

Statement of Case

Section 78 Appeal

On behalf of Long Ashton Land Company (LALC) in respect of:

Application for outline planning permission for the erection of up to 35no. dwellings, allotments and associated access, parking, drainage infrastructure and landscaping, with new access off Weston Road for approval and appearance, layout, scale and landscaping reserved for subsequent approval

LPA: North Somerset Council

LPA Ref: 21/P/3076/OUT

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED) PLANNING AND
COMPULSORY PURCHASE ACT 2004

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1. INTRODUCTION

- 1.1 This Statement of Case is submitted on behalf of the Long Ashton Land Company (the **Appellant**). It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of Land to the South of Warren Lane, north of Weston Road, Long Ashton (the **Appeal Site**).
- 1.2 The appeal has been lodged against the refusal by North Somerset Council (the **LPA**) of outline planning application ref. 21/P/3076/OUT for development of up to 35 affordable homes at the Appeal Site. The outline planning application was refused for two reasons:

1. *The proposed development constitutes inappropriate development in the Green Belt. The Housing Needs Survey and alternative site considerations submitted in support of the application are insufficient to demonstrate that the proposal would provide limited affordable housing to meet local needs under policies in the development plan. There is no Parish Council support for the proposal. The proposed development is therefore contrary to Core Strategy Policy CS17 (a), (b), (c) & (d), the Affordable Housing SPD, Policies LHN 3 and LHN 4 of the Long Ashton Neighbourhood Development Plan and paragraphs 147-149 of the National Planning Policy Framework.*
2. *The proposed development would result in the complete removal of all archaeological remains from the development site and would cause unacceptable harm to the Scheduled Monument. These remains form part of the significance of the designation of this heritage asset. In addition, the development of part of the historic field pattern associated with the Scheduled Monument would cause unacceptable harm to the historic landscape. The proposed development is therefore contrary to Policy CS5 of the Core Strategy, Policy DM6 of the North Somerset Sites and Development Plan, and paragraphs 195, 199, 200, 201, 202 and 205 of the National Planning Policy Framework.*

- 1.3 This Statement of Case addresses the reasons for refusal and sets out the Appellant's case that the appeal should be allowed and planning permission granted for the Appeal Scheme.

Statement of Common Ground

- 1.4 A draft Statement of Common Ground has been submitted and the Appellant will work collaboratively with the LPA to limit the areas of difference between the parties.

Appeal Procedure

- 1.5 The Appellant considers that a Public Inquiry would be the most appropriate appeal procedure in this case, for the reasons set out on the Appeal Form.

Provision of Evidence

- 1.6 On the basis that the Planning Inspectorate agrees to this appeal being dealt with under the Public Inquiry procedure, the Appellant will prepare and submit proofs of evidence accordingly. The proofs of evidence will address the reasons for refusal of the outline planning application and any other relevant issues raised by third parties and statutory consultees.
- 1.7 It is anticipated that evidence will be limited to: planning; housing need; and heritage.

Planning Conditions

- 1.8 The Appellant will seek to agree a set of draft planning conditions with the LPA and will submit these prior to the Public Inquiry.

Planning Obligations

- 1.9 The Appellant will seek to ensure that any obligations or contributions that are sought are necessary to allow the development to proceed, in compliance with CIL Regulations 122 and 123. Infrastructure requirements (including affordable housing, residential travel plan measures and public interpretation material about the Schedule Monument as set out in section 7) will be secured by a legal agreement pursuant to section 106 of the Town and Country Planning Act 1990.
- 1.10 The Appellant will enter into early discussions with the LPA, well in advance of the exchange of proofs of evidence, to agree a set of planning obligations.

2. SITE LOCATION AND DESCRIPTION

- 2.1 Please see paragraph 2 of the draft Statement of Common Ground for full details.

3. THE APPEAL SCHEME

- 3.1 The appeal seeks outline planning permission to provide up to 35 affordable homes to meet local needs at the Appeal Site, together with areas of open space and allotments, with access from Weston Road (the **Appeal Scheme**).

