

PROOF OF EVIDENCE

The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

Appeal by Countryside Partnerships (Eastern Home Counties)

Land at Brook Farm, Daws Heath Road, Hadleigh, Essex, SS7 2UG

Construction of 173 No. new dwellings including public open space, landscaping, access, drainage, parking, servicing, utilities and all associated infrastructure, ancillary buildings and associated development

Planning Appeal ref: APP/M1520/W/24/3351658

Castle Point Borough Council planning application ref: 22/0484/FUL

**Proof of Evidence of Mr Matthew Wood BSc (Hons) MScTP MRTPI
on Planning Policy and Planning Balance**

December 2024



PHASE 2

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Proof Summary

- 1.1 My name is Matthew Wood, and I am a chartered Town Planner and Member of the Royal Town Planning Institute (RTPI). I appear at this Inquiry on behalf of the appellant.
- 1.2 The evidence which I have prepared and provide for this appeal ref: APP/M1520/W/24/3351658 in this proof of evidence, is true and has been prepared and is given in accordance with the guidance of my professional institution (Royal Town Planning Institute (RTPI)) and I confirm that the opinions expressed are my true and professional opinions.
- 1.3 It is common ground with the Council that:
- The site would offer the opportunity for alternative means of travel to the use of the private car as the officer Committee report (CD 3.2) at paragraph 37.10 confirms.
 - There has been no strategic review of the boundaries of the Green Belt in Castle Point since the adoption of the Local Plan in November 1998.
 - There are no saved policies in the Castle Point Local Plan (November 1998) relevant to the control of development in the Green Belt. At the time policies were saved by Government, policies that replicated Government Policy were not saved.
 - There is no conflict with the adopted Local Plan.
 - As with both the 2014 and 2016 draft Local Plans, the recently withdrawn Pre-Submission Local Plan (2018-2033 also included the appeal site as a new housing allocation under Policy HO14 to deliver up to 173 new homes and associated development by 2033.
 - The appeal site is one of only two sites (together with The Chase in Thundersley) to be allocated for major new residential development within the 2014, 2016 and 2019 drafts of the LPA's new Local Plan.
 - Whilst the withdrawn Local Plan is no longer subject to the provisions of paragraph 49 of the Framework (weight to emerging policies), it is agreed that the withdrawn Local Plan and its evidence remains a material consideration in the determination of this appeal.
 - The Council has a severe and acute shortfall in the delivery of market and affordable housing and the appeal scheme, including 173 new dwellings, would be delivered in full over the next five years making a material contribution towards local housing supply.
 - The appeal scheme would not conflict with Green Belt purposes d) and e) as set out in the Framework (paragraph 143).
 - In relation to Green Belt purpose c (to assist in safeguarding the countryside from encroachment) the appeal proposals would result in no more than limited harm in this respect.
 - There is no non-Green Belt harm associated with the appeal proposals.

- 1.4 I now set out the main planning policy considerations of the Appellant's case.

Section 38(6) Balance

- 1.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, where regard is to be had to the statutory development plan in determining an application for planning permission, the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise.
- 1.6 It is common ground between the parties that the appeal scheme complies with all relevant policies of the adopted Local Plan.
- 1.7 As I confirm within my evidence, adopted Local Plan Policy (GB1 (Control of Development) has not been saved. Therefore, in the absence of such saved local planning policy the provisions of the NPPF and in particular section 13 (Protecting Green Belt land) are of key importance in the determination of this appeal.

Whether or not the Appeal Site comprises Grey Belt Land and meets the requirements of paragraphs 155 and 156 of the Framework

Grey Belt Definition

- 1.8 The development plan is silent as to how a decision maker should respond to development in the Green Belt. The Framework clarifies this and is a very important material consideration to which significant weight should be given.
- 1.9 I have found that the appeal site would meet the Framework definition of Grey Belt land. This is supported by Mr Gibbs evidence (CD 12.5) which confirms that the appeal site would not strongly contribute to any of Green Belt purposes (a), (b), or (d) as set out by paragraph 143 of the Framework.
- 1.10 I have also found that, the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) of the Framework would not provide a strong reason for refusing or restricting the proposed development. This is re-affirmed by the conclusions of the appellant's originally submitted Planning Statement (CD 1.55), CPBC Decision Notice (CD 3.1), officer Committee report (CD 3.2), appellant Statement of Case (CD 11.1) and the Council's Statement of Case (11.2).

Paragraphs 155 and 156 of the Framework

- 1.11 As per paragraphs 155 and 156 of the Framework I consider that the appeal proposals including the development of homes in the Green Belt would not be regarded as inappropriate in the Green Belt in this instance. This is supported by the appeal scheme's compliance with the requirements under paragraphs 155 and 156 of the Framework including meeting the Golden Rules as set out in paragraph 156 as I set out within my Proof.
- 1.12 I therefore consider that the appeal site falls within the new NPPF definition of Grey Belt as per Annex 2: Glossary (page 73) as well as meeting the requirements under paragraphs 155 and 156 of the Framework including meeting the stated Golden Rules.

- 1.13 I conclude that the appeal site would constitute Grey Belt land with the appeal proposals not being inappropriate development in the Green Belt in this instance.
- 1.14 Accordingly, in line with paragraph 158 of the Framework, I attach significant weight in favour of the grant of permission.

[The Tilted Balance \(Paragraph 11d \(ii\) of the Framework\)](#)

- 1.15 It is common ground with the Council that it cannot demonstrate a five-year housing land supply and that it only achieved a HDT of 54% in 2023. In such circumstances the 'tilted balance' expressed at paragraph 11d (ii) of the Framework is engaged.
- 1.16 As I confirm within my evidence, the appeal proposals comply with the adopted Local Plan and this is common ground with the Council.
- 1.17 I also consider that the appeal site comprises Grey Belt land and that the appeal scheme complies fully with paragraphs 155 and 156 of the Framework which includes meeting the Golden Rules. Accordingly, the appeal proposals should not be regarded as inappropriate development in the Green Belt in this instance.
- 1.18 As directed by paragraph 158 of the Framework, I attach significant weight in favour of the grant of permission.
- 1.19 With reference to paragraph 11d (i) of the Framework my evidence confirms that the application of policies in the Framework that protect areas or assets of particular importance does not provide a strong reason for refusing the development proposed. My evidence also confirms that there are no adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 1.20 Given the above, I consider that planning permission should be granted in accordance with paragraph 11d (ii) of the Framework.

[Paragraph 153 Test](#)

- 1.21 Should the Inspector disagree with my evidence in respect of the appeal site and the appeal schemes compliance with national Grey Belt policy provisions contained within the new NPPF I further consider that the appeal proposals meet the test at paragraph 153 of the Framework.

[Harm](#)

- 1.22 In this scenario only, it is common ground between the parties that the appeal proposals would comprise inappropriate development in the Green Belt by definition to which substantial weight is given.
- 1.23 In terms of the differences between the parties in respect of Green Belt harm, this is limited to openness and purposes a and b only. It is common ground between the parties that no more than limited harm would be associated with purpose c with purposes d and e not relevant in the determination of this appeal (CD 10.1).

- 1.24 Mr Gibbs evidence (CD 12.5) confirms that the appeal proposals would result in limited harm to the openness of the Green Belt owing to the particular characteristics of the appeal site. Furthermore, Mr Gibbs evidence (CD 12.5) confirms that the appeal proposals would also result in no more than limited harm to Green Belt purposes a) and b). Thus overall, any harm to the Green Belt beyond inappropriateness is, in my view, limited albeit this does not diminish the substantial weight to be given to it.
- 1.25 It is common ground between the parties that the appeal proposals do not result in any other non-Green Belt related harm.

Other Considerations

- 1.26 I have outlined that the weight given to the delivery of market housing should be given in the context of the borough's substantial housing land supply shortfall, the woeful HDT result and the fact that there is no credible Local Plan strategy in place, nor will there be for many years, to rectify this crisis. This is underpinned by the detailed housing land supply evidence of Mr Pycroft (CD 12.3) which puts the Council's current housing land supply position at 0.54 years.
- 1.27 Indeed, I have outlined that I find it difficult to imagine a more severe situation in respect of housing delivery than that found in Castle Point and the Council's failures in plan-making means that the only mechanism for resolving the supply positions in at least the new few years is through applications for windfall development such as this.
- 1.28 Accordingly, I afford very substantial weight to the supply of market housing in line with the Colney Heath appeal (CD 8.4) which itself was in a more favourable housing land supply position than in Castle Point currently.
- 1.29 Having regard to the dire affordable housing situation portrayed by Ms Gingell in her evidence (CD 12.4) and the fact that the appeal scheme provides 50% affordable housing, I conclude that very substantial weight should be given to the delivery of affordable housing in this appeal.
- 1.30 I set out within my evidence that substantial weight should be given to both the proposed provision of 10 hectares of Public Open Space and 10% Biodiversity Net Gain that the appeal scheme will deliver.
- 1.31 I also confirm that significant weight should be given the economic benefits during the construction and operational phase of the development, in line with paragraph 85 of the Framework.
- 1.32 I have identified the harms that would arise as a result of the appeal scheme and the weight to be prescribed to these. However, having regard to the benefits of the appeal scheme outlined above, I have found that the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by these other considerations to justify the grant of planning permission in this instance.

2. Qualifications, Experience & Declaration

Qualifications

- 2.1 My name is Matthew Wood, and I am a chartered Town Planner and Member of the Royal Town Planning Institute (RTPI).
- 2.2 I hold a First-Class Honours Degree in Environmental Planning from Anglia Ruskin University (ARU), Chelmsford Campus and a Master's degree in Town Planning, also gained at ARU.

Experience

- 2.3 I am a Director of Phase 2 Planning and Development Ltd and have over 9 years' experience as a planning consultant acting for a range of developers, housebuilders and landowners on a wide and diverse range of planning matters.
- 2.4 In total, I have some 15 years' experience working in town planning, including in both the public and private sectors in Essex, and I have experience of a wide variety of planning work including in relation to the formulation of development plans, enforcement matters, listed buildings and conservation, and appearing as an expert witness both at Public Inquiry and Examination in Public (EiP).
- 2.5 Phase 2 Planning has acted for the appellant, Countryside Partnerships (Eastern Home Counties), in relation to the appeal site since 2014. This has included the promotion of the appeal site through various iterations of Castle Point Borough's draft new Local Plan and the submission of this planning application in 2022. Representing in the appellant in this appeal is a continuation of this work.
- 2.6 I have visited the appeal site, and I am familiar with its recent planning history including the original planning application proposals and its associated documentation. I am also familiar with relevant local planning policy relating to the appeal site and the wider borough and I have acted for the appellant as planning agent in connection with the planning application the subject of this appeal (Castle Point planning application ref: 22/0484/FUL).

