field site. Any adverse impact should be given **limited weight.**

Heritage

Built Heritage

5.211 The 2026 NPPF aims to conserve and enhance heritage assets. It contains a number of 'decision-making' policies that are relevant. Policy H4.2 states that any harm to, or loss of, the significance of designated heritage assets (including from development within its setting) should have a clear and convincing justification in accordance with the policies of the heritage chapter of the framework.

5.212 The adopted Local Plan Policy ENV5 further sets out the that the development proposals should conserve and enhance heritage assets including archaeological interest.

5.213 The submission is supported by a Heritage Statement (CD1.11) prepared by Pegasus. The site does not contain any Listed Buildings and is not located within a Conservation Area. The Tattenhall Conservation Area is located within the site's wider 1km study area as set out in the Heritage Assessment.

5.214 The Heritage Assessment (CD1.11) has determined that there is no known historic association between the site and the Conservation Area with only limited long-distance glimpsed views of the site possible from one small part of the Conservation Area. The site is deemed to make no contribution to the significance of the Conservation Area through setting. The proposed changes are deemed to cause no harm to the significance of the Conservation Area nor any other designated heritage asset.

5.215 An initial response from the Built Environment Officer (Conservation and Design) dated 11th August 2025 (CD3.16) found that *"the proposal would result in a change to the setting of the Conservation Area but would not harm its significance."*

5.216 A subsequent response from the statutory consultee dated 20th August 2025 (CD3.16) states *"we have assessed this application for OUT Planning Permission for a development of up to 110 dwellings on the north side of Tattenhall and have concluded that the proposed development is likely to result in no harm to any designated or undesignated heritage assets."*

5.217 The Conservation Team additionally raised the possibility that Greaves Farm may amount to a non-designated heritage asset (CD3.27). In response, the Appellant instructed the Pegasus to consider this issue and the report is at my Appendix I. The Pegasus Report explains that Greaves Farm is not of such significance to amount to a non-designated heritage asset. As such, there is no additional harm to weigh in the balance. However, even if Greaves Farm were to be considered a non-designated heritage asset it is clear that any harm which might be caused is minor. The Council's own Conservation Officer has not objected to the appeal proposals and considers that even if the property were a non-designated heritage asset this is a matter which can be considered at the Reserved Matters stage. Thus, even if Greaves Farm were to be a non-designated heritage asset there would be limited harm to weigh in the balance.

5.218 NPPF Policy HE7 part 1 states develop development proposals which would have a positive effect on a non designated heritage asset should be supported. Part 2 states where a development proposal would harm the significance of a non designated heritage asset this should be weighed against the benefits of the proposal and a balanced judgement made, having regard to the scale of any harm all loss and the significance of the non designated heritage asset.

5.219 Overall, I consider that local and national policies have been met in respect of heritage. Even if Greaves Farm were to be considered a non-designated heritage asset (for which no expert evidence has made a positive case) then any harm would be limited and should be weighed in the planning balance.

<u>Below Ground Heritage</u>

5.220 The Heritage Assessment (CD1.11) undertaken by Pegasus also deals with below ground heritage – archaeology.

5.221 The assessment confirms that there is no previously recorded archaeological activity on the site. Having regard to the records in the wider study area, it is considered that the site has low potential for archaeological remains of Romano-British activity. It is recognised that there is medieval settlement activity evidence within the wider study area however at distance to the appeal site. Having regard to the recorded archaeological activity and the sustained agricultural use of the site, the site is also considered to have low potential for archaeological remains from the medieval and post-medieval periods.

5.222 The Officer's response from Cheshire Archaeology Planning Advisory Service (CD3.11), dated 5th August 2025 confirms that there is no justification in archaeology terms to refuse planning consent nor request further pre-determination works.

5.223 A condition to secure a programme of archaeological mitigation is agreed.

Prematurity and countryside location

5.224 I have addressed above the alleged harms of prematurity and the fact the appeal site is located outside of the settlement boundary. The issue of prematurity does not arise and only **limited weight** should be given to the conflict with Policy STRAT9 when the Council's land supply is only 1.6 years.

