

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

**Proof of Evidence of
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MRTPI MRICS**

**On behalf of Brentwood
Borough Council**

**LPA Reference:
23/01164/FUL
PINS Reference:
APP/H1515/W/24/3353271**

21 January 2025



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1.0 Qualifications and Experience

- 1.1 I am Jeffrey Stuart Field and a Planning Director at Lambert Smith Hampton, where I have worked for just over 2 years. I am a Member of the Royal Town Planning Institute and a Member of the Royal Institution of Chartered Surveyors.
- 1.2 I have worked in the planning profession for over 40 years. This has included working in local government and in the private sector. I hold a Bachelor of Arts degree in Geography from Lancaster University, a Post-graduate Diploma and Master of Arts Degree in Urban Planning from the University of Westminster, and a Post-graduate Diploma in Property Law and Valuation from the Bayes Business School (City University of London).
- 1.3 I started my career at the London Borough of Tower Hamlets and have held senior management positions in planning consultancies at Cluttons, JLL and BNP Paribas Real Estate. I have also worked for the Prudential Group, Daniel Smith Surveyors, and Tibbalds.
- 1.4 During my career, I have presented evidence at numerous Section 78 appeal inquiries and hearings as well as on CPO related matters. I have prepared evidence for the Upper Tribunal (Lands Chamber) and given evidence in the County Court.
- 1.5 I am a member of the London Borough of Barking and Dagenham Quarterly Review Panel and throughout my career have interacted with Design Review Panels. I have promoted land for development, undertaken public engagement exercises, and processed and submitted numerous Planning Applications.
- 1.6 I am familiar with the site and surrounding area, and I have studied the local plan policy background and national documents as well as the Planning Application documents relevant to the issues under consideration.
- 1.7 I was appointed by Brentwood Borough Council to review the case following the Council's Planning Committee Meeting where it resolved to refuse planning permission. Since that time, I have met with Officers, Members and local residents. I have also reviewed the video of the Planning Committee where the decision was made on the Appeal Proposal. I have liaised with the Appellant Team in the lead up to the Inquiry on the Statement of Common Ground.
- 1.8 I have come to my own conclusions and consider that, to accord with the Development Plan and national policy, the Appeal Site requires a higher quality development than that which has been proposed; one that properly reflects local context and meets the needs of the existing and the new community, including through a range of policy-complaint uses and affordable housing mix. Development on the Appeal Site needs to comply with the Development Plan.

Signed:

Jeffrey Field - Planning Director – Lambert Smith Hampton

21 January 2025

2.0 Introduction

2.1 This Proof of Evidence is in respect of a planning appeal by Croudace Homes Ltd (the 'Appellant') for detailed planning permission for a development at the site known as Land at Officer's Meadow, North of Shenfield, Alexander Lane, Shenfield, Essex, CM15 8QF (the 'Appeal Site'). In this Proof of Evidence, I present planning evidence for the Local Planning Authority, Brentwood Borough Council ('BBC' or 'the Council').

2.2 The Appeal was made pursuant to Section 78 of the Town and Country Planning Act 1990 against non-determination by the Council of Planning Application Ref. 23/01164/FUL, for an:

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.

2.3 No Decision Notice has been issued by BBC in relation to the Appeal Proposal. However, the application was presented and refused by Members at the Council's Planning Committee on 9 July 2024.

2.4 The Council split the hybrid proposal into specific detailed (housing) and outline applications (education). It is only the housing element that forms part of the Appeal. The school and early years facility is linked to the Appeal by the s106 Agreement; the education proposals were approved by the Council under Outline Planning Application Ref. 23/01159/OUT, also at the Committee on 9 July.

2.5 At the request of the Appellant, BBC provided putative reasons for refusal as follows. These are consistent with the contributions made by Members at the Planning Committee where the decision was made on the Appeal Proposal:

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.

2.6 In addition to the above, additional concerns were expressed by Members that the Appeal Proposal fails to deliver a mixed-use development consistent with the aspirations and requirements of the Development Plan, which will be fully explored below pursuant to the delegated authority of the Council.

2.7 My evidence is presented under the following Chapters:

Chapter 3 – Provides a brief summary of the Appeal Site and its context;

Chapter 4 – Sets out the relevant planning history context which includes the R03 Land Parcels;

Chapter 5 – Describes some elements of the Appeal Proposal;

Chapter 6 – Identifies the relevant planning policies;

Chapter 7 – Summarises the appeal considerations;

Chapter 8 – Presents the Appeal Proposal in the context of Local Plan Policy R03;

Chapter 9 – Outlines the design concerns of the entrances to the Appeal Site;

Chapter 10 – Identifies where the Appeal Proposal process fails to meet engagement expectations;

Chapter 11 – Provides my analysis of the proposed affordable housing against the adopted policy context; and,

Chapter 12 – Provides my conclusions.

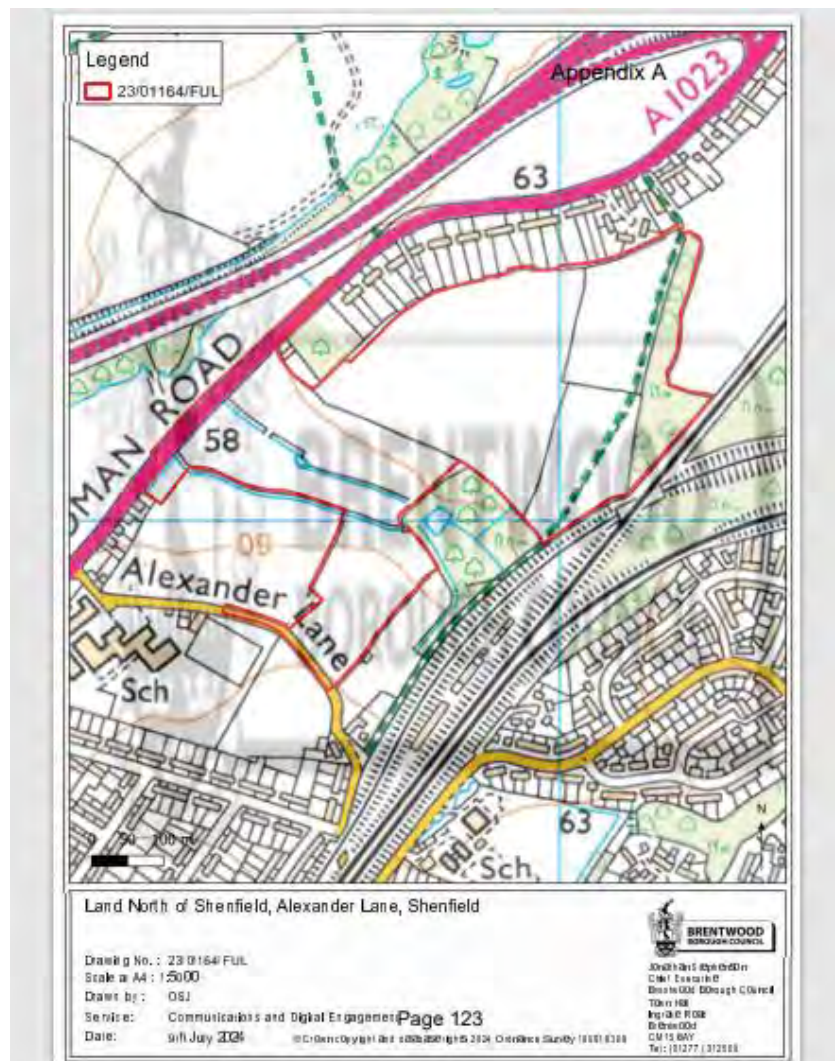
2.8 I understand my duty as an expert witness is to the Inquiry (Appeal). I have complied with that duty. This evidence includes all matters relevant to the issues on which my expert evidence is given.

2.9 I confirm that, insofar as the facts stated in my evidence are within my own knowledge, I have made clear what they are, and I believe them to be true; and that the opinions I have expressed represent my true and complete professional opinion.

3.0 Appeal Site and Surroundings

- 3.1 The Appeal Site measures 19.14ha in total and is located to the north of Shenfield. Below is the extract shown in the Officer Report ("OR") to the Planning Committee (my **Figure 3.1**).

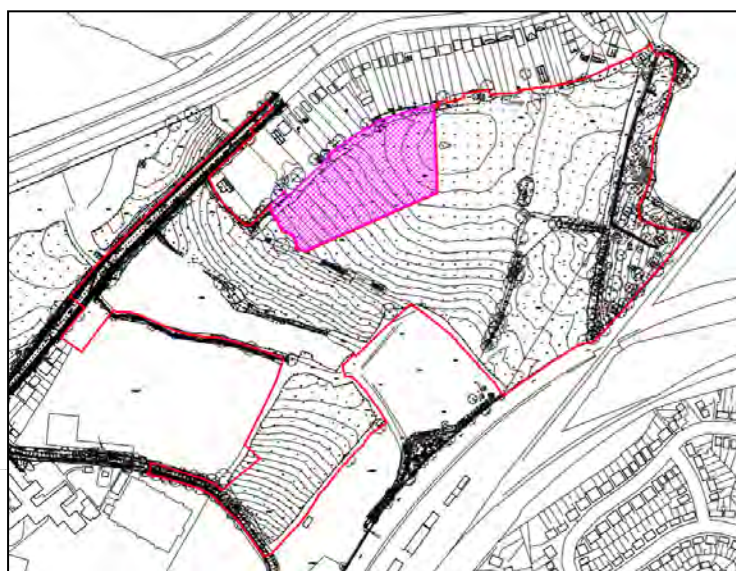
Figure 3.1 – The Appeal Site taken from the OR



- 3.2 The Appeal Site itself has an irregular shape and has frontages to Alexander Lane and Chelmsford Road (A1023). Chelmsford Road runs southwest into the Shenfield town centre and has a residential ribbon development fronting a large part of the Appeal Site. It also provides a link north-east towards Mountnessing as well as access to the A12 (dual carriageway). At the junction with the A12, there is a BP Garage with a Marks and Spencer store.
- 3.3 The Appeal Site is a 20-minute walk, and a 10-minute cycle ride, away from Shenfield Town Centre. The Shenfield Train Station provides good train services and is connected to the Elizabeth Line. There are bus services along Chelmsford Road into the town centre.

