

**Statement of Case
of Brentwood
Borough Council
(‘LPA’)**

Public Inquiry

Appellant: Croudace Homes Ltd.

**Appeal Site: Officers' Meadow, Land
North of Shenfield, Alexander Lane,
Shenfield, Essex, CM15 8QF**

LPA Reference: 23/01164/FUL

**PINS Reference:
APP/H1515/W/24/3353271**

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Signed:

For and on behalf of Lambert Smith Hampton

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1.0 Introduction

1.1 This Statement of Case has been prepared on behalf of Brentwood Borough Council ('BBC') following the submission of a non-determination appeal ('the Appeal') by Croudace Homes ('the Appellant').

1.2 The Appeal is against BBC's decision to refuse planning permission pursuant to the following application:

'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.'

1.3 Post-submission, BBC split the hybrid application into two distinct planning applications, 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.*

1.4 Both the full and outline applications were considered at BBC's Planning Committee on 9 July 2024. The Appellant's Appeal is brought against only the full application (23/01164/FUL). The outline application was approved by the Committee, but no Decision Notice has yet been issued.

1.5 The Planning Committee voted to refuse the full planning application (Appeal Scheme). Reasons were cited at the Committee meeting, but the Appeal was lodged before a formal Decision Notice was issued.

1.6 At the Planning Committee, Members put forward the following as forming the basis for its refusal of planning permission:

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.

- 1.7 At the request of the Appellant, the possible reasons for refusal were sent to the Appellant team with some added precision. The Appellant subsequently decided to Appeal against non-determination.
- 1.8 With the added precision, the text sent to the Appellant was 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.*
- 1.9 The Appellant team considers (wrongly) that these are the only issues that it needs to consider at the Inquiry.
- 1.10 BBC will set out very clearly why the proposals do not accord with its development plan, being in conflict with Policy R03, Policy HP05 and Policy BE14. These are serious breaches which were recognised by the Planning Committee Members. The design objections are symptomatic of failings to meet the Council's design and community objectives.
- 1.11 BBC will demonstrate that the proposed development provides very real policy conflicts:
- The proposed design does not relate to local heights and is unsympathetic to its context.
 - The proposal fails to provide a high-quality successful place, including all of the uses required under Policy R03, and fails to provide any community uses, let alone the required "*wide range of new community services and facilities*", as referenced in the policy's supporting text. (Analysis encompassing other R03 plots will be provided).
 - The Appellant's level of engagement fell short of the requirements for a development of this scale and importance to the town and was ineffective, as evidenced by:

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- The Appellant's reliance on a Masterplan which was produced by the Appellant's own team, without any consultation with members of the public (and which has not been adopted by BBC); and
 - The Appellant's lack of responsiveness to community concerns.
- The affordable housing proposals do not meet the requirements set out in the development plan and do not meet the needs of local families. The evidence required under policy to justify an exception has not been provided.
 - At present, the proposal would not secure the land for the primary school as well as the early years and childcare facility. The latter are not provided for in the event that the primary school does not come forward. A suitable drop-off area needs to be concluded.

