



**The Town and Country Planning Appeals (Determination by Inspectors)
(Inquiries Procedure) (England) Rules 2000 (Statutory Instrument
2000/1625) (as amended)**

Appeal by This Land Development Limited

Land east of Rayleigh Road, Thundersley

Outline planning application for the development of up to 455 new homes, a new multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way in the north and Daws Heath Road in the south, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure. All matters reserved except access.

Appeal reference: APP/M1520/W/24/3338797

Castle Point planning application reference: 23/0085/OUT

Planning Proof of Evidence

of

Liam Ryder MPlan MRTPI

May 2024



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1 SUMMARY

1.1 Background

- 1.1.1 I am Liam Timothy Ryder. I hold a Master of Planning (MPlan) in Spatial Planning from the University of the West of England, Bristol and I am a Chartered Member of the Royal Town Planning Institute.
- 1.1.2 I am employed as an Associate Director by CODE Development Planners. I am a planning consultant instructed by This Land Development Limited (TLDL) in relation to land east of Rayleigh Road, Thundersley. I fully recognise my duties are to provide to the inquiry my professional view irrespective of my employer and the Appellant.
- 1.1.3 The evidence which I have prepared and provide for this appeal (reference APP/M1520/W/24/3338797) in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute, and I confirm that the opinions expressed are my true and professional opinions.

1.2 The appeal site

- 1.2.1 Details regarding the appeal site, including its location, planning history and the determination of planning application 23/0085/OUT by Castle Point Borough Council (CPBC) can be found within the submitted Planning Statement (CD 1.4), the Appellant's Statement of Case (including the pre-application advice received from CPBC) and the officer's report to CPBC's Development Management Committee (CD 5.2).
- 1.2.2 In addition to the above, the appeal is supported by a full suite of Core Documents including the application documents which supported the planning application submitted to CPBC. These documents include key evidence base documents such as the Design and Access Statement (CD 1.2), the Landscape and Visual Impact Assessment (CD 1.20), Transport Assessment (CD 1.12), Flood Risk Assessment (CD 1.11) and Ecological Impact Assessment (CD 1.14).

1.3 Planning Policy Context

- 1.3.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 1.3.2 Paragraphs 7, 8, 10 and 11 of the NPPF emphasise the requirement for decision makers to contribute to the achievement of sustainable development.
- 1.3.3 At the time of writing, the adopted development plan in Castle Point consists of the following documents:
- Castle Point Local Plan (adopted November 1998, reviewed in September 2007)
 - Essex Waste Local Plan (adopted July 2017)



- Essex Minerals Local Plan (adopted July 2014)

1.3.4 The site is shown on the adopted policies map as being within the Green Belt. I note policy GB1 (Control of Development) was not included within the list of policies in the saving direction issued by the Secretary of State (September 2007). Policy GB1 previously outlined when planning permission might be granted for development within the Green Belt, including in very special circumstances, and for purposes related to agriculture, mineral extraction, forestry and cemeteries (amongst other limited uses).

1.3.5 In the absence of an adopted policy providing guidance for the consideration of new development in the Green Belt, I refer to the guidance contained within the National Planning Policy Framework (NPPF, July 2021). Paragraphs 152 and 153 of the NPPF clarify that inappropriate development should not be approved except in 'very special circumstances.'

1.4 **Matters raised by third parties**

1.4.1 Whilst third parties have raised objections to the proposals, these objections have been addressed and do not present reasons to refuse the appeal. My main Proof of Evidence addresses matters raised by third parties in detail within section five, and in appendix 1.

1.5 **Potential adverse impacts**

Green Belt

Openness

1.5.1 I am informed by the conclusions of Mr Smith in relation to the impact of the appeal scheme on the openness of the Green Belt. Mr Smith identifies *"The Appeal Site has a high level of visual containment from the wider context as a result of the combination of topography, peripheral vegetation and adjacency, in part, to the built-up area."*

1.5.2 Mr Smith further notes that 51% of the site is to be multi-functional open space, which he identifies to be *"a positive response to the character of the site and its context, a response that acknowledges guidance from the Council's SHELAA and Site Capacity assessment and importantly in Green Belt terms remain 'Open'."*

1.5.3 Mr Smith concludes that the combination of these factors reduces the overall harm to the openness of the Green Belt. I agree. I consider there would be localised moderate harm to the openness of the Green Belt as a consequence of the appeal proposals. Even if it were considered that the harm to openness is significant, as a consequence of the appeal proposals, I remain of the conclusion that there are very special circumstances which outweigh the identified harm to the Green Belt and any other harm resulting from the proposals. A finding of significant, rather than moderate harm, also does not change the overall weight to be afforded to the harm to the Green Belt (substantial weight, as stipulated by paragraph 153 of the NPPF).



Green Belt purposes

- 1.5.4 I agree with Mr Smith in relation to his conclusions regarding the openness of the Green Belt, and the purposes of the Green Belt. In light of these conclusions, I consider there is moderate harm to the purposes of the Green Belt. Mr Smith's evidence confirms his view (and my view, as expressed through the examination of the CPBC Local Plan 2018-2033) that the site's contribution to purposes a) – c) is overstated. Even if it were considered that the harm to purposes is significant, as a consequence of the appeal proposals, I remain of the conclusion that there are very special circumstances which outweigh the identified harm to the Green Belt and any other harm resulting from the proposals. A finding of significant, rather than moderate harm, also does not change the overall weight to be afforded to the harm to the Green Belt (substantial weight, as stipulated by paragraph 153 of the NPPF).

Landscape

- 1.5.5 I refer to the evidence prepared by Mr Smith in relation to the landscape and visual impacts associated with the appeal proposals. Mr Smith's view has also been informed by the Landscape and Visual Impact Assessment prepared by Leyton Place Ltd, which is included at CD 1.20.
- 1.5.6 The site has been designed to mitigate as much as possible the potential landscape and visual impacts arising out of the proposals. In this instance the site was identified by CPBC as a suitable and appropriate location for new housing and included as a sound housing allocation in the now withdrawn Local Plan.
- 1.5.7 It is agreed between the parties in the SoCG (CD 9.1) that the scheme is not a valued landscape as per the provisions of paragraph 180a of the NPPF. Based upon the conclusions of the LVIA, and the evidence prepared by Mr Smith, I consider that **moderate weight** should be attributed to the potential landscape and visual harm arising from the proposal.

Best and most versatile agricultural land

- 1.5.8 The loss of 17.9ha of best and most versatile agricultural land (which falls below 20ha. Natural England sets the threshold for consultation) must be weighed alongside the potential impact of the scheme on the Green Belt, and the identified minimal landscape and visual harm. However, whilst the loss of best and most versatile agricultural land on site is noted and weighed as an adverse impact, I consider **limited weight** should be afforded to the loss of BMV land in the determination of the appeal.
- 1.5.9 Regarding whether the loss of BMV land is significant, at 20ha or more. Due to the proportion of non-agricultural land, the quantum of BMV land within the site is under the 20ha threshold for consultation with Natural England and is not significant.



Other technical matters

1.5.10 I consider that all technical matters have been satisfactorily resolved in the determination of the planning application by CPBC. This is confirmed by the suite of responses received from statutory consultees during the determination of the scheme and the agreement of these matters by the officer in their report to the development management committee (CD 5.2). The decision notice includes a sole reason for refusal which is limited to the perceived impact of the proposals on the Green Belt.

1.6 Very special circumstances

1.6.1 I consider the very special circumstances in this case to be as follows:

- The delivery of market housing – very significant benefit afforded very significant weight, particularly in the context of a 1.86 year housing land supply and the absence of an agreed strategy to enable CPBC to boost significantly the supply of housing, and the latest Housing Delivery Test results for Castle Point (50%).
- The delivery of affordable housing (40%) – very significant benefit afforded very significant weight. There has been a sustained shortfall in the delivery of affordable housing in the borough and there is an acute unmet need. Brownfield sites in the borough cannot provide the level of affordable housing needed in the borough (the annual need for affordable housing, as identified in the South Essex Housing Needs Assessment (June 2022) almost outstrips the annual housing need as calculated using the standard method.
- The evidence base for the withdrawn Castle Point Local Plan (2018-2033), which concluded that exceptional circumstances existed for the release of the site from the Green Belt to meet the identified market and affordable needs of the borough. The withdrawn local plan (and the allocation of land east of Rayleigh Road) was found sound by the examining inspector.
- The substantial economic benefits of the proposal, which should be afforded significant weight.

1.7 Suitability and sustainability of Thundersley and the appeal site as a location for new residential development

1.7.1 The site benefits from a sustainable location in the borough, located to the south of the Rayleigh Retail Park, which features a range of retail and hardware facilities, including a supermarket. The retail park also offers other employment opportunities in the form of light industrial offices, workshops and further retail space. The retail park is within a suitable walking distance from the appeal site.

1.7.2 I consider the appeal site to be in an evidently sustainable location and is suitable for development. This is confirmed by the suite of technical documents submitted as part of the planning application. The site forms a logical extension to the existing settlement of Thundersley, being bordered by commercial development to the north, and residential development on the site's western and southern



boundaries. A local nature reserve is located adjacent to the site's eastern boundary, which will form a new, defensible boundary in the Green Belt which will maintain the gap between Thundersley and Daws Heath.

1.7.3 Whilst the sustainable location and nature of the site is not a specific benefit of the scheme, I consider it is nonetheless a material consideration in favour of the appeal proposals and lends further support to the ability of the appeal proposals to meet the acute needs for new market and affordable housing in the borough. In the absence of an up-to-date local plan, it is right to look to sustainable opportunities for meeting market and affordable housing needs, particularly in light of significant and sustained shortfalls in delivery of new homes. The sustainability of the site was also recognised in CPBC's key evidence base documents prepared in support of the now withdrawn CPBC Local Plan (2018-2033), including within the Strategic Housing Land Availability Assessment (CD 6.5) and the Large Site Capacity Assessment (CD 6.6).

1.8 **Overall planning balance and conclusions**

1.9 I conclude that the adverse impacts of the proposal are demonstrably outweighed by the substantial benefits associated with this application. I consider that these benefits cumulatively demonstrate very special circumstances in favour of the proposals, as per paragraph 152 of the NPPF. There would therefore be no conflict with relevant Green Belt policy in the NPPF. As such, it follows that the proposals do not conflict with the relevant saved policies of the Castle Point Local Plan (November 1998). The development would therefore be in accordance with the development plan as a whole.

1.10 Additionally, in light of the very special circumstances in this case considerably outweighing the identified harms arising to the Green Belt (by reason of inappropriate development), I consider the tilted balance is engaged, further to CPBC's accepted inability to demonstrate a five year housing land supply (and as a consequence of the latest Housing Delivery Test results for the borough).

1.11 Paragraph 12 of the NPPF is clear that decisions that depart from an up-to-date development plan can be made where material considerations in a particular case indicate that the plan should not be followed (as also included at Section 38(6) of the Planning and Compulsory Purchase Act 2004). Even if it could be concluded that there is a conflict with the development plan in this instance, I consider that material considerations weigh so strongly in favour of granting planning permission (with or without the application of the tilted balance) that any adverse impacts are demonstrably outweighed.

1.12 I therefore respectfully request the inspector allows this appeal.



2 PREAMBLE

- 2.1 I am Liam Timothy Ryder. I hold a Master of Planning (MPlan) in Spatial Planning from the University of the West of England, Bristol and I am a Chartered Member of the Royal Town Planning Institute.
- 2.2 I am employed as an Associate Director by CODE Development Planners. I am a planning consultant instructed by This Land Development Limited (TLDL) in relation to land east of Rayleigh Road, Thundersley. I fully recognise my duties are to provide to the inquiry my professional view irrespective of my employer and the Appellant.
- 2.3 I was involved in the formulation and submission of the proposals the subject of this Appeal, and I have visited the site and Thundersley on several occasions.
- 2.4 My Proof of Evidence (PoE) should be read in conjunction with the Appellant's Statement of Case (SoC) and the signed Statement of Common Ground (SoCG).
- 2.5 As is clear, I am not a lawyer and do not possess any legal qualifications. Where references are made to Court judgments, my evidence does not represent legal submissions (which I will instruct Counsel to make as required) but outlines my professional understanding of the implications of such judgments in so far as they clarify the correct interpretation of policy. Given the nature of my role, I have had the benefit of advice from a number of Solicitors and/or Barristers in reaching this professional understanding.
- 2.6 **Statement of truth**
- 2.6.1 The evidence which I have prepared and provide for this appeal (reference APP/M1520/W/24/3338797) in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute, and I confirm that the opinions expressed are my true and professional opinions.



3 INTRODUCTION AND SCOPE OF EVIDENCE

3.1 The appeal

3.1.1 This appeal is made by This Land Development Limited (TLDL) against Castle Point Borough Council (CPBC), further to their refusal of planning permission for an outline planning application “*for the development of up to 455 new homes, a new multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way in the north and Daws Heath Road in the south, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure. All matters reserved except access*”.

3.1.2 The site is a greenfield, Green Belt site located adjacent to the urban edge of Thundersley and, until 15 June 2022, was subject to an emerging allocation within the now withdrawn Castle Point Local Plan (2018 – 2033), which was found sound by the examining inspector on 3 March 2022.

3.1.3 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) and cannot demonstrate a five-year housing land supply. Furthermore, considering the latest results of the Housing Delivery Test (HDT), the presumption in favour of sustainable development (the ‘tilted balance’) applies automatically.

3.1.4 TLDL has worked positively with CPBC officers over the course of the determination of planning application 23/0085/OUT, such that the only issue between the parties is whether very special circumstances exist to allow inappropriate development in the Green Belt. The Statement of Common Ground (SoCG) summarises the matters of agreement and disagreement between the parties.

3.2 The Appellant

3.2.1 This Land Development Limited (TLDL) is a development business established with the aim of offering a new approach to development, that is much more customer and community focussed than the traditional UK housebuilder model. Placemaking is central to the ethos of This Land’s business, and it governs and drives their approach to the creation of the homes they build, the places they make and the relationships they create. This Land seek to forge long-term relationships and provide a superior customer experience, rather than simply selling homes and moving onto the next project. They incorporate creative design into their developments to ensure flexibility and adaptability, which can enable customers to adapt their homes when their families grow, and their requirements change.

3.3 Structure

3.3.1 My PoE is structured into the following sections:

- Section 3 – The Development Proposal
- Section 4 – Planning Policy Context



- Section 5 – Matters Raised by Third Parties
- Section 6 – Potential adverse impacts
- Section 7 – Very Special Circumstances
- Section 8 – Planning Obligations Sought by Infrastructure Providers
- Section 9 – Overall planning balance
- Section 10 - Summary and conclusions

3.4 **Other witnesses**

3.4.1 As part of the Appellant's case, expert evidence has also been prepared by

- Mr James Donagh (Stantec) – Housing Need and Demographics
- Mr Andrew Smith (Fabrik) – Landscape and Green Belt



4 THE DEVELOPMENT PROPOSAL

4.1 The appeal site

4.1.1 Details regarding the appeal site, including its location, planning history and the determination of planning application 23/0085/OUT by Castle Point Borough Council (CPBC) can be found within the submitted Planning Statement (CD 1.4), the Appellant's Statement of Case (including the pre-application advice received from CPBC) and the officer's report to CPBC's Development Management Committee (CD 5.2).

