### **TOWN AND COUNTRY PLANNING ACT 1990**

**AND**

**ACQUISITION OF LAND ACT 1981**

**CHICHESTER DISTRICT COUNCIL (ACCESS TRACK OFF CROOKED LANE, BIRDHAM) COMPULSORY PURCHASE ORDER 2023**

**REBUTTAL**

**PROOF OF EVIDENCE**

**of**

**MARK BRISTOW**

**on behalf of Chichester District Council**

**Planning Inspectorate Reference: APP/PCU/CPOPF5540/3326950**

## Personal details

### My name is Mark Bristow, and I am the Principal Affordable Housing Delivery Officer for Chichester District Council

### This rebuttal Proof of Evidence addresses certain of the points made by Mr. Corkett in his Statement of Case.

### **Relevance of Policy H9 of the Chichester Local Plan 1999**

### In paragraph 3.10 of his Statement of Case Mr. Corkett states that the Housing Site is an Exception Site with its own set of rules. He repeats this in paragraph 9.2, and adds that one of these rules is that it meets the needs of people with a local connection with Birdham; but not a need for social housing from other Parishes.

### While these statements summarise the long expired Local Plan policy, Mr. Corkett suggests that this policy has a continuing application and relevance. This is not the case. I explain this further below.

### When the initial planning application on the Housing Site was considered (in November 2013) the relevant Local Plan was the Chichester District Council Local Plan 1999. This contained a rural exceptions policy (H9) which stated that:

### *“… social housing will be permitted on sites in the rural area…”*

### subject to certain criteria.

### Mr. Corkett relies on the third criterion which stated that:

### *“The district planning authority is satisfied that the proposal is intended, and is likely, to meet the needs of people with a local connection ...”*

### Later in the policy, local connection is defined, in the terms set out in paragraph 3.35 of Mr. Corkett’s Statement of Case – essentially a local connection to the Parish; but it does not extend beyond the Parish.

### In determining the application for 15 homes on the Housing Site the Council considered this policy. They had to determine whether the proposal was *“intended and likely”* to meet the needs of people with a local connection.

### In paragraphs 8.5 – 8.7 of the Officers Report to Committee (Appendix SP13 to the Proof of Evidence of Sarah Poulter) there is an assessment of the proposal against the third criterion, and paragraph 8.5 of the Officers Report states:

### *“there are currently 39 households on the Council’s housing register with a local connection with Birdham Parish.”*

### Paragraph 8.7 of the Report then stated:

### *“In conclusion on this issue it is considered that there is a proven need for 15 affordable homes for local people in Birdham and, accordingly, the criterion 3 of CDLP policy H9 is satisfied.”*

### The same paragraph 8.7 continued as follows:

### *“The section 106 legal agreement accompanying the application will ensure that the accommodation will be retained as affordable housing in perpetuity with priority [my emphasis] given to people with a local connection”*

### In accordance with Policy H9, the Council agreed to grant planning permission for affordable housing on the Housing Site, which was intended for people with a local connection to Birdham; but with the ability to offer housing to persons outside Birdham, if no person with a connection with Birdham were to come forward to apply for any accommodation. This was achieved through the use of a Section 106 agreement which was entered into on the site, coupled with a Nominations Agreement with Martlet, which requires a Birdham Parish connection in the first instance; followed by a cascade to surrounding parishes and then to the district as a whole. This was not a decision unique to the Housing site in Crooked Lane. It is a sensible and standard practice adopted by the Council in relation to all Rural Exception Sites.

### Policy H9 was a planning policy used and applied for the purpose of determining planning applications. It does not have any function or purpose in controlling the use of the Housing Site beyond i.e. after, the grant of planning permission. Once planning permission had been granted, the use of the Housing Site is governed by the scope and conditions of the planning permission, and the terms and conditions of the section 106 agreement; which expressly gives priority to persons in the Parish of Birdham, before cascading down to other neighbouring parishes, and if necessary, to the wider district.