2.0 Site and Surroundings

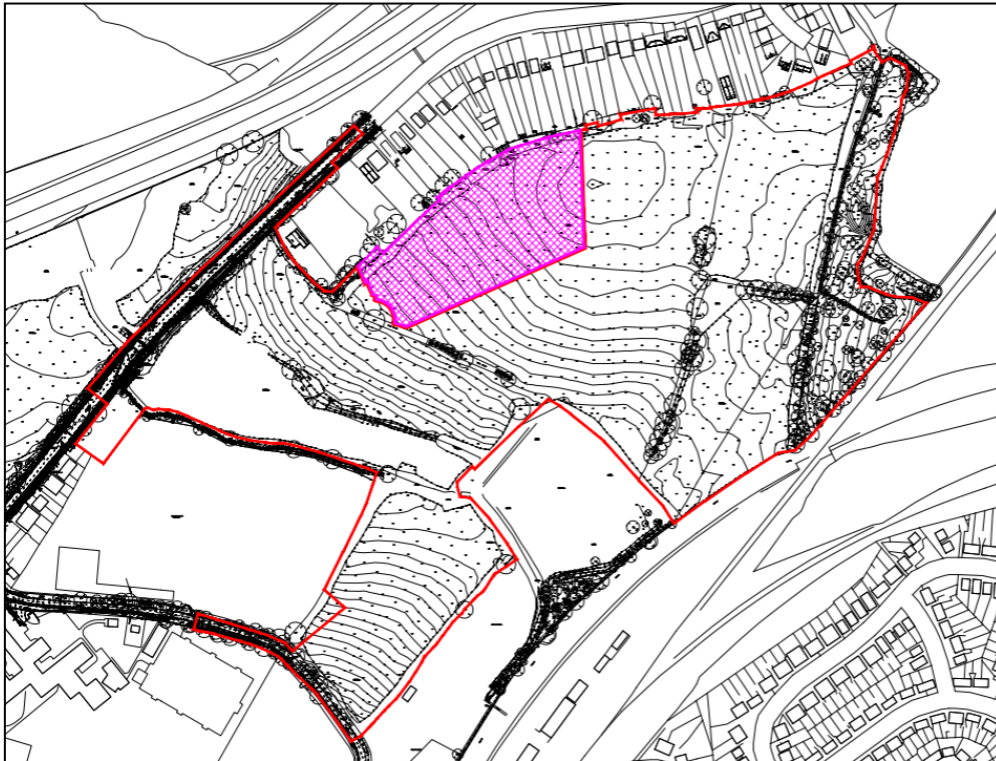
- 2.1 The Appeal Site measures 19.14ha in total and is located to the north of Shenfield. It was released from the Green Belt with the adopted of the Local Plan, in March 2022, to provide for expansion of the town.
- 2.2 The Appeal Site itself has an irregular shape and forms one part a comprehensive allocation being delivered by four separate developers. The plan below in **Figure 2.1** illustrates broadly the approach. The closest existing housing (Chelmsford Road) is clearly seen as sitting between the parcels being brought forward by Countryside, Redrow and the Appellant.

Figure 2.1 – Developer Parcels – Source FINC Architects – Development Framework



- 2.3 The Appellant's land consists of six tree-lined agricultural fields, predominantly featuring rough grassland/scrubland. The site has a varied topography, with land sloping down towards the centre of the site, where there is a Critical Drainage Area, and a smaller area that falls within Flood Zones 2 and 3.
- 2.4 **Figure 2.2** below shows the Appeal Site location plan, illustrating the hybrid application site in red, with the school OPP site highlighted. The contours help show how the levels change across the site. The existing Arnold's Wood lies outside of the red line application, which is the wooded area that projects into the site. The plan also illustrates the tree belts.

Figure 2.2 – Extract from the Site Location Plan (ref. 22.1643.120 revA). The school parcel is indicated in pink.



- 2.5 The arboricultural character of the site is defined by native, broadleaved, trees growing in belts along the site perimeter and internal field boundaries, and which together delineate the mosaic of fields that constitute the site at large. The key elements are a veteran tree in proximity of the Chelmsford Road entrance, the Ancient Woodland (Arnold's Wood, also a Local Wildlife Site) located along the east boundary, and 47 trees covered by a tree preservation order (TPO).
- 2.6 Vehicular, cycle and pedestrian access into the site is both from Chelmsford Road to the west and Alexander Lane to the south-west. A Public Right of Way (PRoW 272_86) runs along the western edge of Arnold's Wood and parallel to the railway to the south-east, connecting Chelmsford Road with Alexander Lane further to the south-west. **Figure 2.3** shows the current route and how the Appeal Scheme seeks to divert this across the housing development.
- 2.7 To the west and north, the site is bounded by Chelmsford Road (A1023), which runs south-west to Shenfield and north-east to Mountnessing. Whilst a part of the Appeal Site lies adjacent to Chelmsford Road, much of the northern boundary, where the school parcel is, is separated from the highway by a single line of residential houses. These houses front onto Chelmsford Road, so the school parcel is partly adjacent to rear garden boundaries to the north. Chelmsford Road comprises 2-storey detached and semi-detached houses, with some bungalows. There

is nothing higher than 2-storeys, and the buildings are set back from the road with large forecourts or gardens. There are various architectural styles, but with some common elements.

Figure 2.3 – Existing and Proposed Public Right of Way – source: Planning Application



- 2.8 Further to the south of the R03 Land and to the south-west is more arable land, the grounds of Shenfield High School and the Alexander Lane playing fields. To the north of the R03 Land, the A12 provides a significant barrier and separates the Appeal Site from the wider agricultural landscape.
- 2.9 To the east, Arnold’s Wood separates the Appeal Site from arable land (also within the R03 allocation boundary: the Redrow Homes scheme). The Great Eastern Main Line railway tracks run along the south-east boundary of the Appeal Site. Further to the south is the area of Hutton and Long Ridings Primary School.
- 2.10 There are no listed heritage assets located on the Appeal Site. The closest is Grade II Listed Milestone, on the road verge opposite No. 179 Chelmsford Road.
- 2.11 The Appeal Site is a 20-minute walk, and a 10-minute cycle ride, away from Shenfield Town Centre where multiple local services, facilities and amenities are located, including Shenfield railway station which provides regular services to London and Heathrow Airport (Elizabeth Line); and Southend, Colchester, Chelmsford, and Ipswich (Great Eastern Main Line).

