

Town and Country Planning Act 1990

Section 77 Call-in

Application By

Burlington Developments London Limited

Council Ref: 25/1020/OUT

PINS Ref: APP/P1940/V/26/3378268

Proposals

Outline planning application for up to 256 homes (C3 use class) (including affordable and self/custom build housing), housing with care (C2 use class), a children's home (for looked after children) (C2 use class) together with associated access (including off-site highway works), parking, open space and landscaping (appearance, layout, landscaping and scale as reserved matters).

Land East of Oxhey Lane, Carpenders Park

Rebuttal Proof

(Registered Provider Evidence)

of

Nathan Stevenson

On behalf of the Applicant

June 2026

TABLE OF CONTENTS

1.0	Introduction	2
2.0	Further Comment	3
3.0	Conclusion	5

APPENDIX

Appendix 1 – Cala Letter (Neil Farnsworth – Head of Planning) dated 16 June 2026

Appendix 2 – Richborough Letter (Nick Banks – Senior Regional Director) dated 15 June 2026

Appendix 3 – Obsidian Letter (Iain Welsh – National Land Director) dated 15 June 2026

Appendix 4 – Clovercourt Letter (Gary Sewell – Managing Director) dated 12 June 2026

1.0 INTRODUCTION

- 1.1 This Rebuttal Proof has been prepared in response to points raised in the Proof of Evidence of Adam Ralton (submitted on behalf of the Council) in relation to the status of applications and planning permissions for residential development within the Council's area.

- 1.2 I do not comment on all matters contained within the Proof of Evidence of Adam Ralton and my lack of comment on other matters should not be taken that I agree with the content. For the avoidance of doubt, I continue to rely upon my main Proof of Evidence.

2.0 FURTHER COMMENT

- 2.1 At paragraph 1.4 of the Adam Ralton Proof of Evidence he sets out a list (A to G) which purports to describe the status of applications and planning permissions for residential development within the Councils' area.
- 2.2 However, the A to G list does not present a complete picture of the impact of the Councils MIP provisions on housing delivery and importantly, the timely delivery of much needed new homes in the context of the Council's woeful housing land supply position and chronic affordable housing shortfall. Mr Ralton's narrow calibration of the issue in his list leads him to fail to have regard to the full extent to which the clause which the Council seeks to impose is causing such delay to delivery.
- 2.3 At paragraph 2.3, Mr Ralton accepts that application 22/1912/OUT (Denham Way) may have stalled as a direct result of the MIP clause. The application was validated on 27 October 2022 and was presented to Planning Committee on 22 June 2023. Following the Committee's resolution to grant planning permission, Mr Ralton states at paragraph 2.5 that a draft S106 agreement was issued in December 2023 containing a 5 month MIP and that no further correspondence was received from the developer until 2025.
- 2.4 However, I attach at Appendix 1 a letter from Neil Farnsworth who is the Head of Planning for Cala Homes, the developer of that scheme. The letter provides important context which is absent from Mr Ralton's evidence. The letter confirms that the Section 106 for the site has not progressed directly as a result of the 5 month MIP provisions and the Councils lack of flexibility on the issue.
- 2.5 As a consequence, a scheme which secured a resolution to grant planning permission in June 2023 remains undetermined three years later. This represents a substantial delay to the timely delivery of much needed new homes and affordable homes as a direct result of the Council's MIP provisions.
- 2.6 Furthermore, the A to G list fails to acknowledge that the same MIP issue is currently the subject of dispute in a number of other planning appeals with the Council. I would note the following:
- (a) I attach at Appendix 2 a letter dated 15 June 2026 from Nick Banks who is the Senior Regional Director of Richborough which confirms that the MIP clause is currently a matter in dispute in the appeal relating to Little Green Lane in Croxley Green; and
 - (b) I attach at Appendix 3 a letter dated 15 June 2026 from Iain Welsh who is the National Land Director of Obsidian which similarly confirms that the MIP clause is currently a matter in dispute in the appeal relating to Chalfont Road, Maple Cross.
- 2.7 At Paragraph 2.8 Mr Ralton suggests that the site to the rear of 76-78 Church Lane, Sarratt which was allowed at appeal by Inspector O S Woodwards on 19 July 2023 comprising 100% affordable housing is not a 'stalled' site as a result of the MIP clause – in this case 5 months.

