

Officers' Meadow, Shenfield

This Paper sets out a short response on behalf of the Local Planning Authority to the Appellant's Rebuttal Statement.

The Appellant's Rebuttal Statement raises questions in relation to the recent housing evidence contained in the 'Ark Report', and the Appellant has also tabled possible changes to the affordable housing mix and tenure. These changes have far-reaching implications for the Council's consideration of the Appeal and on balance, and on the basis indicated, would mean that planning permission should be granted, albeit subject to important conditions and a revised s106 Agreement.

Our Table below contains responses to the possible changes that have now been formally considered and accepted by the Council.

Subject	Appellant Rebuttal Comments	LPA's Response
Ark Report	Improper and Inadequate Notice and Timing – para 2.4	<p>It is not new to the Appellant that the Council disagreed with the Appellant's proposed affordable housing unit mix. This was confirmed at the Planning Committee Meeting on 9 July by Members of the Committee and is contained in the putative Reasons for Refusal. Until the Appellant's Rebuttal however, the Appellant had not addressed those needs which were clearly identified at the Committee.</p> <p>The evidence provided in Mr Field's Proof PoE of the SEHNA is clear. Even the authors (Turley) provide caveats as to the data that they have used and extrapolated. Mr Field draws from the Housing Register that is contained in the SEHNA, as well as more recent statistics, which are publicly available and online.</p>
Ark Report	Timings	<p>The Ark Report was commissioned jointly in August 2024 by the Council's Planning and Housing Teams.</p> <p>There was no definite programme, but it was hoped that it would be received by the end of 2024.</p> <p>The draft Report was received on 12 December 2024, but priority was given to the new NPPF by the Policy Team. In early January, an internal review was undertaken of the Ark Report and it was not until 29 January 2025 that final comments could be provided to the consultants.</p> <p>It is the intention that the Ark Report will be published on the Council's Website by the week ending 7 February 2025 and Committee Reports will be prepared for Members to 'Note' its content and findings.</p> <p>Mr Field and Cllr Barrett did not have sight of the draft Report until 15 January 2025, and then sought instructions on how to proceed.</p>

Ark Report	Reason for the Report	<p>When considering a number of planning applications, it was becoming clear that there was a disparity between what was required by the Council's Housing Team at an operational level and what was contained in the SEHNA (2022). There was a disparity between the large need for 1-bedroom units in the SEHNA compared to what was showing on the Housing Register.</p> <p>In order to provide a clearer steer on this issue and update the Council's most up to date housing evidence, the Council commissioned ARK to undertake a review of the published HNA (2022) and analyse affordable housing need and demand in the Borough.</p>
Ark Report	Appellant Statement of Case	<p>The Appellant's Statement of Case was issued to PINS on 16 December 2024.</p> <p>At this stage, the receipt and contents of the Ark Report were not known to those instructed to prepare the Statement of Case.</p> <p>The Statement of Case confirmed that the Council had issues with the proposed affordable housing including unit mix and tenure.</p>
Ark Report	CMC	<p>The CMC was held on 17 December 2024.</p> <p>At this stage, the receipt and contents of the Ark Report were not known to those instructed to handle the CMC.</p> <p>It was confirmed in the CMC that the Council would call Cllr Barrett who would address affordable housing matters. Mr Field would deal with the three reasons for refusal and in testing the Appeal Proposal against the Development Plan.</p> <p>The Inspector was aware that there was a putative Reason for Refusal for affordable housing. It was not necessary at the CMC to go into the detail of each Party's case, as the Inspector in fact had confirmed.</p>
Ark Report	Statement of Common Ground	<p>The Statement of Common Ground confirmed that there were differences between the Parties on Affordable Unit Mix and Tenure.</p> <p>The Statement of Common Ground was finalised on 21 January 2025.</p> <p>At this time, the Ark Report was only in draft form and needed to be subject to review by the Planning Policy Team and the Council's Housing Department.</p> <p>It was premature to advise on the status of the Ark Report at this time in the Statement of Common Ground.</p>
Ark Report	Appeal Core Documents	<p>The Council has asked for the draft Ark Report to be added as a CD.</p> <p>The precise decision on when to do this was influenced by when and how the draft could be finalised.</p>

