

Proof of Evidence – Planning
STEVEN STROUD BA(Hons) LLB(Hons) MA MRes MSc MRTPI

Appeal reference: APP/W3520/W/23/3317494

Appeal under Section 78 of the *Town and Country Planning Act 1990* in respect of:

‘Application Outline Planning Application (some matters reserved) - Erection of up to 210 dwellings and new vehicular access to include planting and landscaping, natural and semi-natural green space including community growing space(s), children's play area and sustainable drainage system (SuDS), to include 35% affordable dwellings.’

Site address: Land East of Ixworth Road, Thurston

June 2023



CONTENTS

1. QUALIFICATIONS AND EXPERIENCE	1
2. SCOPE AND STRUCTURE OF EVIDENCE	2
3. RELEVANT BACKGROUND AND MAIN ISSUES.....	4
4. STATUTORY DUTIES AND POLICY CONTEXT.....	9
Statutory Duties.....	9
Development Plan	9
The National Planning Policy Framework.....	11
Assessment of Development Plan Policies.....	15
Joint Local Plan	20
5. MAIN ISSUE AND ASSESSMENT	23
Main Issue – Principle of Development.....	23
Other Considerations	24
6. PLANNING BALANCE AND CONCLUSION (SUMMARY PROOF)	27

1. QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Steven Andrew Stroud, and I am employed by the Babergh and Mid Suffolk District Councils as their Strategic Projects and Delivery Manager; a position that I have held since December 2017. Prior to that I was Area Planning Manager and a Principal Planning Officer, being employed by the Councils since 2014. Holding both private and public sector planning experience, I have personally managed an extensive range of planning application types and proposals, including large-scale (>1000 dwellings) mixed-use urban extensions, brownfield regeneration and >1 million sq. ft enterprise park schemes, leisure and tourism (including ‘SnOasis’: once proposed to be one of Europe’s largest indoor ski and winter sport recreational resorts, now known as ‘Valley Ridge’), major retail, and countryside residential development including scales similar to the appeal proposal. I have appeared as an expert witness at numerous public inquiries and appeal hearings.
- 1.2 I hold undergraduate honours degrees in History and Law, and I am an alumnus of the University of Oxford (*School of Geography and Environment*, MSc). I hold a further master’s degree (MA) in Town and Country Planning from the University of the West of England and was awarded a master’s degree through research (MRes) by the University of Salford in respect of an extended inquiry into the impacts and effects of public art as a tool for place making. I have recently joined the University of Cambridge to study for an IHBC-accredited degree in Building History (MSt), where I have a particular interest in heritage policy and practice.
- 1.3 I am a chartered member of the Royal Town Planning Institute (MRTPI).
- 1.4 I understand my duty to the Inquiry and have complied, and will continue to comply, with that duty. The evidence that I have prepared and provide for this appeal is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed in this proof of evidence are my true and professional opinions.

2. SCOPE AND STRUCTURE OF EVIDENCE

- 2.1 In this proof of evidence ('Proof') I present planning evidence for the local planning authority, Mid Suffolk District Council ('Council'), in response to an appeal submitted pursuant to section 78 of the *Town and Country Planning Act 1990* ('principal Act') by Gladman Developments Ltd ('Appellant'). Accordingly: I identify the relevant planning policy framework for this appeal, assess the proposed development against the most important planning policies for its determination, and reach conclusions as to whether the appeal scheme accords with the development plan as a whole, and whether other material considerations indicate that a decision should be made other than in accordance with that plan.
- 2.2 I was not the case officer responsible for managing the application subject to this appeal. However, I was aware of the proposal during its determination, and I have local knowledge of the area. Before deciding to act in this appeal, I reviewed the application documents alongside the officer's report ('OR') and satisfied myself that the Council's position was robust in planning terms and that I could provide expert planning evidence in support of it.
- 2.3 Therefore, while I did not author the OR I understand the background to the appeal and support the Council's case.
- 2.4 My evidence should be read in conjunction with the proofs prepared by:
- **Luke Barber BSc** of Suffolk County Council as Local Highway Authority, who provides evidence on highway matters and the package of mitigation to be delivered by the appeal scheme.

- **Harry Bennett MPlan MRTPI** of Lichfields, who provides evidence on local and district housing needs and supply.

2.5 I have relied upon their evidence in the preparation of this Proof, which is structured as follows:

- i. Section 3 sets out relevant background information and a summary of the main issue to be considered at the Inquiry.
- ii. Section 4 covers relevant statutory duties and the planning policy context, which is where I also set out what I consider to be the most important development plan policies for the determination of this appeal and the weighting that I ascribe to them.
- iii. In section 5, I consider the main issue for the appeal and the extent to which the appeal scheme complies with local and national planning policy. In this section I also consider the benefits of the development as a material consideration.
- iv. In section 6, I set out my conclusions and carry out the planning balance. This section should be read as a summary of my proof.

2.6 This Proof has been prepared having regard to The Planning Inspectorate's *Procedural Guide: Planning appeals – England* (April 2023), and to the Inspector's pre and post Case Management Conference ('CMC') notes.

2.7 As requested by the Inspector, hard copies of this Proof and its appendices will be sent under separate cover.

3. RELEVANT BACKGROUND AND MAIN ISSUES

- 3.1 In this section I set out details relevant to the appeal proposal and the main issue of the appeal to be considered at the Inquiry.

Site and Surroundings

- 3.2 A detailed description of the site and the proposed development is set out in the OR. The agreed Statement of Common Ground (“SCG”) also addresses this matter.

Application History and Proposal

- 3.3 The appeal application proposes a development of:

‘Erection of up to 210 dwellings and new vehicular access to include planting and landscaping, natural and semi-natural green space including community growing space(s), children’s play area and sustainable drainage system (SuDS), to include 35% affordable dwellings.’

- 3.4 The application is made in outline with all matters reserved saved for access, as particularised on the application form. Thus, detailed access approval is being sought at this stage alongside the general principle of development.

- 3.5 At its Planning Referrals Committee (“PRC”) of 8th March 2023, the Council followed the recommendation of its officers and resolved to agree a putative reason for refusal (“RfR”) for that application i.e., that it would have refused planning permission if the appeal against non-determination had not been made. It is on that basis that the Council has responded to the appeal. The putative reason being as follows:

'The proposed development located, as it would be, outside the defined settlement boundary for Thurston and within the countryside, is contrary to Mid Suffolk's Core Strategy policies CS1 and CS2 and Local Plan policy H7. The application would not comply with the development plan as a whole. In applying the tilted balance, and recognising the primacy of the development plan, the harm in allowing a significant number of further dwellings to be released in the absence of any real and demonstrable district or local need, contrary to the development plan, significantly and demonstrably outweighs the benefits.'

- 3.6 There are contentions made by the Appellant in their Statement of Case that material considerations remain unchanged from the time when the Council previously resolved to grant planning permission for the appeal application, shortly before which the Council had also granted planning permission to Bloor Homes for up to 210 dwellings at Beyton Road, Thurston ('the Bloor Homes scheme') that was the subject of an ultimately unsuccessful claim for judicial review (see §2.2.4, §2.4.2, and §3.6).
- 3.7 The Appellant's case was prepared prior to the meeting of the PRC and the supporting OR. I endorse the position set out by the planning officer, and as reiterated at paragraphs 3.8 to 3.10 of the Council's own Statement of Case. In summary, and in the intervening period of almost three years between resolution to grant and the putative RfR, there have been the following material changes in circumstances:
- i. In respect of a 5-year housing land supply assessment, the Council's position is now almost double what it was when the application was previously considered favourably. The Council can presently demonstrate a 10.88 years' supply, which is a matter of fact uncontested by the Appellant and is settled

in the SCG (see §2.3.1 of that document). That figure places the Council as being one of the highest performing authorities in England.¹


- ii. The appeal site is no longer proposed to be allocated for residential development as part of the Council's new Joint Local Plan which is now at an advanced stage of examination. As such, the previous allocation for the site in the submission draft of the Plan is no longer an indication of the direction of travel of the Council with regard to either: a) the distribution of housing growth generally across the District; and b) growth specifically for Thurston.
- iii. Further change has also occurred on the ground in Thurston due to other permissions being granted in the village, including the Bloor Homes scheme, and therefore this adds to the significant supply of new market and affordable homes being built.

3.8 In my opinion the above factors have an obvious and material bearing both upon the weightiness of the policies most important for the determination of this appeal, and the benefits of the proposed development. I explain this later in my Proof and having regard to the proof on housing need and supply prepared by Mr Bennett.

The Bloor Homes Scheme

3.9 I observe from the Appellant's Statement of Case an implication that the circumstances between their scheme and the Bloor Homes scheme are substantively similar. I disagree with any such suggestion, for the following reasons:

¹ Source: May 2023 edition of 'Planning' which identified that Mid Suffolk DC had the 15th-highest published HLS figure in England at 10.88 years.

- 
- i. Firstly, and as I set out above, the Council resolved to grant, and subsequently permitted, the Bloor Homes scheme at a time when the new Babergh and Mid Suffolk Joint Local Plan (“JLP”) was at a different stage of preparation, and when the Council had a less significant housing land supply position. In recommending approval of the Bloor Homes scheme, officers had regard to the status of the JLP at that time, alongside its evidence base, where there was an indication and ‘direction of travel’ as to the Council’s proposed approach to meeting local Thurston and district housing needs that needed to be met (CD10.13). The Bloor Homes scheme was an emerging allocation at the time it was permitted; the appeal scheme is no longer a proposed allocation. The Council, at para. 5.7(i) of its Statement of Case (CD10.3), invited the Appellant to update their position recognising the materiality of this change in circumstance but they have not done so.
 - ii. Secondly, the balance of benefits between the two schemes is materially different. While both schemes propose the delivery of 210 no. new homes (inc. 35% affordable housing), the Bloor Homes scheme delivered further highway infrastructure works that were of considerable benefit. This was due to the unique position of the landowner in that case being able to deliver those crucial improvement works as they could only be delivered on their land. This is explained further in the Mr Barber’s proof at his Section 5. I also observe that within the officer report for the Bloor Homes scheme there was considered to be a pressing need for affordable housing based on previous years of under-delivery – the Council has since corrected that position (as will be discussed later in this Proof).

3.10 Accounting for the above, there can be no reasonable claim that if the Inspector were to dismiss this appeal that his decision would be inconsistent with the Council’s decision to permit the Bloor Homes scheme; it will be a new decision, taken at a new

time with different prevailing circumstances, and in relation to different (and less weighty) benefits.

The Appeal

3.11 The main issue for this appeal as appurtenant to the putative RfR was identified by the Inspector following the CMC, as follows:

Whether or not the location of the proposed development is acceptable having regard to adopted national and local policies and those emerging in the Joint Local Plan.'

3.12 This Proof is prepared based on the above. It also deals with the planning policy context and overall planning balance that will need to be undertaken in determining the appeal.

3.13 It is my professional opinion that the appeal proposal fails to comply with the development plan and that the appeal should be dismissed, given that there are no material considerations which indicate that a decision should be taken at variance to the plan. This will be demonstrated where I undertake the planning balance later in this Proof.

4. STATUTORY DUTIES AND POLICY CONTEXT

4.1 Within this section I provide an overview of the statutory duties directly applicable to this appeal and the development plan policy context, which is where I set out the most important development plan policies for its determination and the weighting that I would ascribe to them having regard to relevant material considerations.

Statutory Duties

4.2 S79 of the principal Act states that for the determination of planning appeals an Inspector may deal with the appeal as if the application had been made to them in the first instance. Section 70(2) of the same Act requires, in dealing with an application for planning permission that a decision taker shall have regard to the provisions of the development plan, so far as is material, and to any other material considerations.

4.3 S38(6) of the *Planning and Compulsory Purchase Act 2004* requires that applications for planning permission under the planning Acts be determined in accordance with the development plan unless material considerations indicate otherwise.

Development Plan

4.4 Relevant to this appeal the statutory development plan ('Plan') comprises the following:

- saved policies from the Mid Suffolk Local Plan (1998)
- Core Strategy (2008)
- Core Strategy Focused Review (2012)
- Thurston Neighbourhood Development Plan ('TNP', 2019)

- 4.5 There are a number of policies within the Plan that are relevant to the determination of this appeal, and these are set out at §2.1.1 of the Statement of Common Ground between the parties. I agree that they are relevant and accept that the appeal scheme would accord with those policies, save for policies CS1, CS2, and H7 which I deal with below (and policies FC1 and FC1.1, as immediately below). I also consider that except for those three policies the collection of relevant policies is up to date.
- 4.6 Policies FC1 and FC1.1 are not referred to in the putative RfR and are not within the basket of policies agreed to be ‘most important’ for the determination of the appeal (as §2.1.2 of the Statement of Common Ground). However, where in my opinion the operation of the tilted balance directs for permission to be withheld, the application would not represent sustainable development and cannot be said to accord with these two policies. This is however in effect a moot point, considering the importance of policies CS1, CS2, and H7.
- 4.7 There is disagreement between the parties in respect of the treatment of Policy 1 of the TNP. Whilst both parties agree that there is no express conflict with that policy, in my view there nevertheless remains a tension with the policy because an approval of the appeal development would be at odds with what is expected in terms of a constraint on future development within Thurston, recognising that as a starting point development should be focused within the settlement boundary. This is the position that the Council lawfully took when it permitted the Bloor Homes scheme.
- 4.8 Within the Plan, the policies that I consider to be the most important for the determination of this appeal are those stated in the Council’s Statement of Case and the SCG:

Core Strategy:

- CS1 – Settlement Hierarchy
- CS2 – Development in the Countryside & Countryside Villages

Local Plan:

- H7 – Restricting housing development unrelated to the needs of the countryside

- 4.9 It is my understanding that the recent case of *Corbett*² has re-emphasised that a key part of the s38(6) statutory duty is to determine whether the development accords with the development plan when viewed as a whole. It has long been recognised by the courts that it is not unusual for development plan policies to pull in different directions and that the decision taker must therefore make a judgement as to whether a proposal is in accordance with the plan as a whole and bearing in mind the relative importance of the policies which are complied with or infringed and the extent of the compliance or breach.
- 4.10 The Council and the Appellant agree that, in light of the breach of policies CS1, CS2, and H7, the development proposal is in conflict with the development plan, taken as a whole (see §2.1.3 of the SCG).
- 4.11 In my view the failure to comply with the development plan itself constitutes material harm in any planning balance, where any decision taken at variance to the direction of the development plan would undermine public confidence in planning decisions being genuinely plan-led.³

The National Planning Policy Framework

- 4.12 The *National Planning Policy Framework* ('NPPF'), last updated in July 2021, sets out the Government's planning policies for England and how they should be applied. It is a material consideration for decision-taking purposes and can affect the weight attached to policies of the development plan. It cannot, however, alter whether there

² *R (Corbett) v Cornwall Council* [2020] EWCA Civ 508.

³ *Crane v Secretary of State for Communities and Local Government* [2015] EWHC 425 (Admin)

is a conflict with the development plan nor undermine the statutory primacy that a development plan holds.

4.13 In December 2022, the Government proposed changes to national planning policy. Those changes (and corresponding draft version of a new NPPF) have been subject to consultation. Currently, the outcome of that consultation is awaited.

4.14 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. At Paragraph 8, this is defined as meaning that there are three overarching objectives which are interdependent and need to be pursued in mutually supportive ways: economic, social, and environmental. The NPPF goes on to state, however, that they are not criteria against which every decision can or should be judged (paragraph 9).

4.15 I examine the chapters and paragraphs that are of particular and direct relevance to this appeal under Section 5, except for *'the presumption'*, which is principally dealt with below.

4.16 The NPPF is supported and complemented by the national *Planning Practice Guidance* ('PPG'). The guidance provided by the PPG is advice on procedure and elaboration of NPPF policies rather than explicit additional policy and is an online reference as a living document. It is a material consideration alongside the NPPF and where relevant I will refer to it under Section 5 of this proof.

The Presumption in Favour of Sustainable Development

4.17 Paragraph 11 of the NPPF directs that planning decisions should apply a *'presumption in favour of sustainable development'*.

- 4.18 In respect of the operation of paragraph 11.c) for decision-taking purposes, where planning proposals accord with an up-to-date development plan, they should be granted planning permission without delay. The corollary, naturally, is that where a proposed development does not accord with an up-to-date development plan there planning permission should be refused unless there are prevailing material considerations to the contrary, as per NPPF paragraphs 12 and 47.
- 4.19 Paragraph 11.d)ii. is widely known as the “tilted balance”. This is because, if engaged, paragraph 11.d)ii provides that planning permission should be granted unless any adverse impacts of doing so (which might in principle include conflict with the development plan⁴) would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 4.20 The parties have agreed that the tilted balance applies to this appeal because the most important policies for the determination of the appeal (CS1, CS2, H7) are out of date. I accept that this is the case which is consistent with the findings of other appeals affecting development in the district – noting recently, for example, the dismissed appeal for development in Great Bricett (CD9.10, paras. 80 and 81).
- 4.21 However, as the Council explains in its Statement of Case, such a finding does not direct for a particular weighting to be afforded to those policies when accounting for local circumstances and how matters may have evolved on the ground. As I explain in this Proof, in my opinion those policies still warrant a very substantial weighting being applied to them in the circumstances of this appeal.
- 4.22 This is because, as the Courts have explained, even if policies are out of date, that does not make them irrelevant: their weight is not fixed, and this operation sits firmly within the bailiwick of the decision taker. There will be many cases where restrictive

⁴ *Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC* [2021] EWCA Civ 104.

policies are given sufficient weight to justify refusal despite their not being up to date⁵. Context is everything, and a textured analysis is required to assess whether in the circumstances of a particular case an out-of-date policy would nevertheless warrant a particular weighting to be attached to it.

