

APPEAL REFERENCE: APP/H1515/W/24/3353271

**RE: LAND AT OFFICERS' MEADOW, LAND NORTH OF SHENFIELD, ALEXANDER LANE,
SHENFIELD**

OPENING SUBMISSIONS

On behalf of the Appellant

Croudace Homes Limited

Introduction

1. This is an appeal under section 78 of the Town and Country Planning Act 1990 against the failure of Brentwood Borough Council ("the Council") to determine an application for planning permission made by the Appellant ("Croudace").
2. As recorded in the original Statement of Common Ground dated 21st January 2025 ("the original SCG"), the appeal application was originally part of a hybrid application which included an outline element (what became 23/01159/OUT, a 2-form entry primary school and early years site), together with the appeal proposal, which is an application for full planning permission for 344 new homes (of which 35% affordable), together with public open space and associated infrastructure.¹ The evidence of Mr Anderson contains a much fuller description of what is proposed, including links to Shenfield station and the wider area.²
3. Since the original SCG was signed, matters have moved on, culminating in the signing of a Joint Statement on behalf of the Council and Croudace. While the

¹ SCG CD9.1 para. 3.4 and 3.14 to 16.

² Mr Anderson POE pp.7-8 para. 3.6.

overall proportion of affordable housing remains at 35%, a variation in the way it is to be delivered, to increase the proportion of affordable rent, and to increase the number of larger units, has allowed the Council to offer its unequivocal support for the grant of planning permission. See paragraphs 5 and 6 of that Joint Statement. It is important to note, per paragraph 5(b), that the Council has withdrawn its evidence and its Statement of Case (plus of course parts of the original SCG are out of date³). The Appellant's evidence remains before the inquiry.

4. It follows that there is agreement between the two main parties as to the resolution of the Main Issues identified in the CMC Note dated 20th December 2024. That Joint Statement has the same status as a statement of common ground, in that it reflects an agreed position and is signed on behalf of both parties.⁴ Each of the Main Issues will nonetheless be dealt with briefly in turn, albeit recognising that the evidence before the Inspector only points one way, in favour of granting planning permission, and this is a matter of specific agreement. These submissions are therefore structured as follows:

- a. The development plan & the masterplan, in particular the allocation of land, including the appeal site, which had been removed from the Green Belt in order to deliver housing.
- b. Character and appearance of the area, with particular regards to the height of the proposed buildings at the Western and Southern Gateways.
- c. Whether or not there has been sufficient engagement with the community with particular regards to the provisions of Policy BE14.

³ Specifically paras. 3.10, 3.13 save insofar as it sets out the history, 7.2 and 9.1 to 9.9.

⁴ The legal implication of that is well settled (see e.g. *Engbers v. Secretary of State for Communities and Local Government* [2015] EWHC 3541 per Holgate J as he then was, in particular at [25]): that that in a case where the local planning authority does not resile from the statement of common ground agreed with the appellant and the Inspector does not reveal at the inquiry his or her disagreement with a matter contained in that statement and that disagreement influences the outcome of the appeal, the court may be unable to uphold the decision unless it can be shown that the appellant ought reasonably to have been aware of that issue and its potential significance for the decision from another source.

- d. Whether or not the appeal scheme makes appropriate provision for affordable housing with particular regards to type, mix and size and the provisions of policy HP05.
- e. Issues raised by local residents: traffic and flood risk.