- 3.2 The full description of development is:

Application for outline planning permission for the erection of up to 35no. dwellings, allotments and associated access, parking, drainage infrastructure and landscaping, with new access off Weston Road for approval and appearance, layout, scale and landscaping reserved for subsequent approval

- 3.3 Whilst the application is in outline, a significant amount of illustrative and supporting material accompanied the application and relevant material is included in the supporting appeal documents.

- 3.4 The Appeal Scheme is set out in greater detail in the Planning, Design and Access Statement and technical reports submitted in support of the planning application and will be described in further detail in the Appellant's planning evidence.

4. PLANNING HISTORY

Site Planning History

- 4.1 The relevant planning history of the Appeal Site is as follows:

Reference	Proposal	Decision	Date
19/P/2547/EA1	EIA Screening Request	Not EIA Development	05-12-19
20/P/1547/OUT	Application for outline planning permission for the erection of up to 35no dwellings, allotments and associated access, parking, drainage infrastructure and landscaping, with new access off Weston Road for approval and appearance, layout, scale and landscaping reserved for subsequent approval.	Refused	06-11-20

- 4.2 Please see paragraph 5 of the draft Statement of Common Ground for full details of the recent relevant planning history on the adjoining Gatcombe Farm and other adjacent sites.

5. DOCUMENTS AND DRAWINGS

- 5.1 A set of Core Documents will be agreed with the LPA prior to the Public Inquiry. The Core Documents will include:

6. OUTLINE PLANNING APPLICATION

- Application documents and drawings
- Consultation responses
- Application and related correspondence
- Decision report
- Planning history documentation

National Documents

- National Planning Policy Framework
- Planning Practice Guidance

- CIL Regulations

Local Documents

- North Somerset Core Strategy
- North Somerset Sites and Policies Plan Part 2: Site Allocations Plan
- Emerging North Somerset Local Plan 2038
- North Somerset Affordable Housing Supplementary Planning Document

Scheduled Monument

- Documents relating to the 2014 extension of the Scheduled Monument

Case Law and Appeal Decisions

- 6.1 Reference will be made to an appeal decision at Rectory Farm, Chescombe Road, Yatton, Bristol BS49 4EU (ref. APP/D0121/W/21/3286677), dated 15 June 2022, in respect of housing land supply (see Appendix 1).

7. RELEVANT PLANNING DESIGNATIONS AND POLICY

Designations

- 7.1 The Appeal Site is within the Green Belt and within the boundary of a Scheduled Monument (SM) – Roman settlement, part of an associated field system and earlier Iron Age settlement remains at Gatcombe Farm.

Planning Policy

- 7.2 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that, when making a determination on development proposals, the decision shall be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 7.3 The full policy framework is set out in the accompanying draft Statement of Common Ground and Appendix 2 of this Statement of Case. The Appellant, through the Statement of Common Ground, will seek to agree the relevant policies for the determination of the Appeal with the LPA prior to start of the Public Inquiry.

Development Plan

- 7.4 The Appellant will refer to relevant policies in the:
- North Somerset Core Strategy (the **Core Strategy**);
 - North Somerset Sites and Policies Plan Part 1: Development Management Policies; and

- Long Ashton Neighbourhood Development Plan (the **Neighbourhood Plan**) which together comprise the "Development Plan".

7.5 The Appellant will refer to Development Plan policies relating to rural exception housing, conservation of heritage assets and other policies relevant to the achievement of sustainable development in relation to the Appeal Scheme.

7.6 The Appellant will also refer to the North Somerset Affordable Housing Supplementary Planning Document.

National Planning Policy and Guidance

7.7 The Appellant will refer to policy set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), especially the policies and guidance relating to the presumption in favour of sustainable development, Green Belt and heritage assets. Other policies and guidance relating to the achievement of sustainable development will also be referred to.

Emerging Development Plan

7.8 The Appellant will refer to relevant policies in the emerging North Somerset Local Plan 2038, especially in relation to proposed site allocations and rural exception affordable housing.

8. THE CASE FOR THE APPELLANT

Reason for Refusal One

The Development Plan

- 8.1 It is established through the LPA's determination of the outline planning application that the Appeal Scheme is in accordance with the Development Plan, subject to appropriate planning conditions, with the exception of Core Strategy policies CS5 and CS17, Development Management policy DM6 and Neighbourhood Plan policies LHN3 and LHN4, which are cited in the reasons for refusal.
- 8.2 The Appellant will set out the case that the Appeal Scheme is in accordance with the Development Plan considered as a whole.