4.23 Further, and in respect of the question of weight to be afforded to planning policies that are taken into account in that planning balance, the *Evans* case is instructive. At paragraph 47 of that judgment, Holgate J held:

I accept that a planning authority may consider it appropriate to carry out a comparison with NPPF policies in a generic manner which would apply to, or be capable of applying to, any proposal coming before it within the scope of the relevant local plan policies. But as a matter of law, it is not restricted to acting in that way. The language used in para.11(d) of the NPPF is ‘the policies which are most important for determining the application are out of date’. That plainly encompasses inter alia the manner in which a policy operates in relation to the determination of a particular application, although that may be judged to affect the determination of other applications as well. Accordingly, the operation of development plan policies in relation to a particular proposal may properly be compared with the way in which the operation of NPPF policies affects the determination of that proposal.’

4.24 In this case I have considered the most important policies for the determination of this appeal having regard to current local circumstances, notwithstanding that they have been agreed to be ‘out of date’ on face value because of inconsistencies in their wording with policies of the NPPF.

⁵ *Suffolk Coastal District Council v Hopkins Homes and Richborough Estates v Cheshire East* [2016] EWCA Civ 168, paras 46-47; [2017] UKSC 37, paras 51, 56.

Assessment of Development Plan Policies

- 4.25 I now consider the most important development plan policies engaged by the appeal proposal and identify the weight that I believe should be afforded to them having regard to the policy context ‘on the ground’.⁶
- 4.26 I accept that as a matter of judgement the generally restrictive or blanket approach to housing in the countryside set out within policies CS1, CS2, and H7 has been found not to be entirely consistent with the NPPF. This position has been recognised in previous appeal decisions (as Great Bricett, referred to above), and by the Council in approving other housing development. The reason for this is because of the aged nature of the current plan: the lack of a settlement boundary review at a district level in recent years and absence of an allocations document, bearing in mind the increased housing need for the district since the plan was adopted. Therefore, a view has been taken as per the OR, that less than full weight should be afforded to those policies.
- 4.27 However, it is important to contextualise that approach on the ground in the circumstances of this appeal and its timing. This is because, as I review the progress of the emerging JLP and its examination, alongside recently published monitoring data, I take the view that there are important factors indicating that a very substantial weighting should be afforded to the housing policies of the development plan, especially in light of the significant housing land supply figure of 10.88 years and the assessed need and supply of development and a Thurston level.

District Needs

- 4.28 I return to the JLP as a material consideration later in this section but at this point draw attention to correspondence of the examiners dated 9th December 2021

⁶ *Peel Investments (North) Ltd v SSHCLG* [2020] EWCA Civ 1175.

(CD8.8). In that letter, among other matters the Inspectors identify that in relation to the two plan areas (with emphasis):

‘7. Furthermore, we understand that, across the two districts, around 90% of the housing requirement figure detailed in policy SP01 is already provided for by existing completions, sites under construction, sites with full or outline planning permission, sites with a resolution to grant planning permission subject to s106 agreement, allocations in made Neighbourhood Plans and the, reasonable, allowance for 1,000 windfall dwellings. This unusual situation means that demonstrating a supply of developable housing land for the vast majority of the plan’s overall housing requirement figure is, for some years to come, unlikely to be dependent on the allocation of the housing sites included in the submitted plan.

4.29 On that basis the Examiners advised splitting the JLP into two parts: Part 1 would be a local plan containing relevant strategic and development management policies (retaining the existing settlement boundaries), and Part 2 would provide for a review of those settlement boundaries, the settlement hierarchy, spatial distribution and any allocations. The letter further indicates that the Part 1 plan is likely to be found sound subject to main modifications.

4.30 The Council recently published its proposed Main Modifications to the JLP with a period of consultation that ran from 16th March 2023 to 3rd May 2023. As recommended by the Inspectors, the policy allocating the site for housing was deleted and is no longer part of the plan.

4.31 Following the consultation on the proposed Main Modifications, the Inspectors have concluded that further hearing sessions would be helpful to them, and these will take place between 26th and 29th June 2023 i.e., the week prior to the opening of this appeal inquiry.

4.32 I have copied below an extract of the modified version of Table 3 to the supporting text to policy SP01 which sets out the calculations for housing need over the plan period. The overall methodology and its robustness are explained in the evidence of Mr Bennett.