- 3.4 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.
- 3.5 Alexander Lane has limited development on its north side (playing fields), but on its south side there is the Shenfield High School. The development along Alexander Lane is mainly two-storey in form on the way to the town centre, some of which is at a level below the road. South of the railway line and closer to the Town Centre, there is taller development, including 4 storeys at the junction with Rayleigh Road.
- 3.6 The eastern boundary and the eastern context of the Appeal Site are largely formed by the railway line. Beyond this are large residential estates in varying forms. 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.
- 3.7 Chelmsford Road and Alexander Lane will be altered to create access junctions into the site. 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. This is proposed to be altered.
- 3.8 **Figure 3.1** shows that the Appeal Site contains a field layout with watercourse shown centrally, between the Chelmsford Road properties and Arnold's Wood. 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.
- 3.9 The existing Arnold's Wood lies outside of the red line Appeal Site, which is the wooded area that projects into the Policy R03 allocated site (see paragraph 4.2 below *et seq.*). The plan also illustrates the tree belts. 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). These features are illustrated in **Figure 3.2** below.

Figure 3.2 – Extract from the Site Location Plan (ref. 22.1643.120 rev A). The School Land is indicated in pink.



4.0 Background and Relevant Planning History

4.1 The Appeal Site has no planning history. It was released from the Green Belt with the adoption of the Brentwood Local Plan in March 2022 and forms part of a “Strategic Residential-led and Mixed-Use Allocations”, made under Policy R03 of the Brentwood Local Plan (‘BLP’) 2016-2033 (March 2022).

4.2 The Examination Inspectors’ Report concluded as follows on Policy R03 at paragraph 1.58:

The site is a key gateway location and provides a logical extension of the built up area of Shenfield, close to existing facilities including schools, shops and the Shenfield railway station which now incorporates the Elizabeth Line. The policy seeks to bring development forward through a comprehensive masterplan, and to enhance sustainable transport connections to local services and the wider area. Furthermore, landscaping and buffers are required along relevant boundaries and new green infrastructure and open space incorporated into the design, which would contribute to mitigating the impact on the Green Belt. Taking account of these factors, we are satisfied that exceptional circumstances exist for the site’s removal from the Green Belt and that the allocation is justified.

4.3 At paragraph 156, the Inspectors’ Report states that:

Policy R03 allocates land north of Shenfield for around 825 new homes, 2 ha of employment land, a residential Care Home and around 2.1 ha for a co-located early years and childcare nursery. The proposed mix of development is reasonable for this strategic site, including the provision of employment land, though the policy should refer to ‘around 2 ha’ and clarify what forms of employment uses are acceptable.

4.4 Notably, therefore, the Inspectors’ Report identified that the Council needed to clarify ‘what forms of employment uses are acceptable’.

4.5 Subsequently, the Appeal Site emerged as one of four parts of the above allocation, the development of which is now being promoted by four separate developers (see **Figure 4.1** below).

Figure 4.1 – Developer Parcels – Source FINC Architects – OR



4.6 The Policy R03 allocation is subject to the following applications (see **Table 4.2** below). In summary, these provide:

- Stonebond – 38 dwellings with 13 affordable units of which 12 are 3 and 4 bed units (32%). This also provides 46% affordable rent and 54% shared ownership
- Redrow – 191 dwellings with 67 affordable units of which 31 are 3 and 4 bed units (46%). This also provides 45% affordable rent and 55% shared ownership
- Countryside – 142 dwellings with 50 affordable units of which 11 are 3 bed units (22%)

4.7 The Countryside Land Application also includes a Care Home.

Table 4.2 – R03 Land – Other Planning Applications

| Developer | Parcel | Planning Application | Proposal | Status |
|-------------|---|----------------------|--|------------------------------------|
| Stonebond | Land East Of Alexander Lane | 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. | Pending |
| Redrow | Land North Of Shenfield Chelmsford Road | 22/01324/FUL | Construction of 191 dwellings (Class C3), public open space, landscaping, sustainable urban drainage, access and associated infrastructure. | Approved subject to s106 Agreement |
| Countryside | Land North Of Shenfield Chelmsford Road | 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. | Pending |

5.0 The Appeal Proposals

5.1 The Appeal Documents were agreed as part of the Statement of Common Ground.

5.2 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.'

5.3 The Appeal Scheme therefore proposed the following:

- 344 dwellings
- 35% Affordable units (121 dwellings)
- Safeguarded land for a 2FE primary school and early years facility
- Public Open Space to include Local Equipped Area for Play (LEAP)
- Associated landscaping, drainage and highways infrastructure.

5.4 The proposed affordable mix was revised during the course of the Application and is as follows as set out in our **Table 5.1**. It shows 47% Affordable Rent and 53% Shared Ownership. Some 87% of the units are 2 and 1 bed dwellings.

Table 5.1 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%) |

5.5 The proposed layout comprises a number of parcels which have their own character areas, and these are described in the Appeal Documents.

5.6 The Council's Case in terms of design relates to the Southern and Western Entrances into the development. The Southern Entrance is from Alexander Lane and the Western Entrance is from Chelmsford Road. I have produced extracts from the Appeal Drawings showing these locations (my **Figures 5.1 and 5.2**).

5.7 The Western Entrance shows a significant new roundabout junction from Chelmsford Road into the Appeal Site. There is development directly facing onto the roundabout at its northeast corner, which then moves into a straight terrace form as it aligns with the new road. Beyond this, there is a curve which leads into a central focused area using an existing tree as part of the open space in front of the potential new education facility.

- 5.8 South of the new road, the land remains open and landscaped, this being the area at risk from flooding and with drainage concerns.
- 5.9 The Southern Entrance sees a new access from Alexander Lane with residential properties fronting the road. Alexander Road is then closed to the west, with it moving northwards and creating a new street with housing on both sides as well as leading into small lanes or cul-de-sacs. Alexander Lane also provides an entrance to the Stonewood development (further east).

Figure 5.1 – The Western Entrance (source Appeal Drawings)



Figure 5.2 – The Southern Entrance (source Appeal Drawings)



6.0 Relevant Planning Policy

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the determination of a Planning Application must be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan most relevant to this appeal is the Brentwood Local Plan
- 6.2 Section 38(5) provides that if, to any extent, a policy contained in a development plan document conflicts with policy in another development plan document, the conflict must be resolved in favour of the policy which is contained in the last document to become part of the Development Plan.
- 6.3 Before setting out the Development Plan policies, I summarise some relevant parts of the latest iteration of the National Planning Policy Framework ('the Framework' or 'the NPPF') which was published in December 2024.

National Planning Policy Framework 2024

- 6.4 The NPPF (Dec 2024) sets out the Government's planning policies for England. It is not part of the Development Plan but is an important material consideration when determining Planning Applications and appeals. The following should, in particular, be noted.

The Presumption in Favour of the Development Plan

- 6.5 Sections 38(6) and 38(5) of the 2004 Act are reiterated in Paragraphs 2, 12 and 48 of the Framework, with Paragraph 12 stating that:

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 6.6 Paragraph 11 of the Framework explains what is meant by "the presumption in favour of sustainable development", and states:

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.7 For applications involving the provision of housing, footnote 8 indicates that policies will be considered out-of-date where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites or has not met, by the identified margin, the targets in the Housing Delivery Test.

6.8 In terms of BBC, there is a five-year housing land supply. Accordingly, ‘the most important policies for determining’ the Appeal Application are fully-up-to-date and the so-called ‘tilted balance’ is not engaged (paragraph 11(d)). The statutory presumption in favour of the Development Plan therefore applies with full force.

Housing

6.9 Chapter 5 sets out the policies for delivering a sufficient supply of homes (paragraphs 61-84).

6.10 Paragraph 61 provides the overarching objective:

To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area’s identified housing need, including with an appropriate mix of housing types for the local community’

6.11 Paragraphs 63 and 64 set out what Local Planning Authorities should measure:

Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.’

6.12 The paragraph goes on to state that these groups should include (as well as others) those who require affordable housing (including Social Rent) and families with children.

6.13 Paragraph 64 states that:

Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required (including the minimum proportion of Social Rent homes required), and expect it to be met on-site...

Promoting Healthy and Safe Communities

6.14 Chapter 8 of the Framework (paragraphs 96-108) explains the need for healthy and safe communities.

- 6.15 Importantly, paragraph 96 sets out that planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – **for example through mixed-use developments with strong neighbourhood centres**.

[Emphasis added]

- 6.16 Equally importantly, paragraph 98 sets out the need to provide the social, recreational and cultural facilities and services the community needs. Planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (**such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship**) and other local services to enhance the sustainability of communities and residential environments.

[Emphasis added]

- 6.17 The paragraph also seeks to ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

Design

- 6.18 Chapter 12 looks to secure well-designed places (paragraphs 131-141).
- 6.19 Paragraph 131 confirms that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So, too, is effective engagement between Applicants, communities, Local Planning Authorities and other interests throughout the process.
- 6.20 Paragraph 135 confirms that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
- 6.21 Paragraph 137 states that design quality should be considered throughout the evolution and assessment of individual proposals. It states that early discussion between Applicants, the Local Planning Authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests.
- 6.22 The same paragraph goes on to state that Applicants:

... should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive

and effective engagement with the community should be looked on more favourably than those that cannot.

