

STATEMENT OF CASE

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

Construction of 173 new dwellings including
public open space, landscaping, access,
drainage, parking, utilities and all
associated infrastructure and
ancillary buildings



PHASE 2

Quality Assurance

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

Our Ref C24055

Client Name Countryside Partnerships (Eastern Home Counties)

Type of Report Statement of Case

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1. Introduction

1.1 This Statement of Case has been prepared by Phase 2 Planning and Development Ltd on behalf of Countryside Partnerships (Eastern Home Counties), hereafter referred to as the appellant, in support of a planning appeal against Castle Point Borough Council's (CPBC) refusal of full planning application ref: 22/0484/FUL on land at Brook Farm, Daws Heath Road, Hadleigh, Essex, SS7 2UG by notice on the 20th March 2024.

1.2 The description of development is as follows:

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

1.3 Planning application ref: 22/0484/FUL was refused for one sole reason as detailed below:

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

The appeal proposals

1.4 A detailed appeal site description, details of the proposed development and background on the appeal site's planning history are found within sections 2, 3, 4 and 5 of the originally submitted Planning Statement respectively.

The planning application process

1.5 The original full planning application submission was made on the 8th June 2022 with the application being formally validated by CPBC on the 15th August 2022.

1.6 The planning application was supported by a comprehensive suite of technical reports, illustrative plans and drawings in accordance with CPBC's planning application validation requirements.

1.7 The original determination deadline for the planning application was 14th November 2022. However, this determination period was extended by numerous extensions of time agreements whilst outstanding application matters evolved.

1.8 The application was considered by CPBC's Development Management Committee on Tuesday 19th March 2024, where Members resolved to refuse the planning application consistent with officer's recommendation, citing one reason for refusal relating to Green Belt. This is confirmed by CPBC's formal decision notice dated 20th March 2024.

Scope of Evidence

- 1.9 We consider that an Inquiry is the most appropriate procedure for the determination of this planning appeal. Justification for this is included at section 8 of this Statement of Case.
- 1.10 The submission of an appeal utilising the inquiry procedure reflects the significant local interest generated by the proposed development, and the need for evidence to be tested through formal questioning by an advocate particularly in light of the conclusions of CPBC's evidence base regarding the exceptional circumstances considered to exist for the appeal site, and the positive conclusions of the inspector into the soundness of the now withdrawn Castle Point Local Plan 2018-2033.
- 1.11 We intend to call the following expert witnesses in the formal testing of the evidence. This will include cross-examination given the nature and complexity of each subject area and its likely importance and contribution towards the appeal determination:
- Planning Witness (Phase 2 Planning);
 - Landscape and Visual Appraisal;
 - Green Belt Openness/Purposes Witness;
 - 5-Year Housing Land Supply Witness; and
 - Affordable Housing Witness.

2. Planning Policy

Adopted Local Development Plan

- 2.1 The adopted Development Plan in Castle Point includes the following which are of direct relevance to the determination of this appeal:
- Castle Point Local Plan (adopted November 1998, reviewed in September 2007).
- 2.2 Like many other Local Plans that were adopted before the introduction of the Planning and Compulsory Purchase Act 2004, the reason why this Local Plan is still in existence at all is because the Secretary of State issued a 'saving' Direction under the 2004 Act to enable certain policies of such 'old style' Plans to carry on being afforded weight.
- 2.3 However, the 'saving' Direction issued in 2007 did not extend to cover the policies in the 1998 Plan that related to the provision of housing, or the protection of the Green Belt, and therefore whilst certain policies of the 1998 Local Plan are still technically in operation, the key policies dealing with housing and the Green Belt expired on 27th September 2007.
- 2.4 In terms of the remaining 'saved' policies of the adopted Plan (which for the purposes of this appeal relate to development management policies), the Council undertook an exercise in 2013 to assess which of these should still be accorded full weight following the publication of the 2012 National Planning Policy Framework. However, that exercise itself is now almost a decade old, and the NPPF has been revised on a number of occasions since.