The development plan & the masterplan

- 5. The Brentwood Local Plan 2022 removed land from the Metropolitan Green Belt on the basis of “exceptional circumstances” justifying that course, in order to provide land for urban extensions of varying extents, including at Shenfield. See CD6.01 p.32 para. 3.13.
- 6. Among the strategic residential-led and mixed-use allocations is R03 “Land north of Shenfield, Shenfield” (see p.190 for the list). R03 land is allocated for “residential led mixed use development” (allocation policy starts at p.215), including around 825 new homes. The land was not in single ownership at the time of the allocation and as such, a masterplan was a policy requirement, per R03(2) “development should: a) be accompanied by a comprehensive masterplan and phasing strategy to inform detailed proposals as they come forward”. The lower case text at 9.02 explained that “any masterplan will need to appropriately consider and reflect what is being proposed elsewhere on the site. This is particularly important in ensuring that collective requirements for infrastructure provision are considered and delivered appropriately”. The informal masterplan process contemplated in R03 contrasts with the prescribed, fixed steps set out elsewhere in the local plan. See R01(ii) relating to the Dunton Hills Garden Village (p.198-199) which, among other things, required a specific consultation and approval process.
- 7. There is a masterplan for the R03 land (CD1.5). The process of its formulation and evolution (a highly collaborative process, including with Council officers, plus an

all-members briefing), is set out in the evidence of Ms Piper (see her main proof) at pp.24 to 30. The following aspects of the R03 masterplan can be noted:

- a. The land ownership plan (figure 3) identifies the Croudace appeal site in orange, in the middle of the R03 area.
 - b. The land use plan (figure 23) shows the school site on the Croudace land, central to the allocation, with the additional mixed-use component (employment/care home/compatible uses) in the Countryside land ownership to the north, next to the A12.
8. The delivery of development via the appeal proposal is vital to the fulfilment of the local plan policy objectives. The need for housing in Brentwood Borough was so grave that it constituted the exceptional circumstances necessary to release land from the Green Belt. It is therefore not only urgently necessary for housing to be delivered in this country generally, per e.g. the Ministerial Statement,⁵ but in Brentwood specifically. The appeal application was recommended for approval by officers, on the basis of the original affordable housing tenure/mix, which was in accordance with what Croudace had been asked for at that stage. Having responded to a more recent request for a varied tenure/mix via the Council's evidence, the application is now recommended for approval by the Council itself, leaving the Inspector seized of an appeal with both main parties urging the grant of planning permission. These development proposals accord with the development plan for the area, and so national policy indicates that they should be approved without delay (NPPF/11(c)).

⁵ CD7.03

Character and appearance

9. The existing prevailing character and setting were the subject of full analysis in the “Contextual Analysis” included in the Design and Access Statement (“DAS”)⁶ and in his evidence, Mr Anderson has drawn from that, and made additional observations. His proof of evidence at pp.17 to 24 refers. The prevailing character of the residential area fronting Chelmsford Road is defined by low density suburban housing of mixed architectural features and materials, combined with the adjacent contemporary Atallon site (under construction). The prevailing character of the residential area fronting Alexander Lane is defined by 1930s suburban residential housing, predominantly 2 storey with 2.5 storey houses near the proposed Croudace and Stonebond sites.
10. As Mr Anderson explains, the basic approach to the design of this part of the allocation was to strike a sensible balance between the maintenance of the area’s prevailing character and the promotion of change (his para. 5.39, and on density, see his 5.80). Gateways were justified in the western and southern areas, specifically to signal the presence of this new high-quality neighbourhood. At the Chelmsford Road roundabout (and new park), to provide enclosure at that western end. The Southern Gateway (see his 5.44 and on) is in design terms less emphatic and provides a softer transition, but nonetheless performs the function of a gateway appropriately. Far from giving rise to any concern on the part of officers, the design was described in glowing terms – for example, the Western Gateway was said to be “exemplary” (see the quote at Mr Anderson’s para. 5.78).
11. Architectural inspiration and references have been drawn from the best of an area which is rich in examples of good quality detailing (e.g. Brentwood School). The DAS shows a scheme with a strong identity (pp.13-26). It is not least because the proportion of open space is so generous (e.g. pp.43-51), and the individual proposed buildings are so good (pp.37-39), that the overall outcome is a highly desirable and attractive new place.