4.1.2 In addition to the above, the appeal is supported by a full suite of Core Documents including the application documents which supported the planning application submitted to CPBC. These documents include key evidence base documents such as the Design and Access Statement (CD 1.2), the Landscape and Visual Impact Assessment (CD 1.20), Transport Assessment (CD 1.12), Flood Risk Assessment (CD 1.11) and Ecological Impact Assessment (CD 1.14).

4.2 Pre-application meeting

4.2.1 A pre-application meeting was held with CPBC on 12 May 2022. The advice of officers received during and within written advice received on 27 May 2022 has been incorporated into the preparation of the planning application (the pre-application advice was appended to the Appellant's SoC).

4.2.2 The officer concluded, within the pre-application advice that *"In combination with the weight attached to the findings in respect of the New Local Plan, it is however considered that the harm to the Green Belt is outweighed by other considerations and consequently it is not considered that the proposal would attract a recommendation of refusal based on Green Belt considerations."*

4.2.3 It is, of course, noted that the advice provided by officers at the pre-application stage is not determinative and advice is offered on a 'without prejudice basis'. However, it is clear that the officer in this case considered that the material considerations in favour of the scheme cumulatively demonstrate Very Special Circumstances exist in favour of granting planning permission.



5 PLANNING POLICY CONTEXT

5.1 The adopted development plan

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

5.1.2 Paragraphs 7, 8, 10 and 11 of the NPPF emphasise the requirement for decision makers to contribute to the achievement of sustainable development.

5.1.3 At the time of writing, the adopted development plan in Castle Point consists of the following documents:

- Castle Point Local Plan (adopted November 1998, reviewed in September 2007)
- Essex Waste Local Plan (adopted July 2017)
- Essex Minerals Local Plan (adopted July 2014)

5.1.4 The site is shown on the adopted policies map as being within the Green Belt. I note policy GB1 (Control of Development) was not included within the list of policies in the saving direction issued by the Secretary of State (September 2007). Policy GB1 previously outlined when planning permission might be granted for development within the Green Belt, including in very special circumstances, and for purposes related to agriculture, mineral extraction, forestry and cemeteries (amongst other limited uses).

5.1.5 In the absence of an adopted policy providing guidance for the consideration of new development in the Green Belt, I refer to the guidance contained within the National Planning Policy Framework (NPPF, July 2021). Paragraphs 152 and 153 of the NPPF clarify that inappropriate development should not be approved except in 'very special circumstances.'

5.1.6 I also consider the following supplementary planning documents (SPD) to be relevant in the determination of this appeal:

- Castle Point Borough Council Residential Design Guidance (1 January 2013)
- Affordable Housing Developer Contributions Guidance (March 2023)
- Healthcare Facilities Developer Contributions Guidance (March 2023)
- Highways, Travel, Education, Libraries, Flooding & Drainage Infrastructure Developer Contributions Guidance (March 2023)
- Playing Pitches and Indoor Built Facilities Developer Contributions Guidance (March 2023)



5.2 The withdrawn Castle Point Local Plan (2018-2033)

- 5.2.1 The inspector will have noted from the submitted Planning Statement (CD 1.4), the officer's report to planning committee (CD 5.2) and the pre-application advice appended to the appellant's Statement of Case (SoC) that land east of Rayleigh Road, Thundersley was allocated for development in the Castle Point Local Plan (2018-2033). The plan was submitted for examination in October 2021, making overall provision for 5,325 homes over the period 2018-2033.
- 5.2.2 Land east of Rayleigh Road, Thundersley was included as allocation HO13, for 'around' 455 new homes, in addition to land for a new healthcare facility, land for a new early years/childcare facility and the provision of a new multi-use community building (the final version of the withdrawn local plan, as proposed for adoption on 23 March 2022, is enclosed at CD 7.2).
- 5.2.3 I was instructed by TLDL to promote their site through the local plan, including making detailed representations at regulation 19, and through the preparation of hearing statements in response to the examining Inspector's Matters, Issues and Questions (MIQs). I attended and participated in the examination hearings, being on hand to answer any site-specific questions the inspector might have had, bearing in mind our support for the allocation of the site within the emerging local plan. I worked closely with the Planning Policy Officers of the Council in the preparation of the appended Statement of Common Ground (CD 6.26) for the examination, in addition to meeting with members of CPBC's local plan delivery board.
- 5.2.4 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 7.1, 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 HO13 from the Green Belt.
- 5.3 At a meeting of Full Council, on 23 March 2022, members voted not to adopt the local plan. Further to this, at a meeting of Special Council on 15 June 2022, members voted to formally withdraw the local plan.
- 5.4 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, I consider it can be afforded no weight in the determination of this application. The inspector will note references within the submitted planning application reports to the 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 the policies can no longer be afforded weight in decision making, their aims and objectives still have relevance for the development of the site wide parameter plans and proposed mitigation measures.



5.5 Furthermore, it is important to recognise the evidence base which underpins the withdrawn local plan, particularly with regard to the assessments undertaken by CPBC to determine how much of its local housing need could be accommodated within the urban area in Castle Point, and the requirement for Green Belt releases as part of the emerging local plan. I consider the conclusions of the evidence base are relevant to the determination of this application and can be afforded weight in the determination of this appeal. Indeed, I note that the parties agree within the Statement of Common Ground (SoCG) that the evidence base for the withdrawn local plan remains relevant for the determination of this appeal.

5.5.1 Where relevant to the determination of this appeal, I draw the inspector's attention to specific evidence base documents within my PoE.

5.6 **The emerging Castle Point Plan**

5.6.1 Further to the withdrawal of the Castle Point Local Plan (2018 to 2033), 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 draft Statement of Common Ground (SoCG), 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. Should CPBC publish details regarding new local plan consultations in advance of the inquiry, or the determination of this appeal, I reserve the right to review and update my evidence accordingly.

5.6.2 I also recognise several comments within third party representations made to the application prior to determination by CPBC, which stated that granting planning permission for the proposals would be premature ahead of the preparation, submission, examination and adoption of the new local plan. I am guided by the relevant provisions of paragraph 50 of the NPPF, which states:

"Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination... Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process."

5.6.3 At the time of preparing this proof of evidence, whilst CPBC has made some progress with the preparation of the new Castle Point Plan, it has yet to be published for formal regulation 18 or 19 public consultation, and 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)).

5.6.4 Furthermore, CPBC itself has not advanced a reason for refusal on the grounds of prematurity. I am therefore clear in my conclusions that allowing this appeal would not be premature, in the context of the emerging Castle Point Plan.



5.6.5 In light of the systematic failure of CPBC to prepare, submit and adopt (further to the conclusion of a successful plan examination) a new local plan since the end of the 1998 local plan's period, which consequently has resulted in an acute and sustained under delivery of housing in the borough, I do not consider that the provision of 455 new dwellings (in addition to new community facilities) would be premature in advance of the preparation of the new Castle Point Plan.

5.7 CPBC's alternative assessment of local housing need

5.7.1 The officer's report to the development management committee (CD 5.2) made reference to a new local housing needs assessment, which *"concluded that the housing need is 255 homes per year, 100 homes less than the standard methodology which the withdrawn local plan was based on (355). This supersedes the evidence contained within the withdrawn Local Plan and has a dramatic impact on the numbers over the intended plan period."*

5.7.2 It is pertinent to recognise that the alternative housing needs assessment was not published by CPBC until the day after the development management committee meeting for land east of Rayleigh Road, Thundersley. The alternative local housing needs assessment is not referenced within CPBC's SoC, and the weight to the provision of both market and affordable housing within CPBC's SoC remains unchanged (substantial weight to both). Whilst the parties do not agree on the weight to be afforded to these particular benefits (I consider both the provision of market and affordable housing should be afforded very significant weight), the weight afforded by CPBC to these matters indicates a reflection that there remains an insufficient supply of housing land to meet even the alternative assessment of housing need, including within the urban areas of the borough.

5.7.3 In addition, I therefore anticipate CPBC will agree in common ground that their housing land supply position should be calculated using their local housing need as calculated by the standard method, as required by paragraph 77 of the NPPF (reflecting the age of the Castle Point Local Plan, November 1998). The NPPF and the Planning Practice Guidance (PPG) are unequivocal in their stipulation of this approach. I consider five-year housing land supply further in section 7.1 of my PoE.

5.7.4 I am also conscious of the conclusions of the inspector in the Sondes Place Farm, Dorking appeal decision¹, in which the local planning authority advocated for an alternative housing need figure to be used for the purposes of calculating their housing land supply position. At paragraph 53, the inspector concluded, *"Fundamentally, determining what the appropriate housing target is, is a matter for the plan-making process not the decision-making process."*

5.7.5 The local planning authority in the Dorking appeal made reference to two appeal decisions² which were said to support their approach. However, the inspector found that *"the circumstances in which*

¹ Land at Sondes Place Farm, Westcott Road, Dorking (APP/C3620/W/32/3324631), allowed 28 November 2023

² Land at VIP Trading Estate and the VIP Industrial Estate, Anchor and Hope Lane, London (APP/G6100/W/19/3233585), dismissed 3 June 2020 and 700 St Johns Road and St Johns Nursery Site, Earls Hall Drive, Clacton-on-Sea (APP/P1560/W/20/3256190)



those decisions were taken are not directly comparable to the situation here... The Planning Practice Guidance (the Guidance) is also clear that the 2014 household projections are to be used."

- 5.7.6 Mr Donagh's evidence summarises and offers support for the conclusions contained within the South Essex Housing Needs Assessment, which identifies an annual requirement for CPBC of 353 dwellings per annum applying the conclusions of the government's standard method. I consider that, in light of the provisions of paragraph 74 of the NPPF, and the relevant guidance contained within the PPG, CPBC's housing requirement for the purpose of calculating housing land supply should be 353 dwellings per annum, as calculated using the standard method. I am not aware of any exceptional circumstances in this case which would justify deviating from an approach which is unequivocally outlined within national planning policy and guidance.



6 MATTERS RAISED BY THIRD PARTIES

- 6.1 In this section I address comments raised by third parties in relation to the original planning application (Castle Point planning application reference 23/0085/OUT), and the planning appeal (responses received 16 April 2024).
- 6.2 Before considering the comments received during the determination of the planning application and those submitted in relation to the appeal, I would emphasise that community engagement has been at the heart of the preparation of the proposals. The covid-19 pandemic limited the applicant's ability to undertake in person public engagement early on in the preparation of the masterplan. In light of the inability to engage in person with members of the local community during the pandemic, I worked with the applicant to create an online webpage which enabled direct engagement with local residents. The website was designed to enable regular updates regarding the preparation of the masterplan, with dedicated questions to assist the applicant's consultant team in the preparation of the masterplan.
- 6.3 The submitted Statement of Community Involvement includes a detailed overview of the public engagement undertaken in the preparation of the masterplan and application, including how the proposals have responded to requests made by the local community.
- 6.4 Further to the submission of the planning application to CPBC, I noted the scheme attracted 820 responses from neighbouring residents. These responses were requested from CPBC to enable such comments to be reviewed against the proposals to see if amendments or further responses might be required. I was informed that CPBC does not issue neighbour responses on planning applications. Receipt of the third-party representations was therefore only possible further to the submission of the appeal, and receipt of CPBC's appeal questionnaire. At appendix 1 of my PoE, I include a summary of the comments received from third parties up to the determination of the planning application by CPBC, and my response to those matters raised. However, I consider matters related to highways, drainage, ecology and infrastructure below, as these were the most common themes highlighted in responses to the application (aside from Green Belt, which is addressed within my main PoE).
- 6.5 **Third party comments submitted further to the validation of the planning appeal**
- 6.5.1 At the time of preparing my PoE, two representations had been circulated with the Appellant further to the submission of the appeal. I am satisfied that the matters raised in these two additional responses have been addressed in my appendix 1, and elsewhere in my PoE.
- 6.6 **Delivery of key highway infrastructure**
- 6.6.1 Mitigating the transport impacts of the development will be in accordance with local and national transport policies, which prioritise pedestrians, cyclists, and public transport, rather than simply supplying extra road capacity for the benefit of car borne users. Whilst the emerging local plan has been withdrawn, it is important to note the examining inspector found the plan sound. At paragraph 181 of the examining inspector's report into the soundness of the local plan, it was stated:



“I am satisfied that given the technical evidence, the level of growth proposed in the plan is such that any significant impacts which would arise from it on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree, there is no convincing evidence to the contrary.”

- 6.6.2 The development therefore proposes transport mitigation that focusses on improving road safety and conditions for walking, cycling and public transport, maximising the use of existing highway infrastructure. This is instead of assisting unfettered growth of vehicular traffic through providing new highway capacity in the form of enlarged junctions or widened roads.
- 6.6.3 A Residential Travel Plan has been prepared separately for the proposed development, whose objective will be to encourage non-car modes of travel to the proposed development. This would be in place prior to occupation. The Travel Plan will be monitored, reviewed, and modified as necessary.
- 6.6.4 Through this package of transport measures, along with the Travel Plan for the development, it is considered that the development will cost effectively mitigate its transport impacts on the transport network, so that there is an acceptable impact on highway safety, and the residual cumulative impacts of the development on the road network are not severe.
- 6.6.5 The proposed development meets transport-related requirements (and the requirements of the now withdrawn policies of the Castle Point Local Plan 2018-2033), because:
- Access arrangements for the site addressing peak time congestion at nearby junctions through the development’s contribution to ECC’s A129 route improvements;
 - The provision of greenways through the site, linking to the existing network of green infrastructure which provide opportunity for active travel and recreation, but which avoid or otherwise manage additional recreational disturbance to sensitive wildlife assets nearby;
 - Main vehicular access will be taken from Stadium Way in the north and Daws Heath Road in the south; and
 - Improvements to active and sustainable infrastructure, facilities and services will be secured within and as part of the development to promote modal shift and improve connectivity. This includes the public transport only route through the site, bringing all new homes on the site within 400m of public transport provision.
- 6.6.6 The proposed development is in accordance with national transport policy objectives contained in the National Planning Policy Framework. The development’s proposed transport improvements will be cost-effective in limiting the development’s transport impacts and will assist with maximising the site’s non-car accessibility. The improvements can also be undertaken within the transport network, i.e. the public highway or land within the control of the applicant, and therefore do not require third party land.



6.6.7 Based on the assessments and mitigation described in this report, it is considered that the residual cumulative impacts of the development are not severe, and therefore there should be no reason on transport grounds why the development should be prevented or refused.

6.6.8 Within the signed SoCH (CD 9.1), it has been agreed between parties that:

“Essex County Council as the highway authority have been consulted on the application and raised no objection to the proposal, subject to a number of conditions where necessary and appropriate. The parties therefore agree that there would not be a significant impact on the existing highway network, and that the new vehicular, pedestrian and cycle accesses into the site will not create highway safety issues. The Appellant agrees that the conditions and contributions proposed by the Highway Authority are necessary and should be imposed should permission be granted.”

6.6.9 The provision of bus services (which remain in operation and provide an excellent regular service to other sustainable settlements) is considered in section 8 of my PoE.