- 2.8 However, I attach at Appendix 4 a letter dated 12 June 2026 from Gary Sewell who is the Managing Director of Clovercourt which demonstrates that the opposite is, in fact, the position. The letter confirms that the MIP provisions have had a material impact on the progression of the development. The letter further explains that the reserved matters application (as referenced at paragraph 2.9 of Mr Ralton’s Proof) was submitted primarily to preserve the outline planning permission whilst efforts continue to resolve the MIP issue. The letter also confirm that the MIP provisions remain the subject of dispute in a current planning appeal on the same site. This is a site that had planning permission for 100% affordable housing in July 2023 but has not yet started. This is another clear example of significant delay to the timely delivery of new affordable homes as a direct result of the Council’s MIP provisions.
- 2.9 At paragraphs 2.14 and 2.15, Mr Ralton provides details of schemes being delivered by developers (paragraph 2.14) and Registered Providers (RPs) (paragraph 2.15). I provide the following additional information:
- (a) Killingdown Farm (20/1881/FUL) (Appeal Ref: APP/P1940/W/21/3280443) – a scheme comprising 160 new homes in total of which 72 were affordable. The RP was Clarion who purchased the affordable homes in 2023. The letter at Appendix 1 (dated 6 May 2026) of my main Proof of Evidence confirms that Clarion would not accept a moratorium period of between 4 and 6 months but would accept ***“the standard 3 months”***.
 - (b) Former Little Furze School (18/1296/OUT) – a scheme comprising 70 new homes in total of which 21 were affordable. The RP is Chime Housing (WCHT and Thrive).
 - (c) Land at Woodside Road (25/0896/FUL) – a scheme comprising 192 new homes of which 96 will be affordable. The RP is currently unknown. The site is not currently being built out.
 - (d) Land at Foxgrove Path (19/2419/OUT) – a scheme comprising 53 homes in total of which 17 were affordable. The RP is Chime Housing (WCHT and Thrive).
 - (e) Land at Grove Court (20/0467/FUL) (Appeal Ref: APP/P1940/W/20/3260209) – a scheme comprising 42 affordable homes in total. The RP was Chime Housing (WCHT).
- 2.10 What is evident from paragraphs 2.14 and 2.15 is that Chime Housing (WCHT and Thrive) have historically accepted a moratorium period of between 4 and 6 months. This is consistent with the Chime Housing (WCHT and Thrive) response set out in Appendix 1 of my main Proof of Evidence.
- 2.11 However, as set out in my main proof, it is wholly unrealistic (and inappropriate) to expect a monopoly of one RP to be able to deliver all affordable homes in timely fashion in Three Rivers. I also explained in my main Proof that for larger schemes such as the Application, even Chime Housing are less likely to be able to accept such a period.

3.0 CONCLUSION

- 3.1 This Rebuttal Proof demonstrates that the MIP provisions required by the Council has (contrary to the evidence produced by Mr Ralton) resulted in substantial delays to the timely delivery of much needed new housing and affordable housing across a number of sites within the District.

- 3.2 Accordingly, Mr Ralton significantly understates the practical consequences of the Council's approach to MIP provisions and presents an incomplete assessment of the effect of those provisions on housing delivery in the District. This is significant in the context of the District's chronic housing land supply position.

Appendix 1 – Cala Letter (Neil Farnsworth – Head of Planning) dated 16 June 2026



Cala Homes (Chiltern) Limited,
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T: 01628 552 300

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FAO Nathan Stevenson
Managing Director
Burlington Property Group
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Upper Norwood
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16th June 2026

Dear Nathan,

**Re: Mortgagee in Possession Clause, Three Rivers District Council
Site: 24 Denham Way and land to the rear**

I am writing further to the statement made by Three Rivers District Council in respect of the above site and the Council's view of the position of the site in relation to the Mortgagee in Possession clause.

The Council have stated the following:

B) Sites where the consideration and determination of a current planning application incorporating the provision of on-site affordable housing has stalled due to the Council's MIP clause requirements

2.3 From my knowledge I am only aware of one specific proposed development which may have 'stalled' as a direct result of the MIP clause following a resolution to grant planning permission.