Declaration

- 2.7 The evidence which I have prepared and provide for this appeal ref: APP/M1520/W/24/3351658 in this proof of evidence, is true and has been prepared and is given in accordance with the guidance of my professional institution (Royal Town Planning Institute (RTPI)) and I confirm that the opinions expressed are my true and professional opinions.

3. Introduction & Scope of Evidence

Introduction

- 3.1 This planning appeal is made by Countryside Partnerships (Eastern Home Counties) against Castle Point Borough Council's (CPBC) decision to refuse full planning application ref: 22/0484/FUL for the following proposed development on the appeal site:

Construct 173 No. dwellings including public open space, landscaping, access, drainage, parking, servicing, utilities and all associated infrastructure and ancillary buildings.

- 3.2 This full planning application was submitted online via the Planning Portal on the 8th June 2022 with the application being formally validated by CPBC on the 15th August 2022.
- 3.3 The planning application was supported by a comprehensive suite of technical reports, illustrative plans and drawings in accordance with CPBC's planning application validation requirements (Core Documents (CD) Sections 1 and 2).
- 3.4 The original determination deadline for the planning application was 14th November 2022. However, this determination period was extended by numerous extensions of time agreements whilst outstanding application matters evolved.
- 3.5 The planning application was considered by CPBC's Development Management Committee on Tuesday 19th March 2024, where Members resolved to refuse the planning application consistent with officer's recommendation, citing one reason for refusal relating to Green Belt. This is confirmed by CPBC's formal decision notice (CD 3.1) dated 20th March 2024 as repeated below.

1. The proposal represents inappropriate development in the Green Belt as defined by the National Planning Policy Framework 2023. Such development will only be permitted if very special circumstances exist to justify its inappropriateness. It is not considered that any very special circumstances have been demonstrated which either in isolation or in combination carry sufficient weight to outweigh the harm to this part of the Green Belt. The proposed development is therefore contrary to Government advice as contained in the National Planning Policy Framework.

- 3.6 The appeal site is largely of a greenfield nature but does include some areas of previously developed land and caravan storage close to the front of the site closest to Daws Heath Road. The site is designated as being entirely within the Metropolitan Green Belt and is located adjacent to the settlement edge of Daws Heath.
- 3.7 Until 15 June 2022, the site was subject to an emerging residential allocation within the now withdrawn Castle Point Local Plan (2018 – 2033) (CD 6.2), which was found sound by the examining Inspector on 3 March 2022 (CD 6.1).
- 3.8 CPBC does not have an up-to-date development plan (for the purposes of this appeal, its reliance is upon the saved policies from the Castle Point Local Plan, adopted November 1998) (CD 4.1) and cannot demonstrate a five-year housing land supply (CD 12.3). Furthermore, considering the latest results of the Housing Delivery Test (HDT), the most important adopted development plan policies in the determination of this appeal are deemed to be out-of-date.

- 3.9 The appellant has worked positively with officers of CPBC during the course of the determination of planning application 22/0484/FUL. The only issue between the parties is whether or not the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 3.10 The Statement of Common Ground (SoCG) (CD) 10.1) summarises the matters of agreement and disagreement between the parties.

Scope of Evidence

- 3.11 The evidence provided in my proof addresses relevant planning matters, including the planning policy context against which this Appeal should be assessed at both a local and national level. I also make clear the benefits case for development in the Green Belt, relevant material considerations, the weight to be given to the benefits associated with, and any harm arising from, the scheme and the planning balance.
- 3.12 My proof of evidence should be read in conjunction with the Appellant's Statement of Case (CD 11.1), the Statement of Common Ground (SoCG) (CD 10.1) and the evidence provided by other expert witnesses named below:
- Matters in relation to housing land supply are addressed in the evidence of Mr Ben Pycroft of Emery Planning (CD 12.3).
 - Matters in relation to affordable housing are addressed in the evidence of Ms Annie Gingell of Turley (CD 12.4).
 - Matters in relation to Green Belt openness and purposes are addressed in the evidence of Mr Paul Gibbs of David Jarvis Associates (CD 12.5).

4. Appeal Site & Proposed Development

- 4.1 Details regarding the appeal site, including its location, planning history and the determination of planning application 22/0484/FUL by CPBC can be found within the submitted Planning Statement CD 1.55), the Appellant's Statement of Case (CD 11.1) and the officer's report to CPBC's Development Management Committee (CD 3.2).
- 4.2 Further to the above, this appeal is supported by a full suite of application documents which supported the planning application submitted to CPBC CD sections 1 and 2). These documents include key evidence base documents such as the Design and Access Statement (CD 1.47), the Landscape and Visual Impact Assessment (CD 1.53), Transport Statement (CD 1.59), Flood Risk Assessment and Drainage Strategy (CD 1.50) and Ecological Impact Assessment and Biodiversity Net Gain Assessment (CD 2.40).

5. Planning History and Pre-Application Engagement

Planning History

- 5.1 The appeal site and its future development to assist in meeting much-needed new housing in the borough has undergone extensive public consultation as part of the Council's production and evolution of its draft new Local Plan (CD 6.2).
- 5.2 This has included the site being promoted by the appellant and most recently included as draft allocation HO14 by the Council for future residential development and retained as such through Examination in Public (EiP) run by the Secretary of State (SoS). It is important to highlight that the Local Plan Inspector concluded the draft new Local Plan to be sound (CD 6.1, paragraph 220) including the delivery of Brook Farm for up to 173 new dwellings as part of its future growth strategy to meet a chronic lack of local housing supply.
- 5.3 The appellant has also undertaken their own community engagement on the site's development during this emerging Local Plan process.
- 5.4 I include a summary of the chronology of the appeal site's promotion through the Local Plan process as outlined below with further detailed commentary on these stages following on:
- Brook Farm site included in CPBC draft New Local Plan (2014) (CD 7.24, pages 98 and 99. Draft Policy H11 for up to 180 new dwellings). The Green Belt Review 2013 (CD 7.25, pages 70 to 73) considered that a redefined boundary in this location would remove 'blurred' edges to this part of the Green Belt and provide opportunities to improve landscape features, and still allow for the wider Green Belt in this location to fulfil its purposes;
 - Brook Farm included in CPBC draft New Local Plan (2016) (CD 7.25, pages 95 and 96. Draft Policy H9 for up to 180 new dwellings). CPBC again included the Green Belt Review 2013 (CD 7.25) as part of the underpinning evidence base; and
 - Brook Farm included in New Castle Point Local Plan (2022) (CD 6.2, pages 55 to 57. Draft Policy HO14 for around 173 dwellings). This Plan went through Examination in Public (EiP) and was found sound by the Inspector who, at paragraph 94 (page 26) of their Report (CD 6.1) concluded that *"I am satisfied that given the need for housing which cannot be accommodated within the existing urban area and potential for compensatory improvements to the Green Belt, exceptional circumstances exist to remove this site from the Green Belt for development."*

Draft New Local Plan (2014)

- 5.5 In 2014, the Council produced and consulted upon a document called the Draft New Local Plan (CD 7.24). The Draft New Local Plan (CD 7.24) contained a strategy for meeting housing need over the period 2011-2031 and explained that the Council's objectively assessed need for housing was 400 homes per annum (8,000 in total over the Plan period).
- 5.6 The site's proposed for housing as part of the 2014 Draft New Local Plan (CD 7.24) were very similar to those contained in the most recent withdrawn Local Plan (CD 6.2). In particular, the appeal site was included as proposed housing site H11.
- 5.7 Towards the end of 2015, the Council's Local Plan Task and Finish Group decided to amend the Local Plan to remove the majority of the housing allocations, a decision that was subsequently ratified by the Council in early 2016. The rationale for the motions and decisions made at that time was to prioritise the protection of the Green Belt over meeting housing need.

Draft New Local Plan (2016)

- 5.8 When the Council published its 2016 New Local Plan (Pre-Submission Draft) (CD 7.26), the majority of the previously proposed Green Belt allocation were deleted from the Policies Map. The 2016 New Local Plan (CD 7.26) identified the same figure in terms of overall housing need (400 per annum and 8,000 in total over the period 2011-2031), but acknowledged that by 2016, just 372 homes had been built in total since 2011, and the same figure for urban capacity of 1,840 new homes was given. Although the 2016 New Local Plan (CD 7.26) removed almost every single Green Belt allocation, it retained two of the sites previously proposed in the 2014 version (CD 7.24), one of which was a site at The Chase in Thundersley that had already been identified and partly built out following being identified in the 1998 adopted Local Plan (CD 4.1) as a future housing site, and the other being the appeal site at Brook Farm.
- 5.9 The 2016 Pre-Submission New Local Plan (CD 7.26) was submitted to the Planning Inspectorate for Examination, but during the preliminary Hearing sessions the Inspector advised the Council that it had failed the Duty to Co-Operate with particular reference as to how Castle Point Borough Council's unmet housing need would be addressed across the Housing Market Area. The Inspector recommended that the Plan be withdrawn and in March 2017 Castle Point Council formally withdrew the Plan.
- 5.10 The Council revised its Local Development Scheme in 2017, which envisaged an initial consultation on a new Plan in the 1st Quarter of 2018, submission in April 2019, and adoption in December 2019.
- 5.11 In March 2018, the Council received correspondence from the Secretary of State notifying the Council that it had failed to make progress on its Local Plan in accordance with its revised LDS.

New Castle Point Local Plan (2022)

- 5.12 The formal intervention process commenced, but the Council did manage to produce a Pre-Submission Draft Local Plan in 2019 (CD 6.2), and this was the subject of Examination in 2021, following which the Local Plan Inspector confirmed the soundness of the Plan subject to Modifications (CD 6.1). Subsequently, the Council formally withdraw the draft Plan on the 15th June 2022.