	Mid Suffolk
Annual housing need target	535
Total local housing need requirement 2018-2037	10,165 (535 x 19yrs)
Completions 2018-2021	1,813
2021 Committed supply (planning permissions, sites with resolution to grant subject to Section 106 agreement, Neighbourhood Plan allocations)	7,882
Windfall	500
Total Housing Supply at 1 st April 2022	10,195
% of local housing need which is identified housing supply at 2021	100%

4.33 In my opinion this provides a very strong indication that there is unlikely to be any shortfall for Mid Suffolk required to be dealt with for the next plan period as part of the JLP (indeed, if any at all), and certainly no immediate pressure to release new dwellings as a departure from a plan-led approach that would include a retention of existing settlement boundaries.

4.34 This is made clear from the evidence of Mr Bennett where it is explained at §5.1(2) of his proof that from the existing and agreed housing land supply position (CD10.10), three-quarters of the total housing requirement to 2037 has already been met. This is the *minimum* position. Hence, Mr Bennett’s conclusion (§6.7 of his proof) that it is not presently clear that the Council will need to grant additional planning permissions in the course of delivering its local plan aspirations. The most appropriate, and responsible, response bearing in mind the importance of the planning system being genuinely plan-led, would be for the Council to determine

whether it is necessary to allocate sites (and where they should be located) as part of the Part 2 plan-making process – it will be a decision to be made at that point in time.

4.35 That the Council finds itself in such a strong position in respect of the delivery of its future housing needs must on any view have a bearing on the weighting to be ascribed to the Council's existing housing policies.

4.36 Therefore, that the appeal application proposes development adjacent to a settlement (albeit outside the settlement boundary) at a higher tier of the Council's spatial strategy is not a point of great significance, especially bearing in mind the quantum of development that is proposed, and the considerable number of new dwellings already being delivered in Thurston as I now consider below.

Local Needs

4.37 In respect of housing need and supply at a village level, I have had regard to the volume of representations submitted by interested parties in response to the appeal application where it is clearly a matter of public concern that the village is to grow by a substantial number of dwellings, in a short space of time, in an unplanned way. This is set out at various points within the TNP (CD7.7), notably §5.8 where it is stated:

'Some 1,000 dwellings will have been granted planning permission or built over a two-year period since 2015/16 and this will inevitably have a significant effect on the infrastructure and character of the village. With the granting of planning permission in 2017 for 818 new dwellings, along with previously granted but as yet uncompleted permissions, the population of Thurston is expected to rise to 6,000 which equates to an 86% increase since the 2011 Census. Furthermore, from 2011 the number of dwellings will have risen to over 2,330, an increase of 76%.'

4.38 Of course, the Bloor Homes scheme now needs to be added to that number.

4.39 At section 4 of his proof, Mr Bennett sets out the latest expected supply of affordable and market homes that are anticipated to come forward in Thurston. I consider that the numbers involved are substantial relative to the district and are now well beyond what was anticipated by the TNP and fail to accord with either extant or emerging housing policy. In that respect it is useful to note that – as §4.3 of Mr Bennett’s proof – more homes are expected to be delivered in Thurston than Stowmarket, which is the principal market town (as well as other locations on the A14 corridor). Thurston is also the location where, of the settlements reviewed, the most affordable housing will be delivered.

4.40 All of this informs the weight to be afforded to the housing policies most important for the determination of this appeal, and the weightiness of the policy conflict.

4.41 Thus, and to reiterate:

- The Council can demonstrate more than double the requisite housing supply required by Government (undisputed by the Appellant).
- There is an indication from the modified JLP, and the evidence base supporting it, that the district’s housing needs are already going to be met for the next plan period, an ‘unusual’ circumstance recognised by the Examiners. The modified JLP is likely to be found sound.
- There are already a significant number of new homes planned for Thurston without the appeal development, and there is no indication that there is any need, let alone a pressing need to identify further sites for homes beyond the settlement boundary that remains in force.

4.42 This evidences that there is no compelling pressure by reason of unmet housing need to allow policies CS1, CS2, and H7 to be overridden, and the Inspector could apply those policies with force without any risk of frustrating the Government's objective of significantly boosting housing supply or jeopardising the Council's ability to meet its housing requirements. This is not a novel concept.⁷

4.43 Overall and for the above reasons, I therefore afford a very substantial weighting to policies CS1, CS2, and H7 albeit recognising that they are out of date in strict terms.