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- 2.12 There are also bus stops on Chelmsford Road to the north-west and Long Ridings Avenue to the south, approximately 400m and 500m walking distance from the Appeal Site, providing services to Brentwood, Shenfield, Chelmsford, and other neighbouring towns and villages. Therefore, the Appeal Site benefits from very good public transport accessibility.
- 2.13 From the Appeal Site, cyclists can access Shenfield to the south-west, including the train station, Ingatestone to the north-west, as well as Brentwood town centre further to the south-west within a 5km distance.
- 2.14 The road network around the Appeal Site includes the Chelmsford Road (A0123) 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 Appeal Site, offering access to surrounding facilities and communities.

3.0 Planning History and Handling of the Application by BBC

- 3.1 The Appeal Site has no planning history.
- 3.2 The land surrounding the Appeal Site and part of the R03 policy designation is subject to the following applications:

Stonebond (24/00332/FUL): *New residential development comprising the construction of 38 No. dwellings together with new vehicular and pedestrian access from Alexander Lane, car parking, private gardens, open space, landscaping, suds attenuation and associated development*

Redrow (22/01324/FUL): *Construction of 191 dwellings (Class C3), public open space, landscaping, sustainable urban drainage, access and associated infrastructure.*

Countryside (24/00051/FUL): *Hybrid Application: Full application for the construction of 142 residential dwellings, including affordable housing, open space, a children's play area, and landscaping. Outline planning permission is also sought for the construction of a Care Home (Use Class C2) with reserved matters for appearance, layout, landscaping, and all other matters in detail.*

Handling of the Appeal Application by BBC

- 3.3 The Appellant engaged in BBC's 'Pre-application Service'. Formal pre-application meetings were held via MS Teams on 7 March 2023 and 6 July 2023.
- 3.4 The proposals were presented to the Essex Quality Review Panel on 7 June 2023. The feedback provided by the Panel will be seen as part of the Appeal documents.
- 3.5 The Appeal Application was submitted on 11 September 2023. The Council 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 2FEsafeguarded primary school and early years site.*

- 3.6 The Appeal Application was validated on 9 October 2023 and the statutory determination date was 8 January 2024.
- 3.7 In response to a number of statutory consultee comments, the Appellant submitted two amendment packs on 8 March 2024 and 21 June 2024, with further minor amendments

submitted in May 2024. The amendments related to internal highway issues, additional information on flood risk modelling, some minor layout issues, a revised BNG calculation and façade treatment changes.

- 3.8 Given these changes, Formal Extensions of Time for determination of the application were agreed on the following dates:
- 15 March 2024
 - 26 April 2024
- 3.9 The two applications were heard at BBC's Planning Committee on 9 July 2024. Before this meeting, additional information was submitted for consideration but not subject to formal consultation. The Planning Committee voted to refuse the full planning application, the Appeal application, and cited the reasons for doing so.
- 3.10 At the request of the Appellant, indicative formal reasons for refusal were emailed to the Appellant on 26 July. Whilst further discussions were encouraged, the Appellant decided to lodge the Appeal in November 2023.

4.0 The Appeal Scheme

4.1 The 'Description of Development' is:

'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.'

4.2 The Appeal Scheme proposed the following:

- 344 dwellings;
- 35% Affordable units;
- Safeguarded land for a 2FE primary school and early years facility;
- Public Open Space to include Local Equipped Area for Play (LEAP); and
- Associated landscaping, drainage and highways infrastructure.

