

Officers' Meadow
Land North of Shenfield, Brentwood

Statement of Case

Appeal against Brentwood Borough Council for failure to give notice of its decision within the appropriate period on an application for permission for:

Hybrid planning application for 344 units including 35% affordable housing, safeguarded land for a 2FE primary school and early years facility, public open space and associated landscaping, drainage and highways infrastructure (23/01164/FUL)

Prepared on behalf of Croudace Homes Ltd

21 August 2024

Lucid
Planning

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1. Introduction

- 1.1 Lucid Planning Limited acts on behalf of the Appellant, Croudace Homes Ltd (Croudace) in respect of a scheme relating to Officers' Meadow, Land North of Shenfield (the Site) for which this Appeal is made arising from the failure of Brentwood Borough Council (BBC) to give notice of its decision within the appropriate period on an application for planning permission.
- 1.2 This Statement sets out the case that the Appellant will make at Appeal. The Appellant asks for the Appeal to be heard by Public Inquiry. The reasons for this request are set out in Section 2 of this Statement of Case.
- 1.3 The Appellant's Evidence will describe the appeal scheme which comprises a full application forming part of hybrid planning application for:
- 344 units including 35% affordable housing, safeguarded land for a 2FE primary school and early years facility, public open space and associated landscaping, drainage and highways infrastructure (BBC planning application ref: 23/01164/FUL).
- 1.4 The outline part of the hybrid planning application for safeguarded land for a 2FE primary school and early years facility received a resolution to grant at BBC Planning Committee on 9 July 2024. This element will need to form part of the s106 legal agreement.
- 1.5 This Statement of Case therefore provides the following details:
- The reasons why an Inquiry procedure is requested
 - A description of the Appeal Site and its context
 - A description of the Appeal Scheme
 - The relevant planning policy context, identifying those policies most relevant to this Appeal

- The case in favour of the Appeal Scheme, for which evidence will be provided.

- 1.6 A draft Statement of Common Ground is submitted with the Appeal documentation. This seeks to confirm with BBC the matters on which the Council and the Appellant agree and disagree, although it has not been possible for BBC to respond on the draft to date. It is anticipated that areas of Common Ground can be agreed between the Appellant and the Council.
- 1.7 It is also anticipated that a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), prepared in conjunction with the Council, will be submitted to the Inspector within the required timescale. This is considered further in Section 7.

2. Reasons for Inquiry

- 2.1 It is considered that the Appeal Scheme should be heard by public inquiry.
- 2.2 As per Section 3. Inquiry of the PINS Criteria for Determining the Procedure for Planning, Enforcement, Advertisement and Discontinuance Notice Appeals, the issues involved in assessing the proposals are complex and there is a need for BBC's and the Appellant's evidence to be tested through formal questioning by an advocate. This is for the following reasons:
1. It is anticipated there will be the need for technical evidence to be examined and cross examined in order to address the Council's draft Reasons for Refusal and that the need for such evidence will add further complexity to the issues needing to be resolved.
 2. There are matters of disagreement relating to character and design, contextual analysis, housing supply, affordable housing need and the lawful approach to the application of development plan policies. In the circumstances of this case, all of these are complex and can only be properly tested through cross-examination.
 3. Notwithstanding the original Officer recommendation for approval (**Appendix 1**), given the objections expressed by individuals, the Ward Member and Residents Associations to the application subject to this Appeal, there is likely to be significant public interest in the Appeal Scheme.
 4. Due to the above, we consider it will be necessary to fully and effectually explain the Appellant's case and test the Council's Evidence through cross examination.

3. Appeal Site and Context

3.1 The application Site extends approximately 21.32 hectares in total and is located to the north of Shenfield, a town in the Borough of Brentwood in Essex, as shown on the plan at **Appendix 2**.