6.7 **Ecology, avoiding recreational disturbance and biodiversity net gain**

6.7.1 The site falls within the Impact Risk Zone (IRZ) for four statutory designated sites of international importance, with Benfleet and Southend Marshes Special Protection Area (SPA) and Ramsar site the closest at 3.0km south of the site. A project level Habitats Regulations Assessment was undertaken and is reported on separately (SES, 2021a). Mitigation measures detailed within the submitted Ecological Impact Assessment to reduce recreational impacts on these sites include the provision of 14.60ha of informal open space that can be used for recreation within the scheme, and a financial contribution in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that given the distance from any other designated sites and the provision of the mitigation above there will be no significant impacts upon any designated sites.

6.7.2 There are six sites of national importance within 5km of the site with the closest (Thundersley Great Common Special Site of Scientific Interest) located 0.2km west. In addition, there are 21 non-statutory designated sites within 2km of the site, with Little Haven/Tile Wood Complex Local Wildlife Site bordering the site to the east. Mitigation will be required to minimise impacts on nearby sites of national and local importance. It is considered that such impacts can be fully mitigated through the provision of 10.73ha of SANGS within the development along with provisions such as dog waste bins, on site walking routes and wildlife sensitivity information boards. Wetland habitats and thorny scrub have also been located adjacent to the neighbouring reserve to prevent unrestricted access. In addition, the connection to the northern PRow has been moved away from eastern boundary to further prevent unrestricted access while still allowing residents who wish to enjoy a longer walk within a natural setting to do so.

6.7.3 The habitats on site were dominated by improved grassland of limited ecological value. However, field compartments 4 to 7 supported greater diversity and were considered to be semi-improved in nature. It is considered probable that woodland 3 is part of an ancient relict woodland of significant ecological



value. Furthermore, hedgerows H1, H3 and H6 were characteristic of ancient hedge banks that hold intrinsic biodiversity value. The site's native woodland and hedgerows qualified as Habitats of Principle Importance (HPI) under the NERC Act 2006 while other habitats of value included mature broadleaved trees and the lake. While it is envisaged that the semi-improved grassland within field compartments 4-7 and a number of trees, particularly on the northern boundary, will be cleared to facilitate the development, the remaining habitats of value will be retained with the exception of a section of H5 and H6 and two sections of hedgerow H7.

6.7.4 Additional habitats including species-rich grassland, wet grassland, rough grassland and scrub, parkland and a traditional orchard will be created to compensate for the loss of habitat resulting from the scheme. A Biodiversity Net Gain Assessment has been undertaken using the DEFRA Metric 3.0 the results of which have been provided in a separate report (SES, 2021b). In summary, the Biodiversity Net Gain assessment predicted an increase of 10.39%.

6.7.5 The submitted ecological reports provide a summary of the baseline ecological conditions and outline the importance of features recorded at the site. They also outline the impacts, mitigation and enhancement measures to ensure biodiversity is protected during course of the development and enhanced following occupation. These recommendations will complement existing green infrastructure with a mosaic of complementary habitats and provide an ecologically diverse and coherent ecological network of habitats that will result in a Biodiversity Net Gain. Additional recommendations include the production of a Landscape and Ecology Management Plan and Construction and Ecology Management Plan. Through implementation of the recommended measures, it is considered that all significant negative impacts as a result of the scheme upon protected and notable habitats and species would be mitigated in line with relevant wildlife legislation and national and local planning policy related to biodiversity.

6.7.6 I also note within section 3.24 of the signed Statement of Common Ground that the parties agree that, *"subject to the Section 106 Agreement securing a suitable payment to the Essex RAMS (in addition to the provision of recreational opportunities on site, including a 2.7km daily walking route for new residents), recreational disturbance will be avoided from the appeal site in combination with other plans and projects."*

6.8 **Flood risk and drainage strategy**

6.8.1 The submitted Flood Risk Assessment, prepared by Stantec, concludes that:

- The site is located in Flood Zone 1: Low Probability of flooding;
- There is surface water flood risk in the north-eastern and south-eastern areas of the site which coincide with areas of low topography and existing drainage features and hence considered to be at low risk of flooding;
- There is a low to medium groundwater flood risk across the site;



- The site is considered to be at low risk from other forms of flooding; and
- The proposed mitigation strategy demonstrates the development is safe through a number of measures as follows:
 - Application of the sequential approach has been applied following the implementation of the surface water drainage strategy.
 - Recommended incorporation of minimum 150mm 'freeboard' in ground floor levels for buildings and appropriate profiling of exterior ground levels away from building entrances;
 - Provision of appropriate surface water drainage attenuation systems, including consideration of projected impacts of climate change and exceedance events;
 - Plans in place for future management and maintenance of drainage systems;
 - Recommended waterproofing in the substructure design and any service trench installations;
 - Consideration for the need for dewatering during construction;
 - Recommended to line the pipes with leak-tight liner and where appropriate to line the proposed SuDS features to prevent the ingress of ground water into the pipes through leaking joints and into the proposed SuDS features reducing the storage capacity within these features; and
 - Groundwater monitoring over a period as agreed with approving authorities to confirm seasonal fluctuations in groundwater levels.

6.8.2 The proposed surface water drainage strategy for the development consists of a network of positive drainage consisting of and not limited to Attenuation Basins with, Swales, and some operate as Multifunction Attenuation Basins (lower areas used for attenuation and upper levels providing play space but will also store surface water runoff in the climate change scenarios).

6.8.3 The sequential test is passed on the basis that the site in Flood Zone 1, the surface water flood risk is dealt with through proposed attenuation features, the low to medium groundwater flood risk is mitigated for, and there is a low risk from flooding from other sources.

6.8.4 The FRA therefore concludes that the users of the proposed development will be safe from flooding and there will be no detrimental impact on third parties. The proposals comply with the NPPF and local planning policy with respect to flood risk and drainage, and this is an appropriate development at this location in flood risk terms.

6.8.5 In response to the specific comments raised by Castle Point's MP, for the production of the Flood Risk Assessment (FRA) and Drainage Strategy for the site, Essex County Council (ECC), as the approving Lead Local Flood Authority, the Environment Agency, Castle Point Borough Council and Anglian



Water Ltd (AW) were all consulted. The proposed drainage has been designed to ensure existing discharge rates are not exceeded and Sustainable Drainage Systems (SuDS) have been fully incorporated throughout the development site. The surface water is proposed to either discharge, as per the existing situation, into the existing watercourse or surface water sewers, influenced by the topography of the site. The outfall locations and rates have been fully agreed with ECC and AW during the pre-planning process, who are the approving authorities on such matters. The design has been based on these statutory consultees' latest requirements, with climate change projections also accommodated.

6.8.6 Furthermore, I note the following agreement reached within the signed SoCG (CD 9.1) between the parties (paragraph 3.23):

"The parties agree that the Appeal Site is wholly within Flood Zone 1 and the sequential approach applied, in accordance with NPPF paragraph 167, with all built development located in areas considered to be at Low or Very Low risk of flooding. The Environment Agency (EA) was consulted, and the Lead Local Flood Authority (LLFA) who reviewed the Flood Risk Assessment (which was produced in accordance with Chapter 14 of the NPPF) and Drainage Statement (FRA, CD 1.11). The FRA was submitted with the planning application and both statutory consultees did not object to the granting of planning permission, with the LLFA approval being subject to conditions. The Appellant agrees that the conditions proposed by the LLFA are necessary and should be imposed should permission be granted."

6.9 Local infrastructure

6.9.1 Several responses received from third parties queried the ability of existing services and facilities to be able to accommodate residents arising from the appeal proposals. Further to the submission of the planning application, in February 2023, responses have been received from statutory consultees requiring planning obligations to mitigate the impacts if the proposals.

6.9.2 The Draft Heads of Terms (CD 2.11) include contributions towards the following infrastructure:

- 40% affordable housing provision;
- Provision of 14.60ha of multi-functional open space across the site
- Provision of a multi-use community hall (on a site no less than 0.29ha)
- Payment of a health contribution of £225,500 based upon the estimated additional population growth of 1,092 and predicted additional floorspace required to meet such growth of 74.8m². The obligation will be used towards the improvement/provision of healthcare facilities in the vicinity of the site.
- The provision of land for a new healthcare facility (on an area measuring no less than 0.31ha) which could provide for a building of up to 1,000sqm of space for healthcare services. The



land will be reserved on site from the commencement of development for the NHS/relevant CCG.

- Land for a stand-alone early years and childcare nursery (measuring no less than 0.13ha), in addition to an early years contribution of £839,803.
- Primary education contribution of £2,357,087
- Library contribution of £77.80 per dwelling (£35,399 in total)
- £1,150,000 towards bus service enhancements to improve frequency/accessibility and routing to/from the site to services, facilities and areas of employment.

6.9.3 Statutory consultees have identified that, subject to the provision of the requested obligations, there is no objection to the appeal proposals, and sufficient capacity can be provided to accommodate future residents of the scheme.

6.9.4 The justification for these obligations will be reviewed upon receipt of CPBC's CIL Compliance Statement, in advance of the inquiry.

6.9.5 Further to the above, it is also interesting to note that, with regard to capacity of primary schools in the borough, Essex County Council's 10-year plan (Meeting the demand for mainstream school places in Essex), 2024-2033 (January 2024)³, it is identified that in the North (Thundersley) Primary School Planning Group there is an existing capacity of 3,753 pupils. The current number on roll for 2024/25 is 3,674 (indicating capacity for 79 pupils). The surplus of places is forecast to increase to 319 places by 2028/29. Upon receipt of the CIL Compliance Statement, I will review the requested primary school obligation to ensure this is compliant with the relevant CIL 122 tests.

6.9.6 In addition to the above, the appeal makes provision for the following community facilities (as previously required by Policy HO13 of the Castle Point Local Plan 2018 to 2033):

- A new multi-use community building;
- Land for a new early year's childcare facility and nursery; and
- Land for a new health facility.

6.9.7 The application also makes provision for the retention of the existing fishing lake on site.

6.9.8 In addition to the provision of the community facilities, as highlighted under 5.9.2 above, I consider that statutory consultees have identified appropriate planning obligations to enable the proposals to mitigate their potential impact on existing services and facilities in Thundersley (and the wider borough). I therefore consider that any impacts on local infrastructure can be sufficiently and appropriately mitigated by the appeal proposals.

³ Enclosed at appendix 12



7 POTENTIAL ADVERSE IMPACTS

7.1 Inappropriate development in the Green Belt

7.1.1 CPBC's decision notice (CD 5.1) includes one reason for refusal, which states, *"The proposal represents inappropriate development in the Green Belt as defined in the National Planning Policy Framework. Such development will only be permitted if very special circumstances exist to justify its inappropriateness. No other considerations have been found, either in isolation or in combination, to outweigh the harm to the Green Belt so very special circumstances do not exist and the proposed development is contrary to Government advice as contained in the National Planning Policy Framework."*

7.1.2 At the outset of this section, I acknowledge that the appeal proposals represent inappropriate development in the Green Belt and therefore, as directed by paragraph 152 of the NPPF, should not be approved except in very special circumstances. Paragraph 153 of the NPPF further stipulates that *"substantial weight"* should be afforded 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.

7.1.3 I am also clear that the appeal proposals do not meet any of the exceptions to inappropriate development as listed under paragraph 154 of the NPPF.

7.1.4 The main issues for the determination of this appeal are therefore (as confirmed in the inspector's post CMC note):

- The effect of the proposed development on the openness of the Green Belt.
- Whether the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

7.1.5 My conclusions regarding the impact of the proposals on the openness of the Green Belt (and its purposes, as outlined in paragraph 143 of the NPPF) is informed by Mr Smith's evidence, in addition to the conclusions of the Council's evidence base from the now withdrawn Castle Point Local Plan (2018-2033).

7.2 Castle Point Local Plan 2018-2033 – Green Belt evidence base

7.2.1 The withdrawn local plan was supported by the following Green Belt evidence base documents:

- Green Belt Review Part One (2018)
- Green Belt Review Part Two (2018). This document has notably been omitted from CPBC's SoC and their appeal questionnaire, even though it contains a site specific assessment of the proposed allocation's contribution to the purposes of the Green Belt.



- Green Belt Topic Paper (2018)

7.2.2 The following documents were also relevant to CPBC's consideration of whether exceptional circumstances existed to justify proposing to release land east of Rayleigh Road, Thundersley from the Green Belt (in addition to further documents prepared in collaboration with the Council ahead of the independent examination of the plan):

- Castle Point Large Site Capacity Assessment 2018
- Strategic Housing Land Availability Assessment (2018)
- Sustainability Appraisal (September 2020), including Modified Annex C (Detailed Site Assessments – September 2020)
- Signed Statement of Common Ground (6 May 2021) between the Appellant and CPBC

7.2.3 Finally, I note from correspondence with CPBC in advance of the inquiry that it may also seek to rely upon the Castle Point Green Belt Functions Assessment, September 2010.

7.3 Impact on the Openness of the Green Belt

7.3.1 Assessing the impact of a proposal on the openness of the Green Belt requires a judgement based on the circumstances of the case. The courts have identified a several matters which may need to be taken into account in making this assessment. These include:

- Openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume.
- The duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- The degree of activity likely to be generated, such as traffic generation.

7.3.2 CPBC's Green Belt case, as outlined within their SoC, is dependent upon the updated assessment of the site contained at appendix one of the officer's report to the development management committee (CD 5.2). CPBC's SoC outlines their view that the proposal would lead to a very substantial and permanent loss of openness in both a spatial and visual context.

7.3.3 I am informed by the conclusions of Mr Smith in relation to the impact of the appeal scheme on the openness of the Green Belt. Mr Smith identifies *"The Appeal Site has a high level of visual containment from the wider context as a result of the combination of topography, peripheral vegetation and adjacency, in part, to the built-up area."*

7.3.4 At paragraph 6.27 of Mr Smith's PoE, he concludes, *"The introduction of new homes will affect both visual and spatial sense of openness but as with current conditions this change this effect will be localised. The character of the Appeal Site's boundaries means that there is already a good degree*



of enclosure to the Appeal Site and that alongside internal compartmentalization, through internal boundaries (mature trees and trees) and the rolling landscape all reduce the perception of Openness. The vegetative boundary features both peripherally and internally are to be retained, restored and enhance as part of a beneficial GI strategy. The exception perhaps the 2 field parcels to southeast however again perception of change to openness in this localised to immediate context and in a location where ribbon development is already part of the local context. The resultant effect is that any perceived change to the openness of the Appeal Site will be largely restricted to within the Appeal Site itself and a very limited part of the local context.”

7.3.5 Mr Smith further notes that 51% of the site is to be multi-functional open space, which he identifies to be *“a positive response to the character of the site and its context, a response that acknowledges guidance from the Council’s SHELAA and Site Capacity assessment and importantly in Green Belt terms remain ‘Open’.”*

7.3.6 Mr Smith concludes that the combination of these factors reduces the overall harm to the openness of the Green Belt. I agree. I consider there would be moderate harm to the openness of the Green Belt as a consequence of the appeal proposals.

7.4 The Purposes of the Green Belt

7.4.1 In support of the now withdrawn Local Plan (2018-2033), CPBC prepared two separate Green Belt Reviews (parts one and two). The Part One report considered wider Green Belt parcels and their particular contributions to the purposes of the Green Belt. Part Two then considered the particular contributions of those sites which had been identified for allocation within the now withdrawn local plan.