Core Strategy Policy CS17 – Rural Exception Schemes

- 8.3 This policy supports rural exception schemes for 100% affordable housing, subject to development proposals satisfying criteria (a) to (e) of the policy.

Criteria (a) – Affordable Housing Need

- 8.4 The Appellant will set out evidence that a very substantial unmet need for affordable housing exists in the Parish of Long Ashton, drawing on Housing Needs Surveys undertaken in 2018 and 2022 and official data from the government and the local authority. The Appellant will assert that the data used by the LPA in respect of housing need is partial and not a true representation of the need.

Criteria (b) – Parish Council Support

- 8.5 The Appellant will contend that the purpose of Core Strategy policy CS17 is to enable the provision of affordable housing to meet local community needs and when considering the Development Plan as a whole, including Priority Objective 8 and policy CS16 on delivering affordable housing, the absence of support from the Parish Council represents a technical breach and the weight to be attributed to this is breach is minor. Reference will be made to the reasons stated by the Parish Council for not supporting the Appeal Scheme.

Criteria (c) – Site Selection

- 8.6 The Appellant will set out reasons why the Appeal Site is the most sustainable site for contributing to meeting the need for affordable housing and will describe the absence of available, suitable and deliverable alternative sites. In its evidence the Appellant will refer to the North Somerset Sites and Policies Plan Part 2: Site Allocations Plan, the North Somerset SHLAA (January 2022), the emerging Local Plan 2038 and assessments of alternative sites.

Criteria (d) – Scale of development

- 8.7 The Appellant does not agree with the LPA's contention that the Appeal Scheme represents inappropriate development in the Green Belt and would lead to unacceptable harm to the Scheduled Monument. In these circumstances, the basis for the LPA's contention that the Appeal Scheme does not propose a scale of development appropriate to the location falls away. The Appellant will make the case that the Appeal Scheme constitutes a modest and organic extension to the western extent of Long Ashton as a development of an appropriate scale at the Appeal Site. It provides the opportunity to make a positive contribution to local character and distinctiveness. Reference will be made to submitted parameter plans and illustrative plans and drawings.

Criteria (e) – Affordable Housing in Perpetuity

- 8.8 It is accepted in the LPA's decision report that this requirement can be secured through a section 106 Agreement and provision for this is included within the submitted Heads of Terms.
- 8.9 In addition to criteria (a) to (e), Policy CS17 precludes rural exception affordable housing in the Green Belt. The Appellant will make the case that this provision needs to be set aside because it contradicts current National policy articulated at NPPF paragraph 149 (f) and that this is accepted by the LPA.
- 8.10 The Appellant will therefore conclude that the Appeal Scheme is, in principle, acceptable within the Green Belt as a rural exception affordable housing

development and that it satisfies all but one of the five criteria set by policy CS17 for rural exception schemes. This breach relates to a need for Parish Council support and the Appellant will contend that this is a minor technical breach in the context of the Development Plan balance overall. It will be concluded therefore that the Appeal Scheme is in accordance with the Development Plan when its objectives and policies are considered as a whole.

Neighbourhood Plan Policy LHN3 – Scale and Type of New Housing

- 8.11 The Appellant will explain that the Appeal Scheme is not in conflict with Neighbourhood Plan policy LHN3. The Appellant will refer to illustrative material submitted in support of the Appeal Scheme, which shows a mix of dwelling types and sizes and the fact that the application is in outline with these details to be resolved at reserved matters stage.

Neighbourhood Plan Policy LHN4 – Provision of Housing for Local People

- 8.12 In relation to policy LHN4, the provision of affordable housing in perpetuity and appropriate allocation criteria can be secured through a section 106 agreement. Consequently, the Appellant will contend that the Appeal Scheme is not in conflict with policy LHN4 and is capable of delivery in accordance with this policy.

