

# LAND EAST OF RAYLEIGH ROAD, THUNDERSLEY – STATEMENT OF COMMON GROUND

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

Castle Point planning application reference 23/0085/OUT

Between CODE Development Planners (on behalf of This Land Development Limited) and Castle Point Borough Council

MAY 3, 2024

1. **Introduction**

1.1 This statement of common ground (SoCG) has been drafted by CODE Development Planners, on behalf of This Land Development Limited (hereafter referred to as “the Appellant”) and following revision and negotiation has been agreed by Castle Point Borough Council (the Council). It addresses the areas of common ground identified in the statement of case and also identifies matters which are the subject of specific disagreements.

1.2 **Parties**

1.3 This SoCG is jointly agreed by

Signed



Date: 3 May 2024

Name: Liam Ryder

On behalf of CODE Development Planners Ltd

Signed *Stephen Garner* Date: 3 May 2024

Name: Stephen Garner

On behalf of Castle Point Borough Council

## 2. Relevant matters

### 2.1 Background to the appeal

2.2 The planning application for the proposed development was validated by the Council on 24 February 2023 (planning application reference 23/0085/OUT). The planning application was supported by a suite of technical reports, plans and drawings in accordance with the Council's planning application validation requirements. The Submission Schedule (CD 1.33), submitted with the planning application, details the documents submitted for consideration to the Council. The plans and drawings for approval are listed at 2.11.

2.3 Planning application 23/0085/OUT was refused by the Council on 14 December 2023, further to a meeting of the Planning Committee on 13 December 2023 who agreed with the recommendation of their Officers. The decision notice (CD 5.1) contains one reason for refusal (RfR).

### 2.4 The appeal site and surroundings

2.5 The site is located adjacent to the settlement boundary of Thundersley, between Rayleigh and Hadleigh, immediately south of Stadium Way and the Weir Retail Park, Rayleigh Road and existing residential units along part of the site boundary to the west and by Daws Heath Road to the south.

2.6 The centre of the Site is located about 1.2 miles south of Rayleigh town centre and about 1.4 miles north of Hadleigh town centre. There are a number of local facilities in both Rayleigh and Hadleigh, including schools, leisure, retail and employment.

2.7 The site comprises seven fields, grassland and arable, with associated boundary hedgerows and ditches, with small fragments of semi-natural broadleaved woodland and scrub. There are 8 existing buildings on site, currently used for a mixture of agriculture, equine, fishing and industrial purposes. A stream runs through part of the site, and there is a large fishing pond in the east of the site. There are currently two access points from Daws Heath Road to the south, with the site directly bordering Rayleigh Road to the west and Stadium Way to the north.

### 2.8 The appeal proposals

2.9 The Appellant seeks outline planning permission for:

*“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.”*

**2.10 Plans for approval**

2.11 The parties agree that, in the event the appeal is allowed, the development should be undertaken in accordance with the following plans:

- Site Location Plan (Proposed extent of site) – reference 34580-101-rev B (November 2022)
- Stadium Way/Daws Heath Road Proposed Site Access General Arrangement Plans - references 47268/5501/001 rev P12 and 47268/5501/002 rev P8

### **3. Matters on which the parties agree**

#### **3.1 Green Belt**

3.2 The parties agree that the appeal scheme represents inappropriate development in the Green Belt. The parties agree that the scheme does not fall within any of the exceptions to inappropriate development listed in paragraph 154. It is agreed that any harm to the Green Belt should attract substantial weight. It is therefore agreed between the parties that the appeal scheme should not be approved except in very special circumstances.

3.3 It is agreed that very special circumstances will not exist unless the harm by way of inappropriateness and any other harm is clearly outweighed by the other considerations.

3.4 In relation to any effect upon Green Belt purposes the parties agree that this is only in relation to purposes a) to c). The parties will set out their respective positions with regard to the site's contribution to the purposes of the Green Belt in evidence.

#### **3.5 Planning policy (and policy compliance)**

3.6 The parties agree that there are no saved policies in the Castle Point Local Plan (November 1998) relevant to the control of development in the Green Belt. At the time policies were saved by Government, policies that replicated Government Policy were not saved. The parties agree that there has been no strategic review of the boundaries of the Green Belt in Castle Point since the adoption of the Local Plan in November 1998.

3.7 The parties agree that, if the inspector finds that the harm by way of inappropriateness and any other harm is clearly outweighed by other considerations then very special circumstances exist in support of the appeal proposals, and in those circumstances the scheme is in compliance with the development plan as a whole (the officer's report (CD 5.2).

3.8 The parties agree that the Council cannot meet its housing needs. The parties agree that the development plan process is the appropriate route to review Green Belt boundaries.

#### **3.9 Pre-application engagement**

3.10 The parties agree that the pre-application advice provided by an Officer of the Council, on 27 May 2022, concluded *"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."*