4.3 The proposed affordable mix is as follows as set out in our **Table 4.1**.

Table 4.1 Proposed Affordable Housing by Mix and Tenure

Property Type	No. of Units	%	Affordable Rent	Shared Ownership
1 Bedroom	33	27%	17	16
2 Bedroom	73	60%	33	40
3 Bedroom	13	11%	6	7
4 Bedroom	2	2%	1	1
Total	121	100%	57 (47%)	64 (53%)

4.4 The application documents will be agreed as part of the Statement of Common Ground, but a summary list is provided here:

- Land Use Plan No. 3117/A/1201/PR/C
- Proposed drawings (to be agreed in the Statement of Common Ground)
- Planning Statement including Affordable Housing Statement
- Design and Access Statement
- Draft Section 106 Heads of Terms
- Schedule of Accommodation
- Statement of Community Involvement
- Landscape and Visual Impact Assessment
- Transport Assessment and Travel Plan Measures
- Air Quality Assessment
- Noise Impact Assessment
- Archaeological Desk Based Assessment
- Health Impact Assessment

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- Arboricultural Impact Assessment
 - Veteran Tree Survey
 - Energy Strategy
 - Sustainability Statement
 - Desk based Heritage Assessment
 - Lighting Strategy
 - Ecological Assessment
 - Biodiversity Net Gain Assessment
 - Landscape and Biodiversity Management Plan
 - Flood Risk Assessment

5.0 Planning Policy

- 5.1 The adopted development plan comprises the Brentwood Local Plan ('BLP') 2016-2033 (March 2022) and the Essex Minerals Local Plan (July 2014).
- 5.2 The most relevant policy is the BLP Policy R03 which deals specifically with the Appeal Site as it forms one part of this land use designation. Other parts of the designation are addressed by other developers through their individual planning applications.
- 5.3 The full text for R03 is as follows:

Land north of Shenfield, known as Officer's Meadow and surrounding land is allocated for residential-led mixed-use development.

1 Amount and Type of Development

Development should provide:

- a. around 825 new homes;***
- b. around 2.1 hectares of land for a co-located primary school and early years and childcare nursery;***
- c. around 60 bed residential care home or an appropriate mix of specialist accommodation to meet identified needs, in accordance with policy HP04;***
- d. 5% self-build and custom build across the entire allocation area; and***
- e. around 2ha of land for employment purposes which may include light industrial, offices, research and development (within class E) or other sui generis employment uses which are compatible with the residential development.***

2 Development Principles

Development should:

- a. be accompanied by a comprehensive masterplan and phasing strategy to inform detailed proposals as they come forward;***
- b. be of a design quality and layout that reflects its key gateway location, particularly on land near to Junction 12, A12;***
- c. provide vehicular access via Chelmsford Road (A1023) and Alexander Lane;***
- d. allow if possible for the diversion of Alexander Lane to create a quiet lane for pedestrians and cyclists, with the provision for new and improved route through the development site linking to Chelmsford Road;***
- e. enhance walking, cycling and public transport services with Shenfield station and local services and facilities in the wider area, including Brentwood Town Centre;***
- f. provide well-connected internal road layouts which allow for good accessibility;***
- g. provide new multi-functional green infrastructure including public open space in accordance with Policies NE02 and NE05;***
- h. maintain and enhance Public Rights of Way within the site and to the wider area;***
- i. protect and where appropriate enhance the Local Wildlife Site (Arnold's Wood).***
- j. provide for appropriate landscaping and buffers along sensitive***

boundaries adjoining the A12 and railway line.

- k. maintain the same amount of existing playing field provision on site or, where this cannot be achieved, provide replacement playing fields (including supporting ancillary facilities) of equivalent or better provision in terms of quantity and quality in a suitable location prior to commencement of development on the playing field. Any replacement playing field provision should not prejudice Shenfield High School or the community from meeting their playing pitch needs; and*
- l. be designed to ensure a coherent functional relationship with the existing development, which should be well integrated into the layout of the overall masterplan.*

3 Infrastructure Requirements

Proposals should:

- a. provide pedestrian and cycle crossing points across Chelmsford Road (A1023) where appropriate;*
- b. provide an improved bus service;*
- c. as the site is located within a Critical Drainage Area, development should minimise and mitigate surface water runoff in line with Policy BE05 Sustainable Drainage.*

4 Infrastructure Contributions

Applicants will also be required to make necessary financial contributions via planning obligations towards:

- a. off-site highway infrastructure improvements as may be reasonably required by National Highways and Essex County Council in accordance with policies MG05 and BE08 (the planning obligation will determine the level and timing of payments for these purposes);*
- b. 'quiet way' cycle routes connecting transfer hubs to schools in Brentwood Town Centre.*

5.4 Policy R03 therefore lists criteria which need to be met in order for development to comply with the development plan. It specifies the Amount and Type of Development, Development Principles, Infrastructure Requirements and Infrastructure Contributions (see below).