2.4 Application 22/1912/OUT sought outline planning permission for "Outline application: Demolition of existing buildings and erection of up to 50 dwellings with associated access, parking, amenity space, landscaping and SuDs basin (Appearance, Layout, Landscaping and Scale as reserved matters)" on an unallocated, Green Belt site at No. 24 Denham Way and land to the rear. The application was recommended for approval by Planning Officers and the Planning Committee resolved to grant planning permission subject to the completion of a S106 agreement to secure (amongst other contributions) an on-site affordable housing contribution. The application proposed 50% of all dwellings to be affordable.

2.5 Initial discussions were had the same year to progress with a S106. The 5-month MiP clause and BNG were topics of discussion at the time. Following the provision of a draft S106 in December 2023, I have been informed that no further correspondence was received until 2025 when the appointed planning agent contacted officers and sought to discuss the scheme's viability and changes to the NPPF. Officers advised that given the length of time and policy changes the application would need to be reassessed. Further, the best course of action would be for a fresh application be submitted. In early 2026 Officers were advised that the applicant was considering their position and would provide a further update in due course. Despite further updates being sought by officers later in March and June 2026, I understand that no response or further instruction has been received.

The statement is incorrect. I can confirm that the s106 for this site has not progressed directly as a result of the imposition of a five month Mortgagee in Possession clause and the Council's lack of flexibility in changing this.

The application received a resolution to grant planning permission in July 2023. Following the issuing of the draft Agreement, it was found that the five month MiP clause had been inserted within the Agreement. Further discussions then took place during 2024 and 2025 as follows:

1. Continued to have ongoing conversations with the Council's Housing Officer re: the MiP clause, although they continued to defer to their legal department.
2. Engaged the Three Rivers Housing Officer, who has to date failed to provide us with a comprehensive list of Registered providers that have acquired housing stock in Three Rivers subject to a 5-month MiP clause. The Housing Officer had additionally made it clear that they would not concede on the 5-month clause.
3. We sought to engage the Leader of the Council via CCP, a PR and Communications company with knowledge and key contacts in the area. The Leader largely refused to engage on specific applications but has also refused to participate in a wider discussion on the matter. The Leader reverted to CCP via a letter written by solicitors and claims to have little knowledge of the content. The letter again refuses to alter the Local Authority's stance on the MiP clause.
4. Via CCP we have attempted to discuss the matter with alternative members of the Council, including the Chief Executive, however none have been willing to engage.
5. We have continued to speak with reputable Registered Providers regarding the prospect of delivering housing stock with a 5-month MiP on this Site. The majority of those RP's that had initially provided offers rescinded on the basis of the 5-month restriction.

Yours sincerely,



Neil Farnsworth, Head of Planning

Cala Homes (Chiltern) Ltd

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Appendix 2 – Richborough Letter (Nick Banks – Senior Regional Director) dated 15 June 2026

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15th June 2026

Land North of Little Green Lane, Croxley Green, Three Rivers District Council

Dear Nathan,

Pleased to provide you with this letter confirming that the Mortgage in Possession (MIP) clause is a matter currently in dispute within the draft Section 106 agreement on our appeal at Land North of Little Green Lane, Croxley Green (the 'Site').

We submitted our application to Three Rivers District Council (TRDC) in December 2024 for up to 600 residential dwellings along with a mixed-use local centre including medical centre, retail and primary school. The application was validated on 16 January 2025 under reference 24/2073/OUT. The application was presented to TRDC's Planning Committee on 22 January 2026 with an Officer recommendation for approval. Members, however, disagreed with their professional Officers advice and refused the application. The decision notice was subsequently issued on the 30 January 2026. As appellant, we submitted our intention to appeal on 28 January 2026 and the appeal was submitted to the Planning Inspectorate (PINS) on 12 February 2026.

We received a first draft of the Section 106 agreement from TRDC on 30th May 2026 which included a 5-month MIP clause. The first draft was submitted to PINS ahead of the Case Management Conference on 1st June 2026 without prejudice of review by the appellant. PINS set the deadline to confirm areas of agreement and disagreement on Section 106 agreement of 29th June 2026 and for submission of proofs of evidence on 21st July 2026.