5.225 Overall, the harms (both acknowledged and alleged) are notably limited. Given the terms of S5(1)(j) it is necessary to consider whether they would be sufficient to substantially outweigh the benefits.

The Benefits

5.226 Below, I consider the benefits of the appeal proposals in the context of the three strands of sustainability: social, economic and environmental. Before doing so I consider the context of the Council's severe shortfall of housing land supply and also the significant need for affordable housing in the Borough.

5.227 The Council's land supply position is presented in their September 2026 update as follows:

- LHN (standard method) = 1,930 net dwellings
- LHN including 5% NPPF buffer = 2,027 net dwellings
- Five-year housing land requirement (2026-2031) = 10,135 net dwellings
- Deliverable five-year housing land supply = 3,269
- LHN five-year housing land supply position (1 April 2026) = 1.6 years

5.228 The Report contains a table under paragraph 2.2 that shows delivery rates since 2010. The table informs that delivery rates in the period 2016-2019 achieved in excess of the Standard Method. However, ever since then, delivery rates have been in decline. I note:

2019/20	1,849 dwellings delivered
2020/21	1,335 dwellings delivered
2021/22	1,517 dwellings delivered
2022/23	1,355 dwellings delivered
2023/24	1,202 dwellings delivered
2045/25	1,094 dwellings delivered

5.229 Six years ago, the Council's borough wide housing delivery was close to the current Standard Method annual target of 1,930 dwellings per annum. Last year's delivery was little above half the requirement. The LPAs Local Plan is still several years away from bringing new allocations into the supply. For now, any return to higher levels of delivery can only meaningfully be brought about by allowing sites such as the appeal site.

5.230 In my Proof above, I refer to the need for affordable housing as evidence by James Stacey. Since the production of the Council's Local Plan there have been two assessments on affordable housing needs. The 2013 SHMA sets out an affordable housing need of 714 dwellings per annum. The most recent 2026 HNA more than doubles that target to 1,694 dwellings per annum. The amount of affordable housing delivery in the borough since 2018/2019 has been 394 dwellings per annum, significantly short of the 1,694 dwellings per annum requirement.

5.231 The need for affordable housing in the borough is substantial.

Demonstrating Sustainable Development

5.232 It is a requirement of Government Policy that Local Plans must set out a positive vision for future growth through meeting the needs for housing and other uses. Therefore, it is essential to assess the proposals against the three dimensions of sustainable development: economic, social and environmental.

5.233 Policy STRAT1 of the 2015 Local Plan (Part 1) recognises the positive approach the Council will take when considering development proposals, reflecting the presumption in favour of sustainable development contained within the Framework. The following commentary sets out how the appeal proposals are sustainable development and therefore conforms with the principles of policy STRAT1.

5.234 For clarity, when weighing the benefits (and the alleged and identified harms above) I use the scale: substantial, moderate, limited and neutral.

Social

5.235 The proposed development will deliver a number of social benefits that weigh significantly in favour of the appeal when assessed in the planning balance.

5.236 It is the Appellant's case that the scheme will make a meaningful contribution to meeting both market and affordable housing needs within the local area. In the context of the LPA's acknowledged inability to demonstrate a five-year housing land supply, the LPA's position being just 1.6 years in the LPA's Statement of Case para 7.2. The delivery of 110 no. new dwellings carries very substantial positive weight. The appeal proposal would assist in addressing the identified shortfall, providing much-needed homes that will help to meet local demand and contribute to the Government's objective of significantly boosting the supply of housing. Policy HO7 of the NPPF provides that "substantial weight should be given to the benefits of providing homes which will contribute towards meeting the evidenced accommodation needs of the community, as identified through needs assessments prepared for the area of the local planning authority and other relevant evidence".

5.237 Whilst in Outline only, the development has the ability to deliver a varied mix of house types, sizes and tenures, ensuring that it meets the diverse needs of the community.

5.238 The inclusion of affordable housing will help to promote social inclusion and provide opportunities for a wider cross-section of society to access high-quality homes. Of the 110 no. proposed dwellings, the delivery of 30% (33 no. dwellings) as affordable is of substantial weight. The affordable housing delivery is supported by the Council's Housing Policy Officer (comments of 30th July 2025) (CD3.06). The affordable housing provision will be secured through the S106 legal agreement. The scheme is compliant with policy SOC1 in this regard.