7.4.2 CPBC’s SoC makes reference to Part One of the Green Belt review , which considers wider land parcel 4, which extends beyond the full extent of the appeal site (the full extent of land parcel 4 is shown on page 75 of CD 6.1).

7.4.3 The outcome of the Part One assessment for land parcel 4 is as follows (CPBC’s justification for the scoring applied in the Part One assessment is included within the Green Belt Review):

- To check unrestricted sprawl of large built-up areas – very strong
- To prevent neighbouring towns from merging into one another – very strong
- To assist in safeguarding the countryside from encroachment – very strong

7.4.4 The report summarises the strategic contribution of land parcel 4 as follows: *“At the strategic level this Green Belt parcel and the surrounding Green Belt parcels serve to collectively encircle Daws Heath, acting as a ring of Green Belt around the settlement. This ring prevents encroachment into the surrounding countryside, which helps to maintain the character and integrity of the area.”*



7.4.5 In the Green Belt Review Part Two, the appeal site itself is considered with regard to its particular contribution to the Green Belt. The scoring is therefore updated for the site itself as follows:

- To check unrestricted sprawl of large built-up areas – moderate
- To prevent neighbouring towns from merging into one another – very strong
- To assist in safeguarding the countryside from encroachment – strong

7.4.6 The impacts on these three particular purposes of the Green (except for purpose b)) are therefore reduced applying the particular boundaries of the proposed allocation site. The Green Belt Review Part Two made particular recommendations for further mitigating the impacts upon the purposes of the Green Belt.

7.4.7 In advance of the examination into the soundness of the now withdrawn Castle Point Local Plan (2018-2033), I prepared a Statement of Common Ground (regarding the local plan's proposed allocation of land east of Rayleigh Road) with officers of CPBC. The Statement of Common Ground (for the local plan examination – hereafter referred to as the EiP SoCG) is enclosed at CD 6.26.

7.4.8 The EiP SocG, at paragraph 2.1 considers the exceptional circumstances which existed to justify the release of the site from the Green Belt:

*“Allocation HO13 is located within the current extent of the Green Belt to the east of Rayleigh Road. The Green Belt Topic Paper 2018 establishes the exceptional circumstances which exist for releasing land from the Green Belt for the purpose of housing land supply. The Green Belt Review Part Two Update 2019 indicates that harm arising from the release of allocation HO13 for housing purposes would primarily be in respect of the purpose of preventing urban coalescence. TL [This Land Development Limited] supports the council's conclusion that sufficient exceptional circumstances exist to justify a review of the green belt as required in paragraph 136 of the NPPF. The allocation of the land east of Rayleigh Road (Policy HO13) **demonstrates a proper and robust review of green belt boundaries with due consideration of the need to promote sustainable patterns of development.** The site is **largely surrounded by existing urban development with easy and short access to existing employment, retail, residential uses and public transport.** The assessment is there entirely in accordance with the advice contained in paragraph 138 of the NPPF and the guidance provided by a series of other green belt reviews detailed in the Green Belt Topic Paper 2018.” [my emphasis]*

7.4.9 Consistent with the evidence of Mr Smith, it was the position of the Appellant (and myself) that the contribution of the site to the purposes of the Green Belt was overstated within CPBC's evidence base:

“TL's own consideration of the contribution under purposes 1 and 2 for the whole of green belt parcel 4 concludes a more moderate contribution to that contained in the Green Belt Topic Paper 2018. Despite the stronger contribution contained in the Topic Paper, TL welcomes and supports the allocation and its justification.”



7.4.10 Finally, importantly, the EiP SoCG noted the following agreement between the Appellant and CPBC:

*“Landscaping requirements are included within Policy HO13 to mitigate landscape harm as recommended in this report. CPBC and TL are therefore satisfied **that the Green Belt evidence supports allocation HO13.**” [my emphasis]*

7.4.11 Indeed, the report states, *“The development site is currently open countryside and has particular significance to the Green Belt purpose of preventing urban coalescence and so therefore any development would need to be well screened.”*

7.4.12 In addition to the first three purposes of the Green Belt, as outlined above, CPBC (in the officer’s report to committee (CD 5.2)) has also sought to introduce further harm under purpose e) of the Green Belt (*‘to assist in urban regeneration, by encouraging the recycling of derelict and other urban land’*). In their appendix to the officer’s report to the development management committee (CD 5.2), it is stated, *“This proposal to build in the Green Belt acts against this purpose where one of the key functions is to direct development to urban areas and assist in urban regeneration through use of previously developed land and other land within urban areas. As a result the proposal is considered to result in substantial harm to this purpose.”*

7.4.13 I note that agreement has been reached with CPBC in the signed Statement of Common Ground that there is no longer an issue between us on purposes d) and e) of the Green Belt. However, for completeness, I address purpose e) further in this section of my PoE.

7.4.14 The Green Belt Review Part One references the Planning Advisory Service’s (PAS) Guidance, which states *“If Green Belt achieves this purpose, then all Green Belt does so to the same extent and hence the value of various land parcels is unlikely to be distinguished by the application of this purpose”*. CPBC therefore concluded *“As such this purpose is excluded from this review as each parcel would receive the same assessment.”*

7.4.15 As outlined in section 7.16 of my PoE and in appendix 2, CPBC continues to refuse new developments on brownfield sites (and where brownfield sites benefit from planning permission, the provision of affordable housing is substantially reduced).

7.4.16 I refer to the evidence base for the now withdrawn local plan which identified an ability for 53% of the identified housing need to be delivered on brownfield sites. The remaining 47% was to be delivered on Green Belt sites. There was a clear strategy envisaged by CPBC for the redevelopment of brownfield sites, in addition to the delivery of new market and affordable homes on Green Belt sites.

7.4.17 I do not consider that the development of this site would significantly impact upon purpose e) of the Green Belt, as alleged by CPBC. I am supported in my view by the conclusions of the inspector in the Colney Heath appeal decision⁴, which is enclosed at CD 8.7 of my PoE. The inspector concluded, at

⁴ Roundhouse Farm, Land off Bullens Green Lane, Colney Heath (APP/B1930/W/20/3265925 & APP/C1950/W/20/3265926), allowed 14 June 2021



paragraph 27, that *“I have no substantive evidence to suggest that the development of this site would disincentivise the urban regeneration of sites elsewhere. Given the scale of development proposed to be located within the WHBC boundary I do not consider that the proposals would be likely to adversely impact on the regeneration of urban redevelopment sites elsewhere. There would as a result be no conflict with this purpose. Again, this is a neutral factor which weighs neither in favour nor against the appeal proposals.”*

7.4.18 I acknowledge that the context of the appeals in Colney Heath and the appeal in the immediate case is different, as is the overall scale of development. However, the context in CPBC is a local planning authority which has not adopted an up-to-date local plan since November 1998 which can significantly boost the supply of housing in the borough and meet identified needs. It was accepted that, to meet identified needs in full within the now withdrawn local plan, a combined approach to delivering housing on brownfield and greenfield sites would be required (particularly with regard to the ability to deliver affordable housing). Paragraph 9.48 of the adoption version of the now withdrawn Local Plan (2018-2033) (March 2022) (CD 7.2) states, *“The delivery of affordable housing depends on the development of key strategic sites, where market housing is needed to support the delivery of affordable homes.”*

7.4.19 I therefore consider the impact on purpose e) of the Green Belt to be neutral. In similarity with the inspector in the Colney Heath case, I do not consider that this weighs either favourably or negatively in the overall planning balance.

7.4.20 The harms outlined within appendix one of the officer’s report to the development management committee (CD 5.2) are overstated, and do not reflect the specific design and open space led approach to development which has been prepared by the Appellant.

7.5 Interim conclusion regarding the Green Belt

7.5.1 The NPPF, at paragraph 152, confirms that *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”* It is common ground between the parties that the proposals represent inappropriate development. Therefore, the NPPF continues (at paragraph 153) that *“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.”*

7.5.2 Paragraph 153 requires that ‘substantial weight’ is given to any harm to the Green Belt. Mr Smith’s evidence has considered the conclusions of CPBC’s evidence base for the now withdrawn local plan (2018-2033), the table contained at appendix one of the officer’s report to the development management committee, in addition to his own view of the potential impacts of the scheme on the Green Belt.

7.5.3 I agree with Mr Smith in relation to his conclusions regarding the openness of the Green Belt, and the purposes of the Green Belt. In light of these conclusions, I consider there is moderate harm to the purposes of the Green Belt. Mr Smith’s evidence confirms his view (and my view, as expressed



through the examination of the CPBC Local Plan 2018-2033) that the site's contribution to purposes a) – c) is overstated. Even if it were considered that the harm to purposes is significant, as a consequence of the appeal proposals, I remain of the conclusion that there are very special circumstances which outweigh the identified harm to the Green Belt and any other harm resulting from the proposals. A finding of significant, rather than moderate harm, also does not change the overall weight to be afforded to the harm to the Green Belt (substantial weight, as stipulated by paragraph 153 of the NPPF).

- 7.5.4 With regard to openness, I accept that there will inevitably be an impact on the visual and spatial openness of the appeal site. Mr Smith considers that the appeal site has a high level of visual containment from the wider context as a result of the combination of topography, peripheral vegetation and adjacency, in part, to the built-up area. In addition, he notes that 51% of the site is to be multi-functional open space, which he identifies to be *"a positive response to the character of the site and its context, a response that acknowledges guidance from the Council's SHELAA and Site Capacity assessment and importantly in Green Belt terms remains 'Open'"*.
- 7.5.5 In light of these conclusions, and the evidence contained within the evidence base for the now withdrawn Castle Point Local Plan (2018-2033), I consider there will be localised moderate harm to the openness of the Green Belt. Even if it were considered that the harm to openness is significant, as a consequence of the appeal proposals, I remain of the conclusion that there are very special circumstances which outweigh the identified harm to the Green Belt and any other harm resulting from the proposals. A finding of significant, rather than moderate harm, also does not change the overall weight to be afforded to the harm to the Green Belt (substantial weight, as stipulated by paragraph 153 of the NPPF).
- 7.5.6 Considering the provisions of the NPPF, it does not require a disaggregated approach to considering Green Belt harm (ie considering definitional harm, harm to openness and the purposes of the Green Belt separately). There is very little way of giving Green Belt harm anything other than substantial weight (as per the provisions of the NPPF) but this is an overall ascription of harm, not a case of giving each and every point in the Green Belt its own 'substantial weight'. I therefore, in my overall planning balance, afford substantial weight to the identified Green Belt harms.
- 7.5.7 I am supported in this view by the conclusions of inspectors, and the Secretary of State, in the determination of several recent appeals, in which the decision maker has afforded substantial weight to the harm to the Green Belt as a whole, rather than three separate conclusions. These decisions are as follows:
- Land north and south of Chiswell Green Lane, Chiswell Green, St Albans (APP/B1930/W/22/3313110 & APP/B1930/W/22/3312277), allowed 22 March 2024 (enclosed at CD 8.3). At paragraph 39 (and 41 for Appeal B), the Secretary of State concluded, *"Weighing against the proposal is the harm to the Green Belt from inappropriateness, harm to openness,*



and harm to three of the purposes of the Green Belt, which carries substantial weight.” I am clear that the Secretary of State (and the inspector) afforded substantial weight to the overall harm to the Green Belt, in accordance with the relevant provisions of paragraph 153 of the NPPF.

- Land north of Kennel Lane, Billericay (APP/V1505/W/22/3298599), allowed 9 December 2022 (enclosed at CD 8.4). At paragraph 67 of the decision, the inspector stated *“I have found that the appeal proposal represents inappropriate development in the Green Belt, which is harmful by definition. It will also cause moderate harm to openness and limited harm to the 3 purposes of including the appeal site in the Green Belt. In accordance with paragraph 148 of the Framework [now 153], any harm to the Green Belt must be given substantial weight, weighing against the appeal proposal.”*
- Land lying to the east of Hartfield Avenue and fronting on to Barnet Lane, Elstree, Hertfordshire (APP/N1920/W/23/3329947), allowed 25 March 2024 (CD 8.5). At paragraph 169 of the decision, the inspector noted that the *“starting point, as previously expressed, is to attribute substantial harm to the Green Belt and its purposes.”*
- Land east of Manor Trading Estate (APP/M1520/W/22/3310794), dismissed 9 May 2023 (CD 8.2). At paragraph 86, the inspector, in reaching their decision, stated, *“Consequently, I conclude that the potential harm to the Green Belt, by reason of inappropriateness, moderate harm to openness, and limited harm to purposes, to which I give substantial weight...”*
- Land rear of 17-49 Church Lane, Sarratt (APP/P1940/W/22/3311477) and land adjacent to 97 Church Lane, Sarratt (APP/P1940/W/22/3311479), allowed 3 May 2024 (CD 8.14). At paragraph 29, considering Appeal A, the inspector concluded, *“...I consider that the introduction of a significant amount of built form on an undeveloped area would inevitably result in a significant loss of openness on the Green Belt causing material harm, as well as harm by inappropriateness. It would conflict with the Green Belt purpose of safeguarding the countryside from encroachment. The Framework directs that substantial weight should be given to any harm to the Green Belt in the planning balance.”*

Furthermore, at paragraph 74, the inspector (again considering Appeal A) concluded, *“In Appeal A, there would be a significant loss of openness, as well as a conflict with a purpose of the Green Belt, namely safeguarding the countryside from encroachment. All this Green Belt harm in Appeal A must **holistically** be given substantial weight.” [my emphasis]*

- 7.5.8 The Secretary of State and the inspectors in the above appeals have all considered the impacts upon the openness of the Green Belt, in addition to its purposes, before affording substantial weight to these factors alongside definitional harm. I therefore afford **substantial weight** to the identified harm to the Green Belt as directed by paragraph 153 of the NPPF.



Other considerations

7.6 Landscape

7.6.1 In similarity with section 7.1 of my PoE, I refer to the evidence prepared by Mr Smith in relation to the landscape and visual impacts associated with the appeal proposals. Mr Smith's view has also been informed by the Landscape and Visual Impact Assessment prepared by Leyton Place Ltd, which is included at CD 1.20.

7.6.2 The site has been designed to mitigate as much as possible the potential landscape and visual impacts arising out of the proposals. In this instance the site was identified by CPBC as a suitable and appropriate location for new housing and included as a sound housing allocation in the now withdrawn Local Plan.

7.6.3 The parameter plans submitted in support of the proposals were informed by extensive, comprehensive, and detailed technical analysis across a range of disciplines. The collaborative design approach has responded positively to the environmental requirements. The new settlement edge is permeable in terms of access and visibility, rich in landscape assets and delivers a variety of spaces, functions, and environmental benefits.

7.6.4 This approach enables a design solution which embraces the aims of paragraph 102 of the NPPF, namely:

“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. 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.”

7.6.5 It should also be noted that the Zone of Theoretical Visibility (ZTV) presented on page 9 of the submitted LVIA (CD 1.20) demonstrates the localised potential adverse effects associated with the development of the site. The site's boundaries are such, that paired with proposed planting and the natural topography of the site, the site is unlikely to have a significant adverse effect on local street scenes.

