



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

**Rebuttal Evidence
Jeffrey Field BA MA Dip TP
MRTPI MRICS**

**On behalf of Brentwood
Borough Council**

**LPA Reference:
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1. Introduction

- 1.1. This Rebuttal Proof provides a very brief response to the Appellant's evidence and, whilst addressing all of the Appellant's evidence, for convenience it adopts as its structure 'The Key Points' as set out in the Proof of Evidence by Ms Jane Piper.
- 1.2. Many issues have been covered previously in my main Proof of Evidence and that of Cllrs Mynott and Barrett, and lack of comment on a specific paragraph does not amount to agreement.

2. Point 4 – Housing Delivery

- 2.1 It must be made clear that the Council does not object to development on the Appeal Site. Rather it is a matter of getting the right, policy-compliant, development for this important site in Shenfield.
- 2.2 Delivering the site 'as quickly as possible' is in the hands of the Appellant; all it needs to do is bring forward a proposal that complies with the Development Plan.
- 2.3 In its Planning Committee Meeting, the Council set out the points that the Appellant needs to revise for it to grant Planning Permission. The Committee Meeting was on 9 July 2024, and since then no proposed revisions have been brought forward by the Appellant.
- 2.4 The BLP sets out the timescale for the development of this site. It is not unusual for strategic sites to be delivered later in a Plan Period, and Planning Applications have now been submitted for all four R03 sites. Para 9.101 of the BLP states that - The '(R03 Land)' site will provide for around 825 homes, anticipated to be delivered between 2023/24 and 2030/31. Therefore, some 6 years still remain of the Plan Period, during which a revised scheme could easily come forward – even as early as the middle of this year.

3. Points 5 and 12 – Engagement

- 3.1 The Appellant recognises that 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' (Key Point 3).
- 3.2 On such an important site, one would expect a generous level of public engagement which ought to include liaison with prominent Councillors, including Members of the Planning Committee, and consulting upon any key documents that are to be relied upon.
- 3.3 However, it seems here, that the Appellant blames the Council Officers for not undertaking these consultation activities. The NPPF is quite clear on this and had the Appellant gone the full distance, then matters raised in this Appeal could have been addressed and the Appeal averted.
- 3.4 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 (para 40).*
- *The more issues that can be resolved at pre-application stage, including the need to deliver improvements in infrastructure and affordable housing, the greater the benefits (para 42).*

3.5 The Council's Officers in its communications with the Appellant highlighted that the MDP may need to be presented to Members. This did not happen and, instead, we have a Consortium-led MDP which has never been endorsed, adopted, or approved by the Council Members. Accordingly, the Appellant's continued assertion that 'it is approved' by the Council is misleading. The MDP has no legal status; it is not a Development Plan Document or a Supplementary Planning Document; and should be attributed little weight, if any.

3.6 Not only were Local Members (as well as members of the public) excluded from any public engagement and/or consultation exercise with regard to the MDP, the Appellant's Evidence (Section 4 of Ms Piper's Proof) contains commentary suggesting that Members should be removed from the decision-making process altogether. This seems a rather aggressive approach, extraordinary even given that the Appeal Proposal is not in accordance with the Development Plan.

4. Point 6 – Housing Trajectory

4.1 The Council's Position on Housing Delivery following the Dec 2024 NPPF is set out in its Five Year Housing Supply Statement as 1 April 2024 (December 2024).

6. As set out in the Five Year Housing Supply Site Schedule April 2023 there is a supply of 2,1101 dwellings forecast to be completed in the five-year period 2024/25 to 2028/29.

7. On the basis of the five-year housing requirement and the forecasted housing supply the council can demonstrate a suitable supply of deliverable sites for housing for the following number of years: > 5.01 years

5. Point 7 – Accessibility

5.1 The Appeal Site's accessibility is overblown. The Appellant states that the site is highly sustainable within close proximity to one of Europe's largest public transport projects. Elsewhere, the Appellant states that the Site has good connectivity.

5.2 The facts do not bear this out – it is not a Town Centre or Edge of Centre scheme, but an edge of settlement proposal. Whilst improvements to permeability are recognised, we still have a Site which is at least a 20-minute walk to the Shenfield Station. Those travelling will need to walk or take the bus as the two modes do not overlap in terms of their routes.

5.3 I contend that the use of the description as ‘close proximity’ does not reflect the real picture, which is of some significance given that the Appellant now relies upon this accessibility as supporting three-storey development at Chelmsford Road and at Alexander Lane.