6.23 Paragraph 138 states that Local Planning Authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. It reminds authorities that there is a range of tools for assessing proposals, including workshops to engage the local community, design advice and review arrangements,

6.24 Paragraph 139 states that:

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

The Development Plan

6.25 The adopted Development Plan comprises the BLP and the Essex Minerals Local Plan (July 2014). The most relevant BLP policies for the purposes of determining this appeal are considered below.

Policy R03: Strategic Allocation for Mixed Use Development

6.26 As noted in paragraph 4.1 above, BLP Policy R03 which allocates a strategic site for a “residential-led mixed-use development”, The Appeal Site forms a large part of the Policy R03 mixed-use allocation. (Other areas within that allocation are being addressed by other developers through their respective Planning Applications).

6.27 The full text of Policy 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.

6.28 Importantly, Policy R03 is an allocation for a “**mixed-use**” development (albeit residential-led) and **not** a residential development. This directly engages paragraphs 96 and 98 of the Framework, considered above, which emphasise “the need” to provide the social, recreational and cultural facilities and services the community needs, including “community facilities ... such as local shops, meeting places, sports venues, open space, cultural buildings”. Policies R03 2.b. and 2.l. deal with some of the design aspirations.

6.29 The supporting text to Policy R03 is an aid to its proper interpretation¹ and gives guidance as to how it is to be applied. The following should in particular be noted:

Para 9.102 - *As the allocation comprises a number of parcels which could be brought forwards at different times it is important that consideration is given to how the site will develop holistically. As individual parcels are brought forwards any masterplan will need to appropriately consider and reflect what is being proposed elsewhere on the site. This is particularly important in ensuring that collective requirements for infrastructure provision are considered and delivered appropriately.*

Para 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.*

Para 9.104 - *The scale of development in this location will require a new primary school with co-located early years and childcare nursery located on 2.1ha of land. A comprehensive approach will be necessary to deliver this early on in the development.*

6.30 Again importantly, and completely consistent with paragraphs 96 and 98 of the Framework, paragraph 9.103 of the supporting text to Policy R03 therefore makes it absolutely clear that, to serve a new residential-led, mixed-use development of the proposed scale, “**a wide range of new community services and facilities ... are required**”. Read consistently with the Framework, the “wide range” of “new facilities” which are “required” to be brought forward by

¹ See: ***R (Cherkley Campaign Ltd) v Mole Valley District Council*** [2014] EWCA Civ 567, at [16],

Policy R03 (this is a mandatory element of the policy) would include “community facilities ... such as local shops, meeting places, sports venues, open space, cultural buildings”.

6.31 So far as design is concerned (which is returned to below by reference to other ‘Design’ policies in the BLP, Policy R03.2.I) requires development to be designed to ensure a coherent functional relationship with the existing development, and well-integrated with the same/

6.32 In addition, Policy R03 recognises the flooding conditions at the site:

Para 9.107 - *The site falls within the Shenfield CDA and is at potential risk of flooding from surface water as show on the EAs Risk of Flooding From Surface Water Maps. Any development within this area should be directed away from areas of existing flooding and where possible should try to have a positive impact on existing areas of flood risk downstream of the development. Early Engagement with the LLFA in this area is critical to ensure that existing and potential flood risk is properly managed.*

Policy HP05: Affordable Housing

6.33 So far as affordable housing is concerned, Policy HP05 states the following:

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.**

6.34 The supporting text to Policy HP05 is, again, an aid to the policy's interpretation and guidance as to its proper application.

6.35 **Paragraphs 6.33 and 6.34** provide as follows:

Para 6.33 - *There is a significant need for affordable housing in the borough as evidenced in the Council's SHMA which supports an affordable housing target of 35% on major developments.*

Para 6.34 - *The local plan viability assessment demonstrates that the thresholds of affordable housing contributions identified in the Local Plan are achievable and the cumulative impact of policies in the local Plan will not put development at risk. The use of further viability assessments at the decision-making stage should not be necessary. It is up to the applicant to demonstrate whether particular circumstances relevant to the characteristics of the site and the proposed development justify the need for a viability assessment at the application stage.*

6.36 The BLP also sets out its indicative size guide for affordable housing at its Figure 6.2 and is repeated below. The Plan states at paragraph 6.36 *'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 6.1 – 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% | | | | | |

6.37 **Paragraph 6.35** confirms that:

Where an applicant formally requests the Council to consider a reduced level of affordable housing, it will need to demonstrate that it is not possible to meet the full quota of affordable housing without prejudicing the delivery of housing on the site. It will also need to demonstrate to the satisfaction of the Council that, in the individual case, the objective of creating mixed and balanced communities can be effectively and equally met through either off-site provision or an appropriate financial contribution in lieu or a combination of the two. To this end, and in demonstrating the above, a full viability assessment would need to be submitted with a planning application which is based upon, and refers to, the

Brentwood Local Plan Viability Assessment. Such an assessment should include evidence of what has changed since the adoption of the Plan which has impacted on viability and should reflect the government's recommended approach to defining key inputs as set out in National Planning Guidance.

- 6.38 **Paragraphs 6.37 and 6.38** provide commentary on the approach when affordable housing policies are not met:

Para 6.37 - *Whilst the Council's starting point in any affordable housing negotiations is that a scheme is viable at the percentages and tenure splits set out within Policy HP05, the policy recognises that there may be sites on which the provision of affordable housing to the percentages or tenure splits set out, would render a development unviable or would prejudice the realisation of other planning objectives that need to be given priority.*

Para 6.38 - *In these circumstances, the applicant will be required to provide a level of on-site affordable provision which can be viably delivered. In doing so, the percentage of on-site provision not met may be made up from financial contributions in lieu of the on-site requirement subject to viability. The Council will normally take into account exceptional site costs and the existing use value of the site but would not consider the price paid for the site to be a relevant factor as this should have taken account of policy requirements. The Council will take an 'open book' approach to negotiation and may require viability assessments to be scrutinised by independent consultants at cost to the developer.*

- 6.39 Hence, where a proposal fails to meet the policy requirements regarding the provision of affordable housing, "robust viability evidence" is required to demonstrate that the policy-complaint provision cannot be delivered.

Housing Mix: Size

- 6.40 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%).

Policies BE14 and BE15: Design and Related Matters (Community Involvement etc.)

- 6.41 Other relevant policies considered by the Council comprise:

- **Policy BE14: Creating Successful Places;** and,
- **Policy BE15: Planning for Inclusive Communities.**

- 6.42 In terms of Policy BE14, this states that proposals will be required to meet high design standards and deliver safe, inclusive, attractive and accessible places. In particular, the policy states, under 1e), that proposals should:

- **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)**

6.43 Under 1f), the policy states that proposals should:

- **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.**

6.44 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.**

6.45 Policy BE15 has significant requirements, and I cite 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...**

6.46 Once again, it is important to note that, consistent with paragraphs 96 and 98 of the Framework, and in order to build an “inclusive environment that supports our residents and communities”, Policy BE15 requires **(this is mandatory)** the provision of “good quality community spaces, services and amenities to ... accommodate, encourage and strengthen communities and social interaction for all users.”

Supplementary Planning Guidance (and Other Material ‘Policy’ Considerations)

6.47 The relevant local Supplementary Planning Documents (‘SPD’) comprise:

- **BBC Planning Obligations SPD (Dec 2023)**
- **Essex CC Developers’ Guide to Infrastructure Contributions 2023**
- **The Essex Design Guide Parking Standards: Design and Good Practice document (September 2009)**

6.48 Other material considerations are:

- **The online Essex Design Guide including the 2024 Essex Parking Guidance**

- **BBC Infrastructure Delivery Plan 2021**

- 6.49 The Essex Design Guide acts as a reference guide to help create high quality places with an identity specific to the Essex Context. It discusses regional building forms and architectural details. It suggests design solutions for individual houses, where they are attached and as part of terraces. Roof profiles, amenity spaces and parking layouts feature in the Guide as does an approach for 'Building for a Healthy Life' BHL
- 6.50 The National Design Guide forms part of the Planning Practice Guide and it seeks to address:
- The need to respond to the existing character and identity
 - Well-designed, high quality and attractive places and buildings
 - Appropriate building types and forms
 - A mix of uses
 - A mix of home tenures, types and sizes

The Development Framework

- 6.51 As noted above, Policy R03 sub-paragraph 2a states that proposals should be accompanied by a "comprehensive masterplan and phasing strategy". In these regards, a 'Development Framework' for the allocation was approved by Officers as part of the pre-application exchanges.
- 6.52 However, it is vitally important to note that whilst informally approved by Officers, the Development Framework has **no** legal status at all; and its potentially materiality and/or the weight to be attached to it (if considered material), is entirely within the discretion of the decision-maker, noting (especially) that neither the Development Framework itself, nor any part of its contents, are any part of any Development Plan or Supplementary Planning Document.
- 6.53 In particular, and as will be returned to below:
- Neither the Development Framework itself, nor any part of its contents, has ever been the subject of any form of public consultation whatsoever; and
 - Neither has the Development Framework itself, nor any part of its contents, ever been formally considered by, let alone approved (or adopted) by, the Council or any Committee of the Council.