Other Material Considerations

- 8.13 The Appellant will explain that the Affordable Housing SPD and the NPPF are two principal material policy considerations outside the Development Plan.
- 8.14 The Appellant will attribute limited weight to the Affordable Housing SPD (2013). Notwithstanding this, the Appellant will explain that the approach used to identify housing need is robust, that the identified housing need is for a mix of dwelling sizes and that dwelling size and design is not to be determined as part of the Appeal Scheme but would be resolved through reserved matters.
- 8.15 The Core Strategy was originally adopted in April 2012 and at this time included policy CS17 and its prohibition of rural exception housing within the Green Belt. This policy remains unchanged. However, in July 2018 national policy introduced, as a category of development that is not inappropriate development in the Green Belt, the provision of affordable housing to meet local community needs under policies set out in the development plan. This remains national policy in the current version of the NPPF, at paragraph 149 (f), and is linked to the social objective of national policy set out at NPPF paragraph 8 (b).
- 8.16 The part of policy CS17 that precludes rural exception housing in the Green Belt is therefore directly at odds with national policy. The Appellant will contend that NPPF policy 149 (f) must be given substantial weight and take precedence over that element of policy CS17 which precludes rural exception affordable housing in the Green Belt.
- 8.17 The Appellant will also set out reasons why, if this were found not to be the case, it is considered that material considerations indicate that the Appeal Scheme should be determined other than in accordance with the Development Plan. These include the

pressing unmet need for affordable housing in Long Ashton and engagement of the tilted balance under paragraph 11 of the NPPF.

- 8.18 It is accepted in the decision report on the planning application that the LPA cannot demonstrate a 5-year supply of deliverable housing sites and the Appellant maintains that this position has not changed. Given this, it follows that the policies of most importance in determining the application are to be considered out of date. The Appellant will set out that, in considering the overall planning balance, the NPPF paragraph 11 presumption in favour of sustainable development applies.

Reason for Refusal Two

The Development Plan

Policy CS5 – Landscape and the Historic Environment

- 8.19 The Appellant will demonstrate that the existing historic field pattern (the historic landscape character) within the Appeal Site is of no heritage significance and is in no way associated with the archaeological interest of the scheduled Roman period remains. Thus, it will be evidenced that the proposed change will result in no adverse effects on valued historic landscape character.
- 8.20 The Appellant will acknowledge that the areas of built form at Gatcombe Farm and along Warren Lane (and beyond to the east) are a negative (albeit very minor) element of the setting of important buried archaeological remains. Thus, the Appellant will accept that the Appeal Scheme would result in an adverse effect on an element of the setting of the important buried archaeological remains lying to the west. However, this component plays such a minor role in its overall significance that this effect is negligible. The provision of interpretation material that explains the presence of the buried archaeological remains to the west of the Appeal Site, as included in the S106 Heads of Terms submitted with the outline planning application, will be a material public (heritage) benefit that offsets this negligible effect.
- 8.21 The Appellant will therefore conclude that the Appeal Scheme is in accordance with policy CS5.

Policy DM6 - Archaeology

- 8.22 The Appellant will set out the correct rationale for scheduling buried archaeological remains. This matter will recognise that the boundaries of most scheduled monuments are arbitrary and are not the limits of known or important buried archaeological remains.
- 8.23 The Appellant will explore how recent archaeological investigations (geophysical surveys and trial trenching) have allowed for a relatively robust characterisation of the extent and significance of buried Roman period archaeological remains within the Appeal Site and to its immediate west. The heritage significance / importance of the remains within the footprint of the Appeal Scheme will be discussed and this will be compared to other associated surviving archaeological remains within the scheduled

area and beyond its extent. Important comparisons will be drawn out by reference to the archaeological discoveries in and around the Gatcombe Farm buildings and the way these have been dealt with via recent planning applications and scheduled monument consents. The Appellant will provide evidence that the buried archaeological remains within the construction footprint of the Appeal Scheme have limited archaeological interest (limited importance).

- 8.24 The Appellant will demonstrate that the physical loss of buried archaeological remains will have a limited adverse effect (limited harm) as, in their own right, they possess very limited archaeological interest. Further to this point, the potential to expertly investigate these remains, as part of a suitably worded condition to be enacted in advance of construction, would enhance the historic interest of the important remains that survive to the west of the Appeal Scheme. This is a demonstrable public (heritage) benefit that needs to be given weight. The Appellant will provide evidence on how this limited (heritage) benefit compensates / counteracts / offsets the heritage harm (from the loss of physical remains of limited importance).
- 8.25 The Appellant will conclude that the Appeal Scheme is in accordance with policy DM6.