5.239 James Stacey has provided a Proof of Evidence on Affordable Housing. I have summarised his points in my proof in response to the Inspector's Main Issue b) above. Both Mr Stacey provides a significantly amount of fact and figures on the need for affordable housing in the borough and the weight to be attached to such a benefit. This description of 'substantial' benefit chimes with the regard to be had it in NPPF Policy H07.

5.240 For that reason, I attach **substantial weight** to the delivery of market housing at a time of a very low 5-year land supply position. I attach **substantial weight** to the delivery of affordable housing at a time of poor delivery and high demand.

5.241 In addition to the delivery of housing, the scheme incorporates high-quality, accessible and usable public open space (POS), designed to encourage social interaction, active lifestyles, and community cohesion. The provision of such well-planned green infrastructure will contribute positively to the creation of a healthy and inclusive community, in line with the aims of the NPPF to promote social well-being and sustainable development and in line with Policy SOC3.

5.242 Having regard to the Play and Open Space response dated 1st September 2025 (CD 3.20/3.21) identifies a requirement for the following:

- Amenity open space (0.25ha)
- Play space for children aged 0-12 yrs (0.013 ha)
- Allotments (0.04ha)

5.243 The latest Development Framework (CD 2.02) confirms that the following can be accommodated onsite:

- Amenity Green Space including children's play space (0.35 ha)

- Natural/ Semi Natural Green Space (2.81ha)
- Allotments (0.05ha)

5.244 The on-site provision is therefore expected to deliver in excess of the policy requirements. It is a benefit and resource to the wider community.

5.245 I attach **moderate weight** to the provision of public open space.

5.246 In addition to the onsite provision the Council have also requested financial contributions to offsite provision, specifically for:

- Youth Play
- Park and Recreation
- Sports Pitch
- Sports Pitch Maintenance
- Sports Pitch Changing Facility

5.247 The financial contributions and measures surrounding the maintenance and management of onsite provision are expected to be secured through S106 legal agreement. As these are provided to mitigate impacts I give them **neutral** weight.

5.248 Having regard to the education service consultation response dated 4th August 2025 (CD 3.10), it is confirmed that there are sufficient spaces in the local pre-schools, primary schools, secondary schools and sixth form to accommodate anticipated children generated by the development. The local education infrastructure can therefore accommodate the proposed development. A financial contribution of £170,320.00 has been requested in relation to the Special Educational Needs and/or Disabilities (SEND). This figure will be secured through S106 legal agreement. I attach **neutral** weight to the topic of education.

5.249 Policy SOC 5 directs how the Council will meet the health and well-being needs of the residents through development proposals. The submission includes a Health Impact Assessment (HIA) (CD1.21) that measures the wider impact upon healthy living and demands that are placed upon the capacity of health services and facilities arising from the development.

5.250 The HIA concludes that, overall, the proposed development is assessed to have a positive influence on health and wellbeing of prospective residents and the existing community. The provisions of policy SOC5 are met and it is demonstrated that there are significant social benefits to the proposal.

5.251 I note that policy HC4 of the NPPF provides that substantial weight should be given to the benefits where development proposals would make a demonstrable contribution towards promoting good health, preventing ill-health, reducing health inequalities or supporting social interaction in the local community. As such, I afford these benefits **at least moderate** weight. However, in order to avoid double-counting with the benefit of the provision of open space, I have not counted them separately in the planning balance below.

5.252 Policy STRAT11 of LP1 states that development should facilitate the timely provision of additional facilities, services and infrastructure to meet identified need arising from the development in locations that are appropriate and accessible. Policy 4 of the NP also requires net development to protect and support the village's local facilities by assessing its impact on services such as shops, community buildings, utilities, health services and schools, and by demonstrating how any additional pressure will be addressed. Where required the appeal proposals have mitigated their impact through the provision of a planning obligation which is in the process of agreement with the LPA.