3.2 The Site consists of six agricultural fields, typically in arable use and predominantly featuring rough grassland/scrubland. Occasional canopy trees are located within the Site along with hedgerows and tree belts creating an irregular network of field boundaries. The network of established hedgerows, woodland, designations and other physical constraints within the Site is summarised below:

- To the east of the Site is an area of Ancient Woodland named Arnold's Wood.
- Centrally within the Site is a tree belt that runs north south.
- Adjacent to the eastern boundary of the Site is a smaller, east west tree belt.
- There is one tree of veteran status, an English Oak (no. 151 in the Tree Survey).
- Located predominantly within the tree belts, and sporadically throughout the Site, there are up to 47 trees covered by a Tree Preservation Order (TPO).
- An east west area of land adjacent to Alexandra Lane and located at the lowest part of the Site is located within EA Flood Risk Zones 2 and 3, and parts are designated as a Critical Drainage Area.

3.3 The Site lies within an area of gently undulating low-lying land associated with the River Wid valley landscape, opening out towards the lowland marsh landscape to the east of the Site. The landform broadly rises to the south-east of the Site as a continuation of the lower reaches of a ridgeline that extends from the elevated settlement area of Brentwood towards the lower-lying valley landscape.

- 3.4 To the west and north, the Site is bounded by Chelmsford Road (A1023), which runs southwest to Shenfield and north-east to Mountnessing. Part of the Site lies adjacent to Chelmsford Road, however, much of the northern boundary is separated from the highway by a single line of homes. The homes front onto Chelmsford Road, so the Site is partly adjacent to rear garden boundaries to the north. Further to the north of the Site, the A12 separates the Site from the wider agricultural landscape; a narrow strip of agricultural land (located within the R03 allocation boundary) separates Chelmsford Road from the A12. The Site lies adjacent to arable land (also within the R03 allocation boundary) and the railway line to the north-east.
- 3.5 To the south and east of the Site, the Great Eastern Main Line railway separates the Site from the 20th century residential estate that follows Woodland Avenue. To the east of the residential estate lies the Hutton Industrial Estate and beyond this to the south is the village of Hutton.
- 3.6 To the south-west of the Site is a further 20th century residential estate, with the homes to the north of Oliver Road lying adjacent to the R03 allocation boundary. The Site is separated from the residential area by Shenfield High School and associated playing fields.

Accessibility

- 3.7 The Site is located a 20-minute walk and a 10-minute cycle to Shenfield Town Centre where multiple local services, facilities and amenities are located.
- 3.8 The closest bus stops to the Site are located on Chelmsford Road and Long Ridings Avenue, approximately 400m and 500m walking distance from the Site, respectively. The key routes offer frequent services connecting the Site to neighbouring towns and villages including Brentwood, Hutton, Hutton Mount and Mountnessing.

- 3.9 The nearest train station to the Site is Shenfield train station which is located approximately 1.1km to the south. Shenfield is a key interchange for short and long-distance journeys along the Great Eastern Main Line, offering regular services to Colchester, Southend and Ipswich. The Elizabeth Line provides connection from Shenfield Station to central London and Heathrow Airport.
- 3.10 The road network around the Site includes the Chelmsford Road (A1023) to the northwest, and the A12 (dual carriageway) just beyond this, offering convenient vehicular access to Shenfield, Brentwood and beyond. Many smaller, residential roads are located within close proximity to the Site offering access to surrounding facilities and communities.
- 3.11 Footway 86 is a formal Public Rights of Way (PROW) on the eastern boundary of the Site that connects to the surrounding area. A TCPA 1990 Section 257 Application for the permanent diversion of this footpath through the development was made to BBC on 12 February 2024. This is not a contentious issue, so the details are not included in these instructions.

Planning Application History

- 3.12 There is no planning application history on this Site.

4. The Appeal Scheme

- 4.1 The Appeal Scheme forms part of a hybrid planning application seeking full planning permission for:

344 units including 35% affordable housing, safeguarded land for a 2FE primary school and early years facility, public open space and associated landscaping, drainage and highways infrastructure.

- 4.2 The hybrid application was submitted on 11 September 2023. The Council decided to split the application as follows:

23/01164/FUL Hybrid planning application for 344 units including 35% affordable housing, safeguarded land for a 2FE primary school and early years facility, public open space and associated landscaping, drainage and highways infrastructure

23/01159/OUT Outline application with all matters reserved for a 2FE safeguarded primary school and early years site.