7.6.6 The proposals therefore respond positively to their location and have been genuinely landscape led in their development.

Landscape policy position

7.6.7 I note the requirement under article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) for local planning authorities, where planning



permission is refused, *“to state clearly and precisely the full reasons for refusal, specifying all policies and proposals in the development plan that are relevant to the decision.”*

7.6.8 The decision notice (CD 5.1) includes a solitary reason for refusal, which makes no reference to the policies of the adopted development plan (referring only to *“Government advice as contained in the National Planning Policy Framework”*). The lack of references to the adopted policies of the adopted development plan is important in the determination of this appeal.

7.6.9 I consider it pertinent to review the policies CPBC considered relevant to the determination of the application, in the officer's report to the development management committee (CD 5.2, page 14). No landscape related policies are highlighted in the schedule of relevant policies.

7.7 On 20 September 2007, the Secretary of State issued a direction confirming policies which would be saved and policies which would expire on 27 September 2007. It is important to note the following from the saving direction letter:

- The letter is clear that saved policies would not remain up-to-date because they had been saved. The letter states, *“The extension of saved policies listed in this Direction **does not indicate that the Secretary of State would endorse these policies if presented to her as new policy.** It is intended to ensure continuity in the plan-led system and a stable planning framework locally, and in particular, a **continual supply of land for development.**”* [my emphasis];
- The Secretary of State anticipated that the saved policies would be replaced ‘promptly’: *“The exercise of extending saved policies is not an opportunity to delay DPD preparation. Local planning authorities should make good progress with local development frameworks according to timetables in their local development schemes. **Policies have been extended in the expectation that they will be replaced promptly** and by fewer policies in DPDs. **Maximum use should be made of national and regional policy.**”* [my emphasis]; and
- The Secretary of State was clear that that *“**Where policies were adopted some time ago, it is likely that material considerations, in particular the emergence of new national and regional policy and also new evidence, will be afforded considerable weight in decisions.**”* [my emphasis]

7.7.1 The schedule of saved policies, appended to the Secretary of State's saving direction, included policy EC16 (Protection of Landscape). The policy seeks the ‘protection of landscape’, which is consistent with the policies of the NPPF which seek to ‘recognise the intrinsic character and beauty of the countryside’. The policy states that *“Development which would have a significant adverse visual impact on the surrounding landscape will not be permitted. When assessing the impact of a development the council will have regard to: (i) the prominence of the development in terms of its scale, siting and external materials; (ii) the visual relationship of the development to the open*



countryside. Planning permission for potentially obtrusive development upon ridgelines or prominent hillsides will be refused.”

7.7.2 On 2 April 2013, CPBC published a NPPF Consistency Check for the policies of the adopted Local Plan (November 1998). The document identified the policy to be inconsistent with relevant policies in the NPPF *“because it is applicable to all landscapes regardless of their value.”* CPBC notes that the applicability of the policy should be limited to *“those areas of the local landscape considered to be valuable.”* The document further notes *“Otherwise, policy EC16 is consistent with the NPPF because it is criteria based policy for the landscape...”*

7.7.3 The officer’s report to planning committee did not make reference to policy EC16.

Potential landscape and visual impacts of the appeal scheme

7.7.4 I note from CPBC’s SoC reference to the *Cawrey*⁵ judgment. CPBC considers this judgment establishes that the recognition of the intrinsic character and beauty and character of the countryside necessarily imparts a degree of protection to those matters. My own view of this case is that the judgment confirms that the countryside can be relevant to landscape issues and that the loss of undesignated countryside is capable of being harmful in the planning balance, but it does not provide for a blanket protection of the countryside for its own sake. Indeed, the *Telford and Wrekin*⁶ case confirms (at paragraph 47), *“...NPPF does not include a blanket protection of the countryside for its own sake, such as existed in earlier national guidance (e.g. Planning Policy Guidance 7), and regard must also be had to the other core planning principles favouring sustainable development, as set out in NPPF 17”*.

7.7.5 It is agreed between the parties in the SoCG (CD 9.1) that the scheme is not a valued landscape as per the provisions of paragraph 180a of the NPPF. Based upon the conclusions of the LVIA, and the evidence prepared by Mr Smith, I consider that **moderate weight** should be attributed to the potential landscape and visual harm arising from the proposal.

7.8 **Best and most versatile agricultural land**

7.8.1 At CD 2.67 is an Agricultural Land Classification survey, which was commissioned further to the original comments received from Natural England (CD 4.9). I would highlight the following particular conclusions of note contained within the report:

- Only 19.3ha out of 27.9ha of the site is agricultural land – the rest is made up of non-agricultural uses, such as grassland for equestrian use, a fishing lake, former farm buildings and field boundaries. .

⁵ *Cawrey Ltd and SoSCLG and Hinkley and Bosworth BC* [2016] EWHC 1198 (Admin) (CD 12.11)

⁶ *Borough of Telford and Wrekin v SoSCLG & Anr* [2016] EWHC 3073 (Admin) (CD 12.12)



- With regard to whether the agricultural land is ‘best and most versatile’ (BMV), the land has been classified as comprising of 0.6ha (2%) Grade 2, 17.3ha (62%) Grade 3a, 1.4ha (5% of Grade 3b, with the remaining 8.6ha being land that is not classified due to not being agricultural. We note it is only grades 1 – 3a which qualify as best and most versatile agricultural land.
- The total amount of BMV land on site is 17.9ha, which falls below 20ha. Natural England sets the threshold for consultation, regarding whether the loss of BMV land is significant, at 20ha or more. Due to the proportion of non-agricultural land, the quantum of BMV land within the site is under the 20ha threshold for consultation with Natural England and is not significant.
- Kernon Countryside Consultants has determined the economic value of the BMV land to be less than £6,000 per annum. The report itself concludes that these economic benefits are ‘limited’ in nature. I am clear in my PoE regarding the associated economic benefits of the proposed development, including the economic and employment benefits arising from the construction of the scheme, the additional purchase power of new residents which will help to boost the local economy further to the completion of the development and the other employment benefits, such as the new jobs generated by the proposed new community uses. The National Planning Policy Framework (NPPF) is clear, in paragraph 174, that the economic benefits of the any BMV land should be recognised in the overall planning balance.

7.8.2 The loss of best and most versatile agricultural land must be weighed alongside the potential impact of the scheme on the Green Belt, and the identified minimal landscape and visual harm. However, whilst the loss of best and most versatile agricultural land on site is noted and weighed as an adverse impact. I consider **limited weight** should be afforded to the loss of BMV land in the determination of the appeal.

7.9 Other technical matters

7.9.1 I consider that all technical matters have been satisfactorily resolved in the determination of the planning application by CPBC. This is confirmed by the suite of responses received from statutory consultees during the determination of the scheme and the agreement of these matters by the officer in their report to the development management committee (CD 5.2). The decision notice includes a sole reason for refusal which is limited to the perceived impact of the proposals on the Green Belt.



8 VERY SPECIAL CIRCUMSTANCES

8.1 Provision of market housing and housing land supply (and Housing Delivery Test results)

- 8.1.1 At the time of preparing this proof of evidence, CPBC acknowledges its inability to demonstrate a five-year housing land supply. As discussed earlier in my PoE, the correct way for CPBC to calculate its housing land supply is using the standard method, as prescribed by paragraph 77 of the NPPF, which is absolute with regard to the appropriate approach to calculating supply. The most recently published Annual Monitoring Report (AMR) for the borough⁷ outlines that CPBC can only demonstrate a 1.86-year housing land supply. Within this report CPBC stated on page 14:

“The Council is unable to identify five years’ worth of housing land supply and will be unable to do so going forward. The supply position worsens as a backlog develops due to under delivery.”

- 8.1.2 Figure 9 of the AMR similarly outlines the anticipated delivery of housing over the period 2027 – 2032. Over this period, it is projected CPBC’s housing land supply position will significantly worsen to just 1.44 years (ie provision of 1,083 dwellings against a requirement of 3,765 dwellings). On page 14, the report states, *“This table indicates that the Council is unable to identify five years’ worth of housing land supply and will be unable to do so going forward. The supply position worsens as a backlog develops due to under delivery. It will be necessary to get a plan in place to overcome this situation.”*
- 8.1.3 As discussed at section 7.12 of my PoE, the earliest potential date for a new local plan to be in place to assist in rectifying the severe shortfall in housing land supply is March 2026 (as outlined in the latest Local Development Scheme, appendix 3)
- 8.1.4 Further to research of recent appeal decisions in the borough, I note this position has not been contested and has been common ground⁸. In paragraph 84 of the Manor Trading Estate, Benfleet appeal, the inspector acknowledges the ‘widespread acceptance’ that the use of Green Belt land will be required to meet the identified housing needs of the borough.
- 8.1.5 Furthermore, at the time of writing, CPBC’s emerging local plan has not reached regulation 18 draft stage (with draft allocations/policies map). CPBC does not benefit from the transitional arrangements outlined in paragraph 226 of the NPPF, regarding the requirement to demonstrate only a four-year supply (in any event, I do not consider CPBC would be able to demonstrate a four-year supply of housing land even if its emerging policies had reached regulation 18 stage).
- 8.1.6 The inspector will note the conclusions of the Planning Statement (CD 1.4), and the following correspondence with CPBC, where the weight to be attached to the provision of market housing has been considered:

- CD 2.2 – Letter to Terrence Garner regarding the Hart Road, Thundersley appeal decision;

⁷ Enclosed at appendix 9 of my PoE

⁸ APP/M1520/W/22/3310794 Land east of Manor Trading Estate (CD 8.2)



- CD 2.3 – Letter to Terrence Garner regarding the Manor Trading Estate, Benfleet appeal decision
- CD 2.9 – Letter to Terrence Garner regarding the application in advance of determination of the scheme by CPBC's development management committee.

8.2 The Housing Delivery Test

- 8.2.1 CPBC has failed the 2020, 2021 and 2022 Housing Delivery Test measurements, with only 50% housing delivery in the 2022 measurement. As a consequence of this, paragraph 79I of the NPPF stipulates a 20% buffer must be applied to their identified supply of deliverable sites, in addition to a requirement for an action plan to be prepared, and automatic engagement of the tilted balance as outlined in footnote 8 of paragraph 11d) of the NPPF.
- 8.2.2 CPBC is the 19th worst performing local planning authority in England according to the latest HDT results (for 2022, as published in December 2023). Results from previous iterations of the HDT have shown extremely limited improvements in the provision of new housing (an increase from 49% to 50% between the 2021 and 2022 test measurements).

8.3 Projected delivery of housing from the appeal scheme

- 8.3.1 TLDL anticipates the following timetable for the marketing, sale and delivery of the proposals on land east of Rayleigh Road, Thundersley, subject to the appeal being allowed (using the anticipated decision date outlined within the Start Letter received on 7 March 2024):
- Anticipated appeal decision – 8 August 2024
 - Sale of the outline planning permission – 12 months (likely sold to two housebuilders, who would build out the site simultaneously).
 - Preparation, submission and determination of reserved matters and discharge of pre-commencement condition applications (assumed preparation of reserved matters applications would commence in advance of completion of sale of the site) – 12 months.
 - Lead in time to first legal completion on site – 12 months.
 - 100 dwelling per annum assumed thereafter (50 per annum per housebuilder on site, subject to favourable market conditions).
 - Completion of the site in 2032.
- 8.3.2 The site could make a contribution therefore of 200 dwellings towards CPBC's housing land supply position, which is a substantial contribution compared to any other sites currently benefitting from planning permission in CPBC at the time of preparing my PoE. This is an important consideration in determining the weight to be afforded to the delivery of new market housing on the site.



8.4 Reduction in economically active population

- 8.4.1 Phase one of the Census 2021 results were published on Tuesday 28 June 2022. These are the first estimates of the number of people and households in England and Wales. The phase one results allow users to understand population changes identified within the Census 2021 for individual local planning authority areas, in comparison to national averages.
- 8.4.2 The phase one results identify that, in Castle Point, the population size has increased by 1.8%, from around 88,000 in 2011 to 89,600 in 2021. This is lower than the overall increase for England (6.6%), where the population grew by nearly 3.5 million to 56,489,800.
- 8.4.3 The phase one results also allow users to understand population change (%) by age group. The results for Castle Point identify that there has been an increase of 18.9% in people aged 65 years and over. However, for people aged 15 to 64 years, there has been a decrease of 4.6% (average across this age range). The chart below, sourced from the Census 2021, outlines significant decreases in population across economically active aged residents in the borough. This highlights a potential forthcoming impact upon local services and facilities, which are reliant upon economically active residents to ensure their longevity.
- 8.4.4 The Census 2021 data does not provide any specific reasons for the decreasing population for economically active aged residents in the borough. However, when considering the housing completion data in the borough over the period 2011 to 2021, it is clear to see that there has been a significant under supply in new housing (including new affordable homes), which could accommodate local residents wishing to remain in the borough. The substantial under delivery of new housing in the borough (particularly for new family housing) is restricting the ability for economically active residents to remain in the borough.
- 8.4.5 Referring to CPBC's Annual Monitoring Reports, it is clear that 3,205 new dwellings should have been provided in the borough over the period 2011/12 to 2020/21 (based upon various housing requirements over the same period). Only 1,205 dwellings were delivered over the same period, a shortfall of 2,000 dwellings. The most recent evidence for required housing mix in the borough (contained within now withdrawn policy HO3, Housing Mix), outlined within the Addendum to the South Essex Strategic Housing Market Assessment (SHMA) for Castle Point (2020), demonstrates that new houses are the predominant type of accommodation required in the borough over the period to 2033 (68% houses, 25% bungalows and 7% flats). The size of accommodation required indicates a need primarily for 2, 3 and 4 (or more) bed houses (22% 2-bed, 43% 3-bed and 29% 4-bed), which reflects the data contained within the Census 2021. There simply has not been enough family housing provided in the borough over the period 2011-2021 to support economically active aged residents in the borough.



8.4.6 The site at land east of Rayleigh Road can provide much needed new homes (including 40% affordable housing, across affordable rented and ownership tenures) which can support the retention of economically active aged residents in the borough.

8.5 **Interim conclusions regarding the provision of market housing**

8.5.1 In light of the acute and persistent shortfall in the delivery of market housing against identified needs, and the important and valuable contribution this scheme can make to rectifying the acute shortfall in CPBC, I consider that this very significant benefit should be afforded **very significant** weight.

8.5.2 I note the following appeal decisions which support my view that the weight to the provision of market housing should be very significant in local planning authorities which have such a substantial, sustained and persisting shortfall in housing delivery, and housing land supply:

- Land north and south of Chiswell Green Lane, Chiswell Green, St Albans (APP/B1930/W/22/3313110 & APP/B1930/W/22/3312277), allowed 22 March 2024 (enclosed at CD 8.3).
- Land north of Kennel Lane, Billericay (APP/V1505/W/22/3298599), allowed 9 December 2022 (enclosed at CD 8.4).
- Land lying to the east of Hartfield Avenue and fronting on to Barnet Lane, Elstree, Hertfordshire (APP/N1920/W/23/3329947), allowed 25 March 2024 (CD 8.5)
- Land south of Dunton Road, Basildon (APP/V1505/W/23/3325933), allowed 11 December 2023 (see CD 8.8).
- Land at Sondes Place Farm, Westcott Road, Dorking (APP/C3620/W/3324631), allowed 28 November 2023 (enclosed at CD 8.6).