7.0 The Appeal Considerations

Main Issues

- 7.1 The main issues in the determination of this Appeal were set out and added to at the CMC, but essentially these are as follows:
- a) Whether or not the Appeal Proposal meets the requirements for a residential-led, mixed use allocation, as set out in Policy R03 and its supporting text;
 - b) The impact upon the character and appearance of the area, with particular regards to the height of the proposed buildings at the Western and Southern Entrances, by reference to Policy BE14 as well as Policy R03 2.I;
 - c) Whether or not there has been sufficient engagement with the community, including the Members, with particular regards the provisions of Policy BE14; and
 - d) Whether or not the appeal scheme makes appropriate provision for affordable housing with particular regards to type, mix and size and the provisions of Policy HP05.
- 7.2 These matters were raised by Members of the Planning Committee when considering the Appeal Proposal. There were other matters which featured highly in the debate, in particular on transport and flooding, but these do not form part of the Council's opposition.
- 7.3 The above considerations need to be assessed in the context of the s38(6) presumption in favour of the Development Plan, when read together with the NPPF, noting that paragraph 12 of the NPPF makes it quite clear that whilst 'Local planning authorities may take decisions that depart from an up-to-date development plan', that is "**only if** material considerations in a particular case indicate that the plan should not be followed.'
- [Emphasis added]
- 7.4 My next Chapters address the extent to which there is conflict with the up-to-date Development Plan. It is not part of the Appellant's case that the Local Plan is out of date and that there are no relevant policies for the Appeal Site, or the determination of the Appeal application.

8.0 Policy R03

- 8.1 As noted above, s.38(6) of the Planning and Compulsory Purchase Act 2004 provides that the determination of a Planning Application must be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.2 In these regards, it is recognised that the Appeal Site is allocated for development by Policy R03. Notably, however, Policy R03 states in terms that this is for a residential-led, mixed-use, development, and further clarification as to what this entails in policy terms is given in the supporting text to that policy.
- 8.3 It is accepted, however, that:
- a. It was intended that the Appeal Site should come forward as part of a comprehensive approach;
 - b. Subsequent to the Local Plan allocation, a Development Framework was produced after Officer consultation (but, as above, without any public consultation or Member involvement, let alone approval); and
 - c. Four separate Planning Applications have since been submitted purportedly to meet the Policy R03 requirements, apparently guided by the unadopted Development Framework.
- 8.4 There are, accordingly, a number of issues to consider here as a matter of first principle:
- a) Whether the Appeal Proposal delivers on the principles and mix of land use required by Policy R03;
 - b) If the Appeal Proposal does not deliver on these principles, whether the other R03 Applications collectively or separately meet the policy requirements; and
 - c) In the event that there is not compliance under my a) or b) above, whether there are mechanisms in place by which the Appeal Proposal can meet the requirements of Policy R03.

a) Whether the Appeal Proposal Delivers the Required Mix of Uses

- 8.5 As repeatedly underscored above, Policy R03 is **not** a residential allocation, but a **mixed-use** allocation, requiring delivery of all of the following:
- a) Residential development, including a policy-compliant mix of affordable housing in terms of both tenure and size;
 - b) A primary school/nursery;
 - c) A Care Home;
 - d) Class E and *sui generis* employment uses; and
 - e) A wide range of new community services and facilities.

- 8.6 I address these missed-use requirements in reverse order below (albeit I deal with the affordable housing requirements under Policy R03 in a separate Chapter²).

Community Services and Facilities

- 8.7 Paragraph 9.103 of the supporting text to Policy R03 is where site-specific and unequivocal guidance is given as to the range of community uses “required” of the Policy R03 allocation. It states:

‘Given the scale of development, a wide range of new community services and 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]

- 8.8 As already noted, therefore, paragraph 9.103 of the supporting text to Policy R03 makes it absolutely clear that, to serve a new residential-led, mixed-use development of the proposed scale, **“a wide range of new community services and facilities ... are required”** to be brought forward by Policy R02 (this is a mandatory element of the policy). Reliance on existing services and facilities in Shenfield or elsewhere is insufficient, therefore.
- 8.9 Read together with paragraphs 96 and 98 of the Framework, these new services and facilities should include “inclusive and safe places which promote social interaction”; “strong neighbourhood centres”; and **“community facilities ... such as local shops, meeting places, sports venues, open space, cultural buildings”**.
- 8.10 However, no such uses are proposed; nothing. Rather, all that is on offer is, sadly, some benches around a retained veteran tree. There is no provision for shops or services for the community within this location, which could actually relate to the proposed school and nursery uses and the anticipated footfall. I also fear its siting together with the school plaza will lead to inevitable conflicts with the new residents.
- 8.11 In these regards, moreover, it is particularly noteworthy that:
- The Development Framework (upon which the Appellant relies) itself makes reference to the need to develop the allocation as a place with a “sense of community” (page 12), and with a “Community Heart” (page 26), all of which is consistent with the above interpretations of Policy R03;
 - Furthermore, the Development Framework also recognises (page 62) that, so far as the “mixed-use” policy requirement for “employment” is concerned (to which I return below),

² I also deal with the design policy requirements in a separate Chapter below.

interest had been expressed from “food retail, restaurant and other leisure users” – so there is no reason why the Appeal Site could not accommodate such uses;

- c. Importantly, these types of use are not only within the definition of “employment” use expressly required by Policy R03, but also within the “wide range of new community services” which, read alongside paragraphs 96 and 98 of the Framework, paragraph 9.103 of the supporting text to LP Policy R03 requires to be developed on that allocation;
- d. Moreover, these are the kinds of possibilities that “early, inclusive and effective engagement with the community”, to which I return below when considering the policy background to the second putative Reason for Refusal, may very well have garnered real support.

Employment Uses

- 8.12 The policy requirement is for around 2 hectares for 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.”

- 8.13 This category of required employment uses plainly includes “food retail, restaurant and other leisure users”, in respect of which the Development Framework confirms there has been interest. Once again, however, the Appeal Proposal manifestly fails to deliver; it offers no land for employment purposes at all, even though relevant expressions of interest have been received, and no reason has been given as to why these uses have not been included in the Appeal proposal. I consider in paragraphs 8.23-8.25 below, whether this lacuna is made good elsewhere on the Policy R03 allocation, under the proposals for the other parcels of land within that allocation.

Care Home

- 8.14 Turning to the requirement of a Care Home, no such proposal is made for the Appeal Site. As above, I consider in 8.26-8.28 below, whether this lacuna is made good elsewhere in the other development proposal for the Policy R03 allocation.

School Land

- 8.15 There have been significant discussions with the County Council on the provision of School Land for a co-located primary school and early years and childcare nursery. It is confirmed that the Appellant has committed to transferring this Land, but it formed part of a separate Planning Application. The Planning Appeal will only comply with R031.b, however, with adequate legal mechanisms in place which would guarantee the transfer of this School Land.
- 8.16 The actual construction of this facility is in the hands of the County Council, rather than the Appellant. Outside of these uses proposed by the County Council, there is no provision by the Appellant for any other employment uses or community uses on the Appeal Site.

8.17 There is a legal requirement in the draft s106 that the School Land is to be returned after a 10-year period, if it is not used for this education 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 based on pupil demand.

8.18 Not only is no alternative community or employment use proposed should the school not come forward, there are still outstanding issues on its delivery and certainty between the Appellant and the Local Education Authority, namely Essex County Council.

Conclusion on Mix of Uses on Appeal Site

8.19 For all of the above reasons, it is quite obvious that – in itself – the Appeal Proposal significantly fails to meet the Policy R03 requirement for a mix of uses.

b) Whether the R03 Parcels deliver the Amount and Type of Development and the Development Principles

8.20 However, it is right to acknowledge that, under Policy R03, the above mix of uses is potentially to be met across the Policy R03 allocation. Paragraph 9.102 of the Local Plan states as follows in this regard:

As the allocation comprises a number of parcels which could be brought forwards at different times it is important that consideration is given to how the site will develop holistically. As individual parcels are brought forwards any masterplan will need to appropriately consider and reflect what is being proposed elsewhere on the site. This is particularly important in ensuring that collective requirements for infrastructure provision are considered and delivered appropriately.

8.21 The question arises, therefore, as to whether there is evidence that reassures the decision-maker that the above lacunae can be, and will be, met elsewhere on other parcels of land within that allocation.

Community Uses

8.22 The other Planning Applications do not propose any community or service uses that could be used by the new community. The Redrow Planning Application (resolved to grant status) is for housing only with supporting open space, as is the Stonebond Planning Application (yet to be determined). The Countryside Planning Application contains a Care Home together with residential uses.

Employment

8.23 As explained above, the Appeal application provides no land for employment purposes. However, provided such a requirement can be met and delivered elsewhere, then potentially the Policy R03 could be satisfied, at least in this regard, depending upon its successful integration within the wider development and being in the right location.

8.24 It is to be noted, then, that the Development Framework states that the employment land is to be proposed on the 'Countryside Land'. However:

- a. As already explained, the Development Framework is unadopted and has no legal status;
- b. Furthermore, there is no reason why employment uses should not be considered for the Appeal Site – and every good reason why it should:
 - i. It is the largest component of the allocation;
 - ii. Potentially close to the location of the proposed school and nursery for example.

8.25 More fundamentally, however, there is **no provision** for employment uses currently being made on any of the other parcels of land forming part of R03. In particular:

- a. The Countryside Application contains a Marketing Appraisal and Marketing Summary which provides marketing evidence that employment uses are not viable (albeit referencing a particular land parcel which would be a standalone employment at its northern extremity, which is a totally inadequate marketing exercise that affords no justification for having no employment or community uses on the Appeal Site, or elsewhere for that matter);
- b. The Application by Redrow Homes has Planning Permission for dwellings without any employment; and.
- c. The Stonebond Land is too small to accommodate employment uses.

Care Home

8.26 Similarly, provided a Care Home is part of the total R03 package and its acceptable delivery can be certain somewhere within the allocation, then compliance with this requirement of the Policy R03 allocation could be achieved.

8.27 In these regards, the Development Framework suggests that the Care Home could be provided on the Countryside Land *in lieu* of Employment Uses; and it is right that the Countryside application contains a Care Home proposal.

8.28 This application is undecided, however, and there is no certainty at this stage that the Care Home requirement of Policy R031.c. will be met. If this cannot be delivered on the Countryside Land, then it would need to be accommodated on the Appeal Site or one of the remaining parcels of land. However, no such proposal is on offer.