- 4.3 The Appeal Scheme was validated on 9 October 2023.
- 4.4 The outline application for the safeguarded school and early years nursery site received a resolution to grant at Planning Committee on 9 July 2024, so in itself does not form part of the Appeal Scheme; however, due to its hybrid nature, the s106 legal agreement covers both applications and therefore this part of the proposals remains relevant to the Appeal.

Background to the Application and Appeal

- 4.5 As set out more fully in Section 5 below, the Site was formerly in the Green Belt but was removed when identified in the adopted Brentwood Local Plan (March 2022) as part of the second largest strategic allocation, Policy R03. Policy R03 allocates Land North of Shenfield for 825 dwellings, a 2.1ha safeguarded 2FE primary school and early years nursery site, a 60-bed care home and around 2ha of employment land. The supporting text to the Policy acknowledges that the allocation will be brought forward by four developers. The policy, the allocation and the Croudace part of it is shown at **Appendix 3**.
- 4.6 Following the adoption of the local plan, and to accord with Criterion 2a of Policy R03, which states, *“Development should be accompanied by a comprehensive masterplan and phasing strategy to inform detailed proposals as they come forward;”* the four developers of R03 produced a joint Masterplan Development Principles document, which was presented to an All Members Briefing meeting on 3 August 2022 and subsequently approved by officers on 3 August 2023.
- 4.7 The preparation of the joint Masterplan Development Principles document took approximately 18 months and during this time the individual developers also undertook pre-application discussions with KEW Planning, a planning consultancy acting on behalf of Brentwood Borough Council as Development Management officers.
- 4.8 As part of the pre-application and Principles document, discussions with the other developers and BBC officers, it was agreed:
- The care home would go on Countryside’s land in lieu of the employment uses (arguments to be put forward in the Countryside application)
 - Croudace would replace houses initially proposed to the north of the new Chelmsford Road roundabout and at the Alexander Road entrance with more visually imposing ‘gateway’ buildings of apartments

- Despite the requirement to meet the Essex Design Guide (in terms of garden size, back-to-back distances etc) the sites should maximise housing numbers to comply with Policy R03 and Policy HP03 Residential Density (where developments should achieve a net density of at least 35 dwellings per hectare, rising to above 65dph in the town centre) as fully as possible.

- 4.9 During the preparation of the Principles document and the pre-application discussions, certain key statutory consultees did not engage substantially or at all. This included Essex County Council (ECC) Education, Highways, SUDs and BBC Housing.
- 4.10 In the absence of comments from BBC Housing, and after much liaison to seek a response, the planning officers sent Croudace the updated 2022 SHMA figures in May 2023 from BBC Planning Policy Team. This allowed Croudace then to prepare its hybrid application. These SHMA 2022 figures were also set out in the Principles document.
- 4.11 The Masterplan Development Principles document was approved by officers on 3 August 2023 (**Appendix 4**). It should be noted that, to date, BBC has yet to publish the Principles document on its website; instead requesting that all developers submit it with their applications.
- 4.12 Community engagement for the emerging scheme was undertaken to help shape the proposals and in general conformity with the overarching objectives of the Localism Act 2011 and the NPPF 2021. Consultation events were held both in-person and online as summarised in the submitted Statement of Community Involvement.
- 4.13 It was agreed through a signed Planning Performance Agreement with BBC that given the substantial amount of work undertaken to draft the Masterplan Development Principles document and during pre-application that the post submission timeframe would be relatively short and the need for post submission meetings would not be substantive.
- 4.14 Post application, however, as a result of some of statutory consultee responses, two amendment packs were submitted on 8 March 2024 and 21 June 2024, with further minor

amendments submitted in May 2024. Within the context of a full application for 344 dwellings, these amendments were small, relating mostly to internal highway issues, additional information on flood risk modelling, some minor layout issues, a revised BNG calculation and façade treatment changes. The complete, up-to-date list of drawings and documents that comprise the full application is attached at **Appendix XX of the Statement of Common Ground**.