5.253 The site is in a highly sustainable location.

5.254 The Proof of Simon Helme demonstrates the site to be within a safe reasonable walking and cycling distance to all local services. The provision of development in sustainable locations is strongly supported by national policy, in particular Policy TR3. To that I attach **substantial weight.**

Economic

5.255 The proposed development would achieve a breadth of economic benefits during the construction and operation phases of the development. During the construction phase the development would support direct and indirect construction jobs on-site and in the wider supply chain over the build programme, and contribute gross value added (GVA) to the economy through spend within the construction sector.

5.256 During the operational phase of the development, the development would increase the labour force and by association increase local expenditure and the demand for local services; thereby improving their vitality and viability. The Developer would provide monies to the local authority in the form of S106 payments where necessary. The development would also achieve additional Council tax payments for the Council. Additionally, upon the completion of the development, the New Homes Bonus payment is triggered to the local authority based upon the amount of extra council tax revenue raised for new homes.

5.257 The Socio-Economic Report (CD 1.18) supporting the application sets out the economic benefits arising from the development in full. The key points from that document area:

- 153 new residents of working age 129 of whom would be in employment
- Residents could generate total gross expenditure of £2.9 million per annum
- A construction spend of £16.6 million, contributing significantly to GDP.
- 87 FTE direct construction jobs and 6 apprenticeships per annum over the 3.1 year build-out period, as well as 118 FTE indirect jobs per annum in associated industries
- New Homes Bonus payment of £911,240 over a 4-year period.
- Council Tax payments of approximately £2.16 million over 10 years.
- Significant Section 106 Contributions to be spent in the local community.

5.258 It is my case that the economic benefits associated with the scheme are considered to attract **significant weight** in the planning balance.

Environmental

5.259 The development proposals represent sustainable development having regard to the environmental strand. The appeal is supported by application documentation which demonstrates that the scheme is acceptable subject to the appropriately worded conditions.

5.260 As set out in the Ecological Statement of Common Ground all disputes with the LPA on ecology have been resolved and the LPA no longer stands by Reason for Refusal.

5.261 As with highways, there are third party objections on ecology. These can be summarised as follows:-

- Loss of Wildlife, reduction in biodiversity.
- Impact on Great Crested Newts
- Loss of agricultural land

5.262 The Appellants have appointed Liz Seal of TEP to produce a Proof of Evidence on matters of Ecology. I have summarised her key points in response to the CMC Main Matter a) in the text earlier in my Proof.

5.263 That Proof explains that the proposal does not impact upon features of ecological importance or designated wildlife sites. Losses of habitat are mitigated. Impacts on protected and notable species are avoided and minimised through construction phase safeguards and supportive habitat quality improved through habitat enhancement, creation, and management. Impacts on GCN would be mitigated via the GCN District Level Licencing scheme.

5.264 The Cheshire West and Chester Local Plan requires that where possible developments should enhance biodiversity and geodiversity in Policy ENV 4. The Appeal proposals provide an indicative Development Framework Document and landscaping proposals that demonstrate how to improve and enhance the ecology on site through a series of measures. Policy ENV4 is complied with.

5.265 The statutory BNG metric (CD 1.25) has been submitted to support the appeal. The metric concludes that the following total % net change can be achieved onsite through the development proposals:

- 49.08% Habitat Units
- 48.96% Hedgerow Units

5.266 It is the Appellant's case that the proposals deliver in excess of the statutory 10% net gain requirement. The delivery of units about statutory requirements weighs significantly in the planning balance. It is anticipated that the BNG will be secured through the statutory BNG condition.

5.267 I consider that enhanced BNG provision represents a **moderate** benefit in the planning balance.

Conclusion on benefits and sustainability

5.268 Overall, it is clear to me that the benefits of the appeal scheme are numerous and weighty. I address the planning balance below, once I have first considered other issues, including those raised by third parties.

Other Issues Including those raised by Third Parties

Highways considerations

5.269 While there are no highway objections from the Council, there are highway remarks made by third parties. These include:

- Congestion: The High Street and queues onto the A41. Lack of parking.
- Junction Safety: Newton Lane and Tattenhall Road junction. Newton crossroads.
- Lack of footways from the site into the village.
- Increase in traffic generally and from this and other appeal sites on roads not well suited to high volumes.
- Roads regularly flooded and potholed.
- Limited bus service.