Evidence Base of now withdrawn Emerging Local Plan

- 2.5 Although the Council has withdrawn its Emerging Local Plan the evidence base which supported it and which allowed the Local Plan Inspector to find both its development strategy and its policies 'sound' still carries significant weight. Amongst other matters, this evidence base serves to:
- Confirm the sparsity of development opportunities outside of the Green Belt;
 - Confirm which sites within the Green Belt are best suited to development in terms of minimising harm to the purposes of the Green Belt;
 - Confirm the suitability of the proposed residential allocations having regard to environmental matters and residential amenity; and
 - Confirm the infrastructure needed to support the development at each of the proposed allocation sites.
- 2.6 The significant weight to be applied to this latest evidence base information is reaffirmed by
- The age and lack of any development strategy in the adopted Local Plan;
 - The fact that the Council's previous attempt to produce an alternative Local Plan without a substantive housing delivery strategy has already failed once at Examination in the relatively recent past; and

- The lack of any other credible strategy for meeting the significant needs for market and affordable housing in the area.

National Planning Policy Framework (NPPF)

- 2.7 The National Planning Policy Framework (NPPF) sets out the Government's current planning policies for England and how these should be applied.
- 2.8 As confirmed above, adopted Local Plan Policy (GB1 (Control of Development) was not Saved.
- 2.9 Therefore, the provisions of the NPPF and in particular section 13 (Protecting Green Belt land) are of key importance given the absence of a Saved Local Plan policy guiding new development in the Green Belt in the borough.
- 2.10 Paragraph 152 of the NPPF sets out that *"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."*
- 2.11 Paragraph 153 of the NPPF adds that *"When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."*
- 2.12 For the aforementioned reasons, this represents the fundamental policy test in the determination of this appeal.
- 2.13 Notwithstanding this and given recent Government announcements it is highly likely that a new version of the NPPF will be published before this appeal is determined. In which case, we reserve the right to comment further in this respect should a new version of the NPPF be forthcoming during the course of this appeal process.

3. The Appellant's Case

- 3.1 We are of the view that 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 in this instance demonstrating very special circumstances and the acceptability of the proposed development in Green Belt terms.
- 3.2 Consequently, it is concluded that the proposed development would be compliant with the adopted local development plan when taken as a whole and as supported by the NPPF as an important material consideration in the determination of this appeal.

Adopted Local Plan Policy and Market and Affordable Housing Land Supply

- 3.3 CPBC has failed to adopt a sound new Local Plan since November 1998. Over the past decade, the appeal site has consistently been included in Castle Point's new draft Local Plan as a site for residential development, having been shown as a residential allocation in the 2014, 2016 and 2019 versions of the draft Plan. However, the authority has failed to adopt a new Local Plan despite these repeated attempts with the 1998 Plan remaining the adopted local development plan in force in the borough.
- 3.4 As a consequence, market and affordable housing need has spiralled in the absence of any strategy or ability to meet the Borough's needs.
- 3.5 The adopted Local Plan only sought to provide sufficient housing land to 2001, in accordance with the Essex Structure Plan that existed at that time. There is no current target in an adopted plan for housing delivery in Castle Point and there has not been since 2001.
- 3.6 In the absence of an up-to-date housing supply requirement in an adopted Local Plan, such as in Castle Point's case, the standard methodology figure should be used for current housing need calculations.
- 3.7 The standard methodology figure currently equates to a minimum of 355 homes per annum in Castle Point Borough. With reference to the Government's published Housing Delivery Test (HDT) results 2022, Castle Point has only delivered 50% of its requirement over the last 3 years. In fact, the officers report to Committee (page 21) sets out that the authority has consistently failed to provide sufficient housing to meet its needs over a long period. Since the introduction of the standard methodology in 2018, only 42% of the requisite homes have been provided with the officers Committee report confirming that such performance is fairly typical across the past 20 years.
- 3.8 This demonstrates the chronic and persistent under delivery of much-needed new homes in the Borough over a sustained period.
- 3.9 The Castle Point Strategic Housing Market Assessment Addendum 2017 identifies a net annual affordable housing need of some 291 dwellings. More recent work suggests that the Council's Housing Waiting List, which currently has 591 requests for housing accommodation, is increasing by some 110 requests per year. These are requests from local people who are unable to access housing within the Borough.