5.5 It is to be noted, in particular, that the allocation is for a “residential-led **mixed use development**”. In particular, aside from residential, the other uses which are specified as being required are as follows, only the first of which is proposed by the Application: provision of around 2.1 ha of land for a primary school and early years nursery; a 60-bed care home or an “appropriate mix of specialist accommodation to meet identified needs”; and around 2 ha of land for employment uses “... **within class E ... or other sui generis employment uses which are compatible with the residential development**” (which employment uses therefore include food retail, restaurant and other leisure uses).

5.6 It should further be noted that paragraph 9.103 of the supporting text to Policy R03 states as follows:

“9.103 Given the scale of development, a wide range of new community services and facilities including a new co-located primary school and early years and childcare nursery, open space and play facilities are required. These services and facilities should be of an appropriate scale to serve the new communities and located where they will be easily accessible by walking, cycling and public transport.”

[Emphasis added]

5.7 Accordingly, Policy R03 is seeking a “mixed-use development” containing not just residential, a primary school/nursery, and Class E and sui generis employment uses, but also **requires** a **“wide range of new community services and facilities”** (not relying, therefore, on community services and facilities that already exist elsewhere, a 20-minute walk away in Shenfield).

5.8 Instead of one planning application addressing these policy requirements, there are 5 planning applications (one for a school) brought forward by four developers, and jointly between them they produced a “Masterplan Development Principles Framework (2023)” (‘the Development Framework’). This document is not an adopted document, however, and the public have never been consulted about it.

5.9 In addition to the site-specific policy, there are more general policies, which need to be considered. A list of relevant policies will be agreed with the Appellant; however, the following are particularly relevant to the BBC’s case:

- Policy MG04: Health Impact Assessment
- Policy MG05: Developer Contributions
- Policy BE09: Sustainable Means of Travel and Walkable Streets
- Policy BE10: Sustainable Passenger Transport
- Policy BE13: Parking Standards
- Policy BE14: Creating Successful Places
- Policy BE15: Planning for Inclusive Communities
- Policy HP01: Housing Mix
- Policy HP03: Residential Density
- Policy HP04: Specialist Accommodation
- Policy HP05: Affordable Housing
- Policy PC11: Education Facilities
- Policy NE01: Protecting and Enhancing the Natural Environment
- Policy NE02: Green and Blue Infrastructure
- Policy NE03: Trees, Woodlands, Hedgerows
- Policy NE05: Open Space and Recreation Provision

5.10 The key policies include Policy HP05 which states as follows:

Affordable Housing

1. **The Council will require the provision of 35% of the total number of residential units to be provided and maintained as affordable housing within all new residential development sites on proposals of 10 or more (net) units.**
2. **In considering the suitability of affordable housing, the Council will require that:**
 - a. **the tenure split be made up of 86% Affordable/Social Rent and 14% as other forms of affordable housing (this includes starter homes, intermediate homes, and shared ownership and all other forms of affordable housing as described by national guidance or legislation) or regard to the most up to date housing evidence;**
 - b. **the affordable housing be designed in such a way as to be seamlessly integrated to that of market elements of a scheme (in terms of appearance, build quality and materials) and distributed throughout the development so as to avoid over concentration in one area; and**
 - c. **the type, mix, size and cost of affordable homes will meet the identified housing need as reported in the Council's most up-to-date housing evidence.**
3. **In seeking affordable housing provision, the Council will have regard to scheme viability; only where robust viability evidence demonstrates that the full amount of affordable housing cannot be delivered, the Council will negotiate a level of on-site affordable housing that can be delivered taking into account the mix of unit size, type and tenure and any grant subsidy received.**

5.11 It will be seen from the above that the Policy HP03 requirement with regard to the tenure split of affordable housing is 86% Affordable/Social Rent and 14% other, and that “robust viability evidence” is required to justify departure from its affordable housing requirements.

5.12 The indicative size guide for affordable housing is contained in Figure 6.2 of the BLP. This is reproduced below in **Table 5.1**. Paragraph 6.36 of the BLP states that: *‘The Council’s SHMA indicates that within the affordable housing sector there is a need for 86% affordable/social rent. Figure 6.2 below will be used to inform negotiations between the Council and developers to determine the appropriate tenure and mix of affordable housing’.*

Table 5.1 – Taken from the BLP Figure 6.2: Indicative Size Guide for Affordable Housing

Tenure	% Split	One bedroom	Two bedrooms	Three bedrooms	Four/+ bedrooms	Total Size
Affordable rent/Social rent	86%	31%	24%	19%	26%	100%
Other forms of affordable housing	14%	28%	36%	24%	12%	100%
Total Tenure	100%					