Ark Findings	Criticisms of the Ark Report	<p>Some of the Appellant's comments are accurate but it was not the intention of the Ark Report to set out Unit Mix percentages or Tenure Preferences – it was to review the information available and what was happening in practice.</p> <p>The principal conclusion of the Ark Report is that the SEHNA is flawed as far as the affordable needs of Brentwood are concerned, and that to continue along this path will make matters worse.</p> <p>Surely, it is better to take a corrective opportunity with the Appeal Site before it is too late. This would mean sticking by the principles and findings of the 2022 Development Plan, which would actually meet the Council's Housing Needs.</p>
The Need for Family Housing	Alternative Mix offered by the Appellant	<p>The comments in paragraph 2.37 are welcomed by the Council.</p> <p>The Appellant's offer in paragraph 2.38 is a positive move. The suggested changes are acceptable to the Council.</p> <p>The positive highlights contained in the Appellant's Table (here), are a downwards move of 2-bed units from 73 to 44 and an increase in the number of 3-bed units from 13 to 40.</p> <p>The Council confirms that it would support planning permission being granted should the mix set out in paragraph 2.38 be proposed (as also referenced in the Table contained in paragraph 2.42 - see below).</p> <p>The Council would work with the Appellant to deliver as quickly as possible the Alternative Mix for this Appeal. This could be achieved by agreeing Planning Conditions that required further details for approval, without affecting large parts of the Appeal Proposals. The Council would also be flexible on the final actual number of 3-bed units so as to ensure that this process runs smoothly – see below.</p> <p>The Appellant would of course have been aware of the need for family housing when purchasing the Site, as these were the requirements in the BLP as Adopted, as well as in its emerging forms.</p>
NPPF 2024 – paras 2.39-2.44 of the Rebuttal Statement	Affordable Rent tenure offered by the Appellant	<p>The Council's 2022 BLP already provides a strong emphasis on Affordable Rent – 86% provision. This is a figure that the Appellant should have taken into account when negotiating the purchase price with the current owners of the Site.</p> <p>The <u>primary offer</u> is an 86%/14% split on tenure between Affordable Rent and Shared Ownership (para 2.42).</p> <p>This offer is a positive move and one that is accepted by the Council, as it would be in accordance with the Development Plan.</p> <p>The <u>secondary offer</u> is based on an Alternative Mix, as referred to in 2.38 whilst also applying the 86%/14% split. It is on the basis of this offer, and subject to all necessary conditions to secure the same, that the Council considers that planning permission should be granted.</p>

		<p>The Council is prepared to show some further flexibility here in that some of the suggested 3-bedroom Shared Ownership houses could be converted to Affordable Rent as 2-bedroom houses. As some of these may exist as 2-bedroom houses in the current drawings, this change might require fewer changes to the Appeal Plans. A further balancing act would be needed to finalise the 86%/14% split.</p> <p>The Council will work positively with the Appellant to ensure that any required changes are addressed expeditiously through the planning system (para 2.44).</p> <p>Since some changes would be required by amendments, it would also be possible to create conditions for the 'Gateways', requiring details to be submitted for further approval – this would allow some refinement to take place.</p> <p>On balance, with these changes, the Council would be happy for planning permission to be granted by the Inspector.</p> <p>Had this offer, which makes the Appeal Proposal policy compliant in terms of Affordable Tenure, been made at the Application Stage, or even after the Committee Meeting but before any Decision Notice was issued, then planning permission would have been granted and the Appeal would have not been necessary.</p> <p>It is unreasonable for the Appellant to introduce this 'offer' at this late stage on a 'what if' basis. There is nothing in any of the documents cited by the Appellant (Housing Register and the Ark Report) that is being alleged to justify the 86%/14% split. This split is contained within policy and should not change without viability evidence being prepared. To date, the Council is still awaiting such evidence, and none is before the Inspector.</p>
BBC Affordable Mix in s106	There is a lack of clarity in the Affordable Mix.	<p>Those preparing the s106 were looking at scenarios in the event that the Appeal Proposal Mix was not accepted. Mr Field and Mr Barrett have simply criticised the Appeal Proposal Affordable Mix, rather than offer solutions.</p> <p>The s106 would be revised to accord with the agreed scenarios from above.</p>
Conditions	The Appellant has included an Updated set of Conditions	Subject to any changes which may be necessary to secure an acceptable affordable housing mix, these are acceptable except one of the conditions concerning Highways. This has been communicated to the Appellant.
S106 - BBC	Affordable Mix	If the 'Suggested Changes' are accepted, then the drafting of the s106 can be simpler and finalised on this aspect.
M4(3) Units and s106	Whether this can be satisfied with one unit type. Currently this is restricted to 1 bed ground floor flats.	The Council's position is that there should be a variety of M4(3) Unit Types. A clause can be inserted that this can be for future approval.

EEC Education – paras 3.8-3.10	Ninth Schedule remains outstanding	It is recognised by BBC that there are considerable differences between the Appellant and ECC on the ability to deliver the Primary School and Children's Nursery through the current clauses contained in the s106. BBC will do what it can, but ECC would need to be party to a s106 Agreement.
Chancellor's Announcement – paras 3.11/3.12	Chancellor's Speech - introduced a presumption in favour of development in key areas such as those around train stations, to give households easy access to urban centres and businesses a greater choice of potential workers.	<p>The proximity of the Appeal Site is unlikely to fall within this 'Presumption'.</p> <p>It is very unlikely that the Appeal Site could be termed 'around a train station'.</p>