- 5.13 As with both the 2014 (CD 7.24) and 2016 (CD 7.26) drafts, the new 'sound' Local Plan includes the appeal site as a new housing allocation (CD 6.2).
- 5.14 Notwithstanding the Council's inability to bring forward a Local Plan to adoption, the history of Local Plan making over the past 15 years does, in my view, evidence the following:
1. That it is not possible to meet the Council's local housing need/housing target under the standard methodology without a significant element of Green Belt release/development.
 2. That at every stage of the Plan making process over the past decade, the Council has supported the allocation of the appeal site for residential development.

Pre-Application Engagement

- 5.15 In addition to the above the appellant has regularly engaged with both officers and Members on the delivery of the site including most recently with officers specifically under Council pre-app ref: 22/0284/MAJPRE in March and April 2022.
- 5.16 This continued following the formal submission of this planning application with regular virtual meetings and correspondence held between the appellant and officers to agree the finer details of the scheme.
- 5.17 This is reflected in the officer Committee report (CD 3.2), particularly the Design and Layout section as well as by the Decision Notice (CD 3.1) itself which cites only 1 reason for refusal relating to Green Belt.
- 5.18 In my view, this reflects the successfulness of such pre-and post-submission application discussions in narrowing down any areas of conflict.

6. The Development Plan

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be in accordance with the plan, unless material considerations indicate otherwise.

Adopted Local Development Plan

- 6.2 The SoCG (CD 10.1) confirms that the adopted Local Development Plan in force in the borough comprises the Saved Policies of the Castle Point Local Plan (adopted November 1998, reviewed in September 2007) (CD 4.1).
- 6.3 The appeal site is confirmed as being within the Metropolitan Green Belt by the adopted Policies Map (CD 4.2). However, it is noted that originally adopted Local Plan policy GB1 (Control of Development) was not included within the list of policies in the associated Saving Direction issued by the Secretary of State (September 2007). Policy GB1 was the borough's main planning policy setting out the approach to the consideration of new development in the borough's Green Belt.
- 6.4 The general extent of the Green Belt in Essex was first established in South Essex by the draft Review of the Essex County Development Plan in 1964 and was approved by the Secretary of State in May 1976 as the Approved Review Development Plan (ARDP). The ARDP was replaced by the Essex County Structure Plan (ECSP), and by subsequent ECSP reviews, and then replaced by the Essex and Southend on Sea Replacement Structure Plan 1996-2011. Policies defining the general extent and outer boundaries of the Green Belt were carried forward from each of these plans to the next. The inner boundary of the Green Belt was to be determined by the Borough Council's as part of the Local Plan process.
- 6.5 CPBC used the Green Belt boundaries established by the ARDP and subsequent County Structure Plans, until the adoption of the Local Plan in 1998, when the inner boundary was defined on the Proposals Map. CPBC has not sought to amend the extent of its Green Belt since 1998. This background to why the appeal site remains within Green Belt is important and makes clear that the current Green Belt boundary was drawn to meet the needs of a different generation entirely.
- 6.6 CPBC's latest Green Belt Review (Part 1, 2018) (CD 7.1, page 6) which forms part of the evidence base of the now withdrawn Local Plan (CD 6.2) reaffirms this stating that *"Early evidence generated in support of the JSP (South Essex Joint Strategic Plan) as well as historic SHLAAs for Castle Point have highlighted that there is likely to be limited capacity within the urban areas of the Borough to accommodate the needs of its growing population. This evidence is suggesting that in order for Castle Point to be able to deliver its Objectively Assessed Need for housing, and subject to unmet need not being able to met outside of the borough, it is likely that a measure of development will be required to take place in land which is currently within the Green Belt. Therefore, as part of the New Local Plan process, a review of the borough's Green Belt was initiated."*
- 6.7 Like many other Local Plans that were adopted before the introduction of the Planning and Compulsory Purchase Act 2004, the reason why this Local Plan is still in existence at all is because the Secretary of State issued a 'saving' Direction under the 2004 Act to enable certain policies of such 'old style' Plans to carry on being afforded weight.

- 6.8 However, as I discuss further below, the 'saving' Direction issued in 2007 did not extend to cover the policies in the 1998 Plan (CD 4.1) that related to the provision of housing, or the protection of the Green Belt, and therefore whilst certain policies of the 1998 Local Plan (CD 4.1) are still technically in operation, the key policies dealing with housing and the Green Belt expired on 27th September 2007.
- 6.9 In fact, the adopted Local Plan (CD 4.1) only extended to 2001 in terms of the housing supply position and consequently there is no current target in an adopted plan CD 4.1) for housing delivery in Castle Point.
- 6.10 Although the Adopted Local Plan (CD 4.1) is dated 1998, its content is actually considerably older, as it was placed 'on deposit' in 1994. The Plan was originally only supposed to cover the period from 1986 to 2001, as that was the period covered by the Essex Structure Plan (2nd Alteration), which was the strategic document in force at the time that the Plan was adopted.
- 6.11 Although the Local Plan did contain some limited provisions for safeguarded housing and employment land post-2001, the effective end date for the Plan period was 2001 (as stated in paragraph 1.8 of the document) (CD 4.1).
- 6.12 The Essex Structure Plan, upon which the strategy up to 2001 was based, was subsequently replaced by the East of England Plan (which was then itself revoked in 2011).
- 6.13 As noted above, the adopted Local Plan (CD 4.1) only remains extant by virtue of the fact that many of its policies were saved under a Direction by the Secretary of State in 2007.
- 6.14 However, the 'saving' Direction excluded a number of policies, with notable exclusions being policies GB1 and H1. Policy H1 was the policy that set out the proposed housing strategy for the Plan and was limited to the delivery of housing up to 2001 only. Policy GB1 provided a general policy statement on the protection of the Green Belt from inappropriate development, in line with the Essex Structure Plan and national planning policy at that time.
- 6.15 The fact that Policy GB1 was not saved may not appear to be consequential, as the appeal site still falls within the Green Belt, and national planning policy on the protection of the Green Belt still applies.
- 6.16 However, as the previous decade of attempts to produce a Local Plan have demonstrated, it is not possible in Castle Point both to avoid any development in the Green Belt at all whilst delivering sufficient land for housing. Delivering a sufficient number of new homes has a direct impact on the extent of land that can be protected as Green Belt. The exclusion of both Policies GB1 and H1 from the 'saving' Direction confirms, in my view, that there can be no effective policy for one without the other. There has therefore been no strategy for growth and for the Green Belt in Castle Point since policies H1 and GB1 expired in 2007 (although their effective expiry date was 2001). The adopted Local Plan (CD 4.1) therefore remains substantially out-of-date.
- 6.17 As a consequence, when considering the principle of a housing development in the Green Belt, as is the case with this appeal, the relevant housing provision and Green Belt provisions of the adopted Local Plan (CD 4.1) can be afforded no weight at all, because the relevant policies ceased to exist a long time ago.

- 6.18 The adopted plan period ran until to 2001 and consequently there has been no plan led strategy to meet the Borough's development needs for a staggering 23 years, which as I explain later in this Proof, is the principal cause of the Council's woeful housing land supply position, noting the Green Belt constraints that prevail across the Borough.
- 6.19 It is common ground (SoCG 10.1) between the parties that the development plan (CD 4.1) is out of date as the Council cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer) even by their own figures.
- 6.20 Furthermore, the development plan (CD 4.1) is also out of date having regard to footnote 8 of the Framework in the context of the Housing Delivery Test (HDT) results 2022 which show the Council having a result of 50%, triggering the presumption in favour of sustainable development irrespective of the housing land supply position.
- 6.21 I am clear that the absence of an up-to-date plan-led system in an area highly constrained by Green Belt is only going to result in a further worsening of housing delivery for the foreseeable future.
- 6.22 In the absence of any adopted Local Plan Policy restricting development in the Green Belt in general these proposals would not be contrary to the adopted Local Plan CD 4.1). As such the approach to Green Belt Policy will be guided by the approach set out in the NPPF and subsequent Planning Practice Guidance (PPG) as covered later.
- 6.23 Therefore, given the lack of Saved strategic Green Belt policy in Castle Point currently and the proposal's compliance with all other relevant elements of the adopted Local Plan as outlined in the officer Committee report (CD 3.2) I conclude that the proposed development would be in full compliance with the adopted local development plan as still in force.

7. Other Material Considerations

- 7.1 This section of my Proof sets out other material considerations in the determination of this appeal.

National Planning Policy Framework (NPPF) (December 2024)

- 7.2 The National Planning Policy Framework (NPPF) sets out the Government's current planning policies for England and how these should be applied.
- 7.3 I consider the Framework to be a very important material consideration holding significant weight in the determination of this appeal.
- 7.4 As confirmed in section 5 above, adopted Local Plan Policy (GB1 (Control of Development) was not Saved. Therefore, in the absence of such saved local planning policy the provisions of the NPPF and in particular section 13 (Protecting Green Belt land) are of key importance here.

The presumption in favour of sustainable development

- 7.5 Paragraph 11 of the Framework sets out that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

"c) approving development proposals that accord with an up-to-date development plan without delay; or
d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."

Provisions relating to Grey Belt Land

- 7.6 The new NPPF includes a provision for Grey Belt land in the Green Belt which it defines as (page 73):

"For the purposes of plan-making and decision-making, 'Grey Belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey Belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development."

- 7.7 Paragraph 155 of the Framework provides new policy provision relating to Grey Belt land within the Green Belt setting out that:

"The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:

- a. The development would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b. There is a demonstrable unmet need for the type of development proposed⁵⁶;
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework⁵⁷; and
- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below."

7.8 Paragraph 156 goes on to set out the following Golden Rules:

"Where major development involving the provision of housing is proposed on land released from the Green Belt through plan preparation or review⁵⁸, or on sites in the Green Belt subject to a planning application⁵⁹, the following contributions ('Golden Rules') should be made:

- a. affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 of this Framework; or (ii) until such policies are in place, the policy set out in paragraph 157 below;
- b. necessary improvements to local or national infrastructure; and
- c. the provision of new, or improvements to existing, green spaces that are accessible to the public. New residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces."