Other Material Considerations

- 8.26 The provisions of the NPPF are a principal material consideration in relation to heritage assets. The Appellant will, taking account of the assessment of heritage assets and the impact upon them from the Appeal Scheme, explain that the Appeal Scheme accords with NPPF paragraphs 195, 197, 199, 202 and 205.

The Overall Planning Balance

- 8.27 The Appellant will conclude that the part of policy CS17 prohibiting rural exception affordable housing in the Green Belt is a direct contradiction of national policy and that NPPF policy 149 (f) must take precedence. In addition, the absence of Parish Council support should not be a determining factor when considered in the context of all the other elements of policy CS17 which are complied with. The lack of Parish Council support is a minor technical breach and consequently does not prevent the Appeal Scheme from complying with the Development Plan overall.
- 8.28 The Appellant will also explain that the policies most relevant to determining the Appeal Scheme are out of date and the tilted balance (NPPF, paragraph 11) presumption in favour of sustainable development applies.
- 8.29 Applying the presumption in favour of sustainable development, the Appellant will contend that there is no Green Belt harm because provision of rural exception affordable housing at the Appeal Site does not constitute inappropriate development in the Green Belt and that the impact of the Appeal Scheme on the Scheduled Monument does not provide a clear reason for refusing the development.
- 8.30 The Appellant will further explain that the benefits of providing affordable housing in the context of a substantial and pressing unmet need, the related economic benefits and the provision of ecological enhancements are not significantly and demonstrably

outweighed by any adverse impacts. The Appellant will explain that this includes the absence of conflict with the Neighbourhood Plan, which the Appellant will note is more than 5 years old. The presumption in favour of sustainable development therefore applies, indicating that planning permission should be granted.

- 8.31 The Appellant will therefore conclude that both with and without engagement of the tilted balance, it is considered that the weighing of benefits and harm is in favour of approval of the Appeal Scheme to enable delivery of affordable housing that will help address a substantial and pressing local need, to achieve sustainable development in accordance with the central purpose of the planning system.

APPENDICES

Appendix 1

Appeal Decision at Rectory Farm, Chescombe Road, Yatton, Bristol BS49 4EU

Appendix 2

Relevant Development Plan Policies

North Somerset Core Strategy

CS1 Addressing climate change and carbon reduction
CS2 Delivering sustainable design and construction CS3
Environmental impacts and flood risk management
CS4 Nature Conservation
CS5 Landscape and the historic environment
CS6 North Somerset's Green Belt CS9 Green infrastructure
CS10 Transport and movement
CS11 Parking
CS12 Achieving high quality design and place making
CS13 Scale of new housing
CS14 Distribution of new housing
CS15 Mixed and balanced communities
CS16 Affordable housing
CS17 Rural exception schemes
CS27 Sport, recreation and community facilities
CS32 Service Villages

Development Management Policies – Sites and Policies Plan Part 1

DM1 Flooding and drainage
DM2 Renewable and low carbon energy
DM6 Archaeology DM8 Nature Conservation
DM9 Trees
DM10 Landscape
DM12 Development within the Green Belt
DM19 Green infrastructure
DM24 Safety, traffic and provision of infrastructure, etc. associated with development
DM25 Public rights of way, pedestrian and cycle access
DM26 Travel plans
DM27 Bus accessibility criteria
DM28 Parking standards
DM32 High quality design and place making
DM34 Housing type and mix
DM36 Residential densities
DM48 Broadband DM70 Development infrastructure
DM71 Development contributions, Community Infrastructure Levy and viability

Long Ashton Neighbourhood Development Plan

LC6 Provision of allotments in new development (10+ dwellings)

ENV2 Protecting trees and woodland

ENV5 Conserving and enhancing wildlife, biodiversity and historic assets, including designated areas of local ecological and landscape value

ENV6 Protection against flooding

T1 Encouraging sustainable modes of transport

LHN1 Providing well designed energy efficient buildings and places

LHN2 Securing sympathetic village design in compliance with Village Design Statement

LHN3 Scale and type of new housing

LHN4 Provision of affordable housing for local people

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