

Affordable Housing Rebuttal of James Stacey BA (Hons) DipTP MRTPI

Land to North of Little Green Lane, Croxley Green

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Outline Application: Construction of up to 600 residential dwellings (Use Class C3(a)), a 5-bedroom property for children's social care and supported living (Use Class C3(b)). Two vehicular access points from Little Green Lane and further pedestrian / cycleway accesses. A one form entry primary school (Use Class F1(a)) (plus expansion land for a two form entry primary school). A mixed use local centre including provision for NHS health and social care services (Use Class E(e)), community building (Use Class F2), retail and café provision (Use Class E(a-c)), car parking and associated infrastructure. A country park, areas for play and recreation, allotments, community orchard and landscaping with associated infrastructure including sustainable urban drainage systems. (All matters are reserved except for vehicular access).

Land to North of Little Green Lane, Croxley Green, Rickmansworth, WD3 3SR

Richborough

August 2026

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OUR REF: M24/0511-02.RPT

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Introduction

Section 1

- 1.1 This rebuttal has been prepared in relation to the evidence of Ms Fitzgerald on behalf of Three Rivers District Council (the 'Council') as it relates to affordable housing (the 'Council's Proof of Evidence' ('PoE)).
- 1.2 The scope of this rebuttal is limited to those elements of the proposed affordable housing provision that remain in dispute between the parties as pursuant to paragraph 1.7 of the Council's PoE the Council considers the appeal scheme should be granted planning permission subject to the completion of an appropriate section 106 planning obligation and the imposition of suitably worded planning conditions to address the third reason for refusal ('Reason for Refusal' ('RfR 3)).
- 1.3 Paragraph 1.8 of the Council's PoE provides that three matters relating to RfR 3 that remain in dispute, the first of these 'the Affordable Housing cascade mechanism' and its implications is the principal focus of this rebuttal.
- 1.4 Before turning to the substantive points of the rebuttal, it should be highlighted that paragraph 6.1 of the Council's PoE reiterates that there is an '*acute need for affordable housing*' in the District, the scale of which is detailed in the Statement of Common Ground ('SoCG') (**CD8.21**). For the avoidance of any doubt I completely agree. Demonstrating, evidencing and explaining why that is the case is the main purpose of my main Proof of Evidence.
- 1.5 It is also highlighted that this rebuttal does not seek to respond to the Council's evidence on a 'line by line' basis and instead focusses on the key themes as they relate to affordable housing. This does not mean that where a specific point or paragraph of the Council's evidence has not been expressly responded to that it is agreed. Furthermore, rebuttal evidence in relation to the mortgagee in possession clauses (MiP), are dealt with in separate rebuttals, prepared on behalf of the Appellants.
- 1.6 Section 2 of this rebuttal addresses the following themes within the Council's PoE as they relate to affordable housing:
 1. Operation of the cascade mechanism;
 2. Tenure mix of the affordable housing provision;
 3. Impact of the cascade mechanism on the Golden Rules; and
 4. The weight to affordable housing.

Rebuttal Evidence

Section 2

Operation of the cascade mechanism

- 2.1 The operation of the cascade mechanism is a legal rather than a planning matter. Contrary to paragraphs 6.1 to 6.15 of the Council's PoE, the fact that the Council has not previously agreed a cascade mechanism of the kind proposed does not make it unsuitable or otherwise inappropriate.
- 2.2 The definition of Discount Market Sale ('DMS') is defined within the agreed section 106 planning obligation. As noted in paragraphs 6.16 to 6.19 of the Council's PoE the National Planning Framework ('NPPF') defines DMS as housing that is '*sold at a discount of at least 20% below market value.*' The Appellant is proposing a discount of 30% below market value and therefore exceeds the level of discount required under the NPPF definition.
- 2.3 The definition of DMS included within the section 106 planning obligation is entirely consistent with the NPPF definition of affordable housing.

Tenure mix of the affordable housing provision

- 2.4 The Council's focus is on the effect and suitability of the affordable housing tenure mix under the fallback position that is secured by the cascade mechanism, rather than focussing on the primary position for the delivery of affordable housing.
- 2.5 Paragraph 6.30 of the Council's PoE states that the 2024 LHNA recommends that affordable housing should be provided with a tenure split of '*70% of affordable housing should be focused on rented provision and 30% on intermediate or other low cost home ownership.*' Paragraph 6.5 of the Council's PoE recognises that this represents the Appellant's primary position – i.e. the tenure split that will be delivered on this scheme unless no registered provider is willing to take it on and the Council is unable to take it on itself (which is initial stage of the cascade).
- 2.6 Put simply, the Appellant's primary position for the tenure split of the proposed affordable housing is fully consistent with the recommendations of the 2024 LHNA. It is the Appellant's intention to deliver that if the Council or a registered provider is prepared to take it on.

- 2.7 This scheme provides 50% affordable housing. That is what will be delivered by this scheme in all future scenarios, whether the cascade mechanism applies or not.
- 2.8 The issue between the parties is the tenure of the affordable housing.
- 2.9 Paragraph 6.19 of the Council's PoE recognises that *'DMS was first expressly stated and defined in the 2018 NPPF and has appeared in all subsequent definitions.'*
- 2.10 Paragraphs 6.20 and 6.21 of the Council's PoE, citing the 2024 LHNA, suggest that DMS as defined by the NPPF may not be affordable with reference to local incomes, with the implication that DMS is not a suitable tenