

Officers' Meadow

Land North of Shenfield, Brentwood

Planning Proof of Evidence

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

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

Prepared on behalf of Croudace Homes Ltd

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Lucid
Planning

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Key Points

1. The Government's Plan for Change seeks to deliver 1.5 million new homes this Parliament to address "*an inherited acute and entrenched housing crisis*".
2. Paragraph 11(c) of the NPPF sets out clearly that decision-takers should apply the presumption in favour of sustainable development; and in the first instance they should approve development proposals "*that accord with an up-to-date development plan **without delay***".
3. The Appeal Application comprises the largest part of the second largest allocation in the adopted Brentwood Borough Council (BBC) Local Plan (March 2022), Policy R03.
4. The Brentwood Local Plan only covers a ten year period. The Local Plan Inspectors, Council officers and the Appellant, Croudace Homes, all acknowledged it was in the Council's interest to bring this site forward as quickly as possible.
5. Croudace has worked consistently, collaboratively and throughout the process with officers of BBC and statutory consultees since the publication of the Reg 19 Plan to bring this allocated site forward and deliver housing as quickly as possible in an attempt to meet the Council's housing trajectory set out in the Plan. This is as demonstrated by the Local Plan Statement of Common Ground, the drafting of the MDP, pre-application discussions and public engagement, and then the submission of the planning application under a PPA in compliance with paragraph 47 of the NPPF.
6. Despite this effort and significant resources applied, the delivery of the allocation is currently more than two years behind the Local Plan trajectory even though the Plan was only adopted in 2022.

7. The Appeal Site is on land formerly in the Green Belt, to the north of Shenfield. Shenfield is the most easterly stop on the Elizabeth Line. The site is, therefore, highly sustainable within close proximity to one of Europe's largest public transport projects and was removed from the Green Belt for precisely that reason.
8. The Appeal Application provides a high quality, landscape-led mixed use development that accords with Policy R03. It provides:
 - 344 much needed new homes, including policy compliant 35% affordable homes including affordable rent and shared ownership to meet local need as set out in the up-to-date SHMA. This is 121 dwellings, which is more affordable homes than provided in the whole borough in the last seven years
 - Land for a co-located primary school and early years and childcare nursery
 - 5% custom-build homes
 - Vehicular access via Chelmsford Road and Alexander Lane
 - The diversion of Alexander Lane, creating a quiet lane for existing pedestrians and cyclists (particularly to Shenfield High School) and a new and improved route through the development site linking to Chelmsford Road
 - Enhanced sustainable links (pedestrian, cycle and public transport) with Shenfield station and local services and facilities in the wider area, which will also benefit existing residents
 - Well-connected internal road layout which allows for good accessibility and connectivity to other parts of R03, to promote active travel to optimise health and well-being, legibility and a strong setting and sense of place
 - New multi-functional green infrastructure and play spaces for its residents
 - An enhanced Public Right of Way within the site
 - Protection and maintenance of the Ancient Woodland of Arnold's Wood, as well as continued access
 - Provides pedestrian and cycle crossing points across Chelmsford Road

- Improved bus services, including a bus loop to the railway station
- A flood and SUDs strategy that has been agreed by all the relevant statutory consultees

In addition, the Appeal Application provides:

- protection and maintenance of all the TPOs and the veteran tree on site
- biodiversity net gain (BNG) of 24% net gain in habitat units, a hedgerow gain of 13% and a watercourse gain of 22%
- a new landscaped plaza to be the community heart and meeting place (approximately the size of eight badminton courts) which could host mobile food and drink vehicles
- a new landscaped park of nearly 4 hectares (the equivalent of 5.5 premiership football pitches) in addition to the requirement for its residents, for all local residents to benefit from
- the Neighbourhood Equipped Area of Play (NEAP) for the whole allocation
- a residential density of 36.3 dwellings per hectare to make efficient use of land in accordance with the NPPF, despite more than half the site being given over to other uses that have an intrinsic community benefit for all of R03 as well as the wider community and meeting all relevant Essex Design Guide standards
- a variety of new homes consisting of a variety of 1, 2, 3 and 4 bedroom high quality market, accessible, affordable and custom build apartments and houses that have taken their design cues from Shenfield to meet Policies HP01, HP03, HP05 and HP06.

Other elements of Policy R03 are provided by the other parts of the site as set out in a collaboratively produced and officer agreed Masterplan Development Principles document

9. The substantive Officer's Report to Committee sets out that the application is compliant with all relevant policies, that there were no objections from any BBC officer or statutory consultee and as such, was recommended for approval.

10. It is the Appellant's position that the Reasons for Refusal (RfR) in the Corporate Manager's email of 26 July 2024 are the final reasons for refusal, as per the minutes of the meeting and the Council's Constitution, and are, therefore, the Main Issues for the Inquiry.
11. Reason for Refusal 1 (harm to the character and appearance of the area in conflict with Policy BE14 1.e.) is addressed primarily by the separate design evidence of Mr Anderson of Stantec.
12. In regard to Reason for Refusal 2 (Insufficient early, inclusive and effective engagement with the community in conflict with policy BE14 2.a.) I demonstrate that the reason for refusal is not justified, as the Appeal Application:
 - has, as an allocated site in the adopted Brentwood Local Plan, been shaped by early, proportionate and effective engagement consistent with paragraph 16 of the NPPF
 - was accompanied by the approved MDP, in accordance with Policy R03 2.a.
 - was the subject of pre-application early engagement in accordance with paragraph 40 of the NPPF
 - consultation complied with BBC Statement of Community Involvement, December 2018
 - provided early, proactive, inclusive and effective engagement with the community and other relevant partners in accordance with Criterion 2a of Policy BE14, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004
 - should have, as a result, been looked on more favourably by BBC Planning Committee in line with paragraph 5.125 of Policy BE14.
 - Has been treated unevenly by BBC when compared to the Redrow application.
13. In regard to Reason for Refusal 3 (type, mix and size of affordable housing in conflict with Policy HP05) I demonstrate that the reason for refusal is not justified, as the Appeal Application:

- is consistent with the policy (as defined by footnote 9) in paragraph 66 of the NPPF
- has regard to the most up-to-date SHMA
- is, as a result, compliant with Policy HP05, in accordance with s38(6) of the Planning and Compulsory Purchase Act 200
- has balanced the SHMA requirements (which are borough-wide) with site and development constraints and opportunities, the request for Gateways at the entrances to Chelmsford Road and Alexander Lane and market testing with the delivery agents, the Registered Providers
- is also compliant with Policies HP01, HP03 and HP06 in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004

14. The additional issues set out in the Council's Statement of Case are new and as such prolong the proceedings of the Inquiry. They are also considered to not be justified, as the Appeal application:

- is consistent with the Local Plan Inspectors' view that the proposed mix of development is reasonable for this strategic site
- is compliant with Policies R03 and MG04, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004
- includes only appropriate uses, and also accords with paragraph 97 of the NPPF
- provides a wide range of additional facilities for the whole allocation and the wider community
- has been treated unevenly by BBC when compared to the Redrow application

15. Given the late changes and lack of agreement on a number of the s106 matters, the Appellant has proposed its own version of the s.106 planning obligation but will nonetheless continue to work to narrow the differences between the parties.

16. It is considered that the Appeal Scheme complies with the development plan, the NPPF and other material considerations.
17. It is demonstrated that the Council's Reasons for Refusal are not justified, and the Inspector is respectfully asked to allow this Appeal.
18. The Appellant is concerned about what it perceives to be the Council's unreasonable conduct in the following respects:
 - (i) The Council has delayed development on the Appeal Site which should have clearly been permitted in July 2024 ,and not been the subject of this appeal, as the application complies with the development plan, the NPPF and other material considerations.
 - (ii) The Council has not determined similar cases (the outline application for the safeguarded school site which is associated with the Appeal Application and the neighbouring Redrow application to the north, which also forms part of the R03 allocation) in the same manor
 - (iii) The Council has prolonged the appeal proceedings by introducing new reasons for refusal in its Statement of Case.

1. Qualifications and Experience

- 1.1 This Proof of Evidence is prepared by Jane Piper BA(Hons), BTP, MRTPI.
- 1.2 I have over 25 years' experience in planning, during which time I have worked in local authority at the Vale of White Horse District Council and Swindon Borough Council (development management and planning policy) and planning consultancy. I was a Director at Terence O'Rourke Ltd and Barton Willmore (now Stantec). I am now a Director at Lucid Planning.
- 1.3 I have continuously advised Croudace Homes Ltd ("Croudace") on what is now the Appeal Application since the Brentwood Local Plan Regulation 19 document was published for public consultation in February 2019. At that time, I worked for Barton Willmore, which later became Stantec. I became a Director of Lucid Planning in August 2024.
- 1.4 I am familiar with the Appeal Site and the Appeal Application.
- 1.5 I have acted and advised on a wide range of complex housing development proposals, including securing consent for large, mixed use urban extensions, such as SW Bicester for Countryside Properties (1500 dwellings plus primary and secondary school, new road, public open space and other ancillary uses) and east of Ringwood (400 dwellings plus public open space, SANG, phosphate mitigation, employment land, new roundabout and road, and ancillary uses) for Taylor Wimpey, as well as the redevelopment of NHS land for residential use, such as Park Village in Basingstoke.
- 1.6 The Evidence that I have prepared and provide in this Proof of Evidence (APP/H1515/W/24/3353271) is true and has been prepared and given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my personal professional opinions.

2. Introduction

- 2.1 This Proof of Evidence is in support of an Appeal against Non Determination of a full application (Brentwood Borough Council (BBC) planning application ref: 23/01164/FUL) which forms part of a hybrid planning application by Croudace Homes 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 in relation to land at Officers' Meadow, Land North of Shenfield (the Appeal Application).

- 2.2 The other part of the hybrid application is an outline application for a safeguarded school and early years nursery site. The hybrid application was split by the Council. The outline application received a resolution to grant at Planning Committee on 9 July 2024, so in itself does not form part of the Appeal Application; however, due to its hybrid nature, the s106 legal agreement covers both applications and therefore this part of the proposals remains relevant to the Appeal.

- 2.3 The Appeal Site is the largest part of the second largest strategic allocation, Policy R03, in the adopted Brentwood Local Plan (March 2022). Policy R03 allocates Land North of Shenfield for 825 dwellings, a 2.1ha safeguarded 2FE primary school and early years nursery site, a 60-bed care home and around 2ha of employment land. The supporting text to the Policy acknowledges that the allocation will be brought forward by four developers.

- 2.4 This Proof of Evidence focuses on the following aspects of the Appeal:
- The Appeal Site and its context
 - The planning policy context for delivering housing
 - Compliance with the Development Plan and relevant material circumstances

- The appeal application proposals and the application process
- Rebuttal to the Council's Putative Reasons for Refusal
- Inconsistent Decision-Taking By BBC
- Suggested conditions and matters for the s106
- The basis for the Appeal being allowed.

2.5 This evidence is to be read alongside the evidence of Mr Anderson on design matters.

3. The Appeal Site and Context

3.1 The Appeal Site extends approximately 21.32 hectares in total and is located to the north of Shenfield, a town in the Borough of Brentwood in Essex, as shown on the plan at Appendix 1 of the Statement of Common Ground.

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

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

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

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

Accessibility

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

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

Planning Application History

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

4. Planning Policy Context For Delivering Housing

4.1 This section of my Proof sets out the planning policy context for delivering housing. In summary:

- According to the Government, we have an acute and entrenched housing crisis and as such has committed to delivering 1.5 million new homes in this Parliament
- At the heart of the NPPF is the presumption in favour of sustainable development, which should be applied in the first instance to development proposals that accord with an up-to-date development plan
- The Appeal Site is allocated as part of R03 in the adopted Brentwood Local Plan, March 2022
- Croudace has been working with BBC officers since 2019 to bring this site forward, in accordance with Policy R03, as expeditiously as possible; yet the site is at least two years behind the delivery trajectory set out in the Local Plan
- The Committee Report sets out that there are no objections from any BBC officer or statutory consultee
- The application could deliver 344 much needed new homes, including 121 affordable homes
- The number of affordable homes on the Appeal Application site alone would deliver a similar number to that produced in the last six years in the whole borough
- The implications of resolving to refuse this application on the adjoining allocation site to the north also need careful consideration.

The National Planning Context

4.2 The requirement for local planning authorities to deliver sustainable housing sites has been a fundamental tenet of the planning system for many years; as is having an up-to-date local plan. Many authorities have failed to do so, particularly in the east, south east and south of England where the need for

both market and affordable housing is high, resulting in increasing affordability ratios and high rents. As a result, the Labour Government in the Ministerial Speech of 30 July 2024 (CD 7.2) recognised, *“We are in the middle of the most acute housing crisis in living memory.”*

4.3 The speech goes on to say,

“ Planning is principally a local activity, and it is right that decisions about what to build and where should reflect local views. But we are also clear that these decisions should be about how to deliver the housing an area needs, not whether to do so at all, and these needs cannot be met without identifying enough land through local plans.”

4.4 The speech also introduces the concept of modernising planning committees by introducing a national scheme of delegation placing *“more trust in skilled professional planners”*.

4.5 Since that speech introducing the planning reforms, the new NPPF was published on 12 December 2024 along with the ‘Planning Reform Working Paper: Planning Committees’ in bring forward much needed development.

4.6 Matthew Pennycook’s Ministerial Speech of 12 December 2024 (CD 7.3) goes a little further stating,

“This Government has inherited an acute and entrenched housing crisis. The average new home is out of reach for the average worker, housing costs consume a third of private renters’ income, and the number of children in temporary accommodation now stands at a historic high of nearly 160,000. Yet just 220,000 new homes were built last year and the number of homes granted planning permission has fallen to its lowest in a decade.

That is why the Plan for Change committed to rebuild Britain, with the hugely ambitious goal of delivering 1.5 million new homes this Parliament, and the vital infrastructure needed to grow our economy and support public services.”

- 4.7 At the heart of the NPPF (CD 7.1) is the presumption in favour of sustainable development. Paragraph 11 places significant emphasis on the “*presumption in favour of sustainable development*” which it states should be applied through both plan-making and decision-taking.
- 4.8 Paragraph 11(c) of the NPPF sets out how the presumption in favour of sustainable development should be applied for decision-taking, namely, in the first instance that decision takers should approve development proposals “***that accord with an up-to-date development plan without delay***”.
- 4.9 As set out in this Proof of Evidence, it is clear that the Appeal Application is in accordance with the relatively recently adopted Brentwood Local Plan (March 2022) (CD 6.1) and therefore should be approved without delay.
- 4.10 It is my view, that this Appeal Application is an unfortunate example of the very problem the Government is trying to resolve in the ‘Planning Reform Working Paper: Planning Committees’.

The Brentwood Local Plan 2016 – 2033 (March 2022)

- 4.11 Work began on the Brentwood Local Plan in 2009. The Local Plan was submitted for Examination in February 2020. Examination hearings were held in December 2020 and February, March and July 2021. The Plan was adopted in March 2022 and covers the plan period 2016 to 2033.
- 4.12 The Council was not able to provide enough allocations to fulfil its objectively assessed need for the required post adoption 15 years, as set out in the NPPF 2021 of the time. After some deliberation (the Inspector’s report was dated 23

February 2022) the Inspector found the Plan sound for a ten year period (to provide 7752 new dwellings (net) with a stepped trajectory at an average of 300 dwellings per year to 2023/24, followed by 400 dwellings per year to 2029/30 and then 984 dwellings per year to 2032/33, Policy MG01, CD 6.1) on the basis that the Council would bring forward immediately a partial update of the Plan to meet the full objectively Assessed Need. Adopted Policy MG06 states,

“The review will commence immediately upon the adoption of this Plan with submission of the review for examination within 28 months”

- 4.13 This means that the update should have been submitted in July 2024. The latest LDS 2022-2025 (July 2022) (CD 8.1) set out a timetable to fulfil Policy MG06. To date, however, the Council has only undertaken a Call for Sites (from 18 December 2023 to March 2024).
- 4.14 In light of the changes to the NPPF, the Deputy Prime Minister has asked all LPAs, via the Planning Update Newsletter 13 December 2024 (CD8.3), to produce and submit an updated LDS within 12 weeks of the publication of the NPPF (i.e. by no later than 6 March 2025) and prepare a Local Plan to meet the Local Housing Need, calculated by the new standard methodology. This is 724 dwellings per year in Brentwood.
- 4.15 Appendix 1 of the Local Plan sets out the housing trajectory. Two other relevant trajectories are in the public domain: the first was in the Local Plan R03 Allocation Statement of Common Ground (SoCG), January 2021 (CD 8.4), and the second in the approved Masterplan Development Principles document (MDP), August 2023 (CD 1.5). The first two trajectories expected to deliver the 825 dwellings, whilst the MDP was c.665 dwellings, as set out here:

	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	Total
LP SoCG, Jan 21	125	175	170	125	75	75	50	30	825
Adopted LP March 22	50	100	125	125	125	125	100	75	825
MDP Aug 23		170	175	145	105	70			c.665

- 4.16 The Allocation SoCG, (CD 8.4) assumed the Local Plan being adopted in Q4 2021 and all four developers having planning applications ready to submit on adoption. This was based on the amount of work the developers had done with BBC, ECC Education and Highways to progress the allocation. This trajectory also amended the first two years of the trajectory the Council had presented to the examination as that was considered to be too ambitious.
- 4.17 The Local Plan does not set out any assumptions regarding pre-delivery timetable, but clearly expectations of a swift decision process were built in to the expectation of 50 dwellings being completed in 2023/24.
- 4.18 The MDP assumed all four planning consents in Q4 of 2023.
- 4.19 According to the trajectories set out in the table above, the R03 allocation is behind by 170-300 dwellings in a shortened Plan period.
- 4.20 At Planning Committee on 26 November 2024 (CD 5.3), Members agreed to extend the time period for the consideration of the Dunton Hills Garden Village Outline Application (largest allocation for c.4000 dwellings) for 3 months and then at officers' discretion from then on, in 3 month increments to allow officers and the applicant to conclude s106 negotiations and planning conditions.

4.21 The Local Plan trajectory for Dunton Hills was as follows:

				Plan Period											
	New Homes	HELAA Ref.	Policy Ref	6/22	Year 7 2022/23	Year 8 2023/24	Year 9 2024/25	Year 10 2025/26	Year 11 2026/27	Year 12 2027/28	Year 13 2028/29	Year 14 2029/30	Year 15 2030/31	Year 16 2031/32	Year 17 2032/33
Dunton Hills Garden Village	1,650	200	R01						150	250	250	250	250	250	250
Strategic Allocation – Dunton Hills Garden Village Total	1,650								150	250	250	250	250	250	250
Allocation Total	4,699				349	482	309	224	710	450	470	550	525	315	315

4.22 From this information, it can be seen that Croudace has been trying to assist in delivering this site since 2019 and that the Council is at least two years behind the trajectory in its Local Plan, produced only 2.5 years ago, for the largest and second largest housing allocations. This is significant given:

- the Plan only has a 10 year time period
- the stepped trajectory increased in 2024/25 to 400 dwellings a year and will more than double in five years' time to 984 dwellings a year, which will only compound the lack of delivery
- the Council did not start an immediate update to meet its previous OAN in accordance with Policy MG06.

4.23 Further, Table 3 of the latest Monitoring Report on Housing Delivery 2021-22 (2022) sets out the Affordable Housing Completions 2010 to 2021/22:

Table 3: Affordable housing completions 2010/11 to 2021/22

Year	Affordable Housing Units Completed	% of Total Housing Completions
2021/22	7	1.7%
2020/21	0	0%
2019/20	40	20%
2018/19	2	0.81%
2017/18	52	26%
2016/17	22	14.6%
2015/16	16	14.4%
2014/15	19	10.7%
2013/14	0	0%
2012/13	20	16.4%
2011/12	51	34.5%
2010/11	4	1.0%

- 4.24 Given Brentwood borough is 86% Green Belt, the Council relies very heavily on its housing allocations in the adopted Local Plan to provide much needed market housing and affordable housing. The very low affordable housing completions set out in the table above demonstrate this.
- 4.25 It also demonstrates how important it is that adopted allocated sites are brought forward as quickly as possible, especially when developers are willing to work with the Council to do so.
- 4.26 Croudace promoted this site consistently throughout the preparation of the local plan. Croudace, and the other developers of R03, have also worked consistently and continuously with officers of BBC and statutory consultees since the publication of the Reg 19 Plan as demonstrated by the Local Plan Statement of Common Ground, the drafting of the MDP, pre-application discussions and public engagement, and then the submission of the planning application under an ambitious but agreed PPA (Appendix 2 of SoCG) in compliance with paragraph 47 of the NPPF in the hope of achieving “a faster and more effective application process”.
- 4.27 As the Local Plan Inspectors’ Report (CD 8.5) states in relation to Policy R03, at paragraph 158,
- “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.”*
- 4.28 It is clear from paragraph 159 that the Inspectors were satisfied that the site could move forward to delivery fairly quickly and could be fully developed in the Plan period with a realistic prospect that some housing would be delivered on the site within five years, based on the SoCG. They did consider delivery rates in the draft Local Plan to be optimistic and recommended the housing trajectory

be revised accordingly. Even with this modification, the allocation is over 150 dwellings behind the adopted trajectory.

- 4.29 Croudace's commitment to delivering this site is also demonstrated by the extent of policy compliance, as clearly set out in the officer's report to Planning Committee (CD 5.1), and the acceptance of the obligations in the s106, at the time.
- 4.30 This continuous and extensive collaborative work has resulted in a proposal described by the Council's urban design consultant, ECC Place Services, as producing **"architecture of the most prominent character areas [that] is positive, and...exemplary"**.
- 4.31 The officer's committee report clearly sets out the agreement of ALL BBC officers and statutory consultees and the clear recommendation of approval however, Members resolved to refuse the application. This will clearly impact further on the delivery of the Council's already suppressed housing need.
- 4.32 The delay created by resolving to refuse this application with a strong officer recommendation for approval, and contrary to the consideration of the subsequent outline planning application (that forms part of the hybrid application) for the safeguarded school site, and the Redrow application which is also part of the R03 allocation (see Section 8, Inconsistent Decision-Taking by BBC of this Proof of Evidence), means that Brentwood residents have been denied 344 new dwellings in a parkland setting, and more importantly 121 affordable new homes on the Croudace site.
- 4.33 The Croudace Appeal Application would not only address the significant waiting list times for affordable housing (see Table 4 at paragraph 11.87 of the Redrow committee report, (CD 5.3)) but would provide almost the same number of affordable homes in the next six to seven years on this one site than produced in the whole district in six years in the period 2016/17-2021/22.

- 4.34 This alone should have been enough to permit the planning application.

Implications for Other Residential Applications of R03

- 4.35 The way the Appeal Application has been considered by Planning Committee also means that the Redrow application has no direct pedestrian or cycle links to the south, to Alexander Lane (and on to the train station and town centre) via the Croudace land, other than via the existing unmaintained public right of way (which can be unpassable in winter within the Anglian Water site) or via the Chelmsford Road. This makes it an isolated site with no Neighbourhood Equipped Play Area and no direct pedestrian, cycle or public transport access to a local primary school. The train station would be 2.5km from the centre of the Redrow site, and the town centre 2.75km away via the Chelmsford Road and Alexander Lane (which currently has no footpath on the northern part). The nearest primary school, Long Ridings, is 2km away via the Chelmsford Road/Alexander Lane or 1.5km away via the current public footpath 86.
- 4.36 As the MDP (CD 1.5) sets out, the Redrow and Croudace sites have been designed to work together. The Croudace site works without the Redrow site, but not the other way around. Residents of the Redrow scheme, and in deed residents of Chelmsford Road will have a variety of options to get to the train station and Shenfield town centre via the Croudace development by foot, by cycle and public transport no matter the time of day or year. This is illustrated by the Croudace Connectivity Plan, drawing 152080/SK04 (CD 1.31). This does not seem to have been considered when the Redrow application was considered at Planning Committee on 26 November 2024.

5. The Development Plan and Material Considerations

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan

- 5.2 It is agreed in the Statement of Common Ground that the Development Plan consists of:
- Brentwood Local Plan 2016 – 2033 (March 2022) (CD 6.1)
 - Essex Minerals Local Plan (July 2014)
- 5.3 I consider the most relevant development plan policies for this Appeal to be the following:
- MG01 Spatial Strategy
 - MG04: Health Impact Assessment
 - MG05: Developer Contributions
 - MG06 Local Plan Review and Update
 - R03: Land North of Shenfield
 - BE14, Creating Successful Places
 - BE15: Planning for Inclusive Communities
 - HP01: Housing Mix
 - HP03: Residential Density
 - HP05, Affordable Housing
 - HP06: Standards for New Housing

Material Considerations

5.4 In accordance with s38(6) of the Planning and Compulsory Purchase Act 2004, there are considered to be material considerations that weigh heavily in favour of the Appeal Application. These include the following which are considered in turn below:

- National Planning Policy Framework (NPPF) (CD 7.1)
- National Planning Policy Guidance (NPPG) (online)
- National Design Guide (CD 7.4)
- Planning Obligations SPD Supplementary Planning Guidance (CD 7.5)
- CIL Charging Schedule (CD 7.6)
- Essex Design Guide (online)
- Essex Design Guide Parking Standards: Design and Good Practice (September 2009) (CD 7.7)

National Planning Policy Framework (December 2024) (CD 7.1)

5.5 The National Planning Policy Framework was published on 12 December 2024. Paragraph 2 of the NPPF states that the Government's policy is a material consideration in planning decisions, and paragraph 231 makes it clear that it is the policies in this Framework that are material considerations which should be taken into account in dealing with applications from the day of its publication.

National Design Guide (CD 7.4)

5.6 The National Design Guide (NDG 2021) adopted in January 2021, and the National Model Design Code (NMDC), adopted in June 2021, set out and illustrates the Government's priorities established in the NPPF for well-designed places in the form of ten characteristics.

Planning Obligations SPD (December 2023) (CD 7.5)

5.7 BBC published its Planning Obligations Supplementary Planning Document in November 2022, which was subsequently adopted on 20 December 2023.

CIL Charging Schedule (September 2023) (CD 7.6)

- 5.8 On 15 January 2024, BBC's adopted the CIL Charging Schedule of 27 September 2023 became effective (CIL Charging Schedule and Instalment Policy | Brentwood Council). As of January 2025, the CIL rate for R03, Land North of Shenfield is £154/sqm.

Essex Design Guide (online)

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

Essex Design Guide Parking Standards: Design and Good Practice (September 2009) (CD 7.7)

- 5.11 The Essex Design Guide Parking Standards: Design and Good Practice document is supplementary planning guidance that has been considered in the preparation of the Appeal Application to inform sitewide parking provision.

6. The Appeal Application

6.1 This section of my Proof sets out the background and process undertaken in regard to the Appeal Application, including the MDP. In summary, it sets out:

- what the Appeal Application comprises: demonstrating that it not only provides the majority of non-residential land uses of Policy R03, but additional benefits, for new and existing residents
- the background, process, purpose and status of the MDP
- the background to the application
- how the application was considered at Planning Committee
- the post-committee meeting with the Chair and Vice Chair
- the reasons for refusal, and the rationale as to why I believe they are the Main Issues to be considered at this Inquiry
- the opportunities that the Council has had to issue a formal notice of refusal
- other relevant BBC Planning Committee Decisions that show uneven treatment of the Appeal application.

6.2 The Appeal Application forms part of a hybrid planning application seeking full planning permission for:

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

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

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

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

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

The Appeal Application Proposals

- 6.6 The Appeal Site was allocated in the adopted Brentwood Local Plan (March 2022) as one of four parts of the second largest strategic allocation, Policy R03.
- 6.7 The Appeal Site is on land formerly in the Green Belt, to the north of Shenfield. Shenfield is the most easterly stop on the Elizabeth Line. The site is, therefore, highly sustainable within close proximity to one of Europe's largest public transport projects and was removed from the Green Belt for precisely that reason, to provide much needed housing.
- 6.8 Policy R03 allocates the whole of Land North of Shenfield for 825 dwellings, a 2.1ha safeguarded 2FE primary school and early years nursery site, a 60-bed care home and around 2ha of employment land.
- 6.9 The supporting text (paragraph 9.102) acknowledges that the allocation will be brought forward by different developers. Consequently, criterion 2.a. states that the development should be accompanied by a comprehensive masterplan and phasing strategy to inform detailed proposals as they came forward. The four developers of R03 (Croudace, Redrow, Countryside (now Vistry) and Stonebond) worked collaboratively with officers of BBC and other statutory consultees to produce the Masterplan Development Principles document,

which was approved by the Director of Place and the Corporate Manager (Planning Development) on 3 August 2023 and submitted with the planning application.

6.10 Within the context of the housing need and trajectory set out in the Brentwood Local Plan (as set out in paragraphs 4.12-4.34 of this Proof of Evidence) and the national housing crisis, the Appeal Application provides a high quality, landscape-led mixed use development that accords with Policy R03, and provides:

- 344 much needed new homes, including policy compliant 35% affordable homes including affordable rent and shared ownership to meet local need as set out in the up-to-date SHMA. This is 121 dwellings, which is more affordable homes than provided in the whole borough in the last seven years
- Land for a co-located primary school and early years and childcare nursery
- 5% custom-build homes
- Vehicular access via Chelmsford Road and Alexander Lane
- The diversion of Alexander Lane, creating a quiet lane for existing pedestrians and cyclists (particularly to Shenfield High School) and a new and improved route through the development site linking to Chelmsford Road
- Enhanced sustainable links (pedestrian, cycle and public transport) with Shenfield station and local services and facilities in the wider area, which will also benefit existing residents
- Well-connected internal road layout which allows for good accessibility and connectivity to other parts of R03, to promote active travel to optimise health and well-being, legibility and a strong setting and sense of place
- New multi-functional green infrastructure for its residents
- An enhanced Public Right of Way within the site
- Protection and maintenance of the Ancient Woodland of Arnold's Wood, as well as continued access
- Provides pedestrian and cycle crossing points across Chelmsford Road
- Improved bus services, including a bus loop to the railway station

- A flood and SUDs strategy that has been agreed by all the relevant statutory consultees

In addition, the Appeal Application provides:

- protection and maintenance of all the TPOs and the veteran tree on site
- biodiversity net gain (BNG) of 24% net gain in habitat units, a hedgerow gain of 13% and a watercourse gain of 22%
- a new landscaped plaza designed to be the heart of the development (approximately the size of eight badminton courts) which could host mobile food and drink vehicles
- a new landscaped park of nearly 4 hectares (the equivalent of 5.5 premiership football pitches) in addition to the requirement for its residents, for all local residents to benefit from
- the Neighbourhood Equipped Area of Play (NEAP) for the whole allocation
- a residential density of 36.3 dwellings per hectare to comply NPPF requirements to make efficient use of land, despite more than half the site being given over to other uses that have an intrinsic community benefit for all of R03 as well as the wider community and meeting all relevant Essex Design Guide standards
- a variety of new homes consisting of a variety of 1, 2, 3 and 4 bedroom high quality market, accessible, affordable and custom build apartments and houses that have taken their design cues from Shenfield to meet Policies HP01, HP05, HP06, HP12, HP13 as well as the principle of minimum density/efficient use of land in Policy HP03.

Comprehensive Masterplan and Phasing Strategy to Fulfil Policy R03 2a

6.11 Criterion 2a of Policy R03 states that,

“Development should:

be accompanied by a comprehensive masterplan and phasing strategy to inform detailed proposals as they come forward.”

- 6.12 Criterion 2 of Policy BE14: Creating Successful Places repeats the requirement stating,

“Proposals for major development should be supported by an area specific masterplan. Where appropriate, the Council will consider the use of a complementary design guide/code, to help guide the necessary design coherence across the entire development site...”

- 6.13 Paragraph 5.125 of the Local Plan sets out that where a site involves more than one developer, a collaborative masterplanning approach is expected to ensure the coherent application of design principles across the whole development site. It goes on to say that the level of prescription will vary according to the nature of the site and the development proposed and that it may use its discretion to appoint an independent Quality Design Review Panel to review the detailed design proposals, *“to help provide additional rigour to the design-thinking process, thereby ensuring the longer-term sustainable success of the development.”*

- 6.14 It is clear in the language used in both policies R03 2a and BE14 2 (embolden in paragraphs 6.10 and 6.11 above) that it is a requirement for developers to provide the masterplan to accompany or support their proposals.

- 6.15 Dunton Hills Garden Village, the largest allocation in Brentwood is a standalone new settlement with an expected capacity of around 4000 homes plus all the requisite infrastructure for a self-sustaining, thriving and healthy garden village. Policy R01(II) of the adopted plan states,

“All development proposals in relation to the site shall be in accordance with an approved masterplan. The masterplan shall relate to the whole of the allocated site and be produced in consultation with local communities and all relevant

stakeholders and shall include a statement that sets out how community and stakeholder involvement has influenced the design and layout of the submitted scheme and its intended delivery. The masterplan shall be submitted to the Council for its approval as part of the initial application for planning permission.”

- 6.16 This approach and wording could have been applied to the drafting of Policy R03 by the Council in regard to Land North of Shenfield; however, it was not. Given the site is a sustainable urban extension to Shenfield (not a new settlement) and is a fifth of the size of Dunton Hills, the Council took a proportionate and pragmatic approach in drafting Policy R03 requiring a masterplan and phasing strategy only, to be submitted “to inform detailed proposals as they come forward”. This was not questioned or disputed during the preparation of the Local Plan and hence was adopted with this criterion as drafted.
- 6.17 Initial work on the MDP began in April 2021 with a meeting with officers (before the extended Local Plan Examination had concluded). Following that meeting, the Council wrote to the developers on 5 May 2021 (CD 2.1) setting out the Council’s thoughts on the content of the document and appropriate process.
- 6.18 The first paragraph on page 2 states, *“The Council expects that the Masterplan process can be private sector led (in coordination with the Council and relevant stakeholders).”* This is contrary to the first sub-bullet of the third bullet point of paragraph 1.11 of the Council’s Statement of Case which states it is evidence of ineffective engagement.
- 6.19 The second paragraph of page 3 of the letter states,
- “Subject to the four promoters’ robust commitments to the coordinated delivery of the site, and in accordance with Policy R03 Development Principle B(a), officers would not see a*

specific requirement for a separate formal endorsement stage for the masterplan, although as part of the process there would be a requirement for:

- *An independent Quality/Design Panel Review. This will be appropriate, in order to inform officers' appraisal of the next level of detail that will need to reconcile the complexity of the delivery arrangements to focus on a successfully coordinated outcome. Officers envisage that a single review may suffice, in the event that a first Panel view is generally positively concluded.*
- *Appropriate member involvement. It would be particularly important that the final Masterplan would be presented to members in advance of being included as part of any planning application."*

- 6.20 Page 4 of the letter discusses the programme and resourcing for the MDP and applications. The second paragraph references a Council document (Examination Note F94, April 2021) that specifically addressed the concern by the Inspector about the Council's ability to resource the anticipated influx of pre-application enquiries on the allocated sites in order to deliver the Local Plan housing trajectory. It is clear from this letter that all were on board to deliver housing on R03 as soon as possible to meet the Council's trajectory.
- 6.21 Further correspondence to agree form and content was exchanged with officers in the summer of 2021, then Urban Designers from Barton Willmore (now Stantec) were appointed and work began. The urban designers were supported by FINC Architects who undertook the contextual analysis that informed the work on the Character Areas.
- 6.22 Work continued in earnest with significant input from Kew Planning, as planning officers once they were instructed in August 2022, senior BBC Planning Officers, ECC Place Services, the Council's Urban Design Consultant, and

other BBC officers including Housing; Strategic Planning Policy; Tree, Landscape and Ecology and Environmental Health as well as statutory consultees over a period of 18 months.

- 6.23 In order to keep momentum going to try and achieve the delivery of houses agreed and set out in the Statement of Common Ground, submitted to the Local Plan Examination, the developers were also working on their individual planning applications. As a result, more and more detailed survey information became available and the detail of the MDP increased. As the detail of the constraints on site became known and better understood, it became clear that the 825 new homes required under Policy R03 were not going to be achievable. It was agreed, however, that the developers would try and maximise the number of dwellings to limit the shortfall and meet NPPF requirements for making efficient use of land whilst addressing the constraints on site and meeting the requirements of the Essex Design Guide.
- 6.24 The changes in major constraints were due mainly to changes in the climate change requirements of the EA in the critical drainage area, the drainage requirements of the development and buffer requirements associated with the Ancient Woodland, the TPOs and Veteran Tree on site (virtually all of which are on the Croudace site). As such, at the time of finalising the MDP, the number of new homes for the whole allocation was c.700. On the Croudace site, the number had reduced from the expected c.430-450 (as per the HELAA) to c.320 dwellings.
- 6.25 In addition to the agreement to try and maximise the number of dwellings on the site, the developers and officers agreed that:
- Gateways with taller buildings would be created at the entrances
 - The SHMA 2022 figures would be used to calculate affordable housing
 - The care home would go on Countryside's land in lieu of the employment uses (with arguments to be put forward in the Countryside application).

- 6.26 These principles were presented to an All Members Briefing in August 2022. Some of the current Members of the Planning Committee attended that virtual meeting. The list of who attended was not officially recorded, but BBC has confirmed nine Members definitely attended, including the Chair and Vice Chair of Planning Committee and Cllr Barber. Twelve others may have attended including two other Members of the current Planning Committee, Cllr Nicky Cuthbert (who is also one of the local ward member) and Cllr Jay Laplian.
- 6.27 The MDP and all four individual proposals were presented to the Essex Design Review Panel on 7 June 2023. The Panel took a very different approach to that that had evolved with BBC planning officers and ECC Place Services (Urban Design). They suggested that the site should be turned inside out, with much more significant densities in the middle of the site (15 storeys was mentioned at the meeting) and lower densities towards the edges. That way, the Panel thought dwellings numbers could be maximised and at least 825 dwellings could be provided.
- 6.28 Officers and the developers agreed to address some of the comments, but it was agreed that the gateways were in the correct places and of the correct massing and density given the contextual analysis and surrounding development.
- 6.29 There were discussions with officers about an officer presentation of the MDP to Members, but the meeting was not scheduled, and the process of officer approval was confirmed by the Director of Place. The fact that there was no Member involvement is an internal matter for BBC.
- 6.30 The draft MDP was uploaded to the project website, www.landnorthofshenfield.co.uk, on 5 July 2023 along with draft proposals for the Croudace site, which formed part of the pre-application consultation which began on 6 July 2023. As shown in paragraph 7.13 of this Proof of Evidence, local Members and over 1800 residents were informed of the website and consultation.

- 6.31 The MDP was approved by the Director of Place and the Corporate Manager (Planning Development) on 3 August 2023.
- 6.32 In April 2024, some six months after the approved MDP had been submitted with the Croudace application, but to coincide with the public consultation of the Stonebond application (24/00332/FUL) validated on 18 March 2024, the Council asked the R03 Developer Group to remove the 'approved' label from the front of the submitted MDP document. The request was declined, as it was a matter of fact. Subsequently, the Council took the decision to post this statement on the planning application search web page, <https://www.brentwood.gov.uk/search-comment-and-track-planning-applications>:

"R03 Land North of Shenfield is allocated for a residential led development within the adopted Brentwood Borough Local Plan.

The site has multiple developers who came together to produce an overarching Masterplan Framework and Development Principles Document, in accordance with adopted Policy R03, to set out the overall principles that will guide and inform the subsequent planning applications for the allocated Site. In producing this document, it will mean that the vision is consistent throughout the development process as the different parcels of the land are brought forward through individual planning applications by each developer.

Council officers, other key stakeholders and technical consultees were engaged at length through the production of the Masterplan Framework and Officers have confirmed that the Masterplan Framework and Development Principles Document is acceptable to guide and inform the planning applications for the allocated site. However, the Masterplan Framework has not gone through any formal approval committee process and each

application will need to be considered for a formal decision by the Brentwood Planning Committee members in due course.

You can view and comment on the planning applications via the planning portal using the following planning reference numbers (please follow the instructions on the 'search' bar); 22/01324/FUL ; 24/00051/FUL; 23/01159/OUT; 23/01164/FUL; 24/00332/FUL."

6.33 In my opinion, if a different and more positive approach had been taken by Members towards this aspect of Policy R03 and BE14 and the subsequent MDP document, there may have been a better understanding of how the four applications work together to provide a comprehensive and cohesive development proposal that complies with Policy R03 in its totality, rather than looking at individual parts of the site to provide all land uses. This may have assisted in their deliberations at Planning Committee on 9 July 2024, 26 November 2024 (when considering the Redrow application) and comments in the Council's Statement of Case where additional issues have been raised in regard to the distribution of non-residential uses, for example.

6.34 The MDP fulfils criteria 2a of Policy R03 and criteria 2 of Policy BE14 and was approved by the Director of Place and Corporate Manager (Planning Development) after following the process set out in the Local Plan and as set out by officers.

6.35 Paragraph 5.20 of the Council's Statement of Case (CD 4.3) states that,

"The Appellant's team has suggested that the Development Framework referred to in paragraph 5.8 above is a material consideration. However, this will be a matter for the decision-maker given that this document has never been the subject of public consultation, has not been approved by a Council Committee and has never been adopted by the Council..."

- 6.36 Whilst the second sentence is correct, Section 5 of the 9 July 2024 appeal application committee report (CD 5.1) summarises the purpose, history and weight of the MDP from the Council's Planning Officer's perspective. Paragraph 5.1 states,

*"Although not formally adopted, the **DF** [referred to as the MDP in this proof of evidence] **is also a material consideration when determining this application**. The production of a DF is required by LP Policy R03(2.a), which states that the development of the allocated site should "be accompanied by a comprehensive masterplan and phasing strategy to inform detailed proposals as they come forward". The policy does not set out any requirement for the DF to be adopted, and thus the document does not form part of BBC Development Plan." (Author's emphasis).*

- 6.37 Paragraph 5.4 goes on to states,

"The DF is an important document as it ensures that there is an overall strategy for the future development of the site, that all 4 developers need to abide to."

Background to the Application and Appeal

- 6.38 It was agreed through a Planning Performance Agreement with BBC, signed on 26 September 2022, that given the substantial amount of work undertaken to draft the Masterplan Development Principles document and during pre-application that the post submission timeframe would be relatively short and the need for post submission meetings would not be substantive.
- 6.39 Post application, however, as a result of some of statutory consultee responses, two amendment packs were submitted on 8 March 2024 and 21 June 2024,

with further minor amendments submitted in May 2024. Within the context of a full application for 344 dwellings, these amendments were small, relating mostly to internal highway issues, additional information on flood risk modelling, some minor layout issues, a revised BNG calculation and façade treatment changes. The complete, up-to-date list of drawings and documents that comprise the Appeal Application is attached at Appendix 3 of the Statement of Common Ground.

6.40 Discussions were held regularly (mostly every two weeks) with BBC officers in relation to particular consultation comments.

6.41 Extensions of time for determination of the application were agreed until:

- 15 March 2024
- 26 April 2024

S106 Planning Agreement

6.42 Croudace also requested BBC to start drafting the s106. This was substantively complete in relation to BBC contributions prior to committee on 9 July. There were, however, outstanding County Council matters on education and highways, at the time of committee.

6.43 Affordable housing is now an area of disagreement, given RfR 3 and education and noise are still not resolved. These are outlined in the Matters of Disagreement in the Statement of Common Ground and set out in more detail in Section 9 of this Proof.

Planning Committee

6.44 The planning application was scheduled for a special meeting on 9 July 2024. Croudace issued a Members Briefing Leaflet to each Planning Committee member via email on 2 July (CD 2.6). There was a Members' Briefing by officers on 5 July and another Members' Briefing by me (as a Stantec employee) and

Croudace with officers on 8 July. A number of questions were raised at the 8 July briefing which were answered at Committee on 9 July, including highway matters (there was a pause during committee to gather the information to respond to this issue) and an issue raised about a small number of garden sizes.

6.45 The Planning Committee report (CD 5.1) is a substantial report. As can be seen, there were no objections from any of the statutory consultees on either application, as Croudace had spent the time removing all possible objections in negotiations with the relevant officers/statutory consultees. All matters had been resolved to each statutory consultee's satisfaction.

6.46 The meeting can be viewed at YouTube at <https://www.youtube.com/live/yvenp70wZVQ> and began with the Chair reading out this statement:

"Some Members of this Council did not vote in favour of adopting the Brentwood Local Development Plan in March 2022 or were not members of the Council at that time. I know some hold concerns about development allocations within the Plan. The Plan was adopted by the Council so is the Council's plan, but although no local development plan technically belongs to any one administration, it needs to be borne in mind this one was drawn up under and adopted by a prior administration. Furthermore, it is the current administration who are on record has having expressed concerns with aspects of it. Nonetheless, the Planning Committee is tasked with considering all applications against the policies with the Council's Local Development Plan and will do so on their own merits."

6.47 There was much debate. A motion to defer put forward by the Chair, which was unanimously defeated and then, after almost 3.5 hours, a motion to refuse.

6.48 Notwithstanding the recommendation for approval of both applications, Planning Committee voted to refuse the full planning application, the Appeal Application. The reasons cited at Committee were as follows:

1. The proposals are contrary to Policy HP05 as the application does not meet the mix and tenure split set out on page 115 of the adopted Brentwood Local Plan.
2. The proposals are contrary to Policy BE14 1e because the 3-storey housing at the entrances of Chelmsford Road and Alexander Lane do not respond positively or sympathetically to their context.
3. The proposals are contrary to Policy BE14 2a as there has not been effective engagement.

6.49 The outline application for the safeguarded school was then unanimously approved separately.

6.50 The minutes of the Planning Committee in regard to the full application states,

- a. *“The application was REFUSED for the following reasons: As per the Council’s Constitution, the final wording of reasons are to be delegated to officers in consultation with the chair and vice chair.”*

Meeting with the Chair and Vice Chair, 19 July 2024

6.51 Following the Committee, Croudace and I were asked to meet with the Chair and Vice Chair of Planning Committee on 19 July “to try and find a way forward”. To assist with this discussion, Stantec sent a note to the new Director of Place to respond to the cited reasons for refusal and set out the narrative of what work had been done, as in Croudace’s opinion these issues were not fully discussed or addressed by officers at committee due to the discussion on other matters

and time constraints. Unfortunately, this note was not forwarded to the Chair and Vice Chair of Planning Committee prior to the meeting.

- 6.52 The Chair said at that meeting that if Croudace could provide some sort of community facility (shop or community building) on site and a space for school drop-off, should the school site be taken up by ECC Education, then that would be a way forward. When I asked how these would address the reasons for refusal, he commented that Members may be able to see the planning balance afresh, although naturally there were no guarantees. I explained how the application is made up of many 'jigsaw' pieces that enable it to be as policy-compliant and officer approved as possible, so adding in elements like that to a full application would be very difficult and would certainly reduce the number of new homes being proposed. It was also explained that Croudace was nervous moving away from that compliant position and receiving an objection from ECC Education (which had been the case before when a drop-off was proposed in the pre-application Rev C of the layout dated 17 January 2023). It was agreed that the note sent to the Director of Place setting out the response to the cited reasons for refusal would be sent to the Chair and Vice-Chair, although they disagreed that the issues had not been explained and debated fully at Committee.
- 6.53 It was clear that the application would not be taken to the next Planning Committee and the motion to refuse reviewed. As such, Croudace asked for the reasons for refusal to be set out.

The Reasons for Refusal

- 6.54 As the email trail of CD 5.4 shows, the Corporate Manager, Development Management Brentwood Borough Council and Rochford District Council then followed the procedure set out in the minutes of the 9 July 2024 Planning Committee and sent the final wording of the reasons for refusal to the Appellant, after consultation with the Chair and Vice Chair, as per the Council's

Constitution. The reasons expanded slightly on those cited by Members at Planning Committee, and are as follows:

1. The proposed three storey buildings by reason of their height and location at the proposed new junction of Chelmsford (Western Gateway) and new entrance within Alexander Lane (Southern Gateway) do not respond sympathetically to the existing context of the area, which is predominantly two storey buildings, and are harmful to the character and appearance of the area, in conflict with local plan policy BE14 - 1.e.
2. There has been insufficient early, inclusive and effective engagement with the community in conflict with Policy BE14 - 2.a. and as such there has been failure to properly consider the needs of the community within the development.
3. The type, mix, and size of the affordable housing units, especially the three and four bedroom houses does not adequately reflect the Council's identified need as per paragraph 6.36 (p115 of the Adopted Local Plan) which identifies a need of 86% affordable/social rent and the Size & Tenure of all affordable housing required up to 2033, (figure 6.2 of the Adopted Local Plan also on p115) and therefore, the offer would not meet the aims and objectives of Policy HP05 because it would not meet the adopted requirements for affordable housing across tenure and size in the Borough.

6.55 As such, I disagree with the Council's statement at paragraph 1.7 of its Statement of Case (CD 4.3) that the email sent by the Corporate Manager on 26 July 2024 were "**possible** reasons for refusal" or "**indicative**" as set out in paragraph 3.10.

6.56 Further, I also disagree with the Council's statement at paragraph 1.9 of its Statement of Case (CD 4.3) that "*The Appellant team considers (wrongly) that these are the only issues that needs to be considered at the Inquiry*" (typo corrected).

- 6.57 It is the Appellant's position that the Reasons for Refusal (RfR) in the Corporate Manager's email of 26 July 2024 are the final reasons for refusal, as per the minutes of the meeting and the Council's Constitution, and while this is a matter for the Inspector, it seems to me that these are the key issues for determination and, in line with the CMC note, the Main Issues for the inquiry.
- 6.58 The additional issues raised in the Council's Statement of Case are new and as such may prolong proceedings of the Inquiry. As matters stand, at the time of writing, this would seem to justify a cost application by the Appellant.

No Formal Decision

- 6.59 No explanation has been given as to why BBC has not issued a formal decision notice.
- 6.60 The Council was sent a Notification of Intention to Submit An Appeal on 15 August 2024 specifying the likely submission date of the appeal of 27 August 2024. Due to significant technical problems uploading the appeal application documents onto the PINS portal, the Start Letter was not issued until 11 November 2024. The Council's Statement of Case was scheduled for 16 December 2024.
- 6.61 This has given BBC more than 15 weeks to issue the Decision Notice prior to the Statement of Case being submitted. It also gave the Council 4 Planning Committees to reconsider the reasons for refusal, albeit 2 of those meetings were subsequently cancelled (10 September 2024 - cancelled; 22 October 2024; 26 November 2024 and given the extension of time request for submitting the SoC the 17 December 2024 Planning Committee - cancelled).

Other Relevant BBC Planning Committee Decisions

- 6.62 On 26 November 2024, BBC Planning Committee resolved to approve the Redrow planning application on land immediately to the north of Appeal

Application for 191 dwellings which forms the northern part of the R03 allocation (re: 22/01324/FUL).

- 6.63 In the light of this decision, the resolution to grant the outline planning application for the safeguarded school site on R03 (ref:23/01159/OUT) on 9 July 2024 and in advance of the Council's Statement of Case being prepared on the Croudace appeal, I wrote an email, on behalf of the Appellant, to the Council on 2 December 2024 to request that it reviews its case, in particular in regard to the draft RfR 2 of the appeal application regarding insufficient early, inclusive and effective engagement (CD 2.7).
- 6.64 The email highlighted that all three planning applications had gone through the same local plan and MDP process, and that the Croudace hybrid application had undertaken more community engagement than the Redrow application. This is set out in detail in Section 8 of this Proof of Evidence below.
- 6.65 The email went on to set out how consistency in decision-making is a fundamental tenet of the planning system and how the PPG on determining planning applications makes it clear, at paragraph: 016 Reference ID: 21b-016-20140306, that Members must take decisions on planning applications in accordance with the development plan unless material considerations indicate otherwise. I stated that it is not clear from the YouTube video recording of either the Redrow or safeguarded school site decision (nor the minutes of the decision on the safeguarded school site. (The minutes of the Redrow decision have not yet published)) what reasons the Committee had for departing from its earlier decision regarding the Croudace full application for housing (the appeal application).
- 6.66 I set out in that email that Croudace is affronted by this uneven treatment and invited the Council not to persist in suggesting that planning permission should be refused on that ground. I pointed out that if the Council persists with this point, that the Appellant envisages making an application for costs on the basis of this unreasonable conduct.

- 6.67 The Council's response of 3 December 2024 (CD 2.8) did not address or fully consider the issues raised, and the Council's Statement of Case references the RfR.
- 6.68 Notwithstanding this position, I have addressed RfR 2, and the additional issues raised by the Council in Section 7 of this Proof of Evidence.

7. Main Issues

7.1 As set out at paragraph 6.57 of this Proof, it is my position that the Reasons for Refusal (RfR) in the Corporate Manager's email of 26 July 2024 are the final reasons for refusal, as per the minutes of the meeting and the Council's Constitution, and while this is a matter for the Inspector, it seems to me that these are the key issues for determination and, in line with the CMC note, the Main Issues for the inquiry.

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.

7.2 I address each of the Main Issues in turn, below.

RfR 1: Harm to the character and appearance of the area. Conflict with local plan policy BE14 1.e

7.3 This RfR is dealt with in the design Proof of Evidence of Mr Anderson. His Proof of Evidence concludes:

- The existing character of built form in Shenfield had been carefully assessed during the design process and recorded in the DAS and MDP
- The proposed three storey Western Gateway buildings will add further variety to the already mixed character of the area. Their height will create a landmark and establish a sense of legibility and arrival to the Officers' Meadow neighbourhood. They also address the open nature of the site entrance and create a focal point that book-ends Shenfield in a similar way to the nearby exemplar award winning Brentwood Preparatory School, which creates a gateway at the western end of the town. They respond sympathetically to the existing context of the area and will not be harmful to its character and appearance, which will, in fact, be greatly enhanced.
- Similarly, a sympathetic design response is proposed for the three storey Southern Gateway buildings. A gradual transition from the 2 and 2.5 storey existing buildings to the 2 and 3 storey proposed Stonebond buildings; the 2 storey proposed Croudace small block of flats; and the 3 storey Gateway buildings, results in an appropriate gentle increase in scale and massing and a much needed increase in density. The retention of existing trees and hedges alongside proposed new landscaping and trees maintain the verdant character of Alexander Lane and separation from existing built form. The proposed three storey Southern Gateway buildings will not be harmful to the character and appearance of the area and, conversely, they will enhance its distinctiveness.

- Local and national planning policies and guidance require modern developments in highly sustainable and accessible locations to be built at higher densities than existing suburban built form. This is even more imperative given the frequent Elizabeth line services offered nearby at Shenfield station making the town one of most highly accessible places in the region.
- In his view, the Western and Southern Gateway proposals align with sound placemaking and design principles, meet the policy requirements of the development plan and NPPF, as well as national and local guidance in the NDG, the EDG and the MDP and create high quality coherent places well integrated in their existing context.

RfR 2: Insufficient early, inclusive and effective engagement with the community in conflict with Policy BE14 - 2.a

7.4 For the reasons set out below, I believe the Appeal Application:

- has, as an allocated site in the adopted Brentwood Local Plan, been shaped by early, proportionate and effective engagement consistent with paragraph 16 of the NPPF
- was accompanied by the approved MDP, in accordance with Policy R03 2.a.
- was the subject of pre-application early engagement in accordance with paragraph 40 of the NPPF
- consultation process complied with BBC Statement of Community Involvement, December 2018
- provided early, proactive, inclusive and effective engagement with the community and other relevant partners in accordance with Criterion 2a of Policy BE14, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004
- should have, as a result, been looked on more favourably by BBC Planning Committee in line with paragraph 5.125 of Policy BE14.
- has been treated unevenly by BBC when compared to the Redrow application

Local Plan Consultation

- 7.5 The fifth paragraph of the Ministerial Written Statement of 12 December 2024 states,
- “The plan-led approach is, and must remain, the cornerstone of our planning system. It is through local plans that communities shape decisions about how to deliver the housing and wider development their area needs. But we are clear that these decisions must be about how to meet those needs, not whether to do so at all.”*
- 7.6 The Minister goes on to add in the fifteenth paragraph under ‘Supporting Local Planning’,
- “...- local plans are the best way of engaging communities in decisions about the future of their area, of optimising use of land to deliver for the economy and for the environment, and for giving the certainty businesses need to invest in development.”*
- 7.7 Paragraph 16 of the NPPF states that Plans should be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees.
- 7.8 Brentwood Borough went through a 13 year local plan process, and extended examination process where allocated sites were fully considered, and R03 was specifically considered from Regulation 19 version of the Plan, which was published in February 2019.
- 7.9 Policy R03 requires the proposals to be **accompanied** by a comprehensive masterplan and phasing strategy. Criterion 2 of Policy BE14 repeats the requirement stating proposals for major development should be **supported** by an area specific masterplan.

- 7.10 It is acknowledged that the terminology of ‘proposals’ could be clearer, but the consistent way the phrase is used in both Policy R03 and BE14 (all criteria) clearly indicates that it is the application/development/design proposals that should be accompanied or supported by an additional masterplan. BE14 criterion 2 then goes on to state in its last sentence, “*Design **proposals** will be expected to: a. demonstrate early, proactive, inclusive and effective engagement with the community and other relevant partners: ...*” The public consultation undertaken as part of the proposals i.e. the application is considered below at under the sub title “Application Consultation”.

The Masterplan Development Principles Document Consultation

- 7.11 Work on the MDP began in April 2021, as explained in paragraph 6.17 of this Proof of Evidence, as delivery was at the forefront of the Council’s and developers minds, given the Local Plan was only a ten year plan.
- 7.12 The process was clear and set out in the Council’s letter of 5 May 2021 (CD 2.1). The MDP was not an SPD but a masterplan to accompany the (separate) applications. It was acknowledged as an important document to ensure comprehensive and cohesive development between the four developers; hence, the developers embraced its preparation and the collaboration offered by BBC officers, ECC Place Services and other statutory consultees.
- 7.13 The developers agreed to undertake the following consultation at the request of officers:
- All Members Briefing in August 2022
 - Draft MDP presented to Essex Design Review Panel in June 2023
 - Draft MDP uploaded to project website 5 July 2023 and over 1800 residents signposted to the website as part of the pre-application newsletters and publicity (see below).
- 7.14 It is not clear why officers did not present the MDP to Members, as originally envisaged in CD 2.1, but that is an internal matter for the Council.

The Appeal Application Consultation

7.15 Paragraph 40 of the NPPF states,

“Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre- application discussion enables better coordination between public and private resources and improved outcomes for the community.”

7.16 In regard to the appeal application, the pre-application consultation is set out in the submitted Statement of Community Involvement, September 2023 (CD 1.7), but in summary the consultation was undertaken in accordance with the NPPF and the BBC SCI, December 2018, particularly:

- (i) Paragraphs 5.6 which states that early engagement by applicants, before an application is formally submitted, is encouraged so that the Council can give informal comments and help overcome any potential difficulties that may arise. This is a valuable way to improve understand and consider any likely planning policy, design or other issues that may arise. The more issues that can be resolved at the pre-application stage, the more likely it is to result in a good quality and acceptable development”
- (ii) Paragraph 5.7 which states that the Council encourages applicants for large scale development proposals to involve local communities before the formal application stage begins. This enables local communities to provide initial constructive comments and suggestions and may lead to fewer objections being made later on in the process, which are then material to the determination of the application
- (iii) Paragraph 5.8 which states that it is recommended that involvement of local communities should be in the form of meetings, presentations and/or exhibitions.

7.17 In summary, the following consultation was undertaken:

- Stakeholder Meeting Invitations sent on 6 July 2023 which included notification of upcoming consultation, community webinar and website were sent to:
 - Councillor David Worsfold – Shenfield ward member
 - Councillor Nicky Cuthbert – Shenfield ward member
 - Councillor Thomas Heard – Shenfield ward member
 - Councillor Jan Pound – Hutton North neighbouring ward member
 - Councillor Keith Barber – Hutton North neighbouring ward member

As a result, Croudace met with Cllr Worsfold on 17 August 2023. No other Member responded.

- Newsletters (see Appendix A of CD 1.7) and enclosed Freepost feedback forms sent to 1,803 local addresses over a 1km radius. Included notification of community webinar and website. 68 responses received.
- Invites sent to 189 of the nearest neighbours for a ‘near-neighbour event’ which offered private appointments to discuss the proposals on 12 July 2023 (see Appendix D of CD 1.7). All 11 slots were filled and attended.
- Project website: www.landnorthofshenfield.co.uk – information hub for the MDP, individual applications and to provide an additional channel for feedback, launched on 5 July 2023 (see Appendix E of CD 1.7).
- Press release on 6 July. 2023, including notification of community webinar and website (see Appendix G of CD 1.7)
- Community webinar on 11 July 2023 (see Appendix H of CD 1.7). 62 residents registered and 54 attended on the night, including Cllr Worsfold.
- A dedicated email address, freephone telephone number and freepost address.

- 7.18 More than 120 responses were received throughout the consultation process. Section 6 of the SCI (CD 1.7) sets out the key issues and responses.
- 7.19 This consultation and engagement provided early, proactive, inclusive and effective engagement with the community and other relevant partners in accordance with Criterion 2a of Policy BE14.
- 7.20 Further, as demonstrated by the response to the key issues in Section 6 of the SCI the views of the community, officers and statutory consultees, where relevant, have been taken into account. Collaborative working occurred throughout the evolution of the MDP, pre-submission of the application and post-submission. This is demonstrated by the substantial and positive officer's committee report which demonstrates no objections from any technical consultant.
- 7.21 Many of the views expressed by local residents during the consultation, as set out in the Appellants SCI (CD 1.7) , the appeal application committee report (CD 5.1) and the Appellants response to the Resident's Association sent to officers (CD 2.10) referenced technical issues such as highways, flood/drainage or policy requirements where the Appellant had to satisfy statutory technical consultees such as ECC Highways, the EA and LLFA, and BBC itself. As such, the Appellant responded as positively as it could, making numerous changes to the layout from initial conception, but it had to balance responses based on local knowledge and context with the requirements of the technical statutory consultees.
- 7.22 As demonstrated above, Croudace followed the requirements of the Council as set out in the Local Plan for the preparation of the MDP in accordance with R03, and for the application in accordance with BE14 2a, the BBC SCI and subsequent written advice of officers. As such, there was sufficient early, inclusive and effective engagement with the community in accordance with Policy BE14 - 2.a.[and Policy R03] and as such there has been proper consideration of the needs of the community within the development.
- 7.23 Supporting text to Policy BE14, in paragraph 5.125, states,

“Applicants that can demonstrate early, proactive, inclusive and effective engagement with the community will be looked on more favourably than those that cannot.”

- 7.24 As such, the Croudace Appeal Application should have been “looked on more favourably” by BBC Planning Committee.
- 7.25 Further, as set out in paragraph 6.58-6.63 and in Section 8, I believe that BBC has treated the Appeal Application unevenly in regard to the Redrow application on land immediately to the north, within the R03 allocation. Section 8 clearly demonstrates that Croudace undertook more early, proactive, inclusive and effective engagement with the community, and yet the Redrow application received a resolution to grant.
- 7.26 For all the reasons set out about, I consider that the Council’s Reasons for Refusal 2 is not justified.

RfR 3: Type, Mix and Size of Affordable Housing

- 7.27 For the reasons set out below, I believe the Appeal Application:
- is consistent with the policy (as defined by footnote 9) in paragraph 66 of the NPPF
 - has regard to the most up-to-date SHMA
 - is, as a result, compliant with Policy HP05 in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004
 - has balanced the SHMA requirements with site and development constraints and opportunities, the request for Gateways at the entrances to Chelmsford Road and Alexander Lane and market testing with the delivery agents, the Registered Providers
 - is compliant with Policies HP01, HP06 in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004, and the principle of HP03
 - has been treated unevenly by BBC when compared to the Redrow application

Consistency with NPPF

7.28 Paragraph 63 of the NPPF states,

“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. These groups should include (but are not limited to) those who require affordable housing (including Social Rent); families with children; looked after children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes.”

7.29 Paragraph 66 of the NPPF states,

“Where major development involving the provision of housing is proposed, planning policies and decisions should expect that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures.”

7.30 Using the requirements as set out in paragraph 63 of the NPPF above, the question, therefore, is what is the ‘identified local need’ in Brentwood?

7.31 As explained in the ‘Local Housing Need’ section of the Local Plan (paragraphs 4.11-4.21) the Local Plan was drafted on the basis of an updated Strategic Housing Market Assessment (SHMA 2016, updated in October 2018) (Part 1) to identify local housing need through the standard methodology of the time and the SHMA Part 2 – Objectively Assessed Need for Affordable Housing (June 2016) that provided a detailed assessment of the housing required to meet existing and future needs across the borough.

7.32 The second sentence of paragraph 6.4 of the Local Plan states, “*Proposals should respond to other up-to-date and relevant local evidence where available, such as the Council’s Housing Strategy.*”

7.33 The Council’s Housing Strategy 2021-2026 (9.6), however, refers back to the 2016 SHMA (last paragraph of page 9) stating,

“The provision of affordable housing to meet identified need is an important objective of the Local Plan and to assess this need the Council, commissioned consultants to produce a Strategic Housing Market Assessment (SHMA). This was published in June 2016 and uses the national planning practice guidance to calculate the level of affordable housing need”.

7.34 There are various references to the 2016 SHMA throughout the Local Plan and thus, it informed a number of policies, including Policy HP05 on Affordable Housing and Policy HP04 Specialist Accommodation.

7.35 The Local Plan viability assessment also relied upon the 2016 SHMA, as did the more recent Planning Obligation SPD adopted in December 2022.

7.36 It can be concluded, therefore, that the evidence for identifying local needs to meet the requirements of paragraph 63 of the NPPF is the SHMA.

The Most Up-to-Date Evidence

7.37 In June 2022, the South Essex Housing Needs Assessment (HNA) was published (CD 8.9). This covered the authorities of Basildon, Brentwood, Castle Point, Rochford, Southend-on-Sea and Thurrock.

7.38 As set out in paragraph 1.1, this HNA is intended “**to update and replace the 2016 SHMA**” previously commissioned by five of the authorities.

- 7.39 Brentwood was not one of the five original authorities, as the Council undertook its own SHMA in 2016. As paragraph 2.1 of the HNA explains, however, comparable analysis is contained in the BBC two-part SHMA (similarly produced in 2016 and Part 1 updated in October 2018) to allow the long-term trends of the South Essex housing market to apply.
- 7.40 Although the HNA sets out at Table 9.2 the Estimated Size of Affordable Housing Need in South Essex by authority area, the document does not specify a tenure mix. The second page of the attachment sent on 11 May 2023 from the Planning Policy Team (CD 2.2b) states 86% affordable social rent and 14% other forms of affordable housing.
- 7.41 As such, the HNA - referred to as the 2022 SHMA - is the up-to-date policy basis for assessing housing need and **it renders the 2016 SHMA out of date.**

Compliance with Policy HP05

- 7.42 On large sites, adopted Policy HP05 requires the provision of 35% of dwellings to be affordable. Criterion 2 states,

“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 housing elements of a scheme (in terms of appearance, build quality and materials) and distributed throughout the development so as to avoid the over concentration in one area; and

*c. 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.**" (Authors emphasis).*

- 7.43 As set out above, **the most up-to-date housing evidence is the 2022 SHMA** (the South Essex HNA, June 2022).
- 7.44 As stated in paragraphs 10.11-10.37 of this Proof regarding the MDP, the developers, BBC and ECC Officers had started work in mid 2021 on the document. Alongside that work, FINC Architects begun preparing the initial layouts in mid 2022 for the Croudace site. That initial work was undertaken using the Affordable Housing mix set out in Figure 6.2 on page 115 of the Local Plan. As matters progressed through 2022, the developers wanted to understand if that was still the housing mix required. There was no response from the Council's Housing Department for much of 2022. In the absence of any input in the first five months of 2023, Kew Planning forwarded the updated 2022 SHMA from BBC Planning Policy on 11 May 2023 (CD 2.2a and b).
- 7.45 It was noted that there had been some major shifts in the need for smaller dwellings, as set out here:

Size of Affordable Housing Needed in South Essex (2021-40) (p131)

	1 bed	2 beds	3 beds	4+ beds	Total
2022 SHMA	49%	36%	14%	1%	100%
2016 SHMA	31%/28%	24%/36%	19%/24%	26%/12%	

- 7.46 The market and affordable homes requirement were discussed as part of the preparation of the MDP. At that time, before all the s106 costs were known, the developers were happy to still provide the 86:14 affordable rent: shared ownership split, as indicated by the table on page 67 of the MDP (CD 1.5). The table was caveated to say those figures were a snapshot for all developers indicating early pre-application proposals and could be subject to change.

- 7.47 The last paragraph of the first column of page 67 states, *“In terms of the size of the affordable homes, the SHMA will be used as the starting point and will be confirmed through the individual planning applications”*.
- 7.48 It must be noted that the SHMA figures represent the need in the whole of the borough and need not be applied exactly on each and every site as different constraints and opportunities will apply. For example, it may be more appropriate for the 1 beds to be in greater numbers on brownfield sites in the town centre or in close proximity to public transport routes (such as on the Appeal Application site adjacent to Chelmsford Road, and on the proposed new bus loop going through the site which ECC highways require as part of the S106). Equally, the limited number of large greenfield sites allocated in the BBC Local Plan could mean a larger proportion of larger dwellings is more appropriate. This is recognised on Page 66 of the MDP where it was anticipated that a higher proportion of 1-bed homes will be provided by other developers (namely Countryside and Stonebond).
- 7.49 At the same time in May 2023, BBC and ECC Place Services requested taller gateway buildings at the entrance on Chelmsford Road and Alexander Lane. Given the site’s constraints, this meant smaller dwellings in the form of apartments.
- 7.50 Croudace agreed and the layout was amended to try and balance the 2022 SHMA evidence, the request from officers for apartment buildings whilst being cognisant of making efficient use of land and NPPF and Local Plan policies for creating successful places, as far as reasonably possible.
- 7.51 As can be seen, the submitted mix was broadly in accordance with the 2022 SHMA, although it is acknowledged provision of market housing was slightly weighted more towards 4-beds and less to 1-beds. In the context of the Site and the wider strategic allocation, this was considered to be acceptable for the following reasons:

- This is the largest parcel of land in Policy R03; as such, Croudace is best placed to deliver a higher proportion of the larger, family homes that are required to serve the strategic Site as a whole.
- With the safeguarded school site being in the middle of the Croudace site, it makes sense for larger, family homes to be located within closer proximity to promote active travel for school children.
- As demonstrated on page 66 of the approved MDP, it was anticipated that a higher proportion of 1-bed homes will be provided by other developers (namely Countryside and Stonebond) on the remaining parcels of land allocated under policy R03 – Land North of Shenfield. Ultimately, this will result in the delivery of homes across the allocation site as a whole being in accordance with the 2022 SHMA, noting that the SHMA is a district-wide target mix, and not necessarily to be achieved on every site in the exact proportions.

7.52 Comments were received from the Housing Officer in November 2023 objecting to the proposed mix citing the Local Plan and current housing needs register. Croudace responded explaining that the 2022 SHMA had been sent six months earlier whilst the layout and MDP were being prepared to accommodate the gateway buildings.

7.53 Similar comments from the Housing Officer were received in April 2024. The Planning Officer understood that the 2022 SHMA was the evidence that had been sent to Croudace, and that the Housing Officer's comments regarding fulfilling the Housing Register were considered by Croudace to be unsubstantiated by any formal or tested evidence [and therefore contrary to paragraph 63 of the NPPF which sets out that when undertaking a local housing need assessment, LPAs should establish the need, the size, type and tenure of housing needed for different groups in the community]. The Housing Officer did not want the SHMA 2022 mix but had not specified an exact mix, other than a reduction in smaller units and an increase in more family sized dwellings.

7.54 As both Croudace and the Planning Officer were working without a fully evidenced and tested specified mix, and several apartment blocks had been

introduced to the scheme to form gateways onto Chelmsford Road and Alexander Lane at the request of officers as well as to optimise dwelling numbers to satisfy as far as possible the target set out in Policy R03, as a compromise, the Planning Officer suggested Croudace test the figures with some Registered Providers (RPs) as the delivery agents. Croudace considered this a good suggestion as it would ensure that the new homes could be delivered in a timely manner for the RP's residents.

7.55 Croudace approached eight RPs and the following four responded:

Home Group (CD 8.13a)	<ul style="list-style-type: none"> • maximum of 25% 1 beds • no more than 40% apartments • not keen 4 bed houses
Sage (phone call but summarised CD 8.13b)	<ul style="list-style-type: none"> • no more than 40% apartments • not keen 4 bed houses
Clarion (CD 8.13c)	<ul style="list-style-type: none"> • maximum of 25% apartments • preference for 2 and 3 bed houses over 4 beds
CHP CD 8.13d)	<ul style="list-style-type: none"> • Happy with mix • separate entrances required for affordable rent and S.O. apartments

7.56 The affordable mix was therefore amended so the total 1B apartments is 27% (this allowed for vertical stacking in blocks), and the combined no of flats is 39% to align with the comments received from the RPs:

Affordable			
Bedrooms	Number	%	Combined %
1B apartment	33	27%	39 %
2B apartment	14	12%	
2B house	59	48%	
3B house	13	11%	
4B house	2	2%	
Total	121	100%	

7.57 This mix then went back to the Housing Department and was considered acceptable by the Housing Services Manager and by the Strategic Policy Team as set out in paragraph 9.98 of the Committee Report, reproduced here:

9.98 The table below sets out the proposed affordable housing mix, which is considered acceptable by the Housing Services Manager and by the Strategic Policy Team:

Table 2 - Proposed affordable housing mix

Property Type	No. of units	%	Affordable Rent	Shared Ownership
1B Apartment	33	27%	17	16
2B (4 people) Apartment	14	12%	6	8
2B (4 people) House	59	48%	27	32
3B House	13	11%	6	7
4B House	2	2%	1	1
Total	121		57 (47%)	64 (53%)

7.58 As set out in paragraph 4.23, the Council's delivery of affordable housing in the last seven years is very low; primarily due to the fact that the borough is 86% Green Belt and therefore requires sites to be allocated in local plans to bring forward market and affordable housing.

7.59 The appeal application would not only address the significant waiting list times for affordable housing (see Table 4 at paragraph 11.87 of the Redrow committee report, CD 5.3) but would provide almost the same number of affordable homes in the next six to seven years on this **one** site than produced in the whole district in six years in the period 2016/17-2021/22. And yet, the Council has delayed delivery of this allocated site by resolving to refuse this policy compliant application.

7.60 Paragraph 5.11 of the Council's Statement of Case, states,

"It will be seen from the above that the Policy HP05 requirement with regard to the tenure split of affordable housing is 86% Affordable/Social Rent and 14% other, and that "robust viability

evidence” is required to justify departure from its affordable housing requirements.”

- 7.61 The Council seem to have missed an important element of criterion 2a and conflated two aspects of the policy. Criterion 2a sets out the tenure split of 86% Affordable/Social Rent and 14% other forms of affordable housing “**or regard to the most up to date housing evidence**”. Croudace, and BBC officers, agreed to use the most up to date housing evidence. Croudace also continued with the 86:14 tenure split until BBC Policy Team offered a different split when the s106 was close to being finalised.
- 7.62 The resolved to grant Redrow application has 35% affordable housing with 45% Affordable/Social Rent and 55% shared ownership.
- 7.63 Following the resolution to refuse the appeal application on 9 July 2024, officers clearly considered that more explanation of how this policy works was needed because paragraph 11.82 of the Redrow Committee Report (CD 5.3) on 26 November 2024 states,

*“Policy HP05: Affordable Housing is an ‘either or’ policy, which requests that the proposal should be made up of 86% affordable/social rent and 14% shared ownership (information from the 2016 Strategic Housing Market Assessment Part 2 – Objectively Assessed Need for Affordable Housing) **or pay regard to the most up to date housing evidence**. The most up to date housing evidence is a material consideration in the decision-making process.”*

- 7.64 It is surprising, therefore, that the misinterpretation of Criterion 2a is repeated in the Statement of Case, written sometime after the officer’s clarification in the Redrow report.
- 7.65 Further, the reference to “*robust viability evidence*” is from criterion 3 of Policy HP05, which states when read in full,

“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.”

7.66 Croudace is providing the full amount of affordable housing and has never indicated that it wishes to run a viability argument on this site. The Council's Policy Team offered the change in tenure split to 45% affordable rent and 55% shared ownership on 13 March 2024 (CD 2.5). Croudace did not seek it. It was accepted, however, as the s106 costs had reached the levels in the Local Plan Viability Assessment. Given the vertical stacking of apartments and the RPs requirement for separate entrances between affordable rent and shared ownership, Policy an exact split could not be done, so the final split was 47% affordable rent and 53% shared ownership.

7.67 It should be noted that the Appeal Application also complies with:

- Policy HP01 in terms of:
 - An appropriate mix of dwelling types, sizes and tenures to meet the identified housing need in the borough (not just affordable housing) to provide choice, and contribute towards the creation of sustainable, balanced and inclusive communities
 - each dwelling will be constructed to meet requirement M4(2) accessible and adaptable dwellings, unless it is built in line with M4(3) wheelchair adaptable dwellings of the Building Regulations 2015, or subsequent government standard.
 - a minimum of 5% of new affordable dwellings will be built to meet requirement M4(3) wheelchair accessible dwellings of the Building Regulations 2015, or subsequent government standard.
 - 5% custom build houses

- The principle of achieving a net density of at least 35 dwellings per hectare as referenced in HP03, in regard to non-allocated sites
- HP06 in terms of achieving appropriate internal and external residential space

7.68 As set out in paragraph 6.62, the Redrow application which was resolved to grant on 26 November 2024 had a tenure split of 45% affordable rent and 55% shared ownership (a slightly smaller percentage of affordable rent, again offered by the Policy Team). No detailed information was given on the s106 in the committee report, and it is understood from Redrow that negotiations have yet to start in earnest, so it seems uneven of BBC to treat these applications differently, when in reality more information was known about the Croudace application as the s106 was drafted in regard to BBC requirements, prior to its committee in July 2024.

7.69 For all the reasons set out about, I consider that the Council's Reasons for Refusal 3 is not justified.

Additional Issues in BBC Statement of Case

7.70 The Council's Statement of Case sets out additional, new issues that did not form part of the reasons for refusal cited by Members at the Planning Committee on 9 July 2024 or set out in the email from the Corporate Manager of 26 July 2024, which was set out the final reasons for refusal in accordance with the minutes of the Planning Committee on 9 July 2024 and the Council's Constitution.

7.71 There are some points I would like to raise briefly below in response to the additional issues:

7.72 Paragraph 6.3 of the Council's Statement of Case states, "*The Council's opposition to the Appeal proposal starts from the premise that it is a residential-*

only development and that the necessary mix of uses across the R03 land is not being provided”.

7.73 For the reasons set out below, I believe the Appeal Application:

- is consistent with the Local Plan Inspectors’ view that the proposed mix of development is reasonable for this strategic site
- is compliant with Policies R03 and MG04, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004
- includes only appropriate uses, and also accords with paragraph 97 of the NPPF
- provides a wide range of additional facilities for the whole allocation and the wider community
- has been treated unevenly by BBC when compared to the Redrow application

History of Policy R03 and the Local Plan Inspectors’ Report

7.74 It is noted that paragraph 156 of the Local Plan Inspectors’ Report states, “***The proposed mix of development is reasonable for this strategic site, including provision of employment land, though the policy should refer to ‘around 2ha’ and clarify what forms of employment uses are acceptable***”.

7.75 The Main Modifications for the Local Plan therefore changed the criterion from “***provision of 2ha of land for employment purposes***” to,

“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.”

7.76 The modifications also addressed the changes to the use classes introduced in 2020.

- 7.77 From 1 September 2020, the Use Classes Order brought together commercial, business and service uses into a single class for the first time – Class E. This meant that shops (previously A1 use); financial and professional services (not medical) (previously A2 use); café or restaurant (previously A3 use); clinics, health centres, creches, day nurseries, day centre (previously D1 use); and gymnasiums, indoor recreations not involving motorised vehicles or firearms (previously D2 use) were combined with offices other than within A2 (previously B1a use), research and development (previously B1b use) and industrial processes which can be carried out in any residential area without causing detriment to the amenity of the area (previously B1c use).
- 7.78 If the Council had considered all these uses to be appropriate on R03, then it was open to them to just specify Class E in the policy. The Council chose not to do so and limit the uses to specified parts of Class E to reflect the employment uses in the Reg 19 Plan which were considered appropriate in this location and provide “*a reasonable mix*” for this strategic site.
- 7.79 It is also noted that the 2020 changes added a new Local Community Use Class – F.2. This includes local shops not more than 280sqm mostly selling essential goods, including food and at least 1km from another similar shop (previously A1 use); local community halls or meeting places (previously D2 use) and indoor or outdoor swimming baths, skating rinks, and other outdoor sports or recreations not involving motorised vehicles or firearms (previously D2 use). This F.2 use class is not specified in Policy R03 either.
- 7.80 It should be noted that the Countryside employment site is c.150m from the M&S Simply Food on the A12 /Chelmsford Road roundabout, and the Croudace Plaza is c.950-980m from it (whether the route is via the proposed footpaths/cycleways within the site or along Chelmsford Road).

Compliance with Policy R03

- 7.81 The Policy deliberately limits the uses to employment uses that are considered to be appropriate in this location and appropriate to be adjacent to residential

use, i.e. light industrial, offices, research and development within Class E. **Not all Class E or any in Class F.2.** This was confirmed by the Local Plan Inspector to be a reasonable mix.

- 7.82 Such uses as “*food retail, restaurant and other leisure uses*” would be contrary to Policy R03. The developers of R03, and Croudace, have therefore complied with s38(6) of the Planning and Compulsory Purchase Act 2004.

Inappropriate Uses

- 7.83 The changes to the Use Class Order in 2021 were made to allow for more flexibility in how buildings are used, especially in town centres and on high streets.
- 7.84 If Class E uses were allowed without restriction on this site, the likes of Starbucks (previous use class A1) and McDonalds (previous use class A3) would be allowed.
- 7.85 During the preparation of the Local Plan, the Council was very aware of the interest the Countryside site had garnered from such companies and were keen not to allow such uses on the allocation on this new approach/gateway to Shenfield. Further, there was concern that these uses would impact on Shenfield centre; hence the restrictions to Class E specified in Policy R03 1e.
- 7.86 This interest was borne out through the preparation of the MDP too, as referenced on page 62 of the MDP stating ‘*that interest has been expressed from employment generating “food retail, restaurant and other leisure uses”*’.
- 7.87 Further, in order to promote healthy communities, paragraph 97 of the NPPF states that LPAs should refuse applications for hot food takeaways and fast food outlets within walking distance of schools and other places where children and young people congregate (unless within a designated town centre).
- 7.88 Adopted Policy MG04: Health Impact Assessments, sets out similar provision that no hot food takeaways will be permitted within 400m of a school entrance.
-

- 7.89 The Council's suggestion, therefore, to have such uses as part of the community heart - which could include a McDonalds - would be contrary to its own local plan policy MG04 and paragraph 97 of the NPPF, as the Plaza forms the pedestrian access to the school, is a community meeting space and is adjacent to the NEAP and new park where children and young people will congregate.
- 7.90 Further as set out in paragraph 7.78 above, any local shop located at the Plaza under Use Class F.2 would be in breach of the distance from another similar shop condition, even if it were included in the policy.
- 7.91 As such, I completely disagree, with the Council's statement in paragraph 6.6 of the Council's Statement of Case (CD 4.3) that "*the proposed development is in fundamental conflict with the mix of uses that Policy R03 requires*". Quite the contrary, the Council's suggestion would in fact be 'in fundamental conflict' to not only Policy R03, but also Policy MG04, Health Impact Assessments.

Providing Additional Facilities

- 7.92 The table in Section 8 and paragraph 6 clearly sets out not only the non-residential uses required for the development, but the additional facilities Croudace is providing for the whole site and the wider community.
- 7.93 Paragraph XX also sets out that, as a result, less than 50% of the site is being used for residential development and the rest contributes to the mix of uses and community benefit.

Uneven Treatment

- 7.94 As set out in paragraph 6.62, it is noted that the Redrow application is purely residential development.

Safeguarded School Site

- 7.95 Paragraph 6.7 of the Council's Statement of Case suggests there is no agreed mechanism for the safeguarded school site to come forward. This is addressed in Section 9 of this Proof which addresses the s106 agreement.

Other Policy R03 Requirements

- 7.96 With regard to the statement at paragraph 6.8 of The Council's Statement of Case setting out Other Policy R03 Requirements, all the items specified are addressed in numerous documents that form part of the application, but Table 3 of the Planning Committee report (CD 5.1) summarises that the application is in full compliance with all aspects and the way that has been achieved.
- 7.97 Paragraph 6.11 of the Council's Statement of Case (CD 4.3) states that Part 2a of Policy R03 "*does not say that the Masterplan should set out detailed proposals or be prescriptive*". That is true, but Policy BE14 2 does.
- 7.98 Again, Planning Committee resolved to approve the Redrow application on 26 November 2024 which is subject to the same policies and MDP with no explanation as to why a different approach was taken from the appeal application.

8. Inconsistent and Uneven Decision-Taking

- 8.1 On 26 November 2024, BBC Planning Committee resolved to approve the Redrow planning application on land north of Shenfield (re: 22/01324/FUL) for 191 dwellings which is the northern part of the R03 allocation.
- 8.2 In the light of this decision, the resolution to grant the outline planning application for the safeguarded school site on R03 (ref:23/01159/OUT) on 9 July 2024 and in advance of the Council's Statement of Case being prepared on the Croudace appeal, I wrote an email on behalf of the Appellant to the Council on 2 December 2024 to request that it reviews its case, in particular in regard to the draft RfR 2 of the appeal application regarding insufficient early, inclusive and effective engagement (CD 2.7).
- 8.3 The email highlighted that all three planning applications had gone through the same local plan and MDP process, and that the Croudace hybrid application had undertaken more community engagement than the Redrow application.
- 8.4 The table below sets out the comparison of engagement undertaken by the Appellant for the appeal application and that undertaken for the Redrow application that received a resolution to grant on 26 November 2024:

Comparison of Key Issues: Croudace and Redrow Application													
Croudace Application 23/01164/FUL Resolved to Refuse 9 July 2024							Redrow Application 22/01324/FUL Resolved to Grant 26 November 2024						
Local Plan													
Worked together. Barton Willmore represented Croudace and, at times, the other three developers at some of the hearing sessions													
Joint Statement of Common Ground, signed by all four developers o R03 on 27 January 2021: Paragraph 2.1 To provide for around 825 homes, a residential care home, a new co-located primary school and early years and childcare nursery, together with land for employment purposes. The allocation comprises a number of parcels which could be brought forwards at different times; Parties to work together to produce a comprehensive masterplan and phasing strategy to inform detailed proposals masterplan Paragraph 2.4 All parties agree that there is a need for flexibility with regards to the amount and type of employment uses and deviation from policy requirements will need to be supported by robust evidence. Paragraph 2.5 The parties agree to the development principles as specified in Policy R03: Land North of Shenfield Paragraph 2.6 The parties agree that an illustrative concept masterplan based on the plan at Appendix B of this Statement of Common Ground will be worked up in more detail, in order to show parties are in agreement in relation to design and layout principles for the allocation Paragraph 2.8 Area of search or a co-located primary school and early years and childcare nursery was agreed with ECC, acknowledging that further work on the exact site, positioning and layout will be done as the masterplan and development proposals evolve and in liaison with ECC and in accordance with the latest version the ECC Developer's Guide to Infrastructure Contributions 													

Masterplan Development Principles Document (The MDP)
<p>22 April 2021 – Initial meeting with officers</p> <p>7 June 2021 - Pre-app meeting with BBC and ECC Officers, attended by all four developers</p> <p>3 August 2022 – All Member Briefing, attended by all four developers</p> <p>7 June 2023 – Presented document and individual planning applications to Essex Quality Design Review Panel, attended by all four developers</p>
<p>Shared purpose: to provide a comprehensive masterplan and phasing strategy to comply with Policy R03: Land North of Shenfield of the adopted Brentwood Local Plan (2022).</p>
<p>Shared aspirations, assessment of constraints and opportunities, contextual analysis, identity, built form</p>
<p>Page 27: Shared design opportunities:</p> <ul style="list-style-type: none"> - landscape-led approach - a heart for the new neighbourhood - connected and integrated new neighbourhood - Framework plan guides the detailed design to come forward in individual planning application. This plan shows the location of: <ul style="list-style-type: none"> o Strategic landscape constraints and opportunities o Main vehicular accesses and movement routes through the site o Pedestrian and cycle connectivity to wider area and public transport routes o The school/early years facility o Community heart o Employment/care home o Parkland o And distribution of play facilities o Three Gateway Opportunities
<p>Page 51-59: Shared Character Area Strategy including hierarchy of streets, building heights/density, building line/setback, roofscapes, streets ,plots/typology, boundary treatment, materials ‘ Examples of house types provided by all four developers</p>
<p>Page 66: Snapshot of market housing mix based on SHMA 2022. At the time, the total of dwellings was 665 (not 825 as in Policy R03)</p>
<p>Page 67: Based on total of 665 dwellings, snapshot of affordable housing mix tenure split based on Policy HP05 – 35% and 86% affordable/social rent and 14% shared ownership. Paragraph below table states, “In terms of the size of the affordable homes, the SHMA will be used as the starting point and will be confirmed through the individual planning applications.”</p>

Page 72-73: Agreed phasing table and plan	
Page 74-75: Concept layout of the whole R03 allocation	
Applications – Key Relevant Information	
<ul style="list-style-type: none"> • Full Application for 344 dwellings (R03 1a) • Safeguarded school and early years and childcare nursery (R03 1b) • 5% custom build (R03 1d) • Employment from school site (c.50-55 jobs) in addition to employment land(R03 1e) • Approved Masterplan Development Principles document (R03 2a) • Design quality and layout that reflects its gateway location (R03 2b) • New roundabout access from Chelmsford Road (R03 2c) • New access and diverted road from Alexander Lane, including the downgrading of the lane to pedestrian/cycle route(R03 2c and 2d) • enhanced walking, cycling and public transport services with Shenfield station and local services and facilities in the wider area, including Brentwood Town Centre (R03 2e) • provide well-connected internal road layouts which allow for good accessibility (R03 2f) • provide new multi-functional green infrastructure including public open space in accordance with Policies NE02 and NE05 (R03 2g) • maintain and enhance Public Rights of Way within the site and to the wider area (R03 2h) • protect and where appropriate enhance the Local Wildlife Site (Arnold's Wood) (R03 2i) 	<ul style="list-style-type: none"> • Full application for 191 dwellings (R03 1a) • - • 5% custom build (R03 1d) • - • Approved Masterplan Development Principles document (R03 2a) • Design quality and layout that reflects its gateway location, particularly on land near Junction 12, A12 (R03 2b) • Access not yet agreed (despite being full application) • - • enhanced walking, cycling and public transport services with Shenfield station and local services and facilities in the wider area, including Brentwood Town Centre (R03 2e) • provide well-connected internal road layouts which allow for good accessibility (R03 2f) • provide new multi-functional green infrastructure including public open space in accordance with Policies NE02 and NE05 (R03 2g) • - • -

<ul style="list-style-type: none"> • be designed to ensure a coherent functional relationship with the existing development, which should be well integrated into the layout of the overall masterplan (R03 2l) • provide pedestrian and cycle crossing points across Chelmsford Road (A1023) where appropriate (R03 3a) • provide an improved bus service (R03 3b) • 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 (R03c) <p>BNG</p> <ul style="list-style-type: none"> • Provides BNG of 24% net gain in habitat units, a hedgerow gain of 13% and a watercourse gain of 22% <p>Additional Community Facilities to Support Mixed Use:</p> <ul style="list-style-type: none"> • new plaza to be the community heart • new landscaped park • provision of Neighbourhood Equipped Area of Play (NEAP) for whole allocation 	<ul style="list-style-type: none"> • be designed to ensure a coherent functional relationship with the existing development, which should be well integrated into the layout of the overall masterplan (R03 2l) • provide pedestrian and cycle crossing points across Chelmsford Road (A1023) where appropriate (R03 3a) • provide an improved bus service (R03 3b) • - <p>BNG</p> <ul style="list-style-type: none"> • Provides BNG of 10.12% net gain in habitat units and a hedgerow gain of 100% <p>Additional Community Facilities to Support Mixed Use :</p> <ul style="list-style-type: none"> • - • - • -
Heights of buildings in accordance with approved Character Area Strategy in Masterplan Development Principles document	Heights of buildings in accordance with approved Character Area Strategy in Masterplan Development Principles document
Provision of Western Gateway and Southern Gateway in accordance with Masterplan Development Principles document	Provision of part of Northern Gateway in accordance with Masterplan Development Principles document
Density: 36 dwellings per hectare, making efficient use of land in accordance with NPPF paragraph 130 and the principle of Policy HP03 (minimum of 35 dph)	Density: 33 dwellings per hectare

<p>Affordable Housing (Policy HP05)</p> <ul style="list-style-type: none"> • Total: 35%, 121 dwellings • Tenure Split: submitted as 86% affordable/social rent; 14% shared ownership; then changed on suggestion by BBC Policy Officers' to 45% affordable/social rent; 55% shared ownership. Actual mix: 47% affordable/social rent; 53% shared ownership. • Considered acceptable by Housing Services Manager and Strategic Policy Team • Tested by RPs 	<p>Affordable Housing (Policy HP05)</p> <ul style="list-style-type: none"> • Total: 35%, 67 dwellings • Tenure Split: 45% affordable/social rent; 55% shared ownership • Supported by Housing Services Manager and Strategic Policy Team • -
Public Consultation/Engagement	
Through Local Plan	
Through evolution of Masterplan Development Principles Document, including 18 months of discussions with BBC officers and other statutory consultees	
<ul style="list-style-type: none"> • All Members Briefing in August 2022 • Essex Design Review Panel in June 2023 • MDP uploaded to project website 5 July 2023 and over 1800 residents signposted to it as part of pre-application newsletter and publicity 	<ul style="list-style-type: none"> • All Members Briefing in August 2022 • Essex Design Review Panel in June 2023 • -
Pre-application	
18 months of discussions with BBC officers and other statutory consultees alongside evolution of Principles document	
In accordance with NPPF and Brentwood SCI, December 2018, particularly paragraphs 5.6 (early engagement), 5.7 (large scale development) and 5.8 (form of involvement: meetings, presentations and/or exhibitions).	In accordance with Brentwood SCI, December 2018. Took a "proportionate consultation strategy" (para 2.3 of submitted SCI dated September 2022)
<p>Stakeholder Meeting Invitations sent on 6 July 2023 to:</p> <ul style="list-style-type: none"> • Councillor David Worsfold – Shenfield ward member 	<p>Direct notification of public consultation sent on 20 July 2022 to:</p> <ul style="list-style-type: none"> • Councillor Nicky Cuthbert – Shenfield ward member

<ul style="list-style-type: none"> • Councillor Nicky Cuthbert – Shenfield ward member • Councillor Thomas Heard – Shenfield ward member • Councillor Jan Pound – Hutton North neighbouring ward member • Councillor Keith Barber – Hutton North neighbouring ward member <p>Included notification of upcoming consultation, community webinar and website</p> <p>Meeting with Cllr Worsfold on 17 August 2023</p>	<ul style="list-style-type: none"> • Councillor Andy Fryd – Shenfield Ward Member • Councillor Thomas Heard – Shenfield ward member. <p>-</p> <p>No response received</p>
<p>Newsletters and enclosed Freepost feedback forms sent to 1,803 local addresses over a 1km radius. Included notification of community webinar and website</p> <p>68 responses received</p>	<p>Leaflet with freepost feedback tear off slip sent to 53 addresses to set out consultation between 18 July - 7 August 2022 and dedicated email address. Opportunity to request direct discussion with the applicant if required</p> <p>12 responses received</p>
<p>Invites sent to 189 of the nearest neighbours for a 'near-neighbour event' which offered private appointments to discuss the proposals on 12 July 2023.</p> <p>All 11 slots were filled and attended</p>	<p>-</p>
<p>Project website: www.landnorthofshenfield.co.uk – hub for Masterplan Principles document and individual applications and to provide an additional channel for feedback, launched on 5 July 2023</p>	<p>Not used by Redrow for the application, other than to link to BBC application webpage.</p>
<p>Press release on 6 July. 2023, including notification of community webinar and website</p>	<p>-</p>
<p>Community webinar on 11 July 2023. 62 residents registered.</p> <p>54 attended on the night including Cllr Worsfold</p>	<p>-</p>

A dedicated email address, freephone telephone number and freepost address	-
Post Application	
Continued use of project website with an online feedback form	
Meeting with Phil Drane, outgoing Director of Place and the two Strategic Directors (in lieu CEO) and Caroline Corrigan, 20 November 2023	
	Updates to residents and Ward Councillors in June and September 2024 and offer to meet Ward Councillors, given length of time from submission -no response to invitation
Members Briefing Leaflet sent via email on 2 July 2024, as soon as committee date confirmed	Members Briefing Leaflet sent via email prior to committee
Members Briefing with officers, 5 July 2024	Members Briefing with officers, 15 November 2024
Members' Briefing with Croudace and officers, 8 July 2024	Members' Briefing with Redrow on 11 November 2024
Post committee Meeting with Chair and Vice Chair of Planning Committee on 19 July 2024	

Mix of Uses

8.5 It is clear from the table above, and the site layout plan (CD 1.29) that the Croudace site provides the majority of non-residential land uses, **in addition** to that required for its own residents:

- the safeguarded school site (which includes the employment of c.50 people)
- the new plaza and protection for the veteran tree forming the heart of the whole R03 community
- the new heavily landscaped park for the new and existing community
- the Neighbourhood Equipped Play Area for the whole of R03 community

-
- the protection, enhancement and management of Arnolds' Wood and TPOs
 - the upgrading and diversion of the public right of way into the site
 - a variety of other pedestrian and cycle routes through the site connecting the Redrow site to the town
 - the main new route of the bus loop to the rail station
 - the diversion of Alexander Lane into the site and the new roundabout onto Chelmsford Road
 - the downgrading of Alexander Lane to the north of the new entrance to radically improve the safety and security of children walking or cycling to Shenfield High School.

8.6 This is also demonstrated by the amount of land taken for residential as a percentage of the total. The Redrow site provides only residential uses and the requisite green space and SUDs for its residents/the development. The Croudace site is 21.32ha in total. The amount of residential development (with gardens, residential roads, SUDS, LEAPs and LAPs) i.e. the equivalent of the Redrow application is 9.47ha. The percentage of residential development of the total is 44.5%. This means that **more than half** the Croudace site is given over to other uses that have an intrinsic community benefit for all of R03 as well as the wider community.

8.7 The “potential location for Mixed Use” is shown on the plans in the MDP. The annotation states “(may include care home, employment and compatible uses)”. Page 62 sets out the approach to employment uses given the change in the need for such uses since the pandemic, as shown by the marketing exercise undertaken by Countryside and the consideration of locating a care home on this part of the allocation.

8.8 These issues are dealt with in the Countryside application currently before the Council and do not form part of the appeal application or inquiry. As such, Croudace is not in a position to comment further on these matters.

Compliance with Policy R03: Land North of Shenfield

- 8.9 Both planning applications comply with Policy R03, as far as it applies to each site.

Making Efficient Use of Land

- 8.10 The Appeal Application has a of 36.3 dph.
- 8.11 The Redrow applications has a density of 33dph.
- 8.12 In accordance with paragraph 130c) of the NPPF (or paragraph 129(c) of the December 2023 NPPF that was in place at the time of the Planning Committee on 26 November 2024), the Council should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework.
- 8.13 BBC Policy HP03 relates to non-allocated sites and specifies a minimum density of 35 dph. Policy R03 does not specify a minimum density, but 825 dwellings to be provided within the whole allocation. As explained in the MDP and this Proof that target number of dwellings is no longer achievable due to the constraints on site. It would seem logical, in the absence of any justification to the contrary, that a minimum of 35 dwellings would be considered an efficient use of land on R03 as well.

Compliance with Policy HP05: Affordable Housing

- 8.14 Both applications were presented to committee with policy compliant 35% affordable housing.
- 8.15 Both applications had a suggested tenure split from the Strategic Policy Team of 45% affordable/social rent; 55% shared ownership. Croudace's actual mix (due to the vertical staking of apartments) is 47% affordable/social rent; 53% shared ownership.

- 8.16 Redrow's tenure mix is 45% affordable/social rent; 55% shared ownership.
- 8.17 Both affordable housing offers were considered to be acceptable by BBC Housing Services Manager and Strategic Policy Team.
- 8.18 In addition, Croudace market tested its mix with a number of delivery agents to ensure deliverability.

Compliance with Policy BE14 2a

- 8.19 It can be clearly seen from the table above that Croudace undertook more pre-application and post-application consultation than Redrow.

Compliance with MDP

- 8.20 Both the Croudace and Redrow applications comply with the principles and character areas of the MDP, including Gateways and three storey buildings where appropriate.

Summary of Inconsistent Decision-Taking

- 8.21 Despite all these points, the Croudace application received a resolution to refuse and the Redrow application received a resolution to grant three months later. At no point, was any explanation given as to why the Planning Committee had departed from its earlier decision regarding the earlier Croudace application (the appeal application).
- 8.22 Further, the Council resolved to grant the linked outline application for the safeguarded primary school site immediately after the full application. Again, with no explanation given as to why the Planning Committee had departed from its earlier decision regarding the earlier Croudace application (the appeal application).

8.23 As such, the Appellant considers there is a strong case for an award of costs against BBC on the following grounds:

- (iv) The Council has delayed development on the Appeal Site which should have clearly been permitted in July 2024 ,and not been the subject of this appeal, as the application complies with the development plan, the NPPF and other material considerations.
- (v) The Council has not determined similar cases (the outline application for the safeguarded school site which is associated with the Appeal Application and the neighbouring Redrow application to the north, which also forms part of the R03 allocation)
- (vi) The Council has prolonged the appeal proceedings by introducing new reasons for refusal in its Statement of Case.

9. Planning Conditions and s106 Agreement

Planning Conditions

- 9.1 At the time of finalising this Proof, there was some disagreement about the list of conditions, which were shared with the Appellant on the afternoon of 21 January 2025. Some highway conditions had been added to the conditions listed in the committee report (CD5.1). These conditions had been shared with Croudace on 24 June 2024. Croudace had raised issues with those conditions by email on 25 June 2024. These issues have not been addressed. Croudace will endeavour to work with BBC to provide a list of agreed conditions for the Inquiry.

S106 Agreement

- 9.2 As set out in Section 7 of the Appellant's Statement of Case, the draft s106 legal agreement was substantively complete in relation to BBC contributions prior to committee on 9 July 2024. Other than minor tidying, and checking of cross-references and plan references, the main body and the following schedules are agreed:

- Third Schedule – Custom Build
- Fourth Schedule – Healthcare
- Fifth Schedule – On Site Open Space
- Twelfth Schedule – Library (ECC)
- Thirteenth Schedule – Travel Plan Monitoring (ECC)

The First Schedule is a list of plans to be annexed to the s106.

Second Schedule - Affordable Housing

Affordable Housing Tenure Mix

- 9.3 Given RfR3, the definition of the Affordable Housing Tenure Mix is now not agreed.

9.4 The Appeal Application would provide the following:

Appeal Application			47%	53%
	No of units	%	No of Affordable Rent	No of Shared Ownership
1B apartment	33	27%	17	16
2B (4 people) apartment	14	12%	6	8
2B (4 people) house	59	48%	27	32
3B house	13	11%	6	7
4B house	2	2%	1	1
	121	100	57	64

9.5 On 16 January 2025, Croudace received **for the first time** a suggested mix from BBC for this application (16 months after validation of the application and over 4 years since the work on the MDP began), as part of the negotiations on the s106.

BBC Mix			87%	13%
	No of units	%	No of Affordable Rent	No of Shared Ownership
1B apartment	37	31%	33	4
2B (4 people) apartment	7	6%	4	3
2B (4 people) house	24	20%	20	4
3B house	24	20%	20	4
4B house	29	24%	27	2
	121		104	17

9.6 It appears this suggested mix by BBC is roughly based on the 2016 SHMA (although 1-bed shared ownership should be 28% not 23.5% and the 2-bed shared ownership should be 36% not 41.5%).

9.7 Notwithstanding the Appellant's fully reasoned conclusion as set out in this Proof, that this mix is out-of-date and has been superseded by the 2022 SHMA

- which was given by BBC to the Appellants in May 2023 - there are also other significant issues, which Croudace will want to address at the Inquiry (s106 session), given how late this information has been received:

- It is clear that the Appeal Application is a full application; yet the suggested mix put forward by BBC is a purely mathematical exercise and is not practicable for the following reasons:
 - The Appeal Application only has 33no. 1-bed apartments. The Council is seeking 37no.
 - The Appeal Application has 14no. 2-bed apartments. The Council is only wanting 7. No alternative solution of how the apartment blocks could be stacked vertically has been set out or even acknowledged
 - The suggested number of 4-bed houses is 58% of the number of 4-bed houses in the Appeal Application
 - More importantly, the RPs have informed Croudace they are not keen on 4-bed houses (see the table at paragraph 7.56 of this Proof and CD 8.13 a, b and c). The mix proposed in the Appeal Application took this into account, as set out in this Proof.
- Unlike the mix proposed by Croudace and explained fully in this evidence, there appears to be no market testing to show the delivery agents want or will deliver this mix.

M4(3) Units

- 9.8 Wording was added by BBC on 16 January 2025 requiring 5% of Dwellings across “all sizes of Dwellings” to be M4(3). This is a new requirement that is not in line with the requirements of policy HP01 which requires 5% of affordable dwellings to be M4(3), not all sizes of dwellings. Applying the 5% requirement to the agreed 121 affordable dwellings, 6.01 dwellings are required. The Appeal Application provides 7.

Other BBC Matters

Sixth Schedule - BNG

- 9.9 Negotiations have been continuing. Wording was suggested by Croudace on 21 January 2025 to state BNG of at least 24% net gain in habitat units, a hedgerow gain of 13% and a watercourse gain of 22% will be provided.

Seventh Schedule – Sport

Eighth Schedule -Transport Contributions

- 9.10 There are a number of items in the latest version of the s106 sent by BBC where financial contribution sums have increased. Despite the increases not being justified by email or in the CIL Compliance Statement, Croudace will agree them, subject to agreement on triggers and justification that the purposes set out in the s106 are CIL compliant.
- 9.11 For the Sports contributions, provision of facilities “in the vicinity” of the Property is too broad. Transport Contributions should be used to mitigate the effects of development on Shenfield Station, not Brentwood or Ingatestone stations at a significant distance from the Property.

Essex County Council Matters

Ninth Schedule - Education

- 9.12 The latest version of the s106 clauses on education have gone backwards from the point of agreement/disagreement reached prior to the 9 July committee.
- 9.13 There are a number of issues that need resolving, not least the fact that BBC resolved to grant outline planning permission (with all matters reserved) on the safeguarded school site on 9 July 2024. This fact fixes the safeguarded site size, shape and location. Further, the full application, should it be permitted, fixes the vehicular and pedestrian access points and roads.

- 9.14 ECC has requested an option period of 10 years following completion of the last Dwelling on the Property (estimated to be 6 years), whilst the Appellant has proposed a 10 year period from execution of the Agreement (longer than the current local plan period).
- 9.15 It had been agreed that the need for a school on this site should not be triggered by the closure of Long Ridings. This wording has been removed by ECC and is not acceptable.
- 9.16 ECC wishes there to be no use of the land for carparking or storage in this time, effectively sterilising the site for a potentially significant period, and making construction of the site difficult.
- 9.17 ECC wishes only to permit a mortgage of the land with its consent, with no obligation to not unreasonably withhold or delay that consent, and similarly to impose a restriction on the title to the site that does not work in conveyancing terms. This is not practical in conveyancing terms.
- 9.18 Access and servicing routes are fixed and cannot be changed. Services at a stated capacity will be provided to the boundary, and a specified surface water run off rate catered for but further rights over “adjoining land” will not be capable of grant as the “adjoining land” will have been sold as dwellings are constructed and the position will be fixed.
- 9.19 Location and proximity from matters such as “any land use that could cause public anxiety” is either identifiable now or, if a change of use on land outside of the Property, not within the control of the Appellant.
- 9.20 The shape of the Education Site cannot be altered.
- 9.21 ECC has asked for collateral warranties in relation to the Education Site Works, extending beyond what would be deliverable.

Tenth Schedule – Education Contributions - Noise Mitigation

- 9.22 A noise mitigation contribution of £200,000 has been requested to provide enhanced windows and mechanical interventions in the school, if built, to be payable 100% prior to first Occupation. The Appellant has suggested the contribution should fall due if the option to acquire the school land is exercised.

9.23 *.Eleventh Schedule – Sustainable Transport*

No justification has been given in the CIL Compliance certificate for the MOVA Contribution.

Summary Table

- 9.24 CD 9.9 sets out the heads of terms of the s106 Agreement, the position as it was prior to committee in July 2024 and the position now. The Appellant has also submitted its version of the s106 separately.
- 9.25 Given the late changes and lack of agreement on a number of the s106 matters, the Appellant is hopeful that the Inspector will assist in finding a reasonable solution for the Councils and Croudace to agree.

10. Summary and Conclusions

- 10.1 As demonstrated in this Proof, and the design Proof of Evidence of Mr Anderson, the Appeal Application would provide a high quality, landscape-led mixed use development that accords with – and goes beyond - Adopted Policy R03, in one of the most sustainable locations in the area.
- 10.2 It would provide 344 much needed high quality new homes in a parkland setting within close proximity to existing public transport and within easy walking and cycling distance to the town centre and to the Elizabeth Line. As such, it could assist in meeting the 1.5 million new homes set out in the Government's Plan for Change.
- 10.3 It would also assist BBC to meet its 10 year Local Plan housing trajectory.
- 10.4 The 121 affordable new homes would meet the up-to-date published housing need of local residents and be of a mix that RPs need and are willing to deliver.
- 10.5 These 121 new homes would provide more affordable housing on this one site than in the whole of Brentwood in the last six years (according to BBC's latest published figures, 2016/17-2021/22).
- 10.6 This Proof has demonstrated that Croudace has worked consistently. collaboratively and throughout the process with officers of BBC and statutory consultees since 2019 to bring this allocated site forward and deliver housing as quickly as possible, as demonstrated by the Local Plan Statement of Common Ground, the drafting of the MDP, pre-application discussions and public engagement, and then the submission of the planning application under a PPA, in compliance with paragraph 47 of the NPPF.

10.7 The Appeal Application was recommended for approval, with no objections from BBC or statutory consultees.

10.8 This Proof, and that of Mr Anderson, demonstrates why the three putative reasons for refusal are not justified.

10.9 In regard to RfR1, Mr Anderson demonstrates...

- The existing character of built form in Shenfield had been carefully assessed during the design process and recorded in the DAS and MDP
- The proposed three storey Western Gateway buildings will add further variety to the already mixed character of the area. They respond sympathetically to the existing context of the area and will not be harmful to its character and appearance, which will, in fact, be greatly enhanced.
- Similarly, a sympathetic design response is proposed for the three storey Southern Gateway buildings. The retention of existing trees and hedges alongside proposed new landscaping and trees maintain the verdant character of Alexander Lane and separation from existing built form. They will not be harmful to the character and appearance of the area and, conversely, they will enhance its distinctiveness.
- Local and national planning policies and guidance require modern developments in highly sustainable and accessible locations to be built at higher densities than existing suburban built form. This is even more imperative given the frequent Elizabeth line services offered nearby at Shenfield station making the town one of most highly accessible places in the region.
- In his view, the Western and Southern Gateway proposals align with sound placemaking and design principles, meet the policy requirements of the development plan and NPPF, as well as national and local guidance in the NDG, the EDG and the MDP and create high quality coherent places well integrated in their existing context.

10.10 In regard to RfR2 (Insufficient early, inclusive and effective engagement with the community in conflict with policy BE14 2.a.) I demonstrate that the reason for refusal is not justified, as the Appeal Application:

- has, as an allocated site in the adopted Brentwood Local Plan, been shaped by early, proportionate and effective engagement consistent with paragraph 16 of the NPPF
- was accompanied by the approved MDP, in accordance with Policy R03 2.a.
- was the subject of pre-application early engagement in accordance with paragraph 40 of the NPPF
- consultation complied with BBC Statement of Community Involvement, December 2018
- provided early, proactive, inclusive and effective engagement with the community and other relevant partners in accordance with Criterion 2a of Policy BE14, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004
- should have, as a result, been looked on more favourably by BBC Planning Committee in line with paragraph 5.125 of Policy BE14.
- Has been treated unevenly by BBC when compared to the Redrow application.

10.11 In regard to Reason for Refusal 3 (type, mix and size of affordable housing in conflict with Policy HP05) I demonstrate that the reason for refusal is not justified, as the Appeal Application:

- is consistent with the policy (as defined by footnote 9) in paragraph 66 of the NPPF
- has regard to the most up-to-date SHMA
- is, as a result, compliant with Policy HP05, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004
- has balanced the SHMA requirements (which are borough-wide) with site and development constraints and opportunities, the request for Gateways at the entrances to Chelmsford Road and Alexander Lane and market testing with the delivery agents, the Registered Providers

- is also compliant with Policies HP01, HP03 and HP06 in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004

10.12 The additional issues raised in the Council's Statement of Case are similarly unjustified, as the Appeal application:

- is consistent with the Local Plan Inspectors' view that the proposed mix of development is reasonable for this strategic site
- is compliant with Policies R03 and MG04, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004
- includes only appropriate uses, and also accords with paragraph 97 of the NPPF
- provides a wide range of additional facilities for the whole allocation and the wider community
- has been treated unevenly by BBC when compared to the Redrow application

10.13 Given the late changes and lack of agreement on a number of the s106 matters, the Appellant has proposed its own version of the s.106 planning obligation but will nonetheless continue to work to narrow the differences between the parties.

10.14 It is considered that the Appeal Scheme complies with the development plan, the NPPF and other material considerations. Consequently, the Inspector is respectfully asked to allow this Appeal.

10.15 The Appellant is concerned about what it perceives to be the Council's unreasonable conduct in the following respects:

- The Council has delayed development on the Appeal Site which should have clearly been permitted in July 2024 ,and not been the subject of this appeal, as the application complies with the development plan, the NPPF and other material considerations.

- The Council has not determined similar cases (the outline application for the safeguarded school site which is associated with the Appeal Application and the neighbouring Redrow application to the north, which also forms part of the R03 allocation) in the same manner.
- The Council has prolonged the appeal proceedings by introducing new reasons for refusal in its Statement of Case.