6. Point 8 – Policy R03

6.1 A decision-maker is required to explore whether a proposal is in accordance with the Development Plan, and in this case, this of course includes a judgment against Policy R03.

6.2 It is quite clear that this policy does not seek just housing; this is now acknowledged by the Appellant. Importantly, the policy requires employment uses to be developed on the allocated land (beyond the Primary School/Nursery and Care Home), which are either within Class E or *sui generis*, and which are compatible with a residential development on other parts of the site.

6.3 Moreover, and importantly, the policy does not provide a closed or exhaustive list for activities; and it is quite plain from the Supporting Text to Policy R03 that these employment uses can beneficially also meet the broader needs of the new community in terms of services and facilities:

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

6.4 As noted in my main Proof of Evidence, this accords with paragraphs 96 and 97 of the NPPF, which encourages community facilities such as local shops etc. to enhance the sustainability of communities and residential environments.

6.5 Properly interpreted and applied, therefore, Policy R03 does not require employment uses only on the Countryside Land, still less limited in scope to a small sub-part of Class E, but promotes a wide range of employment-generating, community-enhancing, uses across the entire allocated site - including the Appeal Site, which is the largest and most central parcel of land within the allocation. The only qualification is that such uses must be compatible with residential development, which community uses and services will self-evidently be.

6.6 None of this was picked up or allowed for in the MDP, however; and so, the MDP is not in accordance with the Development Plan or the NPPF in these regards. Neither are any additional uses proposed by the Appeal Application (other than the Primary School and Nursery).

- 6.7 What we now have suggested, however, in Ms Piper’s Proof, is that these planning policy imperatives could appropriately be met by food or coffee vans occasionally choosing to park around the School Plaza and the veteran tree there. That is lamentable; the community and the Council want more than this; and the clearest possible policy imperatives of both the BLP and the NPPF strongly support them. Similarly, the Appellant’s reliance on an M&S Foodstore (that is part of a petrol Filling Station) does not satisfy the sense of community or indeed their needs.
- 6.8 I note that in the MDP there is discussion on market demand, but the marketing is completely focused on the Countryside Land and seeks to ignore retail activities on that parcel. There is nothing in policy which prevents small scale retail or other types of employment uses on the Croudace Land which are uses suitable in this residential area; indeed, page 62 of the MDP recognises that interest had been expressed from “food retail, restaurant and other leisure users” – so there is no reason why the Appeal Site could not accommodate such uses; Croudace has simply decided to exclude them.
- 6.9 The Appeal Site is allocated in conjunction with the remainder of the R03 Land for mixed-use. There are no uses other than housing on the Redrow and Stonebond Sites, which is a feature of the Consortium-prepared MDP, and no community uses or facilities contained in the Countryside (Vistry) Application. The Council is, therefore, entitled to require the non-residential elements to feature on the Appeal Site.

7. Point 11 – Townscape Objection

- 7.1 The Appellant’s evidence provides an even greater justification for the Council’s approach on townscape.
- 7.2 The Appellant has now decided to provide a rationale for the height, at Chelmsford Road and Alexander Lane, based on density and transport accessibility.
- 7.3 There is nothing in the DAS supporting the case for taller development at the Western or Southern Entrances based on proximity to transport. The justification has always been design-led as a gateway or landmark.
- 7.4 There also seems to be no mention in the Appellant’s evidence of R03. 2.l., which is a very relevant consideration (even if not cited in the putative Reasons for Refusal):
- **be designed to ensure a coherent functional relationship with the existing development, which should be well integrated into the layout of the overall masterplan.**

The Brentwood School

- 7.5 We also have further clarification of the design precedent, which is The Brentwood School (image attached) for the Western Entrance. The Brentwood School is a fine building, but it forms an urban setting with a high brick wall as its boundary, and there is a further

layering of brick, which reflects the different types of educational spaces within it. Its massing reflects educational floor to ceiling heights.

- 7.6 I provide an image below of the Brentwood School taken from the RIBA website. In terms of the Award-winning design, the RIBA states:

Adopting a classic nine square villa plan, this new teaching building provides a reception to the preparatory school with four generous specialist teaching spaces for science, art, and food technology on each of the upper two floors around a central hall – each with supporting ancillary, circulation and storage spaces cleverly tucked into the plan. This arrangement results in teaching spaces having two aspects, with sophisticated planning providing very good light and an airy, calm character. The teaching block’s sister building provides a multi-purpose hall, with an independent sheltered entrance that allows for community use and for spill out space between the playground and hall. The materials palette references other buildings on and around the site and each building is beautifully crafted with bold and playful colours and motifs.