5.13 Other key policies comprise:

- Policy BE14; Creating Successful Places
- Policy BE15: Planning for Inclusive Communities

5.14 Parts e and f of BE14 are relevant:

e. respond positively and sympathetically to their context and build upon existing strengths and characteristics, and where appropriate, retain or enhance existing features which make a positive contribution to the character, appearance or significance of the local area (including natural and heritage assets);

f. integrate and enhance the natural environment by the inclusion of features which will endure for the life of the development, such as planting to enhance biodiversity, the provision of green roofs, green walls and nature based sustainable drainage;

5.15 The policy includes securing other amenity safeguards for new housing. Part 2 of the policy is also important:

Design proposals will be expected to:

a. demonstrate early, proactive, inclusive and effective engagement with the community and other relevant partners;

b. have regard to Supplementary Planning Documents and Guidance published by the Council, Essex County Council and other relevant bodies;

c. address feedback from the Council through its Pre-application Advice Service and where appropriate, feedback from an independent Design Review Panel.

5.16 Policy BE15 has significant requirements and we quote just one part of the text:

To plan for and build inclusive environment that supports our residents and communities, the Council will require new development proposals to:

a. provide access to good quality community spaces, services and amenities and infrastructure that accommodate, encourage and strengthen communities and social interaction for all users;

b. create places that foster a sense of belonging and community, where individuals and families can develop and thrive...

5.17 Turning to housing mix, the indicative size guide in the BLP for market housing up to 2033 is 1 bed (3.8%), 2 bed (35.8%), 3 bed (30.2%) and 4 or more bedrooms (30.2%).

5.18 The relevant Supplementary Planning Document ('SPD') comprise:

- BBC Planning Obligations SPD 2023
- Essex CC Developers' Guide to Infrastructure Contributions 2023

5.19 Other material considerations are:

- National Planning Policy Framework ('NPPF') 2024
- Planning Practice Guidance ('PPG')
- National Design Guide (2021)
- Essex Developer Design Guide (2018)
- BBC Infrastructure Delivery Plan ('IDP') 2021

5.20 The Appellant's team has suggested that the Development Framework referred to in paragraph 5.8 above is a material consideration. However, this will be a matter for the decision-maker given that this document has never been the subject of public consultation, has not been approved by a Council Committee and has never been adopted by the Council. It is an applicant-prepared document which has been approved at Officer-level only, to assist with consideration of the planning applications for the R03 Land.

6.0 BBC's Case

- 6.1 BBC's case starts and finishes with the need for compliance with the development plan policies. It is considered that the conflict is so significant that all other material considerations do not outweigh these objections. The positive matters cited by the Appellant are requirements of the BLP as part of the justification for the release of the land from the Green Belt.

Policy RO03: The Site Allocation

Mixed Uses

- 6.2 BBC recognises that site is allocated for development, but it is significant that this allocation is for a residential-led **mixed-use development**. The policy allocation requires in addition to housing:
- b. around 2.1 hectares of land for a co-located primary school and early years and childcare nursery;**
 - c. around 60 bed residential care home or an appropriate mix of specialist accommodation to meet identified needs, in accordance with policy HP04;**
 - d. 5% self-build and custom build across the entire allocation area; and**
 - e. around 2ha of land for employment purposes which may include light industrial, offices, research and development (within class E) or other sui generis employment uses which are compatible with the residential development.**
- 6.3 Furthermore, and as noted in paragraphs 5.6-5.8 above, in addition to requiring a "mixed-use development" containing not just residential, a primary school/nursery, and Class E and sui generis employment uses, Policy RO03 also **requires** a **"wide range of new community services and facilities"**.
- 6.3 The Council's opposition to the Appeal proposal starts from the premise that it is a residential-only development and that the necessary mix of uses across the R03 land is not being provided.
- 6.4 Looking, first, at the requirement for there to be employment uses in the mix, the Development Framework confirms, at page 62, that interest has been expressed from employment-generating "food retail, restaurant and other leisure users", within Class E, so there is no reason why the Appeal Site could not accommodate such uses.
- 6.5 Looking, second, at the requirement to provide a wide range of new community services and facilities (which the Development Framework also references¹), the provision of food retail, restaurant and other leisure uses would both add to the "sense of community" and assist in

¹ A place with a "sense of community" (page 12) with a "Community Heart" (page 26),

providing a “Community Heart” for the development sought by that allocation, as expressly referenced in the Development Framework².

6.6 For these reasons, the proposed development is in fundamental conflict with the mix of uses that Policy RO03 requires.