- 4.15 Discussions were held regularly (mostly every two weeks) with BBC officers in relation to particular consultation comments.
- 4.16 Extensions of time for determination of the application were agreed on:
 - 15 March 2024
 - 26 April 2024
- 4.17 Croudace also requested BBC to start drafting the s106. This was substantively complete in relation to BBC contributions prior to committee on 9 July. Outstanding County Council matters on education, and the issues that remain between the appellant and the County Council, are set out in the Matters of Disagreement in the draft Statement of Common Ground. The latest version of the s106 is at **Appendix 5** of this Statement of Case.
- 4.18 The planning application was scheduled for a special meeting on 9 July 2024. Croudace issued a Members Briefing Leaflet to each Planning Committee member via email on 2 July (attached at **Appendix 6**). There was a Members' Briefing by officers on 5 July and another Members' Briefing by Stantec and Croudace with officers on 8 July. A number of questions were raised at the 8 July briefing which were answered at Committee on 9 July.
- 4.19 The Planning Committee report is a substantial report and there are no objections from any of the statutory consultees on either application, as Croudace had spent the time removing all possible objections in negotiations with the relevant officers/statutory consultees. All matters had been resolved to each statutory consultee's satisfaction either by being policy compliant and/or providing a solution the officer agreed.

- 4.20 Notwithstanding the strong recommendation for approval of both applications, Planning Committee voted to refuse the full planning application, the Appeal Scheme. The reasons cited were as follows:
1. The proposals are contrary to Policy HP05 as the application does not meet the mix and tenure split set out on page 115 of the adopted Brentwood Local Plan.
 2. The proposals are contrary to Policy BE14 1e because the 3-storey housing at the entrances of Chelmsford Road and Alexander Lane do not respond positively or sympathetically to their context.
 3. The proposals are contrary to Policy BE14 2a as there has not been effective engagement.
- 4.21 The outline application for the safeguarded school and early years nursery site was then unanimously approved separately.
- 4.22 Following the Committee, Croudace was asked to meet with the Chair and Vice Chair of Planning Committee on 19 July *“to try and find a way forward”*; however, it was clear to Croudace that this would not be possible and Croudace requested the draft reasons for refusal to be sent. These were emailed by the Corporate Manager Development Management Brentwood Borough Council & Rochford District Council on 26 July and are as follows:
1. The proposed three storey buildings by reason of their height and location at the proposed new junction of Chelmsford (Western Gateway) and new entrance within Alexander Lane (Southern Gateway) do not respond sympathetically to the existing context of the area, which is predominantly two storey buildings, and are harmful to the character and appearance of the area, in conflict with local plan policy BE14 - 1.e.

2. There has been insufficient early, inclusive and effective engagement with the community in conflict with Policy BE14 - 2.a. and as such there has been failure to properly consider the needs of the community within the development.
3. The type, mix, and size of the affordable housing units, especially the three and four bedroom houses does not adequately reflect the Council's identified need as per paragraph 6.36 (p115 of the Adopted Local Plan) which identifies a need of 86% affordable/social rent and the Size & Tenure of all affordable housing required up to 2033, (figure 6.2 of the Adopted Local Plan also on p115) and therefore, the offer would not meet the aims and objectives of Policy HP05 because it would not meet the adopted requirements for affordable housing across tenure and size in the Borough.

4.23 These are the reasons that will be addressed at the Inquiry.

5. Planning Policy Context

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 The planning policy context to the Appeal Scheme is also detailed in the draft Statement of Common Ground and will be subsequently agreed with the Council. The Appellant will rely on the relevant policies and material planning policy considerations set out in the Planning Statement and as updated and summarised below.

The Development Plan

- 5.3 The Development Plan consists of:
- Brentwood Local Plan 2016 – 2033 (March 2022)
 - Essex Minerals Local Plan (July 2014)
- 5.4 A table providing a high-level summary of the relevant policies in the Development Plan; and based on the above assessments, the extent to which the proposed development complies, is provided in **Appendix 7**. The Appellant reserves the right to further consider and provide evidence regarding any other development plan policies raised by the Council.
- 5.1 In regard to the draft reasons for refusal, the most relevant development plan policies for this Appeal are considered to be the following:
- R03, Land North of Shenfield Site Allocation Policy
 - BE14, Creating Successful Places
 - HP01, Housing Mix
 - HP03, Residential Density
 - HP05, Affordable Housing
 - HP06, Standards for New Housing

- 5.2 Evidence will be provided to demonstrate that the Appeal Scheme is in accordance with the development plan as a whole and in particular the most relevant development plan policies.