- 3.10 The demand for affordable housing in the Borough is growing. By the officer's own admission within their Committee report (page 24), given the opportunities available for the provision of affordable housing, the likelihood of the authority fully meeting its affordable housing needs is remote.
- 3.11 Proofs of Evidence specifically in respect of the borough's 5-year housing land supply and affordable housing need will be submitted in support of this appeal.
- 3.12 Green Belt release is inevitable in the Borough to address such chronic and persistent housing needs. as demonstrated by the exceptional circumstances surrounding the recent sound Pre-Submission Draft Local Plan that included the allocation of the appeal site (Policy HO14). This was a sound Plan for Green Belt release which CPBC chose not to adopt and instead have formally withdraw from the Development Plan.
- 3.13 The officer reinforces this point within their Committee report (page 22) setting out that, at the present time, taking account of all available land within the urban area, land sufficient for the provision of equivalent to 2.31 years supply has been identified. Officers helpfully add that, in numerical terms therefore, there would appear to be an argument for the release of further land for development.
- 3.14 Green Belt release is a job for the Local Plan and no new Local Plan has been adopted for the Borough since 1998. In fact, no credible adopted housing provision policy has covered the time period since 2001.
- 3.15 The planning policy position in CPBC at the current time (and dating significantly back in time) clearly cannot appropriately meet the government's aim to significantly boost the supply of new housing (paragraph 60 of the NPPF), achieve and sustain a minimum 5-year housing land supply position, or provide sufficient affordable homes to meet clearly identified and chronic local need.
- 3.16 Further, there is no short-or-medium term strategy to address this persistent and ongoing chronic lack of local market and affordable housing within the borough.
- 3.17 The clear consequence of this is that local housing delivery has stalled over at least the last decade with the Council's current housing land supply position remaining dire and one of the worst in the country. This lack of action has now shifted the focus to the Development Management process and planning applications with a number of planning applications submitted recently including for previously draft allocated sites within the Pre-Submission Local Plan. These applications seek to demonstrate compliance with the para 153 NPPF test as the only realistic option in seeking to address dire local housing supply needs in at least the short-to-medium term.
- 3.18 In this case, as part of our NPPF para 153 considerations, detailed evidence in respect of the following considerations and the amount of weight to be afforded to each will be addressed in detail as part of Proofs of Evidence:
- New market housing provision – Very substantial weight;
 - New affordable housing provision – Very substantial weight.
- 3.19 Proofs of Evidence will also be submitted to explain that the harm to the openness and purposes of the Green Belt, as summarised within officer's Committee report, is overstated as well as being contrary to the sound conclusions of the withdrawn Pre-Submission Local Plan's evidence base. Landscape and visual evidence will also be presented in direct response to the specific

considerations and associated weighting given by CPBC in relation to the proposal's impact on the openness of the Green Belt and the purposes of including land within it.

- 3.20 Given the absence of a Green Belt policy provision within the Saved Local Plan and the proposed development's compliance with all other relevant saved provisions of the adopted Local Plan as supported by the officer's Committee report, it will be argued that the proposed development is in compliance with the adopted local development plan when taken as a whole.

The withdrawn Pre-Submission Local Plan

- 3.21 Within our Proof of Evidence we will also refer to the evidence base of CPBC's now withdrawn Pre-Submission Local Plan 2018-2033, which positively concluded that exceptional circumstances exist in favour of the release of land in the Borough from the Green Belt to meet identified local housing need. This included the appeal site as proposed allocation HO14.
- 3.22 This Green Belt release strategy was supported by the Local Plan Inspector when considering the soundness of the Plan, including the allocation of land at Brook Farm (Policy HO14) for up to 173 new homes and associated development.

Other Material Considerations ('any other harm')

- 3.23 Statutory consultation responses and the officer's report to the Development Management Committee confirm that all other technical matters, including the scale and form of development, the density and mix of proposed housing, design and layout, access, parking, security, flood risk and drainage, ecology and trees, Biodiversity Net Gain, the provision of open space, sustainability, waste management, contamination, archaeology and Health Impact Assessment are all considered to be acceptable, or capable of being addressed by appropriately worded planning conditions and/or planning obligations should planning permission be granted for this new development.
- 3.24 Therefore, no other harm has been identified as part of this detailed planning application.
- 3.25 It is worth noting that, although the NPPF's tilted balance could be engaged in the determination of this appeal, it is not considered that this would make a material difference given the fundamental Green Belt test as summarised at paragraph 4.2 below.

4. Planning Balance

- 4.1 We will present evidence to demonstrate that 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 as per the key test at paragraph 153 of the NPPF.
- 4.2 Our evidence will demonstrate that the proposed development accords with the adopted local development plan when taken as a whole and that there are other relevant material considerations, namely section 13 of the NPPF, which strongly indicate that 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.

5. Planning Conditions/Obligations

Planning Conditions

- 5.1 We will seek to agree the imposition of any planning conditions to be attached to detailed planning permission should this appeal be allowed. This will evolve through discussions regarding the Statement of Common Ground (SoCG) and reflect associated policy within the NPPF and associated guidance contained within Planning Practice Guidance (PPG).

Planning Obligations

- 5.2 A fully completed and signed S106 Legal Agreement will be provided in accordance with the agreed Heads of Terms.
- 5.3 We will consider the Community Infrastructure Levy (CIL) Compliance Statement to be provided by the Council and reserve the right to scrutinise such evidence in advance of the inquiry should this be required.
- 5.4 A draft S106 Agreement will be issued to the Council for comment in advance of the Inquiry in order to ensure reasonable opportunity for agreement to be reached on this matter during the course of the appeal process.

6. Justification for Inquiry

- 6.1 This has been a widely controversial planning application. which has generated substantial local interest. In excess of 690 responses from neighbours were received by CPBC in advance of the determination of the planning application. It is likely that a large number of 3rd parties, and in particular a number of possible Rule 6 parties, will involve themselves in the appeal. That is clearly best facilitated through the inquiry procedure.
- 6.2 CPBC's formal Decision Notice (dated 20th March 2024), includes one reason for refusal, relating to the proposed development's potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from it, not being clearly outweighed by other considerations.
- 6.3 However, that reason for refusal gives rise to many substantive issues between the parties which give rise to the need for many expert witnesses on e.g. planning policy and the balance, impacts on the character and appearance of the landscape and visual receptors, impacts on the openness and purposes of the green belt, evidence on the Council's need for and delivery of affordable housing, evidence on the Council's overall housing land supply and there may well be further topics on e.g. highways and transport related matters (depending on the points pursued by any Rule 6 parties).
- 6.4 Given the nature of the disagreement between the parties regarding the level of weight to be afforded to the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from it, and the level of weight to be afforded to other considerations, it is considered that there is a strong need for this evidence to be tested through formal questioning by an advocate.
- 6.5 This is exacerbated by the conclusions of CPBC's latest evidence base relating to the exceptional circumstances considered to exist for the appeal site, and the positive conclusions of the Local Plan Inspector into the soundness of the now withdrawn Castle Point Pre-Submission Local Plan 2018-2033 (including the allocation of land at Brook Farm, Hadleigh for up to 173 new homes under draft Policy HO14).
- 6.6 Our view is that interrogation of this matter is best achieved through formal testing of the evidence by advocates to understand the robustness of the evidence from each party.