7.9 Paragraph 157 provides further clarification concerning affordable housing provision setting out the following:

"Before development plan policies for affordable housing are updated in line with paragraphs 67-68 of this Framework, the affordable housing contribution required to satisfy the Golden Rules is 15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%⁶⁰. In the absence of a pre-existing requirement for affordable housing, a 50% affordable housing contribution should apply by default. The use of site-specific viability assessment for land within or released from the Green Belt should be subject to the approach set out in national planning practice guidance on viability."

7.10 Importantly, paragraph 158 makes clear that "A development which complies with the Golden Rules should be given significant weight in favour of the grant of permission." (my emphasis).

7.11 Paragraph 159, in summary, clarifies that *"The improvements to green spaces required as part of the Golden Rules should contribute positively to the landscape setting of the development, support nature recovery and meet local standards for green space provision where these exist in the development plan."*

Paragraph 153 test

7.12 Paragraph 153 of the NPPF sets out that *"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."*

7.13 Paragraph 153 of the NPPF also adds that *"When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of*

inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."

- 7.14 The question is whether or not the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is outweighed by other considerations i.e. the benefits associated with the development. The determination of paragraph 153 is a matter of planning judgement.
- 7.15 There is no further test or requirement for benefits to be remarkable or unusual in or of themselves in order to pass paragraph 153. All that matters is if the benefits clearly outweigh the harm.

The Appeal Proposals and Grey Belt

Green Belt Purposes a, b and d

- 7.16 The new NPPF's definition of Grey Belt makes clear that this includes previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes a, b or d.
- 7.17 I refer to Mr Gibbs detailed evidence (CD 12.5) in these respects.
- 7.18 With regards to purpose a, Mr Gibbs concludes that, *"With regard to Purpose (a) I conclude at Error! Reference source not found. above that Daws Heath, and by CPBC's own definition, is a village and not a large built up area. The developed part of the site therefore makes, at most, a limited contribution to the Green Belt with respect to Purpose (a)."*
- 7.19 I see no reason to disagree with Mr Gibbs conclusions and therefore the appeal proposals would result in, at most, limited harm to the Green Belt with respect purpose a.
- 7.20 I also refer to Mr Gibbs evidence in respect purpose b.
- 7.21 In this respect, Mr Gibbs concludes that, *"With regard to Purpose (b) the role of the developed part of the site in preventing coalescence of neighbouring towns is limited. Even if Daws Heath were considered to be a town, which I do not, I agree with the Council that the areas beyond the developed part of the site will be retained and will continue to perform the function of preventing the merging of the two settlements."*

In addition, the previous Local Plan Inspector noted that "a reasonable gap of open Green Belt land would be retained between the two settlements which would maintain a clear physical separation between them and ensure development of the proposed allocation would not lead to their coalescence." My underlining."

- 7.22 I see no reason to disagree with Mr Gibbs assessment and conclusions on the impact of the appeal proposals on Green Belt purpose b. Therefore, the harm to Green Belt purpose b would be limited.
- 7.23 As confirmed within the agreed SoCG, Green Belt purpose d is not relevant to the consideration of this appeal.
- 7.24 I therefore consider that the appeal site does not strongly contribute to any of purposes a, b or d.

- 7.25 I also consider that, the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) of the Framework would not provide a strong reason for refusing or restricting the proposed development. This is re-affirmed by the conclusions of the appellant's originally submitted Planning Statement (CD 1.55), CPBC Decision Notice (CD 3.1), officer Committee report (CD 3.2), appellant Statement of Case (CD 11.1) and the Council's Statement of Case (11.2).
- 7.26 I therefore conclude that the appeal site falls within the new NPPF definition of Grey Belt as per Annex 2: Glossary (page 73) of the new Framework.

Purposes (taken together) of the remaining Green Belt across the area of the plan

- 7.27 Paragraph 155 of the new Framework sets out that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where a number of circumstances apply including (sub para a) the development would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.
- 7.28 I also refer to Mr Gibbs evidence (CD 12.5) in this respect.
- 7.29 Mr Gibbs concludes (paragraph 8.12) that *"With respect to paragraph 155a of the Framework, given the enclosed nature of the wider Appeal site and its lack of functional and visual connectivity with the wider landscape, the delivery of the developed part of the site would have no effect on the wider Green Belt locally. It would not "fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan", namely the Castle Point Borough Council administrative area."*
- 7.30 I see no reason to disagree with Mr Gibbs conclusions.
- 7.31 Therefore, I conclude that the appeal site would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.

Demonstrable unmet need for the type of development proposed

- 7.32 Paragraph 155b also requires there to be a demonstrable unmet need for the type of development proposed in order to take advantage of such provisions. Footnote 56 of the Framework confirms that this includes *"in the case of applications involving the provision of housing, means the lack of a five year supply of deliverable housing sites, including the relevant buffer where applicable, or where the Housing Delivery Tests was below 75% of the housing requirement over the previous three years"*.
- 7.33 I confirm that the appeal scheme relates to an application involving the provision of housing.
- 7.34 It is common ground between the parties (CD 10.1) that CPBC has a lack of a five year supply of deliverable housing sites, including the relevant buffer. For completeness, the latest Housing Delivery Test result for Castle Point (2023) is 54%.
- 7.35 I therefore conclude that there is a demonstrable unmet need for the type of development proposed within the new Framework meaning.

The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework

- 7.36 Paragraph 155c also requires development to be within a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.
- 7.37 As detailed within my Proof, the appeal site has a long history of site promotion and its proposed future allocation by CPBC within 3 previous draft versions of the new Local Plan CDs 6.2, 7.24 and 7.26. This included the 2022 draft Local Plan being found sound by the Local Plan Inspector (CD 6.1).
- 7.38 The Decision Notice (CD 3.1) and officer Committee report (CD 3.2) also raise no principle sustainability issues with regards the appeal site's location.
- 7.39 Further, the officer Committee report (page 75) sets out that *"The current proposal seeks to provide highly sustainable dwellings in a sustainable location. There is no evidence to support the contention that the proposed development will have a significant adverse impact on the carbon footprint and no objection is therefore raised to the proposal on this basis."*
- 7.40 The agreed SoCG (CD 10.1, para 2.1) also confirms that *"The site would offer the opportunity for alternative means of travel to the use of the private car as the officer Committee report at paragraph 37.10 confirms."*
- 7.41 I also confirm that the agreed Heads of Terms for the associated S106 agreement includes bus stop enhancements to upgrade existing facilities along the Daws Heath Road corridor in line with the Highway Authority's consultation response (CD 14.13) on the planning application which I consider will enhance the sustainability of the appeal site through better quality public transport provision to serve the appeal site and local area.
- 7.42 I therefore conclude that the development would be in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework.

'The Golden Rules'

- 7.43 In order to not be regarded as inappropriate development in the Green Belt, paragraph 155d also requires that, where applicable, proposed development should meet the 'Golden Rules' requirements as set out in paragraphs 156-157 of the Framework.

Affordable housing provision

- 7.44 Paragraph 156 of the Framework sets out that, where major development involving the provision of housing is proposed on land released from the Green Belt through plan preparation or review, or on sites in the Green Belt subject to a planning application, the 'Golden Rules' should be achieved.
- 7.45 The first of these Golden Rules contributions relates to the delivery of affordable housing which reflects either, development plan policies produced in accordance with the relevant provisions of the new Framework, or and in the case of Castle Point, until such policies are in place, the policy as set out in paragraph 157 of the Framework.

- 7.46 Paragraph 157 of the Framework sets out the affordable housing contribution required to satisfy the Golden Rules. This is 15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50% or, in the absence of a pre-existing requirement for affordable housing, a 50% affordable housing contribution should apply by default.
- 7.47 Castle Point do not have an adopted affordable housing planning policy requirement and therefore I consider that the 50% affordable housing contribution applies as default to this appeal proposal.
- 7.48 Accordingly, the proposed development seeks an on-site affordable housing contribution totalling 50% in line with this Golden Rule requirement. This will be secured via S106 agreement in line with the agreed Heads of Terms.

Necessary improvements to local or national infrastructure

- 7.49 The second Golden Rule requires necessary improvements to local or national infrastructure.
- 7.50 As I outline above, the agreed S106 Heads of Terms in relation to this planning application have been agreed with the Council which secure necessary improvements to local infrastructure as requested by relevant statutory consultees through statutory public consultation on the planning application. These agreed Heads of Terms (CD 13.2) include contributions to Early Years and Childcare provision, Primary Education, Libraries and the NHS.
- 7.51 CPBC adopted Community Infrastructure Levy (CIL) on the 1st May 2023 and this would also apply to the appeal proposal at a rate of £268.31 per square metre of new floor space proposed.
- 7.52 I therefore consider that the appeal proposals would provide the necessary improvements to local infrastructure through this mechanism to meet this Golden Rule requirement.

The provision of new, or improvements to existing, green spaces that are accessible to the public

- 7.53 The final Golden Rule under paragraph 156 seeks the provision of new, or improvements to existing, green spaces that are accessible to the public adding that new residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces.
- 7.54 Paragraph 159 of the Framework adds that, the improvements to green spaces required as part of the Golden Rules should contribute positively to the landscape setting of the development, support nature recovery and meet local standards for green space provision where these exist in the development plan.
- 7.55 Paragraph 159 adds that, *"Where no locally specific standards exist, development proposals should meet national standards relevant to the development (these include Natural England standards on accessible green space and urban greening factor and Green Flag criteria). Where land has been identified as having particular potential for habitat creation or nature recovery within Local Nature Recovery Strategies, proposals should contribute towards these outcomes."*
- 7.56 CPBC does not have any locally specific standards for the provision of open space in new developments.