⁶ CD1.6

12. In the committee report (CD5.1 at p.75 para. 9.44), officers said that “overall it is considered that the proposed layout is of very high quality, and that it will provide high living standards for future residents”, later commenting (para. 9.46) that the proposed development is “in full compliance with LP Policies BE14 (Creating Successful Places), BE15 (Planning for Inclusive Communities) and R03 (Land north of Shenfield).
13. For these reasons, it can and should be concluded that the character and appearance of the area will be enhanced by the appeal proposals.

Whether or not there has been sufficient engagement with the community with particular regards to the provisions of Policy BE14

14. As with the other putative reasons for refusal, is no longer contended on behalf of the Council that there is any concern in this regard, whether sufficient to warrant refusing permission, or otherwise. It will have been apparent to the Inspector that the Appellant’s team did not in fact see that this was legally material to the decision (see the Statement of Case at para. 6.5). But it is not necessary to go so far as to rule that out as a consideration. Instead, it can simply be concluded that the original point was not a fair one.
15. The allocation was the subject of a full local plan examination process. It was via that process that the principle of development was settled. The planning application process involved extensive, full and meaningful engagement with the Council and the local community, before and during the application. The Statement of Community Involvement (“SCI”) refers (CD1.7). Section 4 of the SCI provides an indication of the extensive programme of activities: stakeholder meetings, a community newsletter (sent to 1,803 addresses), a project website, a press release, near neighbour meetings (offered to people at 183 addresses), a community webinar, and contact details having been provided. Section 6 provides

a careful response to key themes raised in the consultation, including technical matters such as traffic and flood risk. This is a demonstration of a collaborative process which has allowed the views of the community to be taken into account in design evolution, in accordance with policy BE14.

Affordable housing

16. The appeal proposals include 35% affordable housing, and this proportion has been fixed throughout. In terms of mix and tenure, Appellant started out with a scheme which simply provided what the local plan sought (see Ms Piper's para. 7.44). Croudace was then sent the 2022 SHMA and duly amended the plans to reflect that. Following the receipt of the Council's evidence which sought something different again, Croudace responded positively by making such changes as are possible via condition, leading to the agreed position per the table under para. 3 of the Joint Statement. The upshot is that the tenure split is 73/27 affordable rent/shared ownership, and the mix gives a large proportion of houses, including 29 3-bed and 2 4-bed houses. Overall, 121 new affordable homes will be delivered, which will be a real and abiding benefit of the scheme for Brentwood, an area where there is an acute need for affordable homes. This is a very important benefit of granting planning permission. In the Appellant's view, it puts the scheme in compliance with local and national policy. The Council describes what is proposed as a "very welcome move towards meeting the most pressing affordable housing needs of the Borough and without the need for a section 96A application so that early delivery can be achieved".

Issues raised by local residents: in particular traffic and flood risk

17. There are no objections from any relevant body in relation to any technical aspect of the proposals. If there was any real concern about the safety of the proposed junction arrangements, or the ability of Croudace to deliver any aspect of its scheme/works, or the risk of flooding, then it is to be expected that there would have been objection from the relevant body. The reality is that Croudace has worked hard in the three years leading up to the 2024 Council decision to resolve every single technical aspect of the proposals, to the satisfaction of those with statutory responsibility.

Traffic/transport

18. Vectos produced the Transport Assessment (September 2023, CD1.10). It explains:
- a. That the development has been designed such that active travel can form the first choice for all residents and users of the site – linking to the existing, excellent quality public transport provision located at Shenfield, whilst also providing a range of enhancements and infrastructure improvements to nearby bus stops (para. 4.12).
 - b. The vehicular access strategy is to take primary vehicle access from Chelmsford Road in the west of the site. An access will also be created onto Alexander Lane in the south of the site along with proposals to close Alexander Lane to through traffic (para. 4.18). The locations of each can be seen in figure 4.3.
 - c. The Chelmsford Road access is a priority-controlled roundabout (para. 4.19). A toucan crossing is proposed to the south of the access (para. 4.22). The speed limit is to be reduced, extending the 30mph limit up to the junction with the A12 (para. 4.24).
 - d. The Alexander Lane access is secondary. The proposed development would see the re-alignment of Alexander Lane north into the site to form part of the proposed transport corridor running through it (para. 4.26 and see Figure 4.7). In terms of the details for Alexander Lane, access would be