6.7 Furthermore, whilst it is acknowledged that the Appellant is providing land for a school, this is to be returned after a 10-year period if it is not used for this purpose. In these regards, it is therefore significant that it was part of the Appellant’s planning application submission that there is no need for a school. Not only is no alternative community or employment use proposed should the school not come forward, there is at the moment no agreed mechanism for the school land which meets the requirements of the Local Education Authority, namely Essex County Council.

Other Policy RO03 Requirements

6.8 There are other matters that are on the policy requirements list are:

- Enhanced walking, cycling and public transport services with Shenfield station and local services and facilities in the wider area, including Brentwood Town Centre;
- Provision of well-connected internal road layouts which allow for good accessibility;
- Provision of new multi-functional green infrastructure including public open space in accordance with Policies NE02 and NE05;
- Maintenance and enhancement of the Public Rights of Way within the site and to the wider area;
- Protection and where appropriate enhancement of the Local Wildlife Site (Arnold’s Wood).
- Provision for appropriate landscaping and buffers along sensitive boundaries adjoining the A12 and railway line.

6.9 These are all essential items for compliance with the Council’s policies.

Masterplan

6.10 Before bringing forward a proposal, the policy requires a Masterplan. Paragraph 9.102 of the supporting text to Policy RO03 states that:

“As the allocation comprises a number of parcels which could be brought forward at different times, it is important that consideration is given to how the site will develop

² *Ibid.*

holistically. As individual parcels are brought forward, any masterplan will need to appropriately consider and reflect what is being proposed elsewhere on the site”.

- 6.11 Part 2a of the policy and the above paragraph are very important in their drafting. Part 2a states that **‘development should be accompanied by a comprehensive masterplan and phasing strategy to inform detailed proposals as they come forward’**. It does not say that the Masterplan should set out detailed proposals or be prescriptive. The Masterplan has not been produced by the Council and should have limited weight on decision-making when matters beyond broad parameters and phasing are being considered.

Other Policy Conflicts

- 6.12 There are other policies which the developer is required to meet through the development plan. Whilst the developer may propose exceptions or deviations to policies, the Council has to consider the contents of its statutory development plan and the Appellant needs to justify why compliance with policy should be set aside.
- 6.13 In this case, the breaches of planning policy are serious for the local community and the Council.

Design

- 6.14 There are strong Local Plan policies on design, and these are also present in the Site Allocation R03. Furthermore, the NPPF emphasises the need for high quality design and creating a sense of place.
- 6.15 The Appeal Scheme’s approach to scale and massing is not one which secures integration into the existing site context, its landscape setting or the existing community. The Council in its policy wants and deserves:

“... a high quality sustainable new development that maximises opportunities for travel by sustainable modes.” (Paragraph 9.101). The design has to be of “a design quality and layout that reflects its key gateway location, particularly on land near to Junction 12, A12.”

The evidence will address this point in particular.

- 6.16 The design requirements of R03 are highlighted above, but general design policies BE14 and BE15 are very relevant. These require a positive response to the character of the area and its context.
- 6.17 It is the Council’s case, as outlined in the draft Decision Notice, that the proposed 3-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 2-storey

buildings, and would be harmful to the character and appearance of the area, in conflict with local plan policy BE14 - 1.e.

Affordable Housing Mix

6.18 In particular, the Appellant’s approach towards affordable housing and residential mix is not one consistent with the development plan. The Council’s need for affordable housing is set out in policy and provides that developers will need to justify where proposals deviate. Paragraph 9.101 of the BLP in relation to the R03 Land states that the site:

“... will provide a mix of size and type of homes including affordable, self-build and custom build, appropriately accessible and adaptable housing, as well as other types of specialist housing in accordance with the Council’s policy requirements.”

6.19 The Council requires (Policy H05) the provision of 35% of the total number of residential units to be provided and maintained as affordable housing within all new residential development sites on proposals of 10 or more (net) units. The desire for these to be ‘maintained’ is contained in part 2a of the policy – some 86% should be Affordable/Social Rent (Policy H05 2a)

6.20 Part 3 of the policy states that:

“In seeking affordable housing provision, the Council will have regard to scheme viability; only where robust viability evidence demonstrates that the full amount of affordable housing cannot be delivered, the Council will negotiate a level of on-site affordable housing that can be delivered taking into account the mix of unit size, type and tenure and any grant subsidy received.”