Material Considerations

National Planning Policy Framework (NPPF)

- 5.3 Evidence will be presented to demonstrate how the Appeal Scheme complies with the current December 2023 NPPF.
- 5.4 It is also noted, at the time of submission of this appeal, that the new Labour Government published for consultation its proposed reforms to the NPPF and other changes to the planning system on 30 July 2024. At this time, it is considered that the Consultation NPPF is a material consideration of limited weight; however, that weight will change should a revised NPPF be published in time for the Inquiry. The Ministerial Statement of 30 July 2024 delivered by the Deputy Prime Minister, entitled, '*The Government's Plan to Build the Homes the Country Needs*' however, is considered to be a material consideration of moderate weight. Croudace will present evidence on this matter, and reserves its right to reference any revised NPPF, if published prior to the Inquiry.

Planning Obligations SPD (December 2023)

- 5.5 BBC published its Planning Obligations Supplementary Planning Document in November 2022, which was subsequently adopted on 20 December 2023.
- 5.6 Evidence will be presented to demonstrate how this SPD was considered in the preparation of the Appeal Scheme to inform the provision of infrastructure contributions to be secured via a S106 legal agreement.

CIL Charging Schedule (September 2023)

- 5.7 On 15 January 2024, BBC's adopted its CIL Charging Schedule of 27 September 2023 became effective (CIL Charging Schedule and Instalment Policy | Brentwood Council). The CIL rate for R03, Land North of Shenfield is £150/sqm. Evidence will be presented to show how the s106 legal agreement complies with this schedule.

Essex Design Guide

- 5.8 The Essex Design Guide (EDG) is supplementary planning guidance that has been considered in the preparation of the Appeal Scheme. It is used as a reference guide to help create high quality places with an identity specific to its Essex context.
- 5.9 The interactive online EDG sets out advice and recommended standards pertaining to multiple elements of design including but not limited to:
- Built context
 - Architectural design
 - Layout details
 - SuDs
 - Parking design
 - Air Quality
 - Safeguarded school site criteria
- 5.10 Evidence will be presented to demonstrate how this guidance has been incorporated into the Appeal Scheme.

Essex Design Guide Parking Standards: Design and Good Practice (September 2009)

- 5.11 The Essex Design Guide Parking Standards: Design and Good Practice document is supplementary planning guidance that has been considered in the preparation of the

Appeal Scheme to inform sitewide parking provision. Evidence will be presented to demonstrate how this guidance has been incorporated into the Appeal Scheme.

R03 Masterplan Development Principles (approved August 2023)

- 5.12 Following the adoption of the local plan, and to accord with Criterion 2a of Policy R03, which states, “*Development should be accompanied by a comprehensive masterplan and phasing strategy to inform detailed proposals as they come forward;*” the four developers of R03 produced a joint Masterplan Development Principles document, which was approved by officers (as promoted by the then Director of Place, Phil Drane, throughout the local plan examination and in subsequent meetings) on 3 August 2023. Despite the document being presented to an All Members Briefing meeting on 3 August 2022, it should be noted that, to date, BBC has yet to publish the Principles document on its website, but it is a material consideration.
- 5.13 Evidence will be presented to demonstrate how the Development Principles have been incorporated into the Appeal Scheme.