5.270 The Appellant has instructed Simon Helme of Ashley Helme to provide a Proof of Evidence on matters of Highways and Transport. I summarise the main points from that Proof below.

5.271 There is no LPA objection to the appeal proposals on highway grounds subject to appropriate planning conditions and S106 payments.

5.272 Tattenhall Rd is sufficiently wide enough to accommodate two-way vehicle flows. Existing traffic flows are low. While average speed of vehicles is marginally above the speed limit there have been no recorded accidents in the vicinity of the appeal site in the last five years.

5.273 There is safe and suitable access to the Appeal site can be achieved from Tattenhall Road for all highway users.

5.274 Almost all of the amenities in Tattenhall are located within a 15 minute walk of the appeal site. There are a range of walk routes available to residents. Most walk routes are along residential roads which have footways and lighting.

5.275 All local amenities are well within a short cycle ride of the appeal site. The Appellant proposes a package of measures to reduce vehicle speeds along Tattenhall Road that will help to create and improve the environment for cycling.

5.276 It is the Appellant's case that the evidence presented informs a safe and suitable site access has been provided, that the development maximises on opportunities to encourage sustainable transport means to encourage walking and cycling to key services and facilities within Tattenhall. The development's traffic generation would not give rise to an unacceptable highway safety or a severe residual cumulative impact.

5.277 The requirements of Local Plan Policy STRAT10 have been met. Policies TR3, TR4, TR6 and TR8 of the 2026 NPPF are met. Draft Policies 4 and 5 of the emerging TNP is met in highway infrastructure mitigation measures.

5.278 There are no insurmountable highway considerations which cannot be overcome by appropriately worded condition or S106 planning obligation.

5.279 Overall, I consider that concerns over highways matters raised by third parties are not well founded. Indeed, I have indicated that I consider that the sustainability of the site is a benefit of the appeal proposal. I have weighed this under the "social" strand of sustainability and therefore do not weigh it additionally here (although I recognise that it can also be considered an environmental benefit as well as a social one).

Flood Risk and Drainage considerations

5.280 There is no flood risk and drainage reason to refuse the application and that there are no insurmountable concerns in this regard which cannot be overcome through appropriately worded condition.

5.281 Policy ENV 1 of the adopted Local Plan established the Council's vision to direct strategic growth towards lower flood risk areas, such as Flood Zone 1.

5.282 The application is supported by a Flood Risk Assessment and Outline Drainage Strategy (CD1.12) by Enzygo.

5.283 The site is located predominantly in Flood Zone 1, the southern part of the sites sits in Flood Zone 2 and 3 along the Keys Brook watercourse. The application has due regard to its location adjacent Keys Brook on the southern boundary. The developable area sits north of the flood zone 2 and 3 and wholly within Flood Zone 1. The site therefore site passes the Sequential Test and does not require the Exception Test to be undertaken.

5.284 Following initial objection from Environment Agency (EA) dated 30th July (CD3,05), appropriate documentation has been submitted to support the application including a Flood Zones Off-Set Plan (CD 2.01) and an updated Development Framework Plan (CD2.02).

5.285 The EA have stated that they welcome the 600m offset from flood zones 2 and 3 and welcome the creation of semi natural open space along the brook with native tree planting opportunities for wildlife recreation. The EA objection has now been removed (CD3.21).

5.286 The Lead Local Flood Authority (LLFA) response dated 31st July 2025 (CD3.09) raises no objection however seeks further details at the detailed design stage to be secured through appropriately

worded conditions. The Appellant agrees to the use of conditions and hopes to work with the Council through the Statement of Common Ground to agree these.

5.287 The developable areas of the site are at low risk from all sources of flooding and will not increase the risk of flooding elsewhere as a result of the development of the site. The proposed development and proposed surface water attenuation features will remain outside of any fluvial and pluvial flood risk areas.