- 7.7 There can be no real justification for a school building providing a precedent for an entrance into the Appeal Site.



The Brentwood School - Source – Cottrell & Vermeulen

Character

- 7.8 In terms of townscape, Mr Anderson’s Proof references, at paras 4.2-4.4, the NPPF and its chapter 12 which describes ‘Achieving Well-designed Places’. Paras 131 and 135 are important as a base position for the urban design analysis. Para 137 also provides a

context for designs evolving. In addition, reference really ought to have been given to Policy R03 2.l above.

7.9 In particular, it is very important to understand what happens with regard to the character south of the Chelmsford Road entrance into the appeal Site. There is little in the Appellant’s evidence on this point. The images provided at Figure 1 and 2 (of Mr Anderson’s Proof) show the existing buildings north of the Chelmsford Road entrance, but there is a need to appreciate the character of the road as it leads into the Town Centre. There are modest two storey buildings plus open interventions *en route* towards the Town Centre. The buildings at the ‘Western Gateway’ provide a ‘false start’ to Shenfield.

Density

7.10 Using the need to get more units on the site is not a rationale to justify the height at the two junctions. There is nothing in Policy R03 which states a minimum density level for the Appeal Site, or the R03 Land. It is not the case that the Council is pressing the Appellant to provide prescriptive housing numbers. Paragraph 6.25 of Ms Piper’s Proof refers the agreement between the developers and officers to maximise the number of dwellings on the Site, but surely this means ‘optimise’ and this should not conflict with other policies of the Development Plan. Policy R03 talks about all sorts of environmental requirements and suggests that the development should provide ‘around 825 new homes’, spread around 4 sites, of which Croudace is one.

7.11 The Appellant uses Policy HP03 Residential Density as a justification for the taller buildings, but as the Appellant states, this relates only to ‘Proposals for new residential developments not allocated in the Plan’. In practice, it should have no role in supporting the Appellant’s case.

7.12 New windfall proposals get caught by this policy, but Site Allocations have their own specific requirements with implied flexibility.

7.13 The policy context surrounding a simple density-led approach should also be well-known to the Appellant Team. For reference, we provide the following, but it is fundamentally clear that development should be design-driven and not based simply on housing numbers.

Reference	Policy/Guidance
NPPF	The NPPF Para 129 states that planning decisions should support development that makes efficient use of land, taking into account: - a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; - d) the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change;
BLP	Policy HP03 states that proposals for new residential developments not allocated in the Plan:

	<p>a. should take a design led approach to density which ensures schemes are sympathetic to local character and make efficient use of land;</p> <p>b. be expected to achieve a net density of at least 35 dwellings per hectare net or higher, unless the character of the surrounding area suggests that such densities would be inappropriate, or where other site constraints make such densities unachievable;</p> <p>Para 6.18 states that - The right density will depend on the scheme, dwelling mix, site characteristics and location.</p>
NDG	<p>Built form is determined by good urban design principles that combine layout, form and scale in a way that responds positively to the context. The appropriate density will result from the context, accessibility, the proposed building types, form and character of the development (para 66).</p>
EDG	<p>Any new development of any scale in any location needs to reference and respond to the positive context that surrounds the site. Throughout, this Guide promotes a context-led approach for all new development to follow.</p> <p>Individual buildings (where the local character is indeterminate) can be inventive and challenging provided they are well designed: they may be intended to stand out among their neighbours as a new landmark, or may use materials in an innovative way.</p> <p>However, buildings that incorporate features with a view to becoming a new landmark are often misplaced. Such buildings are rarely necessary for navigation around a built environment and, more often than not, such features are added on the whim of the designer. Used intelligently, landmarks play an important role in establishing a sense of legibility and drama within an area. But this role needs to be informed by a rigorous understanding of the surroundings, existing way-marking and the relative importance of the building itself.</p>

7.14 There are therefore caveats to desirability of ever-increasing density; and one of the main objectives is to protect or be sympathetic to local character. Notably, moreover, the Essex Quality Review Panel specifically commented in these regards that:

- *Although the idea of a visual ‘gateway’ was supported, the Panel feel these locations are an inappropriate location for increased height as opposed to density, mainly as a result of the periphery of the site being much more sensitive.*
- *The Panel would encourage the design to look at more creative and progressive ways to design around the landscape character of the site rather than apply standard development design solutions.*
- *Regarding the ‘Gateways’, the Panel suggest locating taller buildings away from the ‘gateway spaces’ as indicated in the Development Framework, preferring to see ‘gateways’ indicated by subtle design changes and continuous built form where sound barriers are required.*

7.15 Having said all of this, the Appeal Proposal at the Western and Southern entrances resemble nothing like the image contained in the MDP provided below.