Affordable Housing Tenure

6.21 In these regards, and applying the percentages in Table 5.1 above, as required by paragraph 6.36 of the supporting text to Policy HP05, that means that of the 121 (35% of 348) affordable dwellings proposed by the Appeal Application, 105 (86%) should be “affordable/social rent” and only 16 (14%) in “other” forms of affordable housing. (Moreover, this is essentially confirmed in the Table on page 67 of the Development Framework).

6.22 The Appeal Application is in dramatic contrast with that required split, however:

Type	Policy Compliant	Proposed
Affordable/Social Rent	105 (86%)	57 (47%)
Other	16 (14%)	64 (53%)

6.23 The Appellant’s approach towards affordable housing tenure is not remotely consistent with the development plan, therefore. When the development plan requires 105 of the proposed dwellings to be affordable/social rent, just 57 of proposed. Furthermore, the Appellant has produced no viability evidence, let alone robust viability evidence, to justify this departure from the development plan’s requirements.

Bedroom/Size

6.24 Moreover, that which is proposed departs markedly from that which Policy supports in terms of mix regarding bedrooms also. In particular, to be policy-compliant the mix should be as marked below in black, when what is proposed is in red:

Tenure	% Split	One Bedroom	Two Bedrooms	Three Bedrooms	Four/+ Bedrooms
Affordable Rent/Social Rent	105 (86%) 57 (47%)	33 (31%) 17	25 (24%) 33	20 (19%) 6	27 (26%) 1
Other	16 (14%) 64 (53%)	4 (28%) 16	6 (36%) 40	4 (24%) 7	2 (12%) 1

6.25 That means that when the development plan is seeking 47 x 3- and 4-bed affordable/social rent homes from the proposed development, just 7 are being proposed; then, overall, the LP is seeking a total of 53 x 3- and 4-bed affordable homes from the proposed development, just 15 are being proposed; and when, overall, the LP is seeking a total of 29 x 4-bed affordable homes from the proposed development, just 2 are being proposed.

6.26 Moreover, that conspicuous under-provision of larger accommodation for families in affordable housing need is to be seen in the light of the comment, at paragraph 9.95 of the Officer's Report, that:

"... the BBC Housing Need Register ... clearly shows a strong, long-term need for family units (2bed+)."

Once again, the Appellant has provided no evidence on economic viability which sets out why the full number of 3- and 4-bedroom houses.

6.27 For all of these reasons, the Appeal Scheme does not meet the aims and objectives of Policy HP05 and would not meet the adopted requirements for affordable housing across tenure and size in the Borough. There is a clear conflict with the BLP in this regard and this has not been justified with transparent viability evidence.

7.0 Witnesses and Evidence

- 7.1 It is currently anticipated that the Council will present evidence in respect of:
- a) The application of the Appeal Proposals to Policy R03 and how it does not comply with this policy;
 - b) The design approach and how this does not meet the Council's policies BE14 and BE15;
 - c) The conflict with the Council's Affordable Housing and Housing Mix policies, namely HP01 and HP05;
 - d) The failures in responding positively to consultation and engagement as required by Council policy BE14;
 - e) The infrastructure requirements of the Appeal Site and why these are not yet secured by the Appeal Proposals
- 7.2 Accordingly, the following Proofs of Evidence will be provided on behalf of the Council:
- a) Proof of Evidence – Mr Jeffrey Field MA MRTPI MRICS Planning Director of Lambert Smith Hampton;
 - b) Evidence of Councillor Philip Mynott; and,
 - c) Evidence of Councillor Gareth Barrett.
- 7.3 Mr Field will deal with the failings of the scheme in meeting the policy aspirations of the development plan.
- 7.4 Councillor Mynott will address in a shorter paper the concerns of the Planning Committee, including why the Planning Committee took its decision. In addition, Councillor Gareth Barrett of the Council's Housing Committee will also provide a Note for the Inquiry.

8.0 Outstanding Issues

Legal Agreement

- 8.1 A draft s106 Agreement has been progressed by the respective parties. Further discussion and agreement is needed on certain clauses, in particular in delivering the safeguarding of the land for the education facilities.

Conditions

- 8.2 In line with paragraph 56 of the NPPF (2024), and without prejudice to the Council's Case, BBC will engage with the Appellant to provide, as part of the Statement of Common Ground a list of "recommended conditions" in the event the Planning Inspectorate allows this Appeal.
- 8.3 As directed by the Planning Inspectorate, BBC will seek to resolve as many outstanding issues as possible, and if the Inspectorate allows, seek to provide an updated Statement of Common Ground during the course of the Appeal process as needed.