#### **3.11 Five-year housing land supply**

3.12 The parties agree that the Council's housing land supply, calculated under the standard method is 1.86 years.

- 3.13 For the purposes of this appeal the parties agree that the proposed development will contribute to the Council's housing land supply. The parties, however, differ as to how they describe the weight to be afforded to this provision. The Council considers substantial weight should be afforded to the housing provision from the appeal site. The appellant considers the weight should be very significant. The parties therefore invite the inspector to consider their respective cases on housing.
- 3.14 For the purposes of this appeal the parties agree that the Council's housing land supply should be calculated in accordance with the standard method, due to the adopted local plan (Castle Point Local Plan, November 1998) being older than five years, in accordance with paragraph 77 of the NPPF. The parties agree that the standard method generates a local housing need for Castle Point of 355 dwellings per annum.
- 3.15 **Housing Delivery Test**
- 3.16 The parties agree that Castle Point's most recent Housing Delivery Test result (against the 2022 measurement) was 50%.
- 3.17 **Affordable housing**
- 3.18 The parties agree that there has been a significant shortfall in affordable housing provision in the Borough. The appeal proposals will provide 40% affordable housing, which would equate to 182 affordable homes. The parties agree that in light of the historic and sustained under delivery of affordable housing in the borough, this represents a significant contribution to meeting the affordable housing needs of the borough.
- 3.19 The parties, however, differ as to how they describe the weight to be afforded to this provision. The Council considers substantial weight should be afforded to the affordable housing provision from the appeal site. The appellant considers the weight should be very significant. The parties therefore invite the inspector to consider their respective cases on affordable housing.
- 3.20 **Highways**

3.21 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.

3.22 **Drainage**

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.

3.24 **Habitats Regulations Assessment**

3.25 The development falls within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). Natural England has identified that new residential development within this area is likely to have a significant effect on the features of interest of these sites through increase recreational pressure.

3.26 The officer's report to planning committee (CD 5.2), states:

*"This proposal lies within three zones of influence: Benfleet and Southend Marshes, the Blackwater estuary and Foulness. The developer has offered to undertake as part of the S106 agreement to pay a RAMS contribution to mitigate the impact the proposal would have on the habitats sites. Subject to the satisfactory completion of such a legal agreement, no objection is raised to the proposal on this basis."*

- 3.27 The parties also note that Natural England did not object to the application, subject to securing appropriate mitigation (payment to the Essex RAMS). The parties therefore 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.

#### **Landscape and Visual**

- 3.28 The parties agree that the Appeal Site does not fall within a valued landscape, within the meaning of paragraph 180a) of the Framework.

#### **3.29 Other technical matters**

- 3.30 The parties agree that all other technical matters such as foul drainage, archaeology, ecology and arboriculture were not the subject of objections from statutory consultees and subject to the imposition of suitably worded conditions are not a barrier to the grant of planning permission.

4. **Matters on which the parties disagree**

4.1 **Green Belt**

4.2 The parties agree that the appeal scheme represents inappropriate development in the Green Belt.

4.3 The parties disagree as to whether the other considerations clearly outweigh the harm by way of inappropriateness and any other harm such that very special circumstances exist to justify the grant of planning permission.

4.4 The parties will present their respective evidence on this matter.

4.5 **Application of the 'tilted balance'**

4.6 As outlined above, the parties do not agree that very special circumstances exist.

4.7 The Council considers that very special circumstances do not exist, and therefore Green Belt policies of the Framework provide a clear reason for refusing the development proposed. Therefore, the tilted balance is disengaged (in accordance with footnote 6 of the NPPF).

4.8 The Appellant considers sufficient very special circumstances exist to outweigh the identified harm to the Green Belt, and that the tilted balance therefore applies.

4.9 The parties agree that if the inspector were to find that very special circumstances exist then planning permission should be granted.

## **5. Planning Policy**

### **5.1 The Development Plan**

5.2 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)

5.3 Assessments of policy compliance, whether policies are out-of-date, and weight to be afforded to any identified conflicts with the above policies are contained within each parties' respective evidence.

### **5.4 Emerging local plan (and the withdrawn Castle Point Local Plan 2018-2033)**

5.5 The now withdrawn Castle Point Local Plan (2018-2033) was found sound by the examining inspector in their letter of 3 March 2022. Further to receipt of the inspector's report, CPBC presented the final version of the local plan and the report to a meeting of Full Council, on 23 March 2022. A decision was taken not to adopt the local plan. At a meeting of Special Council on 15 June 2022, a decision was taken by members to formally withdraw the local plan.

5.6 The parties agree that the policies of the withdrawn local plan, including policy HO13 (land east of Rayleigh Road) can be afforded no weight in the determination of this appeal.

5.7 The parties agree that the withdrawn local plan cannot be afforded any weight in the decision-making process. The parties agree that weight may be afforded to relevant parts of the evidence base which informed the now withdrawn local plan. However, the parties refer the inspector to their respective cases on these issues

5.8 The Council is currently preparing a new local plan for the borough (the Castle Point Plan). The document has not yet reached formal Regulation 18 stage for consultation, but the Local Development Scheme (January 2024) timetables this to begin in June 2024. The parties agree that the emerging local plan can therefore, at best, be afforded very limited weight in the determination of this appeal, in accordance with paragraph 48 of the NPPF.

### **5.9 National Planning Policy Framework**

5.10 The parties agree that the Framework published December 2023 provides guidance on the weight that should be attached to policies within an adopted development plan. The parties agree that the NPPF is a material consideration in the determination of this appeal but that it does not change the statutory status of the Development Plan as the starting point for decision making.

### **5.11 Conditions**

- 5.12 A schedule of draft planning conditions is being prepared between the parties and shall be circulated with the inspector in advance of the Inquiry.
- 5.13 **Section 106**
- 5.14 Draft Heads of Terms (CD 1.31) were submitted with the planning application and updated ahead of the determination of the scheme (CD 2.11). The parties agree that all planning obligations requested by statutory consultees are reflected within the Draft Heads of Terms.
- 5.15 The parties are working together in advance of the inquiry to agree a suitable Section 106 Agreement to be provided to the inspector within the timeframe expected within the Procedural Guidance.