Conclusion on Mix of Uses on Other Parcels of R03 Land

8.29 For the reasons given above, therefore, not only does the Appeal Proposal offer no mix of uses, let alone the **required** mix, there is no evidence with respect to the four Land Parcels which confirms categorically that the proposals will meet the mixed-use aspirations as set out in the Policy R03 allocation. The school plus nursery will need to be delivered by the County Council;

the Care Home is dependent on Countryside achieving planning permission; and nowhere is there any provision for employment or community uses outside of these on any part of the R03 Land.

- 8.30 There is, therefore, a clear conflict with the policy requirement for a mixed-use development, as supported by the Local Plan Inspectors, one which provides – alongside a housing estate - employment and community uses in a sustainable development, in addition to the provision of a school and Care Home (and even these latter two are not yet guaranteed).

c) In the event that there is not compliance under my a) or b) above, whether there is any mechanism to ensure that the Appeal Proposal meets Policy R03

- 8.31 Given that that there is no compliance with a) and b) above, it is necessary to consider whether there is any mechanism before the Inspector that provides certainty that in allowing the Appeal, then this would lead to a mixed-use development or one which was envisaged by the Local Plan.

- 8.32 I have already mentioned above the status of the R03 Planning Applications. The s.106 Agreement for the Appeal Site makes provision for the transfer of land for the primary school. Provided that this is drafted correctly, then the future potential of this facility can be safeguarded (albeit there is no mechanism in place to secure any employment or community use if the school proves not to be needed).

- 8.33 Furthermore, there is no mechanism with respect to either the Appeal Proposals or the Countryside Application that can secure for certainty the delivery of the Care Home facility; and there are no mechanisms between the Appeal Proposals and any of the R03 Planning Applications which would guarantee employment or community uses on the R03 Land.

- 8.34 The Local Plan states (paragraph 9.102) that 'As individual parcels are brought forwards any masterplan will need to appropriately consider and reflect what is being proposed elsewhere on the site.'

- 8.35 This objective has **not** been achieved.

- 8.36 **In view of all of the above, the Appeal Proposal fails to deliver on one of the fundamental objectives for the land uses at the R03 Land.**

9.0 The Entrances

Introduction

- 9.1 The Council's draft Decision Notice contained the following as the first putative reason for refusal:

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.

Local Plan Policy

- 9.2 As well as BE14 1.e, the relevant part which is cited below, there are further design policy objectives, which are mentioned in R03 2.b and R03 2.I. Read together, the policy objectives are:

- **BE14 1.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);**
- **R03 2.b. – be of a design quality and layout that reflects its key gateway location, particularly on land near to Junction 12, A12.**
- **R03 2.I. - be designed to ensure a coherent functional relationship with the existing development, which should be well integrated into the layout of the overall masterplan.**

- 9.3 Policy R03 2.b. must be referencing, in my view, the gateway location from elsewhere into Shenfield and close to the junction with the A12. It does not imply that there is a key gateway location or a 'Western Gateway' into the Appeal Site, and especially not a 'Southern Gateway'. I have used the term 'Gateway' because these are referred as such in many of the Appeal Documents, but the term 'Entrance' would be more appropriate.

- 9.4 At paragraph 161, the Examination Inspectors' Report provides a more appropriate prelude to these policy objectives. This is probably reflected in Policy R03.I., and the requirement is for a functional relationship with existing development. The Report states, in relation to the Policy R03 allocation, that:

The site boundaries include existing ribbon development on Chelmsford Road. It is therefore necessary for the policy to require that the design of the development has a

functional relationship with this existing development and make it clear that the policy does not apply to these properties.

The Officer Report

9.5 The OR references the Appellant's reliance, in considerable part, on the Development Framework as supporting the Appeal Proposal. However, for the reasons explained above, this overplays the status on the Development Framework – it has never been consulted upon and is not adopted; it has no legal status whatsoever as a policy document and it is developer-generated.

9.6 The OR states as follows:

The appearance of the proposed development has been informed by the design code set out in the Development Framework per character area and is summarised as follows.

9.7 The OR for the Western Entrance contains the following (paragraph 9.75):

The 3-storey apartment building and formal terrace have been designed as a distinct focal/gateway into the development. They take design cues from the (Shenfield School) Brentwood School (Shenfield High School), located further south on Chelmsford Road, to create brick-clad focal buildings. The Western Gateway is characterised by gable roofs with a red brick and slate roof tile combination, with extruded feature brick work and brick patterning, including brick window surroundings. Light green cladding is used to accentuate the importance of the entrances to the units and to balconies fronting the Chelmsford Road corner, to add interest and variation to this key location.

9.8 The OR on the Southern Entrance contains the following (paragraph 9.80):

This gateway location presents slightly taller buildings than those in the rest of the Green Edge character areas, with house types reflecting those of the Primary Streets, designed as a modern take on a traditional Essex barn.

Design Concerns: Western Entrance

Figure 9.1 – The Western Entrance – Aerial (source – Appeal Drawings)



Figure 9.2 – The Western Entrance – Site Layout (source – Appeal Drawings)



9.9 The proposals for the Western Entrance are illustrated above in **Figures 9.1 and 9.2**.

9.10 The design concerns are that:

- The built form provides almost one continuous block of development stretching for almost 13 building plots which would be highly visible, and unsympathetic, from Chelmsford Road;
- With the tall-pitched roofs, these appear pretty much 4-storeys in height;
- They are also vertical in their design concept, which together with the narrow plot width means that they appear taller and out of context in terms of the Essex Design Guide;
- The front gardens and the building line are nowhere reminiscent of the properties along Chelmsford Road; and
- The use of balconies is completely alien to Chelmsford Road

9.11 In reality, there is a strong continuous ribbon development along Chelmsford Road of detached two and single storey development with views between these houses. What appears is then an uninterrupted form of what appears as almost a 4-storey block. Being fairly close to the carriageway edge and with an open area that is opposite, this further accentuates the height. The site immediately adjacent to the north which is now being developed also provides an incoherent relationship.

9.12 The relationship here should be with the Chelmsford Road properties (see the Examination Inspectors' comments) and not with the Shenfield High School (or Brentwood School). The Appeal Proposal fails to make a positive contribution to the character of the area. (Part j of Policy R03 2. is also relevant here as it sets out a Development Principle requiring 'appropriate landscaping and buffers along sensitive boundaries adjoining the A12 and railway line').

9.13 The Appeal Proposal Site Layout for this part of the site shows the limited plot area for the flats which sit on the corner of the entrance. The rear areas are largely occupied by car parking whilst the front areas will be set extremely close to a very busy road.

9.14 I make reference to the comments of the Essex Quality Review Panel ('QRP') dated 28 June 2023:

'The Panel suggest exploring options outside the 'standardised' approach including [inter alia] layouts, plot style, street style and car parking. Questions were raised in respect of the language used within the Development Framework which have influenced the design approach taken for the development parcels, particularly the 'strong urban boulevards' and 'urban edges'.

*'Although the idea of a visual 'gateway' was supported, **the Panel feel these locations are an inappropriate location for increased height as opposed to density, mainly as a result of the periphery of the site being much more sensitive.***

*'**The Panel would encourage the design to look at more creative and progressive ways to design around the landscape character of the site rather than apply standard development design solutions.***

*'Regarding the 'Gateways', **the Panel suggest locating taller buildings away from the 'gateway spaces' as indicated in the Development Framework, preferring to see 'gateways' indicated by subtle design changes and continuous built form where sound barriers are required.***

[Emphasis Added]

9.15 There is therefore evidence of early, and unaddressed, concerns about the proposed height at the 'Gateways'. The Appellant's Design and Access Statement sets out that early versions of the design had low key or no development at the gateway locations. It goes on to state that the increased development in these areas was a response from Officers encouraging higher density development at the gateway locations. This clearly conflicts, however, with the response from the Essex QRP and the Appellant's architects have to consider how to respond. It is a question of how to present this in a suitable design form. In my opinion, and that of the Committee, the Appeal Proposal fails for the above reasons.

Design Concerns: Southern Entrance

9.16 The Southern Entrance has a different approach (see **Figure 9.3**), with linear pitched across flatted blocks. There is also a stepping up in height and a variation in materials. The red tiled roof is prominent with gable style windows and balconies.

Figure 9.3 – The Southern Gateway (source – Appeal Drawings)



- 9.17 The form of this development seems to be less ‘Gateway’ and more linear, as well as being softer. It is neither one thing or the other - not a Gateway and not sympathetic. Turning north into the new Alexander Lane, there is no attempt (*to me anyway*) to provide a gateway building, other than that these are three storeys in height and linear. They do not indicate that the person arriving is about to enter a scheme of over 300 dwellings, one with significant open space and landscaping, or one where there is about to be a community hub. Potentially, these fail to turn the corner, and fail to ‘live-up’ to what is expected in this new part of Shenfield.
- 9.18 On the east of the entrance, the two storey and three storey buildings with similar plot widths lose any effect of a gateway or being consistent with the local townscape. The building on the west side occupies a sizeable plot width along the pedestrian and cycling route along the ‘closed’ Alexander Lane.
- 9.19 The eastern flats have a footprint which is close to the carriageway. The plan in **Figure 9.4** shows how close the buildings are compared with the Stonebond proposals, which are to the east, and slightly closer to the town centre.
- 9.20 For the Stonebond entrance, there is a wider and open approach, with buildings on one side of the entrance road. The Croudace proposals create a street with just a small break in the built form. The building line also blocks out views of the street that is about to be entered. The Stonebond frontage is shown on **Figure 9.5** below. It shows one three storey building, which is narrow in width supported by lower two storey buildings.
- 9.21 When looking at the policies, it is necessary for development to **respond positively and sympathetically to their context and build upon existing strengths and characteristics**. Whilst the local context may not be of significant townscape value, there is a hierarchy of development from the town centre and away from the major routes that sees a fall-off in scale unless it is supported by public or other buildings which provide a taller scale.