Joint Local Plan

4.44 The JLP was formally submitted to the Secretary of State for Housing, Communities and Local Government for independent examination on 31st March 2021.

4.45 Following an exploratory meeting with the examining Inspectors on 16th December 2021, it has been proposed to progress the JLP as a 'Part 1' local plan. This will be followed by the preparation and adoption of a 'Part 2' local plan as soon as possible, as I refer to earlier in this section.

4.46 The most important policy from the JLP that would be relevant to the principle of development in this appeal is policy SP03, which provides as follows (as modified):

Policy SP03 – The sustainable location of new development

- 1. New housing development will come forward through extant planning permissions, allocations in made Neighbourhood Plans, windfall development in accordance with the relevant policies of the Plan and any allocations which are made in the forthcoming Part 2 Plan.*

⁷ *Gladman Developments Ltd v Daventry DC & Anor* [2016] EWCA Civ 1146, at para. 44.


2. *Settlement boundaries are defined on the Policies Map. These boundaries were established in earlier Local Plans and Core Strategies and have not been reviewed as part of the Plan but are carried forward without change at the present time. The principle of development is established within settlement boundaries in accordance with the relevant policies of this Plan. Outside of the settlement boundaries, development will normally only be permitted where the site is allocated for development, or in a made Neighbourhood Plan, or is specifically permitted by other relevant policies of this Plan, or it is in accordance with paragraph 80 of the NPPF (2021).*

3. *Settlement boundaries will be reviewed, and if necessary revised, as part of the preparation of the Part 2 Plan.*

4.47 I observe that in substance policy SP03 operates in a manner similar to policies CS1, CS2, and H7, insofar as it takes a restrictive approach to new housing in countryside locations save for specific exceptions. However, the difference in the case of SP03 is that it has been modified having regard to the housing needs set out under policy SP01 which, as Mr Bennett's evidence shows, illustrates that there is very little (if any) need for housing over the new plan period and no indication that the appeal site will be needed now or in the future.

4.48 I think it important to bear in mind that historically policies CS1, CS2, and H7 will have been "up to date" at one time or other, especially where they will have been considered as part of the Core Strategy Focused Review in 2012 to ensure that they remained consistent with the first iteration of the NPPF.

4.49 At this point in time, I attach a moderate weight to the JLP (and its policies) as a material consideration. I afford the JLP a moderate weight recognising its stage of



preparation and examination. Whilst I am aware that there remain objections to the plan in its modified form, and it is not clear to me the extent to which such objections are unresolved, I am mindful that the examining Inspectors have previously indicated that the plan is likely to be found sound subject to the modifications that have been made.

4.50 Dependent upon the progress of the hearing sessions later in June, it may be that I must revisit my position because this is a material consideration that continues to evolve.

5. MAIN ISSUE AND ASSESSMENT

- 5.1 This section engages with the main issue for the determination of the appeal, where I assess whether the appeal scheme complies with the development plan as a whole and whether other material considerations indicate that a decision should be made otherwise than in accordance with the development plan.
- 5.2 Having done so, I will then consider those other considerations which are relevant, including the benefits of the appeal scheme.

Main Issue – Principle of Development

[Whether or not the location of the proposed development is acceptable having regard to adopted national and local policies and those emerging in the Joint Local Plan]

- 5.3 Straightforwardly, the appeal application fails to comply with policies CS1, CS2, and H7. There is no in-principle development plan support for the proposal in this location. The site falls outside the settlement boundary as updated by the TNP and is open countryside in policy terms.
- 5.4 As the Appellant agrees, the application fails to accord with the development plan as a whole on this basis.
- 5.5 While there is no express conflict with Policy 1 of the TNP, there nevertheless remains a tension with that policy because the appeal scheme would not represent a focussing of development within the settlement boundary, and this has been a matter of great concern locally. The approval of the Bloor Homes scheme has already stressed that tension and the appeal scheme proposes the same quantum of development again.

- 5.6 The application also fails to comply with policy SP03 of the emerging JLP, which is now at an advanced stage of examination. The appeal site is no longer proposed for allocation. The Appellant has not to my knowledge updated their case to account for these material considerations.
- 5.7 The appeal application therefore fails to accord with both the current development plan and would fail to accord with the JLP as modified (i.e., the future development plan).
- 5.8 Read alongside policy SP01, and the current circumstances for housing in Thurston and Mid Suffolk, there is simply no need for the development proposed and there is no indication that it should or will be allocated for development in the future.
- 5.9 An approval of the appeal scheme would both undermine public confidence in the planning system and the importance of planning decisions being genuinely plan-led, which is a key plank of national planning policy (e.g., para. 15 of the NPPF). Having regard to paragraph 78 of the Framework, it also cannot be the case that the appeal scheme respects local needs or is responsive to those circumstances. The appeal scheme cannot be considered to be “sustainable” on that basis.
- 5.10 I afford a **substantial weight** to the policy breaches identified.