- 7.57 Notwithstanding this, as confirmed within the officer Committee report (CD 3.2) the South Essex Strategic Green and Blue Infrastructure Study (CD 7.20) identifies a deficit of provision in the borough in respect of parks, gardens and provision for children and young people.
- 7.58 The officer Committee report (CD 3.2) at page 25 sets out that, *"It should be noted that any large scale development will be required to make provision for the recreational needs of its residents. The Fields in Trust benchmark guidelines recommends the provision of 3.35ha of formal outdoor space including playing pitches, outdoor sports provision and play and multi use areas, and 3.2ha of informal outdoor space, per 1000 population.*
- Applying this recommendation to the proposal, on the basis of an average household occupancy of 2.5 persons, gives a requirement for a total of some 2.83ha of space.*
- The proposal achieves some 10ha which far exceeds the recommendation."*
- 7.59 The proposed development includes an area of 10 hectares (ha) for the purposes of Public Open Space (POS) predominately to the south and east of the site as depicted by the application drawings (CD Sections 1 and 2). This will provide publicly accessible POS for informal recreation such as walking, cycle and horse riding. The existing site is private and has no public access.
- 7.60 I refer to Natural England's Green Infrastructure Standards for England - Summary Green Infrastructure Framework - Principles and Standards for England (January 2023, Version 1.1) (CD 7.28) which, at Appendix 2 (Accessible Greenspace Standards) (page 35) sets out Capacity Criteria for accessible greenspace. It adds that this is advocated by Fields in Trust.
- 7.61 The Capacity Criteria goes on to detail that *"A Capacity standard of at least 3 ha accessible greenspace per 1,000, measured at district /borough/ unitary authority-wide scale, has been included in the Accessible Greenspace Standards to ensure that sufficient greenspace is provided across a local authority area."* The appeal proposals compliance in this respect is reinforced within the officer Committee report (CD 3.2) at page 25 as set out in paragraph 7.58 of my Proof above.
- 7.62 Again, as set out in the officer Committee report (CD 3.2) the POS requirement from this development is considered to be 2.83ha of POS. Therefore, the proposals provide POS far in excess of this requirement.
- 7.63 This significant provision of new publicly accessible POS on the site would also exceed the associated requirements of Natural England with the officer Committee report (CD 3.2) at page 61 setting out that *"Natural England guidance on Suitable Alternative Natural Green Space (open space) provision to mitigate for recreational pressures on European designated sites recommends 8ha per 1,000 persons. With 173 units proposed and an average 2.4 persons per household (based on UK 2011 Census Data); this equates to a 3.32ha requirement for the site. Some 10ha is proposed, to include a range of different experiences including wetland areas, traditional orchard, wet grasslands, scrub grasslands and meadow grasslands which are all interlinked and accessible, connecting to the wider footpath network.*
- The proposal also includes the provision of children's play space.*
- No objection is therefore raised to the proposal on the basis of inadequate provision of open space."*
- 7.64 Natural England has also been consulted on this planning application and has raised no objection to the proposed development (CD 14.5 and 14.15).

- 7.65 The appeal scheme also includes a detailed landscaping strategy for the site (CD 1.61) which seeks to ensure that, amongst other things, the proposed improvements to green spaces required contribute positively to the landscape setting of the development. With reference to the Council's Decision Notice (CD 3.1) and officer Committee report (CD 3.2) no objection to the proposals has been advanced in respect of landscaping.
- 7.66 Paragraph 159 of the Framework also seeks such green spaces to support nature recovery.
- 7.67 The submitted Ecological Impact Assessment and Biodiversity Net Gain Assessment (CD 2.40) and associated BNG Metric (CD 2.41) detail how the appeal scheme mitigates any impact of the development proposals as well as demonstrating a 10% BNG across the site as a result of such development. With reference to the Council's Decision Notice (CD 3.1) and officer Committee report (CD 3.2) no objection to the proposals has been advanced in respect of ecology and/or BNG.
- 7.68 I therefore consider that the appeal scheme achieves this Golden Rule contribution.

Conclusions on the Appeal Proposals and Grey Belt

- 7.69 As set out in my Proof, I consider that the appeal site would constitute 'Grey Belt' within the definition of the new Framework.
- 7.70 I also confirm that the appeal proposals comply with the criteria as set out at paragraphs 155 and 156 of the Framework including meeting all Golden Rules.
- 7.71 I therefore conclude that, the development of homes in the Green Belt should not be regarded as inappropriate in this instance.
- 7.72 As a result, I re-affirm paragraph 158 of the new Framework in respect of development which complies with the Golden Rules and confirm that, these appeal proposals should be given significant weight in favour of the grant of permission (my emphasis).

Provision of market housing

- 7.73 I rely on the evidence of Mr Pycroft in respect of Housing Land Supply (CD 12.3).
- 7.74 As detailed earlier within my Proof, the local development plan (CD 4.1) was adopted well before even the original version of the 2012 Framework was published, is devoid of a housing requirement and is based upon a strategy to meet development needs which had regard to a policy framework which outlined a fundamentally different approach to calculating housing need.
- 7.75 This interpretation is very much supported by the Courts in *Gallagher Estates Ltd & Lioncourt Homes Ltd v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin) (CD 9.6) where at paragraph 97, Mr Justice Hickinbottom explains the significance of the Framework coming into force:

"However, this fails to acknowledge the major policy changes in relation to housing supply brought into play by the NPPF. As I have emphasised, in terms of housing strategy, unlike its predecessor (which required a balancing exercise involving all material considerations, including need, demand and relevant policy factors), the NPPF requires plan-makers to focus on full objectively assessed need for housing, and to meet that need unless (and only to the extent that) other policy factors within the

NPPF dictate otherwise. That, too, requires a balancing exercise – to see whether other policy factors significantly and demonstrably outweigh the benefits of such housing provision – but that is a very different exercise from that required pre-NPPF. The change of emphasis in the NPPF clearly identified that paragraph 47 should on occasions, yield different results from earlier policy scheme; and it is clear that it may do so."

- 7.76 The latest version of the Framework (December 2024) maintains this radical change where at paragraph 8 it outlines the three overarching objectives to secure sustainable development with paragraph 8b stating that to achieve the 'social objective' *it is necessary to "to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations"*
- 7.77 Furthermore, Paragraph 61 of the Framework states that *"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."*
- 7.78 Paragraph 78 goes on to set out that, in Local Plan circumstances such as Castle Points *"local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing"*.
- 7.79 Paragraph 78 also clarifies that *"The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old."*
- 7.80 It is common ground between the parties that the Council cannot demonstrate a five-year housing land supply against its local housing need figure. Mr Pycroft's evidence (CD 12.3) puts the Council's exact housing supply position at 0.54 years which is a very significant shortfall.
- 7.81 The HDT 2023 results show the Council having a result of 54% triggering the presumption in favour of sustainable development irrespective of the housing land supply position. In the absence of an up-to-date Local Plan (CD 4.1), I cannot see this figure materially improving, indeed it is quite probable it will continue to worsen, noting the Council's ever reducing housing land supply position.
- 7.82 The weight given to the delivery of market housing must, in my view, be given in the context of the agreed substantial housing land supply shortfall, the woeful HDT results and fact that there is no strategy in place, nor will there be for a number of years, to rectify this crisis. Indeed, I find it difficult to image a more severe situation in respect of housing delivery than that found in Castle Point Borough currently.
- 7.83 In the case of the Colney Heath appeal (CD 8.4), the Inspector noted a housing land supply position of 2.4 years and 2.58 years at each relevant authority. At paragraph 49, they stated:
- "There is therefore no dispute that given the existing position in both local authority areas, the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position for both authorities, this is not a position on which I would envisage there would be any marked improvement on in the short to*

medium term. I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas." (my emphasis).

- 7.84 Even based upon the Council's own figures, the housing land supply position is worse in Castle Point Borough than in the Colney Heath appeal. Furthermore, the emerging Local Plan position is even less certain given Castle Point's recent track record.
- 7.85 This is backed up by the Inspector in the recent appeal on land south of Daws Heath Road (CD 8.1) within the Castle Point borough who afforded very substantial weight to the contribution that the proposal would make towards meeting needs for housing that are currently going unmet.
- 7.86 It is important to note that this was based on an annual housing need figure produced as part of the previous Standard Method (355) and not the current Standard Method requirement of 701 which almost doubles this annual need published as part of the new NPPF (December 2024).
- 7.87 Accordingly, I see no reason to afford anything less than very substantial weight (my emphasis) to the supply of market housing in this appeal.

Provision of affordable housing

- 7.88 Paragraph 61 of the Framework makes clear the Government's objective of "significantly boosting the supply of homes".
- 7.89 To address the needs of the whole community, paragraph 63 of the Framework confirms that:
- "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 children²⁶; older people (including those who require retirement housing, housing with-care and care homes); students; people with disabilities; service families; travellers²⁷; people who rent their homes and people wishing to commission or build their own homes²⁸.*
- 7.90 The evidence of Ms Gingell (CD 12.4) addresses affordable housing need in the borough.
- 7.91 Ms Gingell's conclusions on the affordable housing needs of the borough in my opinion, bring into stark contrast the significant and persistent failure of CPBC to get anywhere near delivering a proportionate supply of new affordable homes to meet clearly identified need in the borough over a prolonged period dating back to at least 2014/15 as set out in Ms Gingell's evidence.
- 7.92 For emphasis Ms Gingell's evidence confirms the following:
- "The analysis of affordable housing delivery in Castle Point reveals a stark and persistent failure to meet identified needs, with a cumulative shortfall of nearly 1,000 affordable homes in the first three years of the 2020 HNA assessment period. This trend is underpinned by consistently low delivery rates, averaging just seven net affordable homes per annum since 2014/15, combined with significant losses through the Right to Buy scheme, which has eroded almost half of gross additions over the same period.*
- Despite the Council's stated objective to deliver 100 affordable homes per year by 2025, recent data highlights a net reduction in affordable housing stock since 2021/22, directly contradicting its own targets and amplifying the crisis. The scale of this shortfall, coupled with the growing backlog of*

unmet need, demonstrates a systemic failure to address affordability challenges across the Borough. In order to address the past shortfall and meet current needs the Council will need to deliver 525 net affordable homes per annum over the next five years."