8. Point 12 – Council’s Statement of Community Involvement

- 8.1 The Appellant and the Appeal Application has not complied with the Council’s Statement of Community Involvement. An extract from the SCl on decision-making is as follows and it refers to involving local communities at the pre-application stage with meetings, presentations and exhibitions:

Local Communities

5.7 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.

5.8 It is recommended that involvement of local communities should be in the form of meetings, presentations and/or exhibitions. Applicants are encouraged to speak with the Council before arranging these events, so that they can be undertaken in a manner that is sensitive to local community concerns. However, any pre-application engagement undertaken with the community is done so by the applicant independent of the Council. Therefore, it is important that any comments being made are directed to the applicant and not to the Council at this stage.

9. Point 13 – Affordable Housing

- 9.1 There is more up-to-date information available on the affordable housing needs of the Council. This was known to Members of the Planning Committee, and we now have the Ark Report which addresses this. The Council, as both Local Planning Authority and Housing Authority, is not only entitled to update its information on affordable housing needs, but needs to do so properly to serve the most vulnerable members of public. Indeed, Policy HP05.2.c, positively requires that the type, mix and size of affordable housing meets the most up-to-date evidence of housing need.
- 9.2 The Appellant states that there is no need to provide viability evidence, which is a requirement if the 84%/16% split is not met. It cites the SEHNA as most recent evidence

base but there is no reference in the SEHNA that supports a move away from the 84/16% splits. Policy H05 2.a. states 'or regard to the most up to date housing evidence', and therefore the application of the Development Plan is not confined to the SEHNA or a SHMA.

- 9.3 In any event, the SEHNA is not the most up-to-date policy basis for assessing housing need. Ark is; and whilst there were discussions with Council Officers and affordable housing providers, these do not usurp the Development Plan or more recent evidence of affordable housing need.

10. Point 14 – Additional Issues

- 10.1 The Council never issued any formal Reasons for Refusal in any Decision Notice and the Appellant appealed against non-determination, rather than negotiate an acceptable resolution.
- 10.2 Whilst the Council did, at the request of the Appellant, helpfully send it putative Reasons for Refusal, and these are all relied upon by the Council, the Appellant will also appreciate that there was a wider discussion at the Planning Committee – and in particular, on the absence of any community use or services, as required by Policy R03 as guided by its supporting text. These discussions related to community floorspace and not open space. The BLP contains a requirement for R03 Land to provide 'a wide range of new community services and facilities'.
- 10.3 Having attended the Planning Committee, these issues will not be new to the Appellant. They were also raised in the public consultation on the Planning Application and before (see Statement of Community Involvement). The Council have given me delegated authority to raise them with the Inspector; and they are manifestly material considerations (arising from a site-specific policy indeed) which the Inspector is obliged to take into account.

11. Point 15 – S106

- 11.1 This will be addressed in the S106 session of the Inquiry but, in the meantime, the parties will continue to work together to narrow the differences between them.

12. Points 16 and 17– Compliance with the Development Plan, the NPPF and Other Material Considerations / Reasons for Refusal

- 12.1 For all of the reasons set out above and elsewhere in the Council's evidence, the Appeal proposal fails to comply with the Development Plan and should be refused. This Appeal should, accordingly, be dismissed.

13. Point 18 – Alleged Unreasonable Conduct

13.1 If the Appellant intends to submit an Application for Costs, we request (as they are required to do), that this is provided in writing as soon as reasonably possible. This would provide THE COUNCIL some period of time to respond.

14. Point 18(i) – Compliance with the Development Plan

14.1 It is not unreasonable for a Local Planning Authority to refuse Planning Permission where a proposal does not comply with the Development Plan.

15. Point 18(ii) – Redrow Application

15.1 The Redrow Application is materially different from the Appeal Proposal in a number of ways:

- a. Within the Redrow Site, there is no indication as part of the MDP that it should provide anything other than housing (see Plan below)
- b. Being the most northerly part of R03 Land, it is furthest from both the proposed Primary School and Shenfield's Town Centre
- c. Within the Redrow scheme, there is a more favourable mix for the affordable housing being proposed, with a higher proportion of 3-bed units than the Appeal Proposal
- d. The Redrow Application has no 'Gateways' which need to be carefully considered
- e. The community focus is targeted on the Croudace Site, with the primary School and the Nursery, and it is here where ancillary community uses should be located



16. Point 18(iii) – ‘New Reasons for Refusal’

16.1 This has been addressed in response to Point 14 above.