### **Alternative Sites suggested by Mr. Corkett**

### In paragraph 1.2.1 and 2.10 of his Statement of Case, Mr. Corkett refers to a recent appeal decision at Main Road Birdham and states that this “will now meet Birdham’s housing demand” and that “15 social rented houses can be built at this location”

### In Section 12 of his Statement of Case, Mr. Corkett refers to this site again, together with other possible alternative sites in Birdham, suggesting that these sites could meet the need for affordable housing. Further detail on each of these sites is set out in the Table below:

### **Table of Alternative Sites suggested by Mr. Corkett**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Site | Reference Number | Total Homess | Of which AH | AH Tenure Split | decision | Date of decision | Status |
| Longmeadow | 07/05640/  FUL | 28 | 10 | 7x AR  3 x SO | Granted | 10 July 2013 | Built |
| Tawny Nurseries | 12/04147/OUT  (DoV – 15/04342/OBG) | 30 | 12 | 6x AR  6 x SO | Granted | 19 Nov 2013 | Built |
| Rowan Nursery | 17/00316/FUL  (DoV – 18/02026/OBG) | 27 | 7 | 4 x AR  3 xSO | Granted | 7 Mar 2020 | Built |
| Land Off Main Road Birdham | 21/01830/OUT  (Appeal - APP/L3815/W/  23/3319434) | 150 | 45 | 12xFH  16xSR  9x AR  8x SO | Granted at Appeal | 9 Feb 24 | Committed |
| Russell’s Nursery | 23/00067/FUL | 14 | 4 | 1xFH  3xSR | Pending | - | Pending |
| Bell Lane/Kelly’s & Koonbergen | 20/02066/OUT  (Appeal - APP/L3815/W/22/3300814) | 73 | 23 | 16xAR  7xSO | Refused | 9/8/2023 | N/A |
| Birdham Straight House, Main Road | 22/01918/FUL  (Appeal - APP/L3815/W/23/3330753) | 5 | 0 | - | Pending | - | Pending |

### The sites at Longmeadow, Tawny Nurseries and Rowan Nursery have all been built and occupied, and so are not available to meet the need for affordable housing.

### I comment in further detail on the Appeal decision in respect of the Land off Main Road, Birdham, at the end of this Rebuttal Proof.

### Of the remaining three sites, one was refused, and decisions on the other two are pending. These two pending decisions would provide only 4 units of affordable housing accommodation.

### In summary, while some of these developments have, in the past, met part of the Housing Register need in Birdham, there a remains an unsatisfied need. While the number of households on the Housing Register in Birdham has fluctuated over the years, the one constant is that the Housing Register need has never been met in full, with new households continually joining the Register over time.

### **Need for Affordable housing**

### In various paragraphs of Mr. Corkett’s Statement of Case e.g. paragraphs 1.4.3 and 3.15, Mr. Corkett states that there has never been sufficient housing demand on the housing register for groups with a connection with Birdham, to warrant building 15 houses.

### In addition, he repeatedly states in separate paragraphs e.g. 1.2.1, 3.13 and 3.14 that the Appeal decision to grant planning permission for 150 houses off Main Road, Birdham changes everything, as it will satisfy any need.

### These statements are factually inaccurate. I consider each of these statements in turn.

### Housing Register

### The Housing Register forms the starting point in considering the need for affordable housing in any given parish; in particular for rented affordable accommodation, because such persons are unable to compete on the open market. However, it is often the case that the Housing register only forms part of the picture; this is because there are restrictions on who can apply to be on the Register e.g. only those over the age of 18. In addition, even where persons may be eligible to join the register they may not always elect to do so for various reasons. As such there often remain hidden households which the Housing Register does not capture. An example of this can be seen in some of the comments from those persons who made representations in support of the original and variation planning applications. In each instance they state that they, or members of their families, have had to move away from Birdham due to lack of suitable accommodation. As a result, they will not appear on the Housing Register. Copies of these representations are contained in Appendix A to this Rebuttal Proof.

### Until those households that are on the Housing register are physically allocated a home, they remain on the Register as a live applicant. Periodically the Council may write to those on the register, if it becomes evident that no bids on appropriate properties are being placed by the household over a period of time. In some instances, there may be valid reasons why a household has not made such a bid e.g. they have specialist care needs/access requirements.