- 7.93 I have no doubt that CPBC will not get anywhere near these required figures without a new adopted Local Plan including Green Belt release as the supporting evidence on recent delivery makes clear. As we know, a new Local Plan is a huge uncertainty given Castle Point's recent history on the subject and therefore I believe it is plain that such a local affordable housing crisis will not begin to be tackled in either the short or medium-term.
- 7.94 The proposed development offers a very rare and impactful opportunity to provide much-needed new affordable homes (50% of total provision, 87 affordable homes) at a scale that exceeds CPBC's total net delivery since 2014, significantly assisting in addressing the acute shortfall and meaningful contribution these proposals make to alleviating chronic local housing pressures.
- 7.95 I note that a number of recent appeals Inspectors have, in particular, offered considerable weight to the provision of affordable housing. In the case of the appeal at Colney Heath (CD 8.3), the Inspector states the following in their decision:
- "The persistent under delivery of affordable housing in both local authority areas presents a critical situation. Taking into account the extremely acute affordable housing position in both SADC and WHBC, I attach very substantial weight to the delivery of up to 45 affordable homes in this location in favour of the proposals."*
- 7.96 More specific to the Castle Point borough, the Inspector in the recent appeal on land south of Daws Heath Road (CD 8.1) at paragraph 53 confirmed the following;
- "The proposal includes 40% affordable housing provision which would provide up to 23 affordable dwellings. This would be more than double the net annual average number of affordable homes that have been delivered over 2014 – 2022 and in view of the woeful supply position noted above, I afford this provision very substantial weight."*
- 7.97 By contrast, the appeal proposals would deliver a 50% on-site affordable housing contribution equating to 87 new affordable homes. Accordingly, I see no reason to afford anything less than very substantial weight (my emphasis) to the supply of affordable housing in this appeal.

Public Open Space Provision

- 7.98 The NPPF at paragraph 103 (Open space and recreation) sets out that *"Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change."*
- 7.99 The importance of this provision is also reflected in the social objective at paragraph 8 of the Framework which states that *"to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces (my emphasis) that reflect current and future needs and support communities' health, social and cultural well-being"*.

- 7.100 Paragraph 103 adds that *"Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate."*
- 7.101 As confirmed within the officer Committee report (CD 3.2) the South Essex Strategic Green and Blue Infrastructure Study (CD 7.20) identifies a deficit of provision in the borough in respect of parks, gardens and provision for children and young people.
- 7.102 The proposed development includes an area of 10 hectares (ha) for the purposes of Public Open Space (POS) predominately to the south and east of the site as depicted by the application drawings (CD Sections 1 and 2). This will provide publicly accessible POS for informal recreation such as walking, cycle and horse riding. The existing site is private and has no public access.
- 7.103 Again, as set out in the officer Committee report (CD 3.2) the POS requirement from this development is considered to be 2.83ha of POS. Therefore, the proposals provide POS far in excess of this requirement.
- 7.104 CPBC assert that the provision of significant areas of POS within short walking distance of the appeal site including at Pound Wood, Great Wood and Dodd's Grove, West Wood and the Burrough's Recreation Ground limit the amount of weight given to this benefit of the scheme.
- 7.105 I disagree. The proposed POS would make a meaningful contribution to the borough's green infrastructure deficiencies which is far in excess of the requirement for a scheme of this nature and scale. The POS, in combination with other areas of existing POS, would provide the opportunity to increase the network of high-quality POS locally benefit of the health and well-being of the local community. This would be directly in line with the paragraph 102 objectives of the NPPF and constitutes a significant benefit that would otherwise not be secured with reference to CPBC's ongoing and persistent new Local Plan delays which continue to be well documented.
- 7.106 I therefore afford substantial weight (*my emphasis*) to this scheme benefit in the planning balance.

Biodiversity Net Gain (BNG)

- 7.107 I confirm that the now mandatory 10% BNG requirement as required by Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) is not applicable to this planning application given that it was first submitted to CPBC on the 8th June 2022, a long time before these provisions came into force for major developments on the 12th February 2024.
- 7.108 However, the proposals would provide a significant net gain in biodiversity value on the site as a result of the development equating to 10% above the existing baseline.
- 7.109 In this respect, I refer to the recent Judgement in *Vistry Homes Ltd v Secretary of State for Levelling Up, Housing and Communities, Fairfax Acquisitions Ltd v Secretary of State for Levelling Up, Housing and Communities* [2024] EWHC 2088 (Admin) (CD 9.5) which confirms that there is no legal principle by which a development makes provision for something which is required by a policy or by legislation cannot be regarded as a benefit at all. If a measure is required for a project to consume its own smoke (i.e. the benefit offsets an equal harm), it would not be a benefit. But a genuine benefit remains a benefit whether or not it is required by policy or legislation. For schemes subject

to mandatory (as well as those offering non-mandatory) BNG, the provision of BNG will therefore be a benefit to be weighed in the balance.

- 7.110 The level of BNG proposed would far exceed what would be required, and accordingly I afford this benefit substantial weight (*my emphasis*).

Economic Benefits

- 7.111 Section 6 of the NPPF (Building a strong, competitive economy) at paragraph 85 makes clear that *"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development."*
- 7.112 Comprehensive detail on the extent of economic benefits associated with this proposal was included within the original planning application submission via Appendix 3 of the Planning Statement (CD 1.55).
- 7.113 Such economic uplift represents a benefit of the scheme as confirmed within the officer Committee report (CD 3.2) with significant weight placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development as per paragraph 85 of the Framework.
- 7.114 The officer Committee report (CD 3.2) seeks to generalise such economic benefits in that they could be applied to any development. In theory, although I agree, this fails to recognise the very significant lack of housing delivery in the borough over a sustained period of time with no short- or medium-term option in addressing this.
- 7.115 Therefore, I am firmly of the view that such economic benefits will have a significant impact on the local economy in the absence of any level of comparable housing growth in the borough to assist a chronic shortfall of both market and affordable housing and the level and extent this activity will have on the local economy.
- 7.116 I therefore attribute significant weight (*my emphasis*) to the economic benefits associated with these proposals.

Delivery timetable

- 7.117 This application seeks full planning permission for the appeal development described which is capable of implementation without the need for any subsequent approval of reserved matters. The appellant is also of reputable national housebuilder which has a proven track record of success.
- 7.118 These two important factors mean that, should this appeal be allowed, the development would be delivered promptly.

- 7.119 To reinforce this fact, I set out below the appellant's proposed delivery timetable should this appeal be allowed:

Stage of Delivery	Timescale
Appeal allowed	March 2025
Start on site	Quarter 1 2026
1 st Plot Completion	Quarter 4 2026
Final Plot Completion	Quarter 4 2029

Table 1: Appellant's anticipated scheme delivery timetable. Source: Countryside Partnerships (Eastern Home Counties).

- 7.120 This confirms that a meaningful implementation of the scheme would begin within a year of appeal approval decision with the first residential plot completed by the end of 2026.
- 7.121 This detail also confirms a delivery rate of 60 to 70 units per year during the construction phase and that the entire development would be achieved within the current 5-year housing land supply period.

Potential harm to the Green Belt by reason of inappropriateness

- 7.122 Paragraph 153 of the NPPF sets out that, *"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."*
- 7.123 Paragraph 154 of the NPPF clarifies that development in the Green Belt is inappropriate unless one of the listed exemptions under paragraph 154 applies.
- 7.124 I have set out my conclusions clearly with regards to the appeal site and appeal schemes compliance with Green Belt policy provisions within the new NPPF above. Notwithstanding this, should the Inspector disagree with my conclusions in this respect I also set out my evidence with regards the appeal proposals and the test at paragraph 153 of the Framework below.
- 7.125 In this scenario only, I confirm that none of the exceptions listed in paragraph 154 apply to the appeal scheme even though it is acknowledged that the appeal site does include a proportion of Previously Developed Land (PDL). In this scenario, I confirm that the proposals when taken as a whole, would likely have a substantially greater impact on the openness of the Green Belt than the existing development and therefore would not fall within the Green Belt exception at paragraph 154 sub para g (complete redevelopment of previously developed land) of the Framework.
- 7.126 Therefore, I confirm that the appeal proposals would be inappropriate development by definition and as such, would cause harm to the Green Belt by reason of inappropriateness for which, substantial weight is attached.

Other Potential Green Belt Harm

- 7.127 CPBC maintain that the proposal would erode Green Belt openness and interfere with several of the five purposes of including land within it. This relates to the Green Belt purposes of:
- checking the unrestricted sprawl of large built-up areas (referred to as purpose a);
 - prevent neighbouring towns merging into one another (referred to as purpose b); and
 - to assist in safeguarding the countryside from encroachment (referred to as purpose c).
- 7.128 As confirmed within the agreed SoCG (CD 10.1), the Green Belt purposes to preserve the setting and special character of historic towns (purpose d) and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land (purpose e) are not relevant in the consideration of this appeal.

Green Belt Openness

- 7.129 CPBC's Green Belt case, as outlined in their Statement of Case (SoC) (CD 11.2), is dependent upon the updated assessment of the site contained at appendix one of the officer's report to the development management committee (CD 3.2). CPBC's SoC (CD 11.2) outlines their view that the proposal would result in a significant uplift of built form and therefore represent substantial loss of, and harm to, the openness of this part of the Green Belt in both spatial and visual terms.
- 7.130 I am informed by the conclusions of Mr Gibbs in his Proof (CD 12.5) in relation to the impact of the appeal proposal on the openness of the Green Belt. Mr Gibbs identifies that the proposed development will give rise to a spatial impact upon openness but that this would be limited to within the appeal site's boundaries and the area immediately to the south.
- 7.131 Mr Gibbs's evidence (CD 12.5) adds that the appeal site is very well contained and the impact of the proposed development upon visual openness would be limited to areas within the site boundary in locations immediately proximate to the site. Mr Gibbs confirms that there are no public views that would fall into this area, the remainder being either from adjacent private dwellings or the access from Daws Heath Road itself. Mr Gibbs concludes that, beyond these limited locations, the proposed development will not have any material impact upon a viewer's perception of openness and as such, the impact of the appeal proposals on the openness of the Green Belt would be limited.
- 7.132 I see no reason to disagree with Mr Gibbs assessment and conclusions on the impact of the appeal proposals on the openness of the Green Belt. Therefore, the harm to the openness of the Green Belt would be limited (*my emphasis*).

The Purposes of including land within the Green Belt

- 7.133 Now, I turn to the impact of the proposals on the five purposes of including land in the Green Belt which are set out in paragraph 143 of the Framework.
- 7.134 It is common ground (SoCG, CD 10.1) with the Council that Green Belt purposes d (to preserve the setting and special character of historic towns) and e (to assist in urban regeneration, by encouraging the recycling of derelict and other urban land) are not relevant in the determination of this appeal. I do not therefore consider this further within my evidence.