Figure 9.4 – The Southern Entrance – Site Layout (source – Appeal Drawings)



- 9.22 The Stonebond Application documents explain its context with the two storey buildings at the lower part of Alexander Lane and Oliver Road, which have linear pitched roofs. There are no three storey buildings plus pitched roofs close-by.
- 9.23 Noticeably, the Stonebond Application has four-storey buildings, but these are more central within the site and not on the periphery at Alexander Lane.

Figure 9.5 – The Southern Entrance – Stonebond (source – Stonebond Application Drawings)



Conclusion

- 9.24 Paragraph 135 of the Framework requires that development proposals “should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)”. The Appeal Proposal is not sympathetic to its local character at either of the ‘Entrances’. There are policy conflicts with BE14 as well as R03.

10.0 Engagement

Introduction

- 10.1 The draft Decision Notice stated the following in its second putative reason for refusal:

There has been insufficient early, inclusive and effective engagement with the community in conflict with Policy BE15 - 2.a and as such there has been failure to properly consider the needs of the community within the development.

- 10.2 The wording here is particularly important. It is not the Council's case that the Appellant has not undertaken steps to engage, but that it has not been sufficiently early; that it has not been inclusive; and that it has not been effective.

- 10.3 Local Plan Policy BE15 2a states that:

Design proposals will be expected to:

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

- 10.4 The Appellant's Statement of Case responds as follows:

- *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 (6.5)*
- *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 (6.6).*

- 10.5 The Council's position is that, to be effective, the consultation needed to be post-Examination and that a Local Plan allocation should not be a defence to that policy requirement: it is consultation on the details of a Planning Application that is important to the local community, and especially with regard to whether that Application meets substantive Local Plan policy requirements.

Principle of Engagement

- 10.6 Extracts from the Appellant's Statement of Community Involvement Sept 2023 confirm the importance of engagement and read as follows:

- Community involvement is at the forefront of national planning policy and is noted in the revised version of the National Planning Policy Framework (NPPF) (July 2021).

- The revised NPPF highlights that early engagement has “significant potential to improve the efficiency and effectiveness of the Planning Application system for all parties”. It also indicates that good quality pre-application discussion “enables better coordination between public and private resources and improved outcomes for the community”.
- Brentwood Borough Council’s Statement of Community Involvement was adopted in December 2018 and outlines the Council’s expectations on how the local community should be involved during the pre-application process. It outlines how the Council will involve the community and other national and local stakeholders in the planning process whilst also providing guidance for developers.
- The Statement of Community Involvement (‘SCI’) emphasises the Council’s desire to see all sections of the community shape new development proposals within the borough and indicates that effective pre-application engagement and consultation is central to achieving this.

Preliminary Comments

10.7 Against the backcloth of the above, I make the following preliminary comments.

Inadequate Timing

10.8 The Appeal application was submitted on 11 September 2023.

10.9 The SCI refers to a meeting with Councillor Worsfold on 17 August 2023. It sets out what was discussed, which seems to indicate some key changes to the scheme. The time lag between 17 August and 11 September is not sufficient for the Appellant to have considered any feedback from the Councillor.

10.10 Other Councillors were sent an email on 6 July 2023 inviting them to a meeting. It seems, however, that such a meeting did not take place as none is recorded in the SCI. It is clear that this is a late invitation and by this time the Appeal Proposal is pretty much finalised.

Lack of Inclusivity

10.11 The SCI lists the local Ward Members who were sent emails inviting them to a meeting. It is clear from the SCI, therefore, that the engagement with Members did not extend beyond the local Ward Members. Disappointingly, Members of the Planning and Housing Committees were not consulted when the proposals had implications for the whole town.

10.12 There is also not listed any direct engagement with local resident groups, namely the Chelmsford Road Residents Association.

10.13 In my previous Chapter, I set out the engagement with the Essex Quality Review Panel. Whilst this occurred and numerous comments were made, it seems that there was not a second round of discussions setting out how an amended scheme addressed the concerns raised.

Ineffective Engagement

10.14 Key themes that were raised during the engagement exercises included (Question 7 on page 16 of the SCI):

- Infrastructure including shops, schools, doctors' surgeries and public transport.
- Green Belt.
- Quantum of development.
- Access.
- Design.

10.15 These themes continued to feature in the responses registered with the Appellant's website. The SCI at Appendix C captures the community's general comments. The SCI also attempts to provide Appellant responses to the general comments.

10.16 I now list some comments listed in Appendix C to the Question asking whether the public had any proposed changes to the scheme:

- *"Where is the infrastructure to support the increase in people - doctors, dentists"*
- *"Is there a school, GP services etc included in the plan, if not there should be as both local schools are oversubscribed and both GP services are full"*
- *"You have mentioned a new school but have you considered doctors, dentists and hospitals. There items are already overstretched and existing residents already have problems in getting appointments. I really don't think this infrastructure can support this proposal."*
- *"Also not enough schools, doctors in area to cope with all these extra people"*
- *"More superstores required in Brentwood i.e. additional Morrisons"*
- *"How about new doctors' surgery and schools"*
- *"For this amount of new homes, the appropriate infrastructure is also needed. Doctors, hospitals, dentists, schools are inadequate at present in the area to support another 348 homes"*
- *"Reduce this number of dwellings and encompass shopping facilities, medical facilities (doctors), community centres etc."*

10.17 These are very real concerns of local residents.

10.18 Section 6 of the SCI is then meant to set out the Appellant's Response to the feedback received.

10.19 There is nothing in Section 6 that deals with these particular issues. The only place where this could have been considered is devoted to transport matter (page 22 of the SCI):

Key Issue - *Impact the development will have on the existing services and infrastructure in Shenfield*

Response - *In relation to transport, the Transport Assessment has considered the movement of people to/from the site by all modes of transport and has proposed improvements to a number of areas such as Alexander Lane and Chelmsford Road along with significant enhancements to connectivity through the site for the wider allocation. The effects of this on the transport network have been considered and it has been considered that the impacts will not be significant on the existing transport infrastructure in Shenfield.*

- 10.20 The SCI has not addressed some very important considerations. It cannot therefore be seen to be effective and proactive or inclusive.

The Development Framework

- 10.21 Finally, the Appellant places substantial reliance in this Appeal upon the Development Framework, arguing that the Appeal Proposals largely adheres to the same.
- 10.22 However, and critically, this is a developer-generated Development Framework upon which there has been **no consultation with the public at all**; no engagement whatsoever. Indeed, neither has there been any meaningful opportunity for input from elected Members.
- 10.23 Had there been, then a whole host of issues might more successfully had been addressed, including, for example:
- a. The provision of community facilities and services, such as food retail, restaurant and other leisure users, rather than reliance on benches around a tree;
 - b. Entrance buildings of a height and design reflecting their local context; and
 - c. A drop-off facility serving the school land (the need for which was repeatedly expressed at the Committee Meeting).

11.0 Affordable Housing

11.1 The draft Decision Notice stated the following with regard to the third putative reason for refusal:

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.

11.2 The Council's case is confined to the unit mix and the tenure of the proposed affordable housing; it does not relate to the proposed mix for the market housing.

11.3 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.

11.4 This paragraph therefore directs Applicants to the Council's specific affordable housing policies.

11.5 I first deal with the Development Plan considerations and then with any issues concerning the SHMA (or the South Essex Housing Needs Assessment).

The Local Plan

11.6 The Local Plan at Policy HP05 requires:

- **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 (Policy HP05.1)**
- **A 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 (Policy HP05.2a)**

11.7 On residential mix, the Local Plan requires:

- **The type, mix, size and cost of affordable homes will meet the identified housing need as reported by the Council's most up-to-date housing evidence (Policy HP05.2c)**

11.8 Part 5.3 of the Policy is also important here:

- 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 (**Policy HP05.3**)

11.9 The Supporting Text in the Local Plan (see **Table 11.1** below) is important in understanding the Council's approach towards the delivery of affordable housing (paragraphs 6.32-6.40).

Table 11.1 – Supporting Text taken from the Local Plan Policy HP05

| LP Para No. | Text |
|-------------|---|
| 6.32 | Chapter 5 of the NPPF sets out that in delivering a sufficient supply of homes, Local Planning Authorities should (amongst other things, where they have identified that affordable housing is needed) set policies for meeting this need, specifying the type of affordable housing required, and expect it to be met on-site unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. |
| 6.33 | There is a significant need in the borough for affordable housing in the borough as evidenced in the Council's SHMA which supports an affordable housing target of 35% on major developments. |
| 6.34 | The local plan viability assessment demonstrates that the thresholds of affordable housing contributions identified in the Local Plan are achievable and the cumulative impact of policies in the local Plan will not put development at risk. The use of further viability assessments at the decision-making stage should not be necessary. It is up to the Applicant to demonstrate whether particular circumstances relevant to the characteristics of the site and the proposed development justify the need for a viability assessment at the application stage. |
| 6.35 | Where an Applicant formally requests the Council to consider a reduced level of affordable housing, it will need to demonstrate that it is not possible to meet the full quota of affordable housing without prejudicing the delivery of housing on the site. It will also need to demonstrate to the satisfaction of the Council that, in the individual case, the objective of creating mixed and balanced communities can be effectively and equally met through either off-site provision or an appropriate financial contribution in lieu or a combination of the two. |
| 6.35 | To this end, and in demonstrating the above, a full viability assessment would need to be submitted with a Planning Application which is based upon, and refers to, the Brentwood Local Plan Viability Assessment. Such an assessment should include evidence of what has changed since the adoption of the Plan which has impacted on viability and should reflect the government's recommended approach to defining key inputs as set out in National Planning Guidance. |
| 6.36 | 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. |
| 6.37 | Whilst the Council's starting point in any affordable housing negotiations is that a scheme is viable at the percentages and tenure splits set out within Policy HP05, the policy |

| | |
|------|---|
| | recognises that there may be sites on which the provision of affordable housing to the percentages or tenure splits set out, would render a development unviable or would prejudice the realisation of other planning objectives that need to be given priority. |
| 6.38 | In these circumstances, the Applicant will be required to provide a level of on-site affordable provision which can be viably delivered. In doing so, the percentage of on-site provision not met may be made up from financial contributions in lieu of the on-site requirement subject to viability. The Council will normally take into account exceptional site costs and the existing use value of the site but would not consider the price paid for the site to be a relevant factor as this should have taken account of policy requirements. The Council will take an 'open book' approach to negotiation and may require viability assessments to be scrutinised by independent consultants at cost to the developer. |

11.10 The above Supporting Text (6.36) refers to Figure 6.2 of the BLP which I have re-produced below as my **Table 11.2**. It should be noted that these are based on the Council's 2016 SHMA which was prepared to inform the Local Plan,

11.11 The related text to the Figure 6.2 states '**Size & Tenure of all affordable housing required up to 2033**'.

Table 11.2 – 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% | | | | | |

11.12 I attach an extract from the Development Framework found on page 67 (**my Table 11.3**), which sets out the affordable tenure requirement across the four sites on the R03 Land.