8.5.3 In the Chiswell Green, St Albans appeal decision⁹, the Secretary of State agreed with the inspector, at paragraph 28 of their decision letter, *“that there is a very substantial need for housing in the district which is persistently going unmet, that the Local Plan housing requirement is **hopelessly** out of date, and that, using the standard method, the Council can demonstrate just a two-year housing land supply at best. He also notes that the latest HDT has been failed by some margin. Therefore, the presumption in favour of sustainable development is triggered, in accordance with footnote 8 to paragraph 11(d) of the Framework.”* **[my emphasis]**

8.5.4 The circumstances in the Chiswell Green case are extremely similar to the context in CPBC. CPBC’s housing land supply position stands at just 1.86-years (projected to worsen to just 1.44 years between 2027 and 2032), and the housing requirement in the adopted local plan has not been reviewed or updated since 1998. Housing in the borough is persistently under delivered and it is abundantly clear

⁹ Land north and south of Chiswell Green Lane, Chiswell Green, St Albans (APP/B1930/W/22/3313110 & APP/B1930/W/22/3312277), allowed 22 March 2024



that insufficient opportunities exist on brownfield sites to rectify the substantial shortfall in housing supply. Green Belt land will inevitably be required to assist CPBC in meeting its identified housing needs.

8.6 **Provision of Affordable Housing and Affordability**

8.7 There is a significant need for affordable housing across the country and, indeed, there is an acute need for additional affordable housing in CPBC. Indeed, this is acknowledged in CPBC's Corporate Plan¹⁰, under 'Place' and 'Housing':

*"The pace of housing growth in the Borough has been the second lowest in Essex with an average of just 0.4% growth in overall housing stock per year between 2001 and 2019; the number of homes has increased from 35,770 in 2001 to 38,828 in 2019. Castle Point Council is the second lowest stockholding council landlord in England with just over 1,500 homes. This results in a shortage of affordable housing **for which there is an acute demand.**" [my emphasis]*

8.8 I agree with the conclusions of Mr Donagh regarding the scale of the affordable housing need in the borough, which significantly exceed the figures contained within CPBC's Local Housing Needs Assessment (December 2023).

8.9 The appeal scheme proposes that 40% of the overall homes to be provided would be affordable. This equates to the provision of 182 affordable homes (this contribution is considered in further detail within this section of my PoE in the context of the total number of affordable homes provided since 2011). Policy HO4 of the withdrawn Castle Point Local Plan (2018-2033) had included a requirement for 40% affordable housing. However, as discussed earlier in my PoE, this policy has been withdrawn and can no longer be afforded weight in the consideration of this scheme.

8.10 Referring to the adopted policies of the Castle Point Local Plan (November 1998), policy H7 concerns the delivery of affordable housing. The policy does not contain a formal percentage which is expected from new housing developments in the borough; indeed, the policy states, *"Where appropriate the council will seek to negotiate a proportion of affordable housing for rent, shared ownership, or outright sale, where appropriate to the scale of development schemes. The number of affordable dwellings to be provided will be dependent upon the size of the site, its location, and any substantial costs associated with the provision of other necessary infrastructure, and will be determined by the council, following negotiation with the applicant."*

8.11 Within the supporting text (paragraph 4.28) it is stated, *"The Council will therefore seek to negotiate with developers to provide up to 20% of all dwellings built on large sites as affordable housing, where appropriate."* 40% affordable housing provision against the requirement highlighted within the supporting text to policy H7 is therefore a significant over provision which should be afforded weight

¹⁰ Castle Point Corporate Plan 2021-24 (appendix 11)



in the overall planning balance (the overall weight to affordable housing is considered later in this section of my PoE).

8.12 Turning my attention to more recent published positions, I note CPBC adopted in March 2023 its Developers Contributions Guidance Supplementary Document (SPD) for Affordable Housing (see CD 6.27). It should be noted that this document is guidance only and does not constitute policy which has been formally prepared and scrutinised as part of an examination in public. However, I note within section 5.3 of the document, at paragraph 5.3.3, it is stated *“The Council will therefore seek 35% affordable housing on development sites proposing 10 or more units”*. Whilst not a formal policy, I note that 35% is based upon the evidence base prepared in support of the now withdrawn local plan, in addition to past provision on other sites in the borough. The provision of 40% affordable housing represents an over provision of 5% against the requirement contained within the affordable housing SPD.

8.13 **Need for affordable housing**

8.13.1 The South Essex Housing Market Assessment Addendum (2017) formed part of the evidence base for the now withdrawn Castle Point Local Plan (2018-2033). This document identified a need for 353 affordable homes per annum over the period 2014-2019, and then 291 per annum to 2036/37.

8.13.2 More recently, the South Essex Housing Needs Assessment (SEHNA, published June 2022) provided an updated assessment of affordable housing need in Castle Point. Table 6.4 of the SEHNA (please see CD 6.19) outlines a newly (gross) arising need for 406 affordable homes per annum, over a 19-year period. The report further estimates a supply of 80 affordable homes per annum in the borough over the same period. The net annual need for new affordable homes is therefore estimated to be 326 affordable dwellings per annum.

8.13.3 Section 7 of Mr Donagh’s PoE reviews and assesses the identified affordable housing need for CPBC. Within his evidence, Mr Donagh considers the conclusions of the SEHNA, finding these to be appropriate and clearly reflecting the scale of affordable housing need in the borough.

8.13.4 In addition to identified needs, I also note the conclusions of the Castle Point Corporate Plan which, under target PL2, seeks to *“Increase the number of new affordable homes to 100 per annum by 2025 (from the March 2021 baseline of 13)”*. The objective notes the need to *“have enough quality new homes to support our growing population, minimise homelessness [considered further under paragraph 7.14 of my PoE] and meet our housing needs as they change over different stages of our lives.”*

8.13.5 Under “Initiatives to support delivery of objectives”, the Corporate Plan notes the intention for *“Progression of the Local Plan through Examination to Adoption, supporting increase in overall supply of housing and affordable housing to meet local need”*. The Corporate Plan was published in November 2021, reflecting the clear aim of CPBC at that time to adopt the emerging Castle Point Local Plan (2018-2033), subject to a favourable outcome to the examination. As discussed in my PoE,



the plan was withdrawn, completely removing any ability for CPBC to boost the delivery of housing (including affordable housing) in the borough.

8.13.6 In the officer's report to a meeting of Full Council on 23 March 2022 (CD 7.3, regarding the proposed adoption of the now withdrawn Castle Point Local Plan 2018-2033), it was noted that *"Each year of delay adds another year of unmet need to the housing target, and with so few affordable homes being built, it also means that tackling homelessness and reducing the Council waiting list is not possible."*

8.13.7 The implications of not adopting the local plan were further considered in another officer's report to Full Council on 15 June 2022 (appendix 4). At paragraph 6.4 c), the report highlights:

"Without a supply of development sites, affordable housing delivery will be at risk. The Council has a current waiting list of about 600 households, which is growing annually faster than people can be housed through relets."

The unadopted local plan not only allocates sufficient housing land to meet the assessed need, it includes an affordable housing policy that would secure up to 40% of the new dwellings as affordable (and could have delivered around 1,200 homes). In addition, the viability of these sites has been tested through the plan making process, and proven that affordable housing, and infrastructure can be provided."

8.14 **Past delivery of affordable housing in the borough**

8.14.1 As outlined within the Planning Statement submitted with the planning application (CD 1.4), there has been a substantial and persistent under delivery of affordable housing in the borough since the 2011/12 monitoring year. I note CPBC's annual monitoring report for 1 April 2021 – 31 March 2022 identifies just 169 affordable properties have been delivered over the period 2011/12 to 2021/2022.

8.14.2 Furthermore, in three separate monitoring years (2013/14, 2019/20 and 2021/22) no affordable houses were provided in the borough. I note that the severe shortage is having significant real-world consequences for people living in Castle Point:

- A recent report by Shelter¹¹ summarises the local rates of people who are homeless (living in temporary accommodation or sleeping on the streets) by local planning authority area. In Castle Point, it is estimated that 309 people are homeless and living in temporary accommodation arranged by CPBC (160 Of the people living in temporary accommodation are children), as of 30 June 2023. A further 6 people live in temporary accommodation arranged by themselves. The report estimates a total number of people who are homeless in the borough at 315, with a rate of homelessness of 1 in 284 people.

¹¹ Homelessness in England 2023 (December 2023), appendix 10



- As discussed further in section 7.9 of my PoE, the current affordability ratio in the borough is 11.20 (ie 11.20 times the median gross annual wage). The national average currently stands at 8.14.
- The median house price in Castle Point has increased from £211,500 in 2014, to £362,500 in 2023 (an increase of 58%).
- In addition, the stock of affordable housing in the borough continues to decrease, in the light of a sustained lack of provision. Through right to buy sales, 81 affordable homes have been lost in the borough since 2012/13. This matter has been considered by two planning inspectors in recent appeal decisions in Castle Point (please refer to paragraphs 7.8.3 to 7.8.7 of my PoE).

8.14.3 The record of affordable housing delivery in CPBC is abysmal. My conclusions within my PoE are supported by the conclusions of the inspector for the appeal on land rear of 248 Hart Road, Thundersley¹², at paragraph 46:

*The SoCG [Statement of Common Ground] also alludes to problems of delivery of affordable homes in the Borough. Moreover, the evidence before me demonstrates only 130 affordable homes were constructed between 2014 and 2022, but this does not include the 56 homes within existing stock transferred through Right to Buy over that period. The net figure of affordable homes built is therefore 74 or nine dwellings per annum, which equates to six percent of all homes built. When this is compared to the need set out above, **there is a shortfall of 2564 homes over the period or 326 each year, and only three percent of needs met.**" [my emphasis]*

8.14.4 The inspector continued, at paragraph 47:

*To add to this, data from DLUHC presented in the appellants' report by Savills indicates affordable housing stock within Castle Point represents only a small proportion of the total stock (5.41 percent), which is significantly below the Essex average of 14.21 percent and 16.4 percent for England. **The Council therefore has very limited existing affordable housing stock and is falling significantly short of meeting its assessed need.** Moreover, waiting times for 1-bed properties are 12-18 months, 18-24 months for 2-bed homes, and 30-36 months for a 3-bed house. As such, **the outlook is very bleak for the significant number of households on the Housing Register**, which has increased year-on-year, but is **unlikely to capture all those in need of affordable housing**, with the overall housing need likely being much greater. To add to this, the appellants' evidence demonstrates there are considerable affordability problems with house prices and rent levels in the Borough, which are increasing." [my emphasis]*

8.14.5 Were the appeal for land east of Rayleigh Road, Thundersley to be allowed, I note that the affordable homes to be provided by the scheme (40% of the overall number of homes to be provided) would

¹² Land rear of 248 Hart Road, Thundersley (APP/M1520/W/22/3310483), allowed 26 May 2023



equate to 182 homes, exceeding the total number of homes delivered in the borough over an 11- year period (169 affordable homes, as noted in the most recent AMR).

- 8.14.6 Similarly, I note the conclusions of the inspector in the Manor Trading Estate, Benfleet appeal decision¹³ regarding the scale of the affordable housing need in the borough. At paragraph 65 of the decision, the inspector summarised:

*“To meet its full needs, the Council would require 291 affordable homes each year. In the last three years, only 12 affordable homes have been delivered. **No affordable housing at all has been delivered in two of the last three years.**” [my emphasis]*

- 8.14.7 Continuing their assessment of the appeal proposals at paragraph 66, the inspector further concluded:

“About one third of all public representations made in response to the planning application favour the proposal. That represents an unusual amount of public support. Many make specific reference to the need for housing in general and affordable housing in particular. The figures show that the proposal would make a significant contribution towards meeting the Council’s general and affordable housing needs. It is hardly surprising then, that both parties agree that this should be given substantial weight in the planning balance. I concur.”

- 8.14.8 The record of affordable housing delivery in CPBC is dire and I note that this view has been shared by inspectors in two recent appeal decisions in the borough (as outlined at paragraphs 7.8.3 – 7.8.7 in my PoE).

8.15 **Affordability ratios (and house price data)**

- 8.15.1 At appendix 5 of my PoE, I enclose a spreadsheet which highlights the following:

- Median house price in Castle Point borough, from 2004 to year ending September 2023;
- Median gross annual workplace-based earnings in Castle Point (2004 to 2023); and
- Ratio of median house price to median gross annual (where available) workplace-based earnings in Castle Point 2004 to 2023.

- 8.15.2 Tables 5a through 5c of my appendix 5 demonstrate a significant worsening in affordability in CPBC over the period from 2004, including a substantial rise in house prices over the same period. Table 5c clearly shows that median gross annual workplace-based earnings cannot keep pace with the substantial increase in house prices, reflected in the current affordability ratio¹⁴, which stands at 11.20 (a reduction from 12.29 in 2022, consistent with an improved position nationwide from 2022 to 2023).

- 8.15.3 I am guided by Mr Donagh’s evidence in recognising that, whilst the position appears to have improved, this improving position is likely, at least in part, to be accounted for by the cost-of-living

¹³ Land east of Manor Trading Estate, Benfleet (APP/M1520/W/22/3310794), dismissed 9 May 2023

¹⁴ Ratio of median house price to median gross annual workplace-based earnings



crisis with households now having to spend a greater proportion of their income on basic necessities including heating and food, and thereby having less resource to compete in the housing market (further evidence regarding this point is provided at appendix 1 of Mr Donagh's PoE). This will, in turn, have constrained house prices. Mr Donagh's evidence emphasises that this should not, therefore, be taken as being indicative of an improvement in the ability of households to access the housing market. Considering the cost-of-living crisis, it is possible that precisely the opposite is true.

8.15.4 I note the Centre for Cities¹⁵ have also commented that *"House prices have decreased relative to wages because interest rates have increased. Rising interest rates have pushed the cost of credit (mortgage repayments) up, and thereby pushed the size of the principal (house prices) down. The result is that the cost of housing for homebuyers has not improved, even though HARs [Housing Affordability Ratios] have fallen."*

8.15.5 In any event, an affordability ratio of 11.20 reflects the sustained and continued failure of CPBC to prepare and adopt (further to examination) an up-to-date local plan which can ensure the needs of its residents can be met in full. The latest Local Development Scheme (January 2024) for the borough (enclosed at appendix 3) anticipates submission of the new Castle Point Plan by April 2025, with adoption not anticipated until March 2026 at the earliest.

8.15.6 In light of the numerous failed attempts to deliver a new local plan in the borough since 2001 (the end date of the Castle Point Local Plan November 1998), I consider this timeframe to be extremely optimistic, particularly if CPBC resolves that Green Belt release is required to meet identified housing needs.

8.16 **Future delivery of affordable housing**

8.16.1 In preparing my PoE, I have undertaken research into permissions granted for new housing for schemes of 10 or more dwellings (ie the threshold for providing new affordable homes) since 2018 (ie the base date for the now withdrawn Castle Point Local Plan 2018-2033). This research has identified an extremely limited number of new homes to be provided in the borough, and, of further concern, a hopelessly low number of affordable homes over the same period.

8.16.2 The table enclosed at appendix 2 of my PoE provides an overview of the research undertaken. Column E outlines the percentage of the dwellings to be provided as affordable housing as part of the scheme. The inspector will note that, since January 2018, just 61 affordable homes have been committed in the borough. However, it is my understanding that the properties under permission 18/0035/FUL have been provided and therefore are completions rather than commitments, leaving just 47 affordable homes committed at the time of preparing my PoE.

¹⁵ Do falling house prices mean the housing crisis will soon be over? (Centre for Cities [online] - [Do falling house prices mean the housing crisis will soon be over? | Centre for Cities](#)). Accessed 23 April 2024



- 8.16.3 Within the table at appendix 2, I have also highlighted those schemes which received a grant of planning permission post 1 May 2023. This date accords with the introduction of a new Community Infrastructure Levy (CIL) charging levy in the borough. The research included at appendix 2 demonstrates an inability of brownfield schemes to viably provide any onsite affordable housing in light of the new CIL Charging Schedule, contrary to CPBC's evidence base prepared in advance of the CIL examination. It is evident that, if CPBC wishes to provide new affordable homes in the borough, delivery of new homes on greenfield, Green Belt sites will be inevitable to meet identified housing needs. As a consequence, some harm to the openness and purposes of the Green Belt is unavoidable if housing is to be delivered to meet identified housing needs.
- 8.16.4 I note from paragraph 84 of the Manor Trading Estate appeal decision¹⁶, the inspector concluded, *"In Castle Point there is widespread acceptance that an adequate housing supply must involve the use of Green Belt land. In normal circumstances, the simple fact of providing housing would not amount to the very special circumstances necessary to justify inappropriate development within the Green Belt. It is housing supply in the face of a very poor performance on delivery which is the consideration here."* [my emphasis]
- 8.16.5 The prevailing evidence in CPBC points to an inability for brownfield sites to provide sufficient affordable housing to meet the substantial unmet need for new affordable housing in the borough. The future pipeline of affordable housing is alarmingly limited, in the context of a current affordability ratio of 11.20, 659 people on the affordable housing waiting list¹⁷ and 315 people identified to be homeless in the borough. Important decisions regarding the location of new housing, respectfully, cannot wait until the adoption of a new local plan in the borough (which might, at the very earliest, be found sound in March 2026). Sustainable locations, such as land east of Rayleigh Road, Thundersley, which have previously been identified as a suitable location for new housing in the borough by the very same local planning authority, which have been reviewed by statutory consultees who have offered no technical objections to the proposals, and which can provide a significant number of new affordable homes (which would be in excess of the total number of affordable homes provided in the borough over the past 13 years) can come forward now to ensure that sufficient housing is provided to meet the genuine needs of local people.
- 8.17 **Interim conclusions regarding provision of affordable housing**
- 8.17.1 I consider that **very significant weight** should be afforded to the delivery of affordable housing through the appeal scheme in the overall planning balance, irrespective of any other considerations, given the substantial number of households in the borough awaiting an affordable property or a more suitable affordable property for their needs. I note that this view was shared by the inspector in the

¹⁶ Land east of Manor Trading Estate, Benfleet (APP/M1520/W/22/3310794), dismissed 9 May 2023

¹⁷ According to the latest Local Authority Housing Statistics data return for 2022 to 2023 (Published 8 February 2024 [Local Authority Housing Statistics data returns for 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/local-authority-housing-statistics-data-returns-for-2022-to-2023))



248 Hart Road appeal decision, who concluded “**Affordable housing is a scarce resource in Castle Point...**” [my emphasis]

8.17.2 In addition, the provision associated with the appeal scheme represents a 20% over provision against the adopted policy (H7 of the Castle Point Local Plan 1998) and 5% over provision against the requirements of the affordable housing SPD (March 2023). I consider this further supports the weight attached to the provision of the affordable housing.

8.18 **Evidence base supporting the now withdrawn Castle Point Local Plan (2018-2033)**

8.18.1 As highlighted in section 4.2 of my PoE, CPBC prepared, submitted and had a new local plan found sound at examination by an inspector, with the inspector’s report into the soundness of the plan received on 3 March 2022 (the inspector’s report can be found at CD 7.1). Whilst CPBC ultimately took the decision not to adopt a sound local plan, which would have met the identified housing needs for the borough (as calculated using the standard method) in full, the evidence base collated in support of the withdrawn local plan remains an important material consideration in the determination of this appeal.

8.18.2 I recognise that the demonstration of exceptional circumstances is a less demanding test than the development control test for permitting inappropriate development in the Green Belt, which requires ‘*very special circumstances*’. However, in preparing my PoE, I have been mindful of the policies and guidance contained within the NPPF, regarding both exceptional and very special circumstances.

8.18.3 It is also important to bear in mind (in the consideration of whether very special circumstances exist) paragraph 146 of the NPPF, which advises:

“Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development.”

8.18.4 Clearly, different tests apply for the determination of this appeal, compared to those which would apply in a local plan examination. However, considering the three criteria in paragraph 146 of the NPPF, it is clear that there is insufficient brownfield land available in CPBC to enable it to meet the identified housing needs for the borough (including through optimising the density of development).

8.18.5 Indeed, this was considered in paragraph 42 of the inspector’s final report into the soundness of the local plan (CD 7.1) concluded:

“The Council has undertaken a thorough assessment of the availability of land within the urban area through its SHLAA 2018 (H-007 to 010) and the assessment of windfall sites. A total of 477 sites were considered and a design led approach was taken to determine their potential capacity, with higher densities assumed as appropriate, along with assessments of deliverability/developability as per national policy, and the assessment of viability. Additionally, through the large site capacity assessments (H-012 and H-013), the Council sought to optimise the capacity of proposed sites,



including those in the urban areas. This work indicates that around 53% of the housing need could be met within the urban area (that is to say outside of the Green Belt). Therefore, it is not possible to rely on increasing the supply of housing within the urban area to avoid the need to alter the boundaries of the Green Belt to meet housing need.”

- 8.18.6 It was also apparent in the preparation of CPBC's local plan that neighbouring authorities were unable to accommodate some of the need identified for the development. CPBC's neighbours are all similarly constrained by Green Belt, with land outside of built-up areas falling under this designation. This was confirmed in the inspector's post hearings letter (6 September 2021, CD 7.4), at paragraph 54, in which he concluded:

“Castle Point has a pressing housing need, issues with housing affordability, high affordable housing need about equal to the total local housing need, and a shortfall in the provision of market and affordable homes when assessed against local housing need. There is no scope to export the Borough's housing need to another district. Neighbouring authorities are also constrained by Green Belt and other factors and have their own development needs. The proposed housing provision would help address housing affordability and would provide more affordable homes.”

- 8.18.7 In the absence of an up-to-date local plan, it is clear that CPBC could only deliver 53% of its housing need (as calculated using the standard method) within the urban area of the authority. This is based upon the Strategic Housing Land Availability Assessment Review undertaken in 2018. The local housing need for the authority is 5,325 homes over the extent of the plan period to 2033 (equivalent to 355 per annum, based upon the now withdrawn local plan period). With the result of the urban capacity study, there is still an acute need for a further 2,662 new homes across the borough, which can only be accommodated on sites beyond urban areas, in the Green Belt. I have separately considered in my PoE the current supply of new homes in the borough and the implications that a reliance on brownfield sites is having on the provision of new affordable housing in the borough (please refer to sections 7.5 to 7.11 of my PoE).

- 8.18.8 The inspector ultimately concluded, at paragraph 45 of his report into the soundness of the local plan, that *“there are strategic-level exceptional circumstances to alter the Green Belt boundary to meet housing needs in the interests of the proper long-term planning of the Borough.”*

- 8.18.9 In addition, the inspector considering the soundness of the Castle Point Local Plan (2018-2033), concluded the following regarding land east of Rayleigh Road:

“The proposed allocation is comprised of predominantly open fields with internal boundaries marked by hedgerows. The site contains a farm and several other buildings and a reservoir, and falls partly within the designated Historic Natural Landscape under Policy NE2. The development of the site would cause harm to the openness of the Green Belt and some harm to its purposes as it would cause a loss of countryside and serve to reduce the strategic gap between Thundersley and Daws Heath. However, the site would be enclosed by existing development to the west, north and along much of its southern



*boundary. A new Green Belt boundary would be formed to the east of the allocation with the nature reserve. This would be readily recognisable and is **likely to be permanent, maintaining a gap and preventing coalescence between Thundersley and Daws Heath.***” [my emphasis]

8.18.10 Whilst there would be some identified harm to the purposes of the Green Belt it is clear that the development of the site will create a new defensible boundary to the east of the site, which would prevent further development sprawling to the east (this is reinforced by the presence of the Little Haven Nature Reserve). Coalescence between Thundersley and Daws Heath can therefore be prevented. This is considered further in the evidence of Mr Smith.

8.19 Interim conclusion

8.19.1 The evidence base prepared in support of the now withdrawn Castle Point Local Plan (2018-2033) represents a recent, up to date assessment of the site’s suitability for development (as assessed by CPBC), in addition to the consideration of whether exceptional circumstances existed to justify the release of the site from the Green Belt. Whilst the exceptional circumstances test, and the test of whether very special circumstances exist are different (and the very special circumstances test is a higher bar), CPBC clearly considered (and the examining inspector agreed) that the identified market and affordable housing needs of the borough constituted sufficient exceptional circumstances to release the site from the Green Belt.

8.19.2 I consider the withdrawn local plan’s evidence base should carry **significant weight** in the determination of this appeal. There have been several appeal decisions in recent months in which inspectors have afforded weight to emerging or withdrawn local plan evidence bases in determining whether very special circumstances exist in favour of allowing appeals. I note the particular conclusions in the following cases in which weight has been afforded to the evidence base of emerging and/or withdrawn local plans which have included sites as allocations:

- Land north of Kennel Lane, Billericay (APP/V1505/W/22/3298599), allowed 9 December 2022 (enclosed at CD 8.4).
- Land lying to the east of Hartfield Avenue and fronting on to Barnet Lane, Elstree, Hertfordshire (APP/N1920/W/23/3329947), allowed 25 March 2024 (CD 8.5)
- Land south of Dunton Road, Basildon (APP/V1505/W/23/3325933), allowed 11 December 2023 (see CD 8.8).
- Land at Sondes Place Farm, Westcott Road, Dorking (APP/C3620/W/3324631), allowed 28 November 2023 (enclosed at CD 8.6).
- Land rear of 248 Hart Road, Thundersley (APP/M1520/W/22/3310483), allowed 26 May 2023 (CD 8.1)



8.20 Economic benefits

8.20.1 The economic benefits of the proposal are important, and I recognise the weight paragraph 85 of the NPPF assigns to them. At appendix 6 of my PoE is an Economic Benefits Statement, prepared by Stantec, which assesses the particular economic benefits generated by the development. I include below an extract of Table 3.1 of appendix 6 (Economic Benefits Generated by the Development):

Economic Indicator	
Construction Phase (7 years)	
Gross direct jobs (average per month)	116
Gross indirect jobs	46
Gross economic output (GVA) generated by direct jobs	£27.5m
Gross economic output (GVA) generated by indirect jobs	£17.8m
<i>Direct jobs benefitting Castle Point residents</i>	66
<i>Indirect jobs benefitting Castle Point residents</i>	26
<i>Net employment effects to Castle</i>	92
Operational Phase	
No. of Homes	455
1-bed	27 (6% of total)
2-bed	100 (22% of total)
3-bed	196 (43% of total)
4+ bed	132 (29% of total)
Resident Population	1,085
Resident population economically active	588
Resident population in employment	571
GVA generated by employed residents (per annum)	£20.8m
Total commercial expenditure (per annum):	£10.7m
Convenience Goods	£2.8m
Comparison Goods	£3.9m
Leisure Goods	£4.0m
Council Tax Receipts (per annum)	£1.2m

8.20.2 The table (and the report as a whole) demonstrates substantial economic benefits associated with the development of the appeal scheme, in addition to the creation of a significant number of direct and indirect jobs for the benefit of Castle Point residents. I consider these economic benefits should be afforded **significant weight** in the determination of this appeal.



8.20.3 Often it is argued that the economic benefits of housing schemes are limited in nature, due to them not being rare or being delivered by any housing scheme in a particular local planning authority area. This is not the case in Castle Point. The economic benefits associated with this scheme are substantial, providing construction related employment opportunities over a period of at least seven years, and generating significant investment into Thundersley and the borough as a whole.

8.20.4 As outlined in earlier sections of my PoE, there has been extremely limited delivery of new housing in the borough since 2011, with a substantial shortfall in the supply of homes over the same period. The economic benefits of this scheme, in the context of Castle Point, are indeed rare, and should be afforded, in my view, significant weight in the overall planning balance.

8.21 **Very special circumstances conclusion**

8.21.1 In appeal decision APP/G5180/W/18/3206569 (Lower Sydenham)¹⁸, Inspector Baird found, at paragraph 31 *“The considerations do not have to be rare or uncommon to be special and there is no restriction on what might be considered as an ‘other consideration’”*. The Inspector referred to two judgments in reaching this conclusion¹⁹.

8.21.2 Within the *Wychavon* judgment (CD 12.9), Lord Justice Carnwath concluded the following, with regard to the very special circumstances test:

“I say at once that in my view the judge was wrong, with respect, to treat the words ‘very special’ in the paragraph 3.2 of the guidance as simply the converse of ‘commonplace’. Rarity may of course contribute to the ‘special’ quality of a particular factor, but it is not essential, as a matter of ordinary language or policy. The word ‘special’ in the guidance connotes not a quantitative test, but a qualitative judgment as to the weight to be given to the particular factor for planning purposes.”

8.21.3 Considering the significant benefits associated with this scheme, I consider the reality to be, in the context of CPBC’s housing land supply and delivery situation (including the appalling delivery of affordable housing), the new homes and 40% affordable housing provision alone would be sufficient to clearly outweigh the harm to the Green Belt (and any other harm – identified to be landscape and visual and limited impacts associated with the loss of best and most versatile agricultural land).

8.21.4 The appeal scheme brings further significant benefits, and it is the cumulative weight of these benefits which provides the very special circumstances necessary to justify development of the appeal site, outweighing the harm to the Green Belt and other considerations.

¹⁸ Land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham – APP/G5180/W/18/3206569, allowed 26 June 2019:

¹⁹ *Wychavon District Council vs Secretary of State & anr* [2008] EWCA Civ 692 and *Brentwood Borough Council v Secretary of State* [1996] 72 P&CR 61.