maintained to the secondary school. A turning area would be provided, and beyond the bollards, the Lane would be upgraded to a Quiet Lane, providing a new, safe and attractive link from east to west (para. 4.29 and see Figure 4.8).

- e. As to trip generation, a worst case (entirely market units) basis was selected (see para. 5.5 to 5.6). As such, the variation to affordable housing tenure/mix makes no difference at all to transport assessment.
- f. In terms of Alexander Lane specifically, its closure to through traffic means it would have significantly less traffic travelling through it than at present (para. 7.3).
- g. The traffic assessment summary shows that the additional traffic generated by the proposed development can be accommodated on the highway network. There is a forecast increase in A12 slip road queuing, but this has been shown not to be a safety risk and is insufficient to justify the need for mitigation (paras. 7.37 to 7.39).

19. The Transport Assessment has considered all relevant committed development and has had specific regard to the other parts of the R03 allocation. There is no objection by either National Highways, or Essex County Council as Highways Authority. The committee report (CD5.01 at p.53 para. 7.4 7th bullet point) confirms that the proposal has been reviewed by both.

20. At application stage, various concerns were raised by those living nearby, which are summarised in the committee report at pp.52-3, para. 7.3, and similar issues are raised again in representations on the appeal. As noted above, para. 7.4 of the committee report provides a summary response. Essex County Council's substantive response on the application is summarised at p.61. That indicates that County officers considered the application and undertook a number of site visits. In addition to the Transport Assessment, a number of subsequent technical notes to answer questions and issues raised by the Highway Authority were submitted by Croudace. Along with National Highways, the County was satisfied that the proposals can be accommodated without a severe impact on the safety

and efficiency of the local highway network. Therefore from a highway and transportation perspective, the impact of the proposals was acceptable to the Highway Authority, subject to conditions.

21. It should be noted that granting planning permission brings, via the s.106, very substantial contributions to sustainable transport measures in the locality (see the committee report at pp.78-9):

- a. The improvement of pedestrian and cycle routes along Chelmsford Road;
- b. The creation of a cycle route along Hunter Avenue;
- c. The creation of other 'quiet way' cycle routes
- d. Upgrade of a signal at Chelmsford Road/Hutton Road/Shenfield Road junction;
- e. The improvement of the existing bus service along Chelmsford Road;
- f. Brentwood and Shenfield Railway Station public realm and cycle infrastructure improvement.

22. In addition, a substantial contribution will be made towards the creation of a new bus route to connect Shenfield train station to the R03 site. This route will enter the Croudace scheme from Chelmsford Road and exit onto Alexander Lane, operating every half hour. This means that an already well located scheme would have a bus stop within 400 metres of every home.

Flood risk

23. Again, the committee report details the work undertaken, and the extent of involvement by statutory bodies. Contrary to concerns reiterated in representations on the appeal, the development of the site would not give rise to increased run-off or flooding elsewhere, instead it is in compliance with ECC's strict guidance, which means that as far as is reasonably possible, it improves on current conditions and potentially reduces flood risk elsewhere (para. 9.186).

Overall conclusion

24. Bearing in mind the unusual history, the Appellant offers its urban design and planning witnesses so that live evidence can be heard about the scheme.

25. It is respectfully submitted that this is a case in which there need not be a metaphorical “planning balance” at all, because the scheme complies with the statutory development plan for the area. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, and in turn the NPPF, planning permission should be granted.

Melissa Murphy K.C.

10th February 2025

Landmark Chambers

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