Table 11.3 – Extract from the Development Framework (page 67)

| | | Croudace | Redrow | Countryside | Stonebond | Total R03 |
|---------------------------|-----|------------|------------|-------------|-----------|------------|
| Total No. of Homes | | 348 | 180 | 135 | 46 | 708 |
| Affordable / Social Rent | 86% | 105 | 54 | 40 | 14 | 213 |
| Shared Ownership | 14% | 17 | 9 | 7 | 2 | 35 |
| Total (35%) | | 122 | 63 | 47 | 16 | 248 |

Note: These figures represent a snapshot for all developers indicating early pre-application proposals so they may be subject to change

11.13 Key aspects from Policy HP05 and Figure 6.2 are:

- A requirement of 86% affordable rent/social rent as the total affordable contribution leaving 14% for other forms of affordable housing
- Indicative levels of 45% of the total affordable rent/social rent as three and four bedroom+
- Indicative levels of 36% of the 'other forms of affordable housing' as three and four bedroom+

11.14 My next Table (Table 11.4) shows a comparison on these points with the Appeal Proposal.

Table 11.4 Comparison between Policy and the Appeal Proposal

| Type | Policy HP05 | Appeal Proposal |
|---|-------------|-----------------|
| Affordable Rent/Social Rent | 86% (105) | 47% (57) |
| Other Forms of Affordable Housing | 14% (16) | 53% (64) |
| Affordable/Social Rent – 3 and 4bed+ | 45% | 6% |
| Other forms of affordable housing – 3 bed and 4bed+ | 36% | 7% |

11.15 This means that when applying the percentages in Figure 6.2 of the Local Plan, as required by paragraph 6.36 (also above) of the supporting text to Policy HP05, that of the 121 (35% of 344) affordable dwellings proposed by the Appeal Application, 105 (86%) should be “affordable/social rent” and only 16 (14%) in “other” forms of affordable housing. The headline figure of affordable and social rent is just 47% against a requirement of 86%. This represents a very real reduction in the type of affordable housing most needed by the Local Plan.

11.16 In addition, a further aspect of the Council's case is that the proportion of larger units is very low – see my Table 11.5.

Table 11.5 Appeal Proposal by Mix and Tenure

| Unit Type | Appeal Proposal – Affordable Rent/Social Rent | Appeal Proposal – Other forms of Affordable Housing |
|-----------|---|---|
| 1 bed | 14% (17) | 13% (16) |
| 2 bed | 27% (33) | 33% (40) |
| 3 bed | 5% (6) | 6% (7) |
| 4 bed | 1% (1) | 1% (1) |
| Totals | 47% (57) | 53% (64) |

11.17 These matters represent a real conflict with the affordable housing requirements and aspirations of the Local Plan, and they were key elements in the Committee's consideration of the Appeal Proposal.

11.18 These conflicts bring into play Part 3 of the Policy and paragraphs 6.35 and 6.38 of the Supporting Text:

- "Robust viability" evidence is required to demonstrate that the full amount of affordable housing cannot be delivered; and
- The Council will take an 'open book' approach to negotiation and may require viability assessments to be scrutinised by independent consultants at cost to the developer.

11.19 The Appellant has, however, provided **no viability** evidence to justify the 47% contribution for affordable rent (instead of an 86% policy requirement); and, furthermore, there is no economic justification provided for the low numbers of 3 and 4-bedroom units. Against the Local Plan therefore, there is **a very substantial conflict** resulting from the Appellant's approach towards affordable housing.

The Housing Need Evidence

11.20 The Local Plan Affordable Mix is informed by the Strategic Housing Market Assessment (SHMA) of June 2016 as contained in Figure 7.1 of that SHMA. The Local Plan is dated March 2022.

11.21 In June 2022, the South Essex Housing Needs Assessment June 2022 (SEHNA) was published having been produced by Turley Associates, which set out a different need for affordable mix (their Table 9.2). The SEHNA is not an adopted document, but is held on the Council's website as part of the Council's evidence base.

11.22 There is nothing in the SEHNA 2022 that supports anything less than 86% affordable rent as part of a planning approach in Brentwood. The SEHNA recognises that Brentwood has the highest housing purchase prices across South Essex. Some 31% of households cannot rent in the market and 59% cannot afford to purchase. Paragraph 6.31 states that the delivery across the region would need to increase by a factor of 6 to meet the calculated need in full.

11.23 The SEHNA recognises that a range of affordable housing products can help to meet the need and it identifies the income levels required to access these (Table 6.2). The logic is a bit strange in that it states that market level rents are at such a rate that they make shared ownership attractive as an alternative, but rents are already high. A more solid statistic from Table 6.9 is that 59% of households are unable to afford purchasing a property and 31% are unable to pay market rent. With a rented product at 80% and 60% discount, those unable to afford are 19% and 13% respectively. The need to optimise the number of affordable rental units is therefore justified.

11.24 Furthermore, and in terms of residential mix, I identify in my next Table below (**Table 11.6**) a comparison of the 2016 SHMA and the 2022 SEHNA, measured against the Appeal Proposal.

Table 11.6 – Assessment of Affordable Housing Mix and Tenure

| Unit | SHMA – 2016 – Total Provision (Fig 7.1) | SEHNA – June 2022 – Total Provision | Appeal Proposal – Total Affordable Housing |
|--------|---|-------------------------------------|--|
| 1 bed | 30.3% | 49% | 27% |
| 2 bed | 25.4% | 36% | 60% |
| 3 bed | 20% | 14% | 11% |
| 4 bed | 24.3% | 1% | 2% |
| Totals | 100% | 100% | 100% |

11.25 An early response to the Planning Appeal, from the Planning Policy Officers, as quoted in the OR, is as follows:

- ... there is a further policy requirement that the “type, mix and size of the affordable homes will meet the identified housing need as reported by the Council’s most up-to-date housing evidence”. Informed by the latest evidence from the Council’s Housing Register, the Council’s Housing Team have identified a greater need for larger affordable rented homes within this location.

11.26 From my **Table 11.6** above, the conclusions that can be drawn in terms of affordable need are as follows:

- There is a discernible shift between the March 2022 Local Plan and the June 2022 SEHNA mix figures;
- The 2022 SEHNA shows a significant additional need for 1-bedroom units and a reduction in the need for 3 bed-units, and particularly 4-bedroom units; and
- The Appeal Proposal provides an over-concentration of 2-bedroom units

11.27 There are, moreover, fundamental issues with the SEHNA as a reliable material consideration, especially noting the policy HP05.2a and 2.c requirements to have regard to the “most up-to-date housing evidence”. In particular, the work undertaken by Turley in connection with the SEHNA overestimates the need for smaller units; and there is more recent evidence which demonstrates that the need is for larger affordable units, consistent with the Local Plan.

2022 SEHNA - Turley Associates

11.28 The conclusions in the SEHNA on affordable residential mix and need are underpinned by a number of calculations.

11.29 First of all, however, it is necessary to note that within the SEHNA there is a high ‘Housing Need Currently’ for 3-bedroom units, as well a small but important need for 4-bedroom units

(my **Table 11.7 below**). The Council's track record in delivery on these is very poor (and this is also noted in the SEHNA).

11.30 The general findings from my **Table 11.7** are (for 2022) as follows:

- The Current Affordable Housing Need is 1,029 dwellings;
- Of the Current Affordable Housing Need, some 215 are 3 or 4-bedroom units (21% of the total current need);.
- The annual need is 362 affordable homes; and
- The annual need for 3 and 4-bedroom units is close to 15% of the total provision

Table 11.7 – Affordable Housing Need 2022 for Brentwood – taken from South Essex Housing Needs Assessment (Turley Associates)

| Unit Type | 1 bed | 2 bed | 3 bed | 4 bed+ |
|--|-------|-------|-------|--------|
| Total Housing Need Currently | 437 | 377 | 205 | 10 |
| Total newly arising need, gross annual | 201 | 152 | 58 | 3 |
| Estimated Supply per annum | 46 | 41 | 18 | 1 |
| Net Need per annum | 178 | 131 | 50 | 3 |

11.31 From these base findings on '**Housing Need Currently**', Turley then attempts to forecast '**Newly Arising Need**' for affordable housing types over the Plan Period. Turley has stated in its paragraph 6.20:

- *It is naturally more challenging to predict the scale of future need, compared to the need outlined above which exists (current need) and can be quantified at the current point in time'*

11.32 Turley has taken the following approach:

This stage of the calculation can also be broken down to illustrate the number of bedrooms needed with such information specifically recorded by the housing registers... the number of bedrooms required by these households has been assumed to align with the requirements of those already on the housing register in each area, excluding transfer tenants. This is considered to provide a robust if illustrative basis for estimating needs, in the absence of sufficiently comprehensive data.