Other Considerations

Benefits of the appeal scheme

- 5.11 The appeal development would bring about the following public benefits. I set them out as follows along with the weighting that I would ascribe to them.

- 5.12 The provision of new market homes is a benefit but, in this case, I would attach a **limited weight** to it. Given that the Council can demonstrate a housing supply of 10.88 years, and in the absence of any identified requirement, there is simply no pressing need to release further dwellings especially in a location where they are not required and where it exacerbate the tension with a made neighbourhood plan.
- 5.13 I attach **moderate weight** to the provision of affordable housing. I reach that view accounting for the evidence provided by Mr Bennett, which demonstrates the strong delivery record and supply projections for the Council when compared to identified needs. Moreover, a considerable number of those affordable homes would be within Thurston – any need within the parish would be satisfied many times over. Overall, this tempers the weight to be afforded to affordable housing as a benefit in this case.
- 5.14 I recognise that the development would provide economic benefits in the form of short-term activity during the demolition/development phase, and the longer-term stimulation of additional future expenditure in the locality by future occupiers. I do not rely upon the potential for the development to generate income for the Council through future New Homes Bonus (‘NHB’) and Council Tax revenues⁸. Overall, I afford the economic benefits a **moderate weight**. I attach a moderate weight because of the extent of development proposed, its nature/duration, and the likelihood that any occupier expenditure would be widely dispersed.
- 5.15 The development would also generate a return in terms of the Community Infrastructure Levy (‘CIL’). However, as a local finance consideration the guidance relating the materiality of that benefit remains the same as with the NHB and Council Tax. In the absence of evidence to demonstrate how that levy would be required to make the appeal development acceptable in planning terms, I afford this

⁸ In accordance with the PPG (Determining a planning application, Paragraph: 011 Reference ID: 21b-011-20140612).

consideration no material weight. In any event and more generally, the CIL is intended to provide infrastructure necessary to support development and is not of itself an additional benefit *per se*.

- 5.16 General open space provision and any ecological mitigation/enhancement are benefits, too; however, they are benefits that any development of a nature like the appeal proposal would be expected to provide, and they ultimately serve to mitigate the impacts of the development. I therefore ascribe a **limited weight** to this factor.
- 5.17 Highway benefits are set out in the proof of Mr Barber, and I attach **limited weight** to them. I attach limited weight to the highway benefits because they principally serve to mitigate the impacts of the development and any improvements needed within the public highway remain achievable without the appeal scheme (which is a key difference from the Bloor Homes scheme). Put another way: if the appeal is dismissed, there would be no adverse outcome in highway terms.
- 5.18 Taken in the round, and even if assessed on a cumulative basis, I afford no more than a **moderate weight** to the benefits posed by the appeal development.

6. PLANNING BALANCE AND CONCLUSION (SUMMARY PROOF)

- 6.1 Straightforwardly, the appeal development conflicts with the district's housing policies, and it conflicts with the development plan as a whole, for this reason alone. This amounts to a considerable degree of harm bearing in mind the statutory presumption in favour of the development plan and the strong performance of the Council in significantly boosting housing supply at local and district levels.
- 6.2 Other material considerations do not point to a different conclusion but reinforce my view that the appeal should be dismissed. Assessed against the policies of the NPPF taken as a whole, the appeal scheme would also conflict with national planning policy because it would fail to have regard to local circumstances and would undermine public confidence in the planning system being genuinely plan-led.
- 6.3 The benefits of the appeal scheme are modest when placed into context, acknowledging the strong housing land supply position of the Council and the likelihood that the housing needs of the district have already been satisfied long into the future. There is simply no need for the appeal development, and it has not been shown to be necessary for any reason. There is no evidence to suggest that adverse effects would arise should the appeal be dismissed.
- 6.4 The proposed development would be contrary to the development plan and national planning policy and there are no material considerations that justify a departure from those policies; the harm that has been identified significantly and demonstrably outweighs the benefits. Where there are no other considerations that would indicate a planning balance being struck any other way than to refuse planning permission, I respectfully submit that the appeal should be dismissed.