Yours sincerely,



Nick Banks
Senior Regional Director (South East)
 +44 (0)7377 717039
 nick.banks@richborough.co.uk



Appendix 3 – Obsidian Letter (Iain Welsh – National Land Director) dated 15 June 2026



OBSIDIAN

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www.obsidianstrategic.com

Mr Nathan Stevenson

Burlington

Westrow Street

Upper Norwood

London SE19 3RY

15th June 2026

Land at North of Chalfont Road, Chalfont Road, Maple Cross, Hertfordshire

Dear Nathan,

I am pleased to confirm that Mortgage in Possession (MIP) clause is currently a matter in dispute and one that we challenging through our Appeal submitted on the 8th May 2026. We are yet to receive our Start Letter but understand the Appeal will be deal with by way of Hearing.

Outline Planning was submitted on 19th March 2025 (validated 2nd April 2026) for the Erection of up to 75 new dwellings, parking and landscaping with associated access onto Chalfont Road (Appearance, Layout, Landscaping and Scale as reserved matters) under the planning reference 25/0484/OUT. It was presented to Three Rivers District Council (TRDC) Planning Committee on 25th February 2026 with an Officer recommendation for Approval, no technical objections and the benefit of a Reg19 Allocation in the emerging TRDC Local Plan. Members refused the application, and a decision notice was issued on 5th March 2026.

We are yet to receive the first draft of the Section 106 Agreement from TRDC, but anticipate that it will include a five-month MIP clause. We have collated and submitted evidence as part of the appeal to challenge the inclusion of this clause in the S106 Agreement.

Yours sincerely

Iain Welsh

Iain Welsh MRICS – National Land Director

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Obsidian Strategic Limited
36 Walpole Street, London, SW3 4QS
Company No. 10430940

Appendix 4 – Clovercourt Letter (Gary Sewell- Managing Director) dated 12 June 2026

CLOVERCOURT

LAND — DESIGN — BUILD

Vault Design Studio
Rear of 144 High Street
Rickmansworth, Herts
WD3 1AB

Nathan Stevenson
Managing Director
Burlington Property Group
Foresters Hall
25-27 Westow Street
Upper Norwood
London
SE19 3RY

12 06 2026

Dear Nathan

Land Rear of 76-78 Church Lane, Sarratt
Appeal Reference APP/P1940/W/25/3367138 (PINS Ref 6002930)

I write in my capacity as Managing Director of Clovercourt Ltd, promoter of the above site.

The site benefits from outline planning permission for 20 affordable dwellings pursuant to application 21/2896/OUT and subsequent appeal APP/P1940/W/22/3300083.

Contrary to any suggestion that the existence of an extant permission demonstrates straightforward deliverability, the operation of the Mortgagee in Possession ("MIP") provisions contained within the Section 106 Agreement has had a material impact upon the progression of the scheme.

The current appeal (PINS Reference 6002930) specifically includes the MIP provisions as a matter in dispute. The Appellant's position is that the existing five-month MIP period adversely affects deliverability and viability and that a shorter period would better reflect Registered Provider requirements and market realities.


Reference has been made to the fact that a Reserved Matters application (reference 26/0462/AOD) has been submitted. However, the submission of Reserved Matters should not be interpreted as evidence that the MIP provisions have had no effect. Rather, the Reserved Matters application was submitted principally to preserve and maintain the benefit of the outline consent whilst the outstanding MIP issue is resolved through the appeal process.

Similarly, the existence of a live application under Section 73A / variation procedures (reference 26/0240/VAR) seeking amendment to the MIP provisions itself demonstrates that the existing obligations are considered problematic and require reconsideration.

Accordingly, from the Appellant's perspective, the MIP provisions have had a tangible impact upon the timing and progression of the development. The fact that the site has not yet commenced, despite the existence of an extant consent, and that both an appeal and a variation application are currently pursuing amendment of the MIP provisions, illustrates that these obligations are not merely theoretical matters but have real consequences for delivery.

I confirm that evidence concerning the operation and implications of the MIP clause has been submitted to the Planning Inspectorate as part of Appeal Reference 6002930.

Yours faithfully,



Gary Sewell
Managing Director
Clovercourt Ltd