11.33 Unfortunately, there are inherent failings in this approach:

- Brentwood classifies Applicants on its housing register as either 'Homeseekers' or 'Transfers'. Homeseekers are Applicants not currently living in housing owned and

managed by the Council, and Transfers are those who are resident in council housing and who are seeking to move to more suitable housing.

- Those who are Homeseekers can only register for flats before they can be considered for houses, even if their actual need is for a house. This means that all Homeseekers are excluded from those needing houses on the Housing Register. This absence gets extrapolated as it rolls forward in the forecasts for future years.
- Homeseekers are expected to spend time living in a flat before being able to transfer to a house. Once they become a Council tenant, they can then register for a house, and this is when it gets recorded on the Housing Register.
- A further factor affecting the conclusions is that a very significant proportion of local demand for one bedroom accommodation is generated by older people (49% from a recent study showing 60+ age). Many of these are not actually seeking flats but instead sheltered accommodation or bungalows (for which is in very short supply). The older housing need therefore also skews considerably the 'Newly Arising Need' for flats.

11.34 The Council's view is that Turley has grossly overestimated the proportion of the affordable housing requirement which should be met by smaller flats, and in so doing, as a percentage, this underplays the need for larger units. The total new need is 7,871 units, made up of 1,029 current need and 7,871 units as new need. Should the new need be flawed, then it significantly imbalances the mix that they might identify.

11.35 As a result, the SENHA should **not** be relied upon to influence affordable need on sites such as the Appeal Site.

Current Need - ARK

11.36 The current gross need for affordable homes can be assessed by looking at:

- a. Past trends and current estimates for homeless households;
- b. Those in priority need in temporary accommodation;
- c. Households in overcrowded housing;
- d. Concealed households;
- e. Existing affordable housing tenants in need; and
- f. Households in other tenures in need and unable to rely on the market.

11.37 The Council recently commissioned consultants, 'Ark', to undertake a study of present affordable housing need – '*Ark - Brentwood Borough Council Delivering A Suitable Balance of Affordable Homes PLANNING PRACTICE GUIDANCE Dec 2024*'.

11.38 When Ark, as part of its study consulted with the Council's Housing Team, the following responses were received:

- There is a pressing need for larger accommodation for families;
- Families are having to wait much longer than other household types for accommodation;
- The 1 bed flats in particular that are coming through the planning system are not meeting housing need on the ground;
- The long wait for suitable family accommodation is leaving families with children in unsatisfactory housing conditions (including temporary accommodation) with overcrowding a problem; and
- Affordability is challenging in flatted accommodation due to high service charge costs.

11.39 The Ark study concluded that as at November 2024, there were;

- 247 Homeseeker households registered for accommodation, and
- 264 Transfer households.

11.40 The typical waiting period on the Register for an offer of suitable housing is:

- one-bedroom - 32 months;
- a two-bedroom - 28 months; and
- a two or three-bedroom house - 48 months.

11.41 The scarcity of houses available for social letting is generally exacerbated by tenants of houses undertaking the Right to Buy. This combined with an approach which concentrates on smaller units, imbalances in the local affordable stock and adds to the relative scarcity of houses and of accommodation suited to families.

11.42 Furthermore, a review of temporary accommodation data for Brentwood illustrates that there are around 25 households accommodated in temporary accommodation at any one time and around 73% of those households contain children. The average wait by dwelling type for rehousing for those households is as follows:

- 1 Bedroom: 224 days;
- 2 Bedroom: 184 days; and
- 3 Bedroom: 353 days (figures from 2021 onwards).

11.43 Both sets of figures (Housing Transfers and Temporary Accommodation), clearly show that households who require larger family accommodation are having to wait longer.

11.44 The ARK analysis concludes that the Council's policy objectives should remain founded primarily on the results of the 2016 SHMA and the Local Plan. I understand that the Ark study will be added to the council's website as Evidence Base.

11.45 I also provide a Table below (**Table 11.8**) which provides live data from the Council's Housing Register. This confirms the need for larger units and demonstrates that the real need emerges once tenants become qualified as Transfer Applicants.

Table 11.8 – Current Affordable Housing Needs

| Unit | Housing Register - 31 Jan 24 | Housing Register – 31 May 24 | Transfer Applicants – 31 Jan 24 | Transfer Applicants – 31 May 24 |
|--------|---------------------------------|---------------------------------|------------------------------------|------------------------------------|
| 1 bed | 137 | 123 | 54 | 53 |
| 2 bed | 56 | 56 | 73 | 76 |
| 3 bed | 53 | 43 | 104 | 115 |
| 4 bed | 2 | 1 | 13 | 13 |
| Totals | 248 | 233 | 244 | 257 |

Overview

11.46 With an absolute need of 215 larger dwellings from the SENHA and 172 from Current Need at May 2024 (**Table 11.8**), only 13 are provided from the Appeal Proposal. It is considered that given the site is a large urban extension and an out of the town centre location, with access to open areas and education facilities, then the Appeal Site should provide a greater proportion of larger family units.

11.47 The conclusions from the recent Ark study are that (analysis from the housing register and qualitative feedback), the Council should prioritise the provision of houses for family households, as this is a form of affordable housing becoming scarce and with the longest waiting lists, including those living in temporary accommodation.

11.48 The Appellant's approach towards affordable rent is not remotely consistent with the Development Plan. Against a Development Plan requirement of 105 affordable/social rent, just 57 are proposed. There are no material considerations or evidence, let alone robust viability evidence, to justify this departure from the Development Plan's requirements.

11.49 In conclusion, the Appeal Proposal:

- Does not meet the Council's development plan policies for affordable rent (86%);
- Falls short significantly in meeting the 3-bedroom units in Local Plan Figure 6.2 but also in the 2022 SEHNA, and based on current need;
- Provides only six 3-bedroom units which are affordable/social rent and seven which are shared ownership from a total of 121 affordable units and comprising 344 new housing units; and there are no 4-bed affordable rent houses.

12.0 Summary and Conclusions

- 12.1 The engagement process identified that there were issues raised by the public which concerned the lack of uses that would serve the new community. Those raised included shops, services and medical uses in addition to the proposed new school. Additionally, the stakeholder engagement was limited and took place very close to the Application submission date. This meant that the Appellant did not allow sufficient time to consider adjusting the proposed design and land uses.
- 12.2 The Appeal Site is allocated for development by Policy R03 and the Council will support a comprehensive mixed-use development. The Appeal Site is, however, by far the largest and most central of the Land Parcels forming part of the R03 Land. The Appeal Site is not allocated for residential development, but a residential-led mixed-use development. The Appeal Proposal provides for Land for a new Primary School and Nursery but it fails to deliver any employment or community uses as required by policy. The Appeal Proposal therefore conflicts with the fundamentals of Policy R03.
- 12.3 The Appeal Proposal cannot be helped out by any of the other R03 parcels of land in meeting the fundamental objectives of the policy. There are no employment or community uses contained in any of the Planning Applications for the other three Land Parcels. Redrow already has planning permission without any such uses; Stonebond is too small; and Countryside is yet to be determined, offering to provide a Care Home only (this being a separate and distinct policy objective).
- 12.4 In terms of affordable housing, the Appeal Proposal has a serious and unequivocal policy conflict with the Council's proposed tenure requirements for affordable housing. There is a Policy HP05 requirement of 86% against a provision of 47% provision. No viability evidence has been presented by the Appellant on an open book basis to justify this reduction.
- 12.5 There is also serious conflict with the unit mix proposed for the affordable housing when viewed by the indicative mix provided within the Local Plan. This means that there is a double effect for the Council, reflected in the proposed tenure combined with an unsatisfactory mix. No viability evidence has been provided to support the Appellant's stance. There is, therefore, a further conflict with the Local Plan. The indicative mix table in the Development Plan dates from March 2022 and is intended to guide developers for the duration of the Plan up to 2033.
- 12.6 It has been stated by the Appellant that there is a shift in affordable need, which is recognised by the June 2022 SEHNA. However, the SEHNA has a number of flaws and should not be relied upon when it sets out a need bias for smaller units.
- 12.7 From a total of 344 new housing units in the Appeal proposal, there are only 6no 3-bedroom units that are for affordable rent. The SENHA actually states a Current Need for 3-bedroom units of 205 and 10 for 4-bedroom units, and this is backed-up by recent data from the Council's

Housing Department. The Appeal Site given its context which includes open areas, provision for a school and early years facilities is more suitable for larger units than other parts of the borough. Whilst it is recognised that there was agreement with Officers, this was reluctantly given and without any viability evidence being provided, therefore the Appeal Proposal conflicts with the Local Plan.

- 12.8 The design policies for the Appeal Site emphasise the need for a high-quality design. The Appeal Proposal fails to respect its context which is formed by the existing properties along Chelmsford Road, it appears too tall and bulky whilst the building line is aggressive without any landscaping. As the principal entrance into the Appeal Site, and highly visible from the new junction along the busy Chelmsford Road, this needs to be more sensitive. The Southern Entrance could be adjusted to respect its context and there is no need at this point for height or bulk to signpost an entrance into a much larger development.
- 12.9 The Appeal Proposal conflicts with a number of policies of the Development Plan and to date there is inadequate evidence to justify these departures. I acknowledge that the Appeal Proposals in their entirety provide a number of benefits for the existing and emerging community. However, these are largely a requirement of Policy R03, other policies or of the NPPF. The overall scheme will be much improved if revisions are made to ensure that the Site delivers a sustainable development.
- 12.10 Under s.38(6), applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Appeal Proposal is in clear conflict with important policies of the Development Plan, which would need to be met, before planning permission is granted.