9 SUITABILITY AND SUSTAINABILITY OF THUNDERSLEY AND THE APPEAL SITE AS A LOCATION FOR NEW RESIDENTIAL DEVELOPMENT

- 9.1 This section of the statement of case assesses the suitability of Thundersley as a location for new residential development and demonstrates why the appeal site is a suitable, sustainable housing site.
- 9.2 The site benefits from a sustainable location in the borough, located to the south of the Rayleigh Retail Park, which features a range of retail and hardware facilities, including a supermarket. The retail park also offers other employment opportunities in the form of light industrial offices, workshops and further retail space. The retail park is within a suitable walking distance from the appeal site.
- 9.3 Table 2: of the Transport Assessment (TA, CD 1.12) includes an overview of nearby local facilities, services and public transport opportunities located in close proximity to the appeal site. The TA concludes, *“These services and facilities are therefore within reasonable walking and cycling distance of the site. Residents of the proposed development will therefore be able to meet many of their day-to-day needs using the services and facilities within the town and which are within an easy walking and cycling distance of the site. This means that reliance on the private car for these trip purposes is minimised, particularly so for education purposes which make up 50% of AM peak hour trips based on the National Travel Survey. The Deanes secondary school is within a 5-minute walk or 5-minute cycle of the site, and the Thundersley Primary School is within a 20-minute walk of the site.*

Furthermore, for travel further afield to Southend-on-Sea and London, Rayleigh railway station is within a reasonable 25-minute walk or 8-minute cycle ride from the site.”

- 9.4 With regard to opportunities to access bus services, table 3 of the TA identifies two existing services which operate along the frontages of the site on Rayleigh Road and Daws Heath Road. Service 3 connects Southend, Leigh on Sea, Rayleigh, East Hanningfield and Chelmsford, operating every two hours (latest timetable enclosed at appendix 7). The service stops on Daws Heath Road and Rayleigh Road.
- 9.5 The other service, service 1 (latest timetable enclosed at appendix 8), connects the site with Southend-on-Sea, Rayleigh including the railway station, South Benfleet, Hadleigh and Leigh-on-Sea, with a weekday frequency from early morning to late evening of up to every 10 minutes. This route therefore provides a high quality, frequent service to key destinations, with typical journey times to Rayleigh Station and South Benfleet of only 7 minutes to each, and to Southend Travel Centre of about 39 minutes. Appendix G of the TA shows the route maps for the two services.
- 9.6 The parameter plans submitted with the planning application demonstrate how the development could be delivered, subject to the appeal being allowed. Included within the suite of parameter plans are the Land use and vehicular access (CD 1.6) and non-vehicular access (CD 1.7) drawings. The drawings demonstrate the intention to create new walking, cycling and equestrian routes across the site, to



increase permeability and offer access to existing and proposed services and facilities for the benefit of existing and future residents of Thundersley.

- 9.7 Paragraph 109 of the NPPF states, *“The planning system should actively manage patterns of growth in support of these objectives [those listed under paragraph 108]. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.”*
- 9.8 There are a number of important local facilities in Thundersley, Rayleigh and Hadleigh, including schools, leisure, retail and employment. These meet many of the day-to-day needs of existing local residents in Hadleigh, reducing the need to travel outside of the Borough.
- 9.9 The development includes main vehicular access from Stadium Way in the north and Daws Heath Road in the south. In working with CPBC and Essex County Council (ECC), it has been agreed that the two accesses will be joined by a new public transport link, which allows only sustainable transport options passage through the centre of the site (buses, cyclists and pedestrians). Private vehicles will not have an ability to travel between the access points. The promotion of sustainable transport options has been key in the preparation of the master plan for the site to ensure all new residents will be within a 400m walking distance of existing or proposed bus stops.
- 9.10 I consider the appeal site to be in an evidently sustainable location and is suitable for development. This is confirmed by the suite of technical documents submitted as part of the planning application. The site forms a logical extension to the existing settlement of Thundersley, being bordered by commercial development to the north, and residential development on the site’s western and southern boundaries. A local nature reserve is located adjacent to the site’s eastern boundary, which will form a new, defensible boundary in the Green Belt which will maintain the gap between Thundersley and Daws Heath.
- 9.11 Whilst the sustainable location and nature of the site is not a specific benefit of the scheme, I consider it is nonetheless a material consideration in favour of the appeal proposals and lends further support to the ability of the appeal proposals to meet the acute needs for new market and affordable housing in the borough. In the absence of an up-to-date local plan, it is right to look to sustainable opportunities for meeting market and affordable housing needs, particularly in light of significant and sustained shortfalls in delivery of new homes. The sustainability of the site was also recognised in CPBC’s key evidence base documents prepared in support of the now withdrawn CPBC Local Plan (2018-2033), including within the Strategic Housing Land Availability Assessment (CD 6.5) and the Large Site Capacity Assessment (CD 6.6).
- 9.12 The decision-making test in the NPPF for Green Belt, ie the Very Special Circumstances test, provides opportunities for decision makers to identify sustainable options for new development in the Green Belt which clearly and demonstrably outweigh identified harms to the Green Belt (and other considerations).



10 PLANNING OBLIGATIONS SOUGHT BY INFRASTRUCTURE PROVIDERS

- 10.1 The planning obligations requested by statutory consultees (please see consultee responses as included in CD 4) are summarised and included within the draft heads of terms (CD 2.11) which were submitted to CPBC ahead of the determination of the planning application. 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.
- 10.2 At the time of writing, the Section 106 (and the draft heads of terms) contain all requested obligations from statutory consultees. 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.
- 10.3 I have enclosed within the Core Documents list the following supplementary planning documents (SPD) prepared and adopted by CPBC in March 2023:
- Castle Point Developers Contributions Guidance, Supplementary Planning Document (SPD), Affordable Housing, March 2023
 - Castle Point Developers Contributions Guidance, Supplementary Planning Document (SPD), Healthcare Facilities, March 2023
 - Castle Point Developers Contributions Guidance, Supplementary Planning Document (SPD), Highways, Travel, Education, Libraries, Flooding & Drainage Infrastructure, March 2023
 - Castle Point Developers Contributions Guidance, Supplementary Planning Document (SPD), Playing Pitches and Indoor Built Facilities, March 2023.



11 OVERALL PLANNING BALANCE

- 11.1 In section 7 of my PoE, I have established that very special circumstances exist which outweigh the identified harm to the Green Belt (to which I have afforded substantial weight, in accordance with the provisions of the NPPF) and any other harm (in this case limited to landscape and visual impact and loss of best and most versatile agricultural land),
- 11.2 Further to this conclusion, I consider that the ‘tilted balance’ in favour of the appeal proposals is engaged in light of CPBC’s inability to demonstrate a five-year housing land supply (and their latest Housing Delivery Test measurement) and my conclusion that the harm to the Green Belt, plus any other harm, is clearly outweighed by other considerations.
- 11.3 Consequently, in accordance with paragraph 11d) of the NPPF, the appeal proposals should be allowed unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
- 11.4 In Table 1, I outline the schedule of material considerations for this appeal. The table is organised into two separate halves, with harms (and weightings) in the left-handed columns and benefits (and weightings) in the right two columns.
- 11.5 Reference to substantial weight in the table below reflects the clear stipulation contained within paragraph 153 of the NPPF regarding harm to the Green Belt. I have separately assessed the other harms and benefits of a scale from limited to very significant weight. I am conscious of recent case law²⁰ which clarifies that (at paragraph 124 of the judgement) ‘substantial’ does not demote a greater quantum of weight than ‘significant’.
- 11.6 I am clear that the planning balance is not a mathematical exercise regarding number of benefits versus adverse impacts. The question as to whether the benefits outweigh the identified planning harms is a matter of planning judgement.

Table 1: schedule of material considerations

Harms and Weighting		Benefits and weighting	
Harm	Weight	Benefit	Weight
Inappropriate development in the Green Belt, harm to openness and purposes of the	Substantial weight	Provision of new market housing and contribution to CPBC’s housing land supply shortfall	Very significant weight

²⁰ Ward v Secretary of State [2024] EWHC 676 (Admin) (CD 12.13)



Harms and Weighting		Benefits and weighting	
Green Belt (a – c)			
Landscape and visual impact	Moderate weight	Provision of affordable housing	Very significant weight
Loss of best and most versatile agricultural land	Limited weight	The conclusions of CPBC's evidence base that exceptional circumstances exist, for the release of the site from the Green Belt.	Moderate – significant weight
		Economic benefits	Significant weight
		Biodiversity net gain	Moderate weight
		Enhanced landscaping	Moderate weight
		Provision of new community infrastructure	Moderate weight

11.7 I consider that the weight to the above material considerations in favour of the appeal is strengthened in light of the lack of an adopted strategy in place to address worsening affordability in the borough and a historic and significant under provision of housing. In an appeal decision²¹ in Knowle, the inspector concluded the following with regard to the benefits of the particular scheme the subject of the appeal:

“None of the benefits in this case are particularly unusual. However, they are very numerous and, significantly, several carry considerable individual weight such that collectively the benefits do clearly outweigh the totality of the harm. I would stress that this is not just a consequence of the unmet need. Rather it is primarily because the high level of need is set within the context of there being no adopted

²¹ Wyndley Garden Centre, Warwick Road, Knowle, APP/Q4625/W/21/3285876, appeal allowed 25 March 2022 (CD 8.15)



strategy to address it, there being significant uncertainty over when such a strategy might be in place and once in place when it might start to deliver accommodation, and the absence of any other identified sites that might contribute to meeting the unmet need in the meantime. These matters, combined with the other more modest benefits, including job creation, clearly outweigh the combined identified harm.”

- 11.8 The inspector, at paragraph 48 of the decision therefore continues that “...*notwithstanding that the proposals would represent inappropriate development in the Green Belt, in the particular circumstances of the case, very special circumstances do exist in this instance.*”
- 11.9 It is clear that the package of benefits associated with the proposals on land east of Rayleigh Road, Thundersley are considerable. It remains my opinion that the substantial material considerations in favour of the appeal scheme clearly and demonstrably outweigh the identified harms and cumulatively combine to demonstrate very special circumstances in favour of the proposals. The weight to be afforded to these benefits is accentuated by the lack of a clear plan of CPBC to provide new market and affordable housing in the borough (a circumstance which has persisted for a quarter of a century since the adoption of the last local plan in the borough). In passing the very special circumstances test, I have concluded there would be no conflict with relevant Green Belt policy in the NPPF. As such, I consider it follows that the proposals do not conflict with the relevant saved policies of the Castle Point Local Plan (November 1998).
- 11.10 I would also emphasise that CPBC has not advanced any prematurity arguments in relation to the emerging Castle Point Plan (due to its extremely early stage of preparation). Furthermore, there is no suggestion within CPBC’s SoC that the unmet needs for market and affordable housing can be met on brownfield sites (or within the built-up area of settlements in the borough), or that there are other, more preferable Green Belt sites elsewhere in Castle Point.
- 11.11 Paragraph 12 of the NPPF is clear that decisions that depart from an up-to-date development plan can be made where material considerations in a particular case indicate that the plan should not be followed (as also included at Section 38(6) of the Planning and Compulsory Purchase Act 2004). Even if it could be concluded that there is a conflict with the development plan in this instance, I consider that material considerations weigh so strongly in favour of granting planning permission that any adverse impacts are demonstrably outweighed.



12 SUMMARY AND CONCLUSIONS

- 12.1.1 The statutory basis through which planning decisions should be made is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 which states applications should be determined “*in accordance with the development plan unless material considerations indicate otherwise.*” This is mirrored in Section 70(2) of the Town and Country Planning Act 1990 which notes “*in dealing with such an application the authority must have regard to the provisions of the development plan, so far as material to the application.*”
- 12.2 As I have identified in my PoE, and as summarised in the Appellant’s Statement of Case (in addition to the conclusions contained in the Planning Statement, CD 1.4), I consider that the proposal will deliver several tangible benefits. I have appraised each benefit individually.
- 12.3 The benefits of the appeal scheme are numerous and are considered to cumulatively amount to very substantial benefit. This is a material consideration in the determination of this appeal.
- 12.4 Against these benefits, I have had due regard to the harm caused by the development proposals; both the substantial weight given to the Green Belt harm as a whole and the additional landscape and visual harm to the area (to which I have afforded moderate weight).
- 12.5 With reference to the Green Belt harm, I would direct the inspector’s attention to the conclusions of the evidence of Mr Smith, which considers not just the wider Green Belt within which the appeal site is located, but also provides a localised assessment for the site itself.
- 12.6 Nevertheless, I recognise the guidance contained within paragraph 153 of the NPPF which states that any harm to the Green Belt should be afforded substantial weight. This is reflected in the planning balance table contained within section 10 of my PoE.
- 12.7 Recent appeal decisions in the borough have raised important conclusions from planning inspectors with regard to the current planning policy position in Castle Point. Whilst considering an appeal in Basildon, I note an inspector concluded (with regard to the timetable for adoption of a new local plan in the borough, and the need for Green Belt release), “*It would be preferable if the GB release could be managed through the emerging Local Plan process, as set out at paragraphs 15 and 140 of the Framework. However, as set out above, a new Local Plan is at least five, and potentially many more, years from being adopted. It is therefore necessary to consider proposals that come forward in the GB ahead of adoption of the new Local Plan.*” [my emphasis] The circumstances in Castle Point are of substantial similarity to those in Basildon.
- 12.8 I therefore conclude that the adverse impacts of the proposal are demonstrably outweighed by the substantial benefits associated with this application. I consider that these benefits cumulatively demonstrate very special circumstances in favour of the proposals, as per paragraph 152 of the NPPF. There would therefore be no conflict with relevant Green Belt policy in the NPPF. As such, it follows that the proposals do not conflict with the relevant saved policies of the Castle Point Local Plan



(November 1998). The development would therefore be in accordance with the development plan as a whole.

- 12.9 Additionally, in light of the very special circumstances in this case considerably outweighing the identified harms arising to the Green Belt (by reason of inappropriate development), I consider the tilted balance is engaged, further to CPBC's accepted inability to demonstrate a five year housing land supply (and as a consequence of the latest Housing Delivery Test results for the borough).
- 12.10 Paragraph 11d) of the NPPF is clear that, *"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 NPPF that protect areas of particular importance provides a clear 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 NPPF taken as a whole.
- 12.11 Footnote 8 of the NPPF clarifies that where policies most important for determining the application are out-of-date, this *"includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites... or where the Housing Delivery Test indicates that the delivery of housing substantially below (less than 757% of) the housing requirement over the previous three years."*
- 12.12 I am supported in my view further to the conclusions of the inspector in the recent appeal at Hart Road, Thundersley²², where the inspector stated, at paragraph 70 of their decision letter, *"I have found that very special circumstances exist which justify allowing permission for this development in the Green Belt, so policies outlined in the Framework in respect of the Green Belt do not therefore provide a clear reason for refusing the development. There are also no other policies within the Framework that indicate permission should be withheld. Moreover, the adverse impacts of granting permission would not significantly and demonstrably outweigh the stated benefits, when assessed against the policies in the Framework taken as a whole. As such, the proposal would benefit from the presumption in favour of sustainable development, and amount to sustainable development. This would therefore justify the grant of planning permission."* [my emphasis]
- 12.13 Paragraph 12 of the NPPF is clear that decisions that depart from an up-to-date development plan can be made where material considerations in a particular case indicate that the plan should not be followed (as also included at Section 38(6) of the Planning and Compulsory Purchase Act 2004). Even if it could be concluded that there is a conflict with the development plan in this instance, I consider that material considerations weigh so strongly in favour of granting planning permission (with or without the application of the tilted balance) that any adverse impacts are demonstrably outweighed.
- 12.14 I therefore respectfully request the inspector allows this appeal.

²² Land rear of 248 Hart Road, Thundersley, Benfleet (APP/M1520/W/22/3310483), allowed 26 May 2023



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