- 7.135 The SoCG (CD 10.1) also confirms that the parties agree that the proposed development would have no more than a limited impact of Green Belt purpose c (to assist in safeguarding the countryside from encroachment). This is reaffirmed in Mr Gibbs Proof (CD 12.5) and again is not considered further within my evidence.

Purpose a – to check the unrestricted sprawl of large built-up areas

- 7.136 In terms of Green Belt purpose a (to check the unrestricted sprawl of large built-up areas) I again refer to the evidence of Mr Gibbs (CD 12.5).
- 7.137 Mr Gibbs evidence confirms that *"The developed area would be contiguous with the existing edge of the village, would retain the vast majority of existing vegetation and would be visually contained. It would be a natural fit in the landscape, defined to the north by the existing edge of the village, Daws Heath Road to the west, by existing hedges and tree lines to the east and by a hedge with occasional trees on the southern boundary of the Appeal site, forming a clearly defined boundary. The Appeal proposals form a logical pattern of development."*
- 7.138 Mr Gibbs goes on to conclude that, *"I consider the proposed development to cause, at most, limited harm to the Green Belt with respect to Purpose (a)."*
- 7.139 I see no reason to disagree with Mr Gibbs assessment and conclusions on the impact of the appeal proposals on Green Belt purpose a. Therefore, the harm to Green Belt purpose a would, at most, be limited (my emphasis).

Purpose b – to prevent neighbouring towns merging into one another

- 7.140 In relation to Green Belt purpose b (to prevent neighbouring towns merging into one another) I also refer to Mr Gibbs evidence (CD 12.5).
- 7.141 Mr Gibbs sets out that, *"Even if Daws Heath were considered to be a town, which I do not, I agree with the Council that a substantial area of open land will be retained both within the site and beyond which will continue to perform the function of preventing the merging of the two settlements, causing limited harm, at most, to the Green Belt with respect to Purpose (b)."*
- 7.142 I see no reason to disagree with Mr Gibbs assessment and conclusions on the impact of the appeal proposals on Green Belt purpose a. Therefore, the harm to Green Belt purpose a would, at most, be limited (my emphasis).

Conclusion on Potential Harm to the Green Belt

- 7.143 It is common ground between the parties that the appeal scheme would comprise inappropriate development in the Green Belt and by definition would be harmful to which substantial weight (my emphasis) should be applied. The appeal scheme, therefore, needs to be assessed using the balance as set out within Paragraph 153 of the Framework.
- 7.144 The evidence of Mr Gibbs (CD 12.5) outlines that whilst the proposed development will have an impact on Green Belt openness the appeal site is visually very well contained and any harm to visual openness would be localised. I agree with the evidence of Mr Gibbs that the appeal proposals would result in no more than limited harm (my emphasis) to Green Belt openness.
- 7.145 With regards to Green Belt purposes, the only harms relate to purposes a, b and c.

- 7.146 Referring to the evidence of Mr Gibbs (CD 12.5) in relation to Green Belt purpose a, the appeal scheme would result in no more than limited harm (*my emphasis*) in this respect.
- 7.147 Referring to the evidence of Mr Gibbs (CD 12.5) in relation to Green Belt purpose b, the appeal scheme would result in no more than limited harm (*my emphasis*) in this respect.
- 7.148 Referring to the evidence of Mr Gibbs (CD 12.5) in relation to Green Belt purpose c and as agreed between the parties in the SoCG (CD 10.1), the appeal scheme would result in no more than limited harm (*my emphasis*) in this respect.
- 7.149 With reference to section 13 (Protecting Green Belt land) of the NPPF, this does not require an overly expansive consideration of Green Belt harm whereby matters of harm by definition, openness and purposes are considered individually and given weight accordingly. These matters should be considered in the round as part of a cumulative assessment.
- 7.150 Paragraph 153 of the Framework confirms that substantial weight is given to any harm to the Green Belt. Therefore, it is the extent of any such cumulative Green Belt harm which is more of a determining factor in the paragraph 153 balance.
- 7.151 Accordingly, I afford substantial weight to the identified Green Belt harm.

Any Other Harm

- 7.152 I consider that the proposed development would not result in any other harm than that detailed above with reference to the paragraph 153 Framework test. This is confirmed by CPBC's Decision Notice (CD 3.1).

Now withdrawn Castle Point Local Plan 2018-2033 Evidence Base

- 7.153 It is made clear from the original submitted Planning Statement (CD 1.55), the officer's report to planning committee (CD 3.2) and the Appellant's Statement of Case (CD 11.1) that the site at Brook Farm was allocated for development in the Castle Point Local Plan (2018-2033) under draft policy HO14 (CD 6.2). The plan was submitted for examination in October 2021, making overall provision for 5,325 homes over the period 2018-2033.
- 7.154 Brook Farm was included as draft allocation HO14, for up to 173 new homes. The final version of the now withdrawn Local Plan, as proposed for adoption on 23 March 2022 after being found sound by the Inspector, is included at CD 6.2.
- 7.155 The examining inspector issued his report into the soundness of the Castle Point Local Plan on 3 March 2022. In his report, enclosed at CD 6.1, the Inspector concluded that the plan was 'sound', subject to main modifications. The conclusion that the plan was sound included the allocation and release of draft allocation HO14 from the Green Belt.
- 7.156 At a meeting of Full Council, on 23 March 2022, Members voted not to adopt the new Local Plan. Subsequently, at a meeting of Special Council on 15 June 2022, Members voted to formally withdraw the new Local Plan.
- 7.157 Paragraph 48 of the NPPF determines the weight that may be afforded to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved

objections and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF. Given the Local Plan 2018-2033 has now been formally withdrawn, it can be afforded no weight in the determination of this planning appeal.

- 7.158 The Inspector will note references within the submitted planning application reports to the now withdrawn Local Plan. The planning application was prepared in accordance with the policy objectives of the now withdrawn allocation and Local Plan policies which set a detailed policy framework for the site's delivery. Whilst these policies can no longer be afforded weight in decision making, their aims and objectives still have relevance in guiding an acceptable design and layout development approach for the site notwithstanding principle Green Belt considerations.
- 7.159 It is important to make clear that, the evidence base which underpins the now withdrawn Local Plan (CD 6.2), can be afforded significant weight as relevant in the determination of this appeal. I confirm that the parties agree this approach within the SoCG.
- 7.160 I also note the Inspector's conclusions in the determination of the recent appeal by This Land, on land east of Rayleigh Road (CD 8.2) which, at paragraph 32, confirms that such evidence and its conclusions in relation to the proposed allocation of this site off Rayleigh Road carried significant weight.
- 7.161 The evidence base relating to the now withdrawn Local Plan (2018-2033) includes the following Green Belt-related documents which are of relevance to the consideration of the appeal site's potential harm to the Green Belt in respect of openness and the purposes of including land in the Green Belt:
- Green Belt Review Part One (2018) (CD 7.1).
 - Green Belt Review Part Two (2018) (CD 7.2).
 - Green Belt Topic Paper (2018) (CD 7.4).
- 7.162 The following evidence-based documents were also of relevance to CPBC's consideration of whether exceptional circumstances existed to justify proposing to release the site at Brook Farm from the Green Belt:
- Strategic Housing Land Availability Assessment (2018) (CD 7.5).
 - Castle Point Large Site Capacity Assessment 2018 (CD 7.6).
- 7.163 I have already outlined earlier in my evidence that it is common ground with the Council (SoCG, CD 10.1) that the policies contained within the withdrawn Local Plan are no longer subject to the provisions of paragraph 48 of the Framework (weight to emerging policies) and cannot therefore be given weight in this regard, however the evidence base underpinning it, remains a material consideration as agreed within the SoCG (CD 10.1).
- 7.164 Referenced relevant evidence base documents associated with the withdrawn Local Plan are included within the appellant's Proof of Evidence (CD 12.3 to 12.6) and having regard to the fact these documents were prepared by the Council/independent professionals it instructed, were subject to a number of public consultations. This evidence base was ultimately submitted in support of a Local Plan which the Local Plan Inspector concluded to be 'sound' subject to modification. Therefore, having regard to the requirements of paragraph 35 of the Framework, I consider that significant weight should be afforded to these documents.

- 7.165 CPBC has commenced preparation of a new 'Castle Point Plan', which is intended to guide development in the borough over the period to 2050. As reflected in the SoCG (CD 10.1), the parties are agreed that the Castle Point Plan should only be afforded very limited weight in the determination of this appeal, given its very early stage of preparation. In the unlikely event that CPBC publish new details regarding the preparation of this emerging Local Plan in advance of the inquiry, or the determination of this appeal, I reserve the right to review and update my evidence accordingly.
- 7.166 At the time of preparing this proof of evidence, CPBC has made some progress with the preparation of the new Castle Point Plan including the publication of a formal Regulation 18 Issues and Options public consultation between July and September 2024 (CD 7.21). However, no draft policies have been made publicly available. The plan will not be submitted for examination until April 2025 at the very earliest (based upon CPBC's latest Local Development Scheme (LDS)) (CD 7.27, pages 8 and 9).
- 7.167 It is important to add that this follows a long history of failed Local Plan preparation in the borough. In March 2018, the Council received correspondence from the Secretary of State notifying the Council that it had failed to make progress on its Local Plan in accordance with its revised LDS, but more generally noting that:
- "There has been a consistent failure to produce a Local Plan since the last Plan was adopted in 1998. The Council has failed to meet milestones in published Local Development Schemes at least five times since 2004 and two failures to take a plan through examination."*
- 7.168 I also consider that this emerging Local Plan has no prospect of being adopted given the low level of local housing need it seeks to address which targets a mere 255 new homes per annum. I refer to the Castle Point Plan Board's note of meeting from the meeting held on Wednesday 11th September 2024 (CD 7.27, section 4) where this continuing approach was confirmed.
- 7.169 I refer to the conclusions of Mr Pycroft's housing land supply Proof (CD. 12.3, section 6) which make clear the Council's chronic lack of a minimum 5-year housing land supply position under both the current Standard Method (355 new homes per annum) and the Government's proposed new local housing need figure (685 new homes per annum) which both include figures well in excess of this emerging Local Plan local housing need.