5.288 The SuDS strategy includes the use of an attenuation basin, located within the south-western extent of the site, to which surface water runoff from the site will be conveyed towards in surface water pipes. This strategy shows feasibility that the site can be drained; however, at detailed design inclusion of further SuDS elements could be considered.

5.289 The proposals meet the provisions local and national policy in relation to flooding and drainage. This is a neutral factor in the planning balance.

Conclusion and Overall Planning Balance

5.290 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission should be determined in accordance with the development plan unless material considerations indicated otherwise. The Cheshire West and Chester Local Plan is now over five years and has not been subject to recent review.

5.291 I have identified some limited conflicts with the Development Plan in relation to STRAT9 of LP1 and GB2 and DM19 of LP2 given these two policies hang from Policy STRAT9. However, I have explained that the spatial strategy of the Development Plan is now considerably out of date. Not only does the spatial strategy plan for a level of housing which has been significantly overtaken by latest housing requirements, the borough's five-year housing land supply is only 1.6 years with delivery rates on a downward trend.

5.292 As such, I have given any conflict with the spatial strategy should be given very limited weight. Further, in the event that limited landscape impact is considered as conflicting with development plan policies, then I consider that conflict should also be given limited weight as such a policy provision is inconsistent with the approach taken by the NPPF.

5.293 I note that conflict with one or two policies does necessarily mean that there is conflict with the development plan when considered as a whole. I consider that the proposal does comply with the Development Plan overall. If there is a conflict with the Development Plan then this is minor and limited.

5.294 I have explained that there is also no conflict with the emerging TNP. In light of this, together with the fact that allowing the Appeal proposals will not prevent the TNP from proceeding there is no credible basis for arguing that the Appeal proposals are premature, applying policy DM4.

5.295 The Appeal proposals fall to be considered under policy S5(1)(j). There is no dispute between the parties that S5.1.(i) applies. In such circumstances the issue is whether the adverse effects of the proposal would substantially outweigh the benefits.

5.296 It my opinion the Appeal proposals are in accordance with the development plan when read as a whole and this includes the 2026 TNP should it be made in the decision-making period of this appeal.

5.297 It is my opinion the development proposals would constitute sustainable development and that there are no technical reasons which are not insurmountable through mitigation measures to be secured by way of appropriately worded condition or Section 106 legal agreement.

5.298 This Proof has identified a number of benefits and harms associated with the appeal proposal. The table below summarises those topics.

Benefits			**Harms**	
Topic	Level of Benefit		Topic	Level of Harm
Market Housing	Substantial		Agricultural Land	Limited
Affordable Housing	Substantial		Landscape	Limited
Economic Benefits	Substantial		Heritage if Greaves Farm considered a NDH asset	Limited
Sustainable Location	Substantial		Countryside location	Limited
Greenspace Provision	Moderate			
BNG	Moderate			

5.299 It is clear to me that the benefits of the proposal are not substantially outweighed by the adverse impacts. In fact, the reverse is true.

5.300 I have also considered the position if the emerging TNP were to be adopted. I do not consider that this changes the analysis of Development Plan compliance. The proposal does not conflict with any of the emerging policies in the TNP. Significantly, the location of the appeal site outside of the settlement boundary is not in conflict with the emerging TNP.

5.301 Even if there were to be considered technical conflict and Policy S6 of the NPPF were to apply, I consider that this would not tip the balance in favour of a refusal. I have explained that it is necessary to consider all circumstances when considering S6.

5.302 Here, the Borough has one of the worst five-year housing land supplies in the Country and there is a significant need for affordable housing.

5.303 There are serious question marks over the indicative housing figure which was used to form the basis for allocations in the emerging TNP and these have not been tested in the NP Examination. Ultimately Tattenhall is one of only a handful of sustainable settlements in Cheshire West which are located outside of the Green Belt. The proposal would also give rise to a number of other benefits which I have set out above.

5.304 Therefore, even if the emerging TNP were adopted and even if the Appeal proposals were found to conflict with it, the balance would still remain in favour of a grant of consent. I consider that the planning balance weighs heavily in favour of a grant of permission whether or not the emerging TNP is adopted.