### The Housing Delivery Team monitors the need on the Register on a monthly basis, to obtain an indication of the number and size of properties required in any given area. Some areas tend to be reasonably stable and others fluctuate, depending on the number of affordable homes advertised at any given time. A new development which comes on stream tends to lead to a reduction in immediate need. However, conversely, and particularly in rural areas, it can lead to an increase in households joining the Register, as persons seek to secure one of the properties being built. As and when construction starts on the Appeal Site, I would expect an increase in the numbers of persons joining the housing register.

### The need identified by the April 2022 HEDNA in support of Local Plan preparation, indicated that a significant number of new affordable homes are required each year in the plan area; a number which the Council is never able to satisfy, without a substantial uplift in development, and land available for such development.

### In the case of Birdham the Housing figures have always recorded a need, even at times when new development has come on stream within the Parish.

### In summary, my conclusion remains that there continues to be a need for affordable housing, and specifically social rented housing, in Birdham for the reasons set out in section 9 of my main Proof and, in particular, in the Table at paragraph 9.9.

### Appeal decision at Main Road, Birdham

### The Appeal decision at Birdham permits up to 150 residential units. A copy of the Appeal decision is at Appendix B to this Proof of Evidence.

### Part 1A of the First Schedule to the accompanying Section 106 Agreement (an extract of which is at Appendix C to this Proof of Evidence) provides that 45 of these units will be affordable units (although if the total number of units is less than 150 units, then the number of affordable housing units is reduced pro rata, so that it remains at 30% of the total number of units). On the assumption that the total number of affordable units will be 45, the breakdown of the affordable units is set out in Part 1A of the First Schedule to the Section 106 Agreement as follows:

8 Shared Ownership Units;

9 Affordable Rented Units;

16 Social Rented Units; and

12 First Homes.

As can be seen, 16 of these units are intended for social rent.

### The following points can be made in relation to this Appeal decision.

### First, we do not we do not know what the developer’s intentions are in relation to the site; whether they intend to build out immediately, or sell on to another developer, or housebuilder.

### Secondly, the Main Road permission is an outline planning permission, and so there will need to be a process of obtaining reserved matter approvals and satisfy other conditions, before development may commence. In my experience, for a site of this size, this process would typically take 12 to 18 months. On top of this, there will need to be added an appropriate build period.

### Thirdly, it is not clear how quickly the affordable housing units (and social rented units in particular) will come forward, because the section 106 Agreement permits the developer to allow to be occupied (i.e. build out and sell) up to 74 Open Market Units (half the scheme) before any of the affordable units need to be provided. Accordingly, it would appear that any social rented units on the Appeal Site, are unlikely to be available for some years.

### In contrast, the delivery timescale of the Crooked Lane Housing Site is more immediate. The timescale for delivery is set out in paragraph 7.3 of Sarah Poulter’s main Proof of Evidence, where she states that Hyde would expect to obtain any outstanding approvals and build out and complete the scheme in just under two years (23 months) from the confirmation of the Order.

### Fourthly, the Appeal Site by reason of its size, is considered as a strategic site, and so will be open to ‘bidders’ outside Birdham, who may, in certain circumstances, occupy the properties despite not having a local connection. This is explained in further detail below.

### The Council operates a Choice Based Lettings System, which requires those on the Register to formally bid for properties that are available; and the household with the highest banding (Band A) gets the first nomination. However, on a Rural Exception site, the Local connection will override this approach, and could lead to a household (household b) in a lower Band, getting first refusal on a property, above that of the household in a higher band; should household b have a local connection to the area.

### Once all bids have been received for any given property, if there is no one with a local connection to the parish, then a cascade out to surrounding parishes is undertaken to establish if any bidders have a connection to one of those parishes. If they do, they then get the first refusal. If in the event that there are still no persons with a connection to the surrounding parishes, then the bids are opened up district wide, and the process reverts to bidding from the Highest Priority Need (usually Band A) in the standard way for other sites.

### In summary a Rural Exception site prioritises those with a local connection above all others, until there are no bidders left that are able to demonstrate a connection to the parish; then the process moves to the surrounding parishes in the same format, and then to bidders from across the district

### In contrast, on strategic sites such as the Appeal Site (even where they are in rural areas), priority may be given to banding rather than local connection, as the sites are considered strategic in size. Accordingly, on a strategic site, the available housing may not necessarily become available to those with a local connection.