8. Third Party Representations

8.1 A number of representations in relation to these proposals have been submitted by third parties. The vast majority of the matters raised within these representations have been addressed within this Proof and the agreed SoCG (CD 10.1). However, for completeness I respond on specific material considerations below.

- Green Belt – The Appellant’s SoC (11.1) and the evidence within my Proof confirm the acceptability of this development in Green Belt policy terms as per paragraph 153 of the Framework.
- Highways – The appeal scheme is supported by a Transport Assessment (CD 1.59) and associated Addendum (2.42) confirming the full acceptability of the proposals in this respect subject to conditions. Further, the Highway Authority (Essex County Council) raises no objection to the proposed development.
- Landscape – A detailed Landscape and Visual Impact Assessment (LVIA) (CD 1.53) has been carried out in relation to the appeal proposal. The LVIA concludes that there would be a minor adverse effect on local character, landscape condition, scenic quality and tranquillity as a result of the proposals. As confirmed within the officer Committee report the appeal proposals are acceptable in landscape terms.
- Biodiversity – The appeal scheme is supported by an Ecological Impact Assessment and Biodiversity Net Gain Assessment (CD 2.40) which confirms the acceptability of the proposals in terms of on-site ecology interests subject to appropriate mitigation. This detail also secures a 10% net gain in biodiversity value on the site as a result of the development. Further, Natural England has raised no objection to these proposals (CD 14.5 and 14.15).
- Flood Risk – A detailed Flood Risk Assessment (FRA) and Drainage Strategy (CD 1.50) have been submitted in support of this planning application confirming the acceptability of the proposals in this respect. Further, both the Environment Agency (EA) and Lead Local Flood Authority (LLFA) raise no objection to these appeal proposals.
- Infrastructure Capacity – The appeal scheme will be the subject of a S106 legal agreement that will secure contributions to necessary infrastructure to mitigate any associated impact of the development. This includes an appropriate financial contribution to mitigate the impact on local healthcare provision as requested by the NHS. This is in addition to the Council’s Community Infrastructure Levy (CIL) which now applies to applicable new development in the borough.
- Loss of existing stables – The retention of this facility, even in the absence of development, cannot be guaranteed as there is no policy provision for the retention of such facilities in the borough. The existing operation is also privately owned and managed and could cease at any point in time dictated only by the landowner.

9. Planning Obligations

- 9.1 The planning obligations requested by statutory consultees are included within the draft heads of terms. The draft heads of terms are forming the basis of the draft Section 106 which is in preparation between the parties in advance of the inquiry.
- 9.2 At the time of writing, the Section 106 (and the draft heads of terms) contain all requested obligations from statutory consultees (CD 13.2). I await CPBC's CIL Compliance Statement in advance of the inquiry to understand the justification for the requested planning obligations, in addition to their compliance with the relevant CIL 122 tests.
- 9.3 I have enclosed within the Core Documents list the following SPDs prepared and adopted by CPBC in March 2023:
- Castle Point Developers Contributions Guidance, Supplementary Planning Document (SPD), Affordable Housing, March 2023 (CD 3.4).
 - Castle Point Developers Contributions Guidance, Supplementary Planning Document (SPD), Healthcare Facilities, March 2023 (CD 3.5).
 - Castle Point Developers Contributions Guidance, Supplementary Planning Document (SPD), Highways, Travel, Education, Libraries, Flooding & Drainage Infrastructure, March 2023 (CD 3.6).
 - Castle Point Developers Contributions Guidance, Supplementary Planning Document (SPD), Playing Pitches and Indoor Built Facilities, March 2023 (CD 3.7).
- 9.4 CPBC adopted Community Infrastructure Levy (CIL) on the 1st May 2023 and this would also apply to the appeal proposal at a rate of £268.31 per square metre of new floor space proposed.

10. Planning Balance

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be in accordance with the plan, unless material considerations indicate otherwise.
- 10.2 It is common ground between the parties that the appeal scheme complies with all relevant Saved provisions of the adopted Local Plan (SoCG, CD 10.1).
- 10.3 Notwithstanding this, the development plan (CD 4.1) is silent as to how, inter alia, a decision maker should respond to development in the Green Belt.
- 10.4 The Framework provides these policy provisions and is a very important material consideration to which significant weight should be given.

Grey Belt

- 10.5 I have confirmed within my Proof that the appeal site would constitute Grey Belt within the meaning of the new Framework. Mr Gibbs evidence (CD 12.5) confirms that the appeal site does not strongly contribute to any of purposes (a), (b), or (d).
- 10.6 I am also of the view that the development of homes in the Green Belt is not regarded as inappropriate in this instance given that:
- The development would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - There is a demonstrable unmet need for the type of development proposed;
 - The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
 - The development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 of the Framework.
- 10.7 In line with paragraph 158 of the Framework and the appeal schemes compliance with the Golden Rules I afford significant weight in favour of the grant of permission. *(my emphasis)*.
- 10.8 Accordingly, in light of the Council's one related Green Belt reason for refusal (CD 3.1), the appeal site's new established status as Grey Belt land and full compliance with paragraphs 155 and 156 of the Framework, I consider that these appeal proposals would not constitute inappropriate development in the Green Belt.
- 10.9 Further, as directed by paragraph 158 of the Framework, significant weight in favour of the grant of permission is afforded to these proposals.
- 10.10 I therefore conclude that the appeal proposals would be fully compliant with national Green Belt policy.

- 10.11 With reference to paragraph 11 of the Framework, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 10.12 As I confirm within my Proof, the most important policies for determining this application are out-of-date by virtue of the Council's lack of a 5-year housing land supply as a matter of common ground (CD 10.1) and the latest HDT results which puts the Council at 54%.
- 10.13 I set out in my evidence that the application of policies in the Framework that protect areas or assets of particular importance does not provide a strong reason for refusing the development proposed and there are no adverse impacts of doing so which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 10.14 I therefore consider that planning permission should be granted in accordance with paragraph 11d (ii) of the Framework.

Paragraph 153 Test

The potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal

- 10.15 In the event that the Inspector does not agree with my conclusions on Grey Belt, this appeal would still need to be considered with reference to the test at paragraph 153 of the Framework and only allowed whereby the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 10.16 In such a scenario where Grey Belt policy provisions within the new Framework have been discounted, I confirm that the appeal scheme would comprise inappropriate development in the Green Belt by definition to which substantial weight is given.
- 10.17 In terms of any other harm, again the parties confirm within the SoCG (CD 10.1) that this is limited to Green Belt openness and Green Belt purposes a (to check the unrestricted sprawl of large built-up areas), b (to prevent neighbouring towns merging into one another) and c (to assist in safeguarding the countryside from encroachment) only.
- 10.18 With reference to Mr Gibbs Proof (CD 12.5) the appeal scheme would result in limited harm (*my emphasis*) to Green Belt Openness.
- 10.19 With reference to Mr Gibbs Proof (CD 12.5) the appeal scheme would result in limited harm (*my emphasis*) to Green Belt purpose a.

- 10.20 With reference to Mr Gibbs Proof (CD 12.5) the appeal scheme would result in limited harm (*my emphasis*) to Green Belt purpose b.
- 10.21 With reference to Mr Gibbs Proof (CD 12.5) and as agreed between the parties (SoCG, CD 10.1) the appeal scheme would result in limited harm (*my emphasis*) to Green Belt purpose c.
- 10.22 This harm attracts substantial weight (*my emphasis*).

Other considerations

- 10.1 As made abundantly clear within my Proof, the planning policy position in CPBC at the current time (and dating significantly back in time) clearly cannot appropriately meet the government's aim to significantly boost the supply of new housing (paragraph 60 of the NPPF), achieve and sustain a minimum 5-year housing land supply position, or provide sufficient affordable homes to meet clearly identified and chronic local need.
- 10.2 Furthermore, I have also confirmed that there is no short-or-medium term or even current credible long-term strategy to address this persistent chronic lack of supply and overall serious housing crisis within the borough.
- 10.3 The clear consequence of this is that local housing delivery has stalled over at least the last decade with the Council's current housing land supply position remaining dire and one of the worst in the country. This lack of action has now shifted the focus to the Development Management process and planning applications with a number of planning applications submitted recently including for previously draft allocated sites within the now withdrawn Local Plan (CD 6.2). These applications seek to demonstrate compliance with the para 153 NPPF test as the only realistic option in seeking to address dire local housing supply needs in the borough in at least the short-to-medium term.
- 10.4 As a result of this dire situation and as supported by Mr Pycroft's evidence (CD 12.3) the supply of much-needed market housing that this appeal scheme would deliver simply cannot attract anything less than very substantial weight (*my emphasis*).
- 10.5 I also refer to the evidence of Ms Gingell (CD 12.4) in respect of the current and ongoing affordable housing crisis in the borough and accordingly very substantial weight (*my emphasis*) is afforded to this provision which the appeal scheme would deliver and deliver quickly.
- 10.6 Within my Proof I also confirm that substantial weight (*my emphasis*) is given to the provision of the 10ha of Public Open Space the appeal scheme would deliver.
- 10.7 The appeal scheme also provides a 10% Biodiversity Net Gain which attracts substantial weight (*my emphasis*).
- 10.8 Within my Proof I have also considered the specific economic benefits associated with the appeal scheme and afford this significant weight (*my emphasis*) in line with paragraph 85 of the Framework.

Whether or not the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (Paragraph 153 of the Framework)

- 10.9 In line with the requirements of paragraph 153 of the Framework I give substantial weight to the potential harm to the Green Belt by reason of inappropriateness as well as the limited harm afforded to Green Belt openness and Green Belt purposes a, b and c.
- 10.10 In respect of other considerations, I give very substantial weight to the provision of market housing the appeal scheme would deliver. I also give very substantial weight to the delivery of affordable housing in these dire circumstances.
- 10.11 I afford substantial weight to the provision of Public Open Space the appeal scheme would deliver with the schemes 10% Biodiversity Net Gain also afforded substantial weight.
- 10.12 I also afford significant weight to the economic benefits the appeal scheme would generate in line with paragraph 85 of the Framework.
- 10.13 I consider that, these other considerations, when taken collectively, would clearly outweigh the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal and as such, would satisfy the test at paragraph 153 of the Framework and justify the grant of planning permission in this instance.