6. The Case in Favour of the Appeal Scheme

- 6.1 This Site forms the largest and most significant part of the second largest housing allocation (Policy R03) of the adopted BBC Local Plan. Evidence will be provided to demonstrate how the Appeal Scheme is in accordance with the development plan and other material considerations, and how important it is for housing supply in a borough that is 86% Green Belt, particularly against the specified housing trajectory of the adopted local plan, which is already some time behind schedule.
- 6.2 Evidence will be provided to demonstrate that given this housing need in the borough, the delivery of a policy compliant Scheme for new homes to meet local needs should be afforded substantial weight in the determination of this Appeal.
- 6.3 In response to the first draft Reason for Refusal, evidence will be provided which demonstrates that the Appeal Scheme has been designed to comply with the NPPF, the National Design Guide, the adopted Local Plan, the approved Masterplan Development Principles document, the Essex Design Guide and other material considerations.
- 6.4 Evidence will be provided to demonstrate how the Appeal Scheme has considered the Site's context, location, character and appearance, makes efficient and effective use of the Site, provides for a safeguarded site for a 2FE primary school and early years site, optimises density to meet Local Plan policy, whilst also taking into account the natural features of the Site, the significant constraints of the Site and the requirements of statutory consultees as well as providing significant benefits to new and existing residents, whilst addressing any potential adverse impacts.
- 6.5 In response to the second draft Reason for Refusal, the issue of engagement with the Council and/or local community is not a material consideration that goes to the planning merits of the application/Appeal Scheme. This is particularly true of a Local Plan allocation when full consultation on the allocation was undertaken in the development plan context.

- 6.6 Even if engagement was a consideration, the allegation is baseless. Croudace undertook full and meaningful engagement with both the Council and the local community before and during the applications as set out in the submitted Statement of Community Involvement.
- 6.7 It is also worth noting that the hybrid planning application was presented to the community and Members at meetings, presentations and on the development website as a single proposal. It was BBC that split the proposals into two planning applications and considered them separately at Planning Committee on 9 July 2024. Despite the second draft Reason for Refusal being applied to the full application for the housing proposals, the same Committee unanimously approved the outline application for the safeguarded school and early years nursery site directly afterwards, even though it had been subject to the same engagement process.
- 6.8 In response to the third draft Reason for Refusal, evidence will be provided to set out how through discussion and negotiation with Planning and Housing officers, the affordable housing mix requirements have moved on from those cited in the Local Plan, and how the final mix was agreed with BBC Planning and Housing officers, resulting in officers concluding in the Planning Committee report that *“the applicant’s willingness to amend the affordable housing proposal to contribute to easing pressure on the BBC Housing Need Register is commended”* (paragraph 9.104) and how both the market and affordable housing provision meets the requirements of Local Plan Policies HP01 (Housing Mix), HP05 (Affordable Housing) and HP06 (Standards for New Housing), and the Planning Obligations SPD.
- 6.9 Evidence will also be provided to demonstrate that given the significant affordable housing need in the Borough, the delivery of such affordable homes to meet local needs should be afforded substantial weight in the determination of this Appeal.
- 6.10 In addition, evidence will demonstrate how the following benefits of the Appeal Scheme should be given significant weight:
- The proposed development will retain, protect, enhance and create a variety of landscape features in association with the proposed new homes to provide a

variety of different spaces and experiences that transition between developed and natural areas.

- The site layout, design, and landscape features will promote active travel to optimise health and well-being, legibility and a strong setting and sense of place for the new homes as well as complementing local landscape character
- The proposals will provide a biodiversity net gain of 24% habitat units, 13.19% in hedgerow units and 22.19% in watercourse units (22.35%) which are all in excess of Government policy of 10%
- The proposals create a new parkland of nearly 4 hectares, continued access to Arnold's Wood, a variety of formal and informal play opportunities for all ages, incidental green spaces, tree lined roads and a myriad of footpaths and cycleways to allow new and existing residents easy access to public rights of way into Shenfield and the railway station, including the upgrading of the public right of way on site.
- The proposals provide a centrally located Plaza, to create a community heart to the development where people will naturally congregate and meet at the proposed school entrance. This is another large area and anchored by the only veteran tree on the Site which will take centre stage within a protected area creating an interesting visual and physical focal point.
- In total only c.9.47 hectares will be developed for housing at a density of 36.3 dwellings per hectare (within residential parcels) which strikes a balance between meeting all the housing standards of the Essex Design Guide within the constraints of the Site and optimising development of this allocated Site.
- The Flood Risk Assessment shows how existing flooding and drainage from the new housing will be managed to ensure the run-off from the development is no more than it is currently as an agricultural field. The flooding and drainage strategy also builds in a significant tolerance to allow for climate change to accord with the environment agency's requirements.

- The Site is located within easy walking and cycling distance to Shenfield and the railway station. To optimise health and well-being, the layout has been devised to prioritise walking and cycling, with vehicular traffic being considered last. The Transport Assessment sets out this strategy and assesses the traffic from the new development and its effects on the surrounding area, any mitigation required, including enhancements to the local bus service.
- To accord with the adopted Policy R03, Alexander Lane has been diverted into the Site to create a quiet lane for pedestrians and cyclists, as well as safer access to Shenfield School and its playing fields on the existing alignment and an improved route through the development Site linking to Chelmsford Road.
- The layout of the development and all the new homes promote a fabric first approach to ensure the buildings are thermally efficient and will meet the Future Homes Standards and will not have gas.

7. Planning Obligations

- 7.1 The Appeal Scheme includes provision of infrastructure and contributions towards improvements to existing infrastructure, which would be a significant benefit to the existing and future community.
- 7.2 The draft s106 legal agreement for the hybrid proposals (including the safeguarded site for the primary school and early years nursery, which received a resolution to grant on 9 July 2024) was substantively complete in relation to BBC contributions prior to committee on 9 July. Outstanding County Council matters on education, and the issues that remain between the appellant and the County Council, are set out in the Matters of Disagreement in the draft Statement of Common Ground. The latest version of the s106 is at **Appendix 5** of this Statement of Case.
- 7.3 Subject to adequate justification from BBC and the County Council that demonstrates that the identified contributions and/or planning obligations are necessary to make the development acceptable in planning terms, in accordance with Regulation 122 of the CIL Regulations 2010 (as amended), a Section 106 Agreement will be negotiated during the Appeal and Heads of Terms confirmed as part of the Statement of Common Ground. It is intended that this would be submitted ahead of the Inquiry.
- 7.4 The following Heads of Terms are likely to be included in the s106 agreement:
- Policy-compliant provision of affordable housing
 - Custom build dwellings
 - On site open space, tree, woodland and veteran tree management
 - Biodiversity net gain
 - The provision of the education site
 - Contributions for healthcare provision
 - Contributions for off-site outdoor sport provision
 - Contributions to early years and childcare provision
 - Contributions to primary and secondary education provision
 - Contributions to library provision
 - Contributions to off-site highways provision

- Contributions to BBC IDP items
- S106 monitoring contribution.

7.5 The Appeal Site also falls within the BBC Community Infrastructure Levy charging schedule. The CIL rate for R03, Land North of Shenfield is £150/sqm. The Appellant shall also pay any requisite charge towards Community Infrastructure Levy as set out in the Council's charging schedule.

8. Conclusions

- 8.1 The appellant is disappointed that following extensive pre-application and post-submission engagement, and the preparation of the approved joint R03 Masterplan Development Principles document, the Council resolved to refuse the full application at Planning Committee on 9 July 2024. This is despite the application being policy compliant and all technical matters being addressed to the satisfaction of each statutory consultee resulting in the application receiving no objections from any statutory consultee, and Officers strongly supporting the planning application, as demonstrated in the Committee Report.
- 8.2 The decision is surprising given the Site is allocated in the adopted Local Plan, contributes significantly to the Council's housing supply and trajectory and the critical need for affordable housing in the Borough.
- 8.3 It will be argued that the Council has failed to understand the importance of these issues and has failed in its duty to determine the application in accordance with its own adopted Local Plan.
- 8.4 Evidence will also be provided that demonstrates that the Appeal Scheme is in accordance with the development plan and relevant material considerations. These material considerations include the extensive benefits that arise from the Appeal Scheme.
- 8.5 Evidence will be prepared to demonstrate that the Reasons for Refusal cannot be substantiated.
- 8.6 On this basis, it will be requested that the Appeal is allowed and planning permission granted without delay.

Appendix 1: Planning Committee Report, 9 July 2024

Appendix 2: Site Location Plans

Appendix 3: Policy R03 and Policy Map Extract

Appendix 4: Masterplan Development Principles document

Appendix 5: Latest Draft s106

Appendix 6: Members Briefing Leaflet

Appendix 7: Relevant Development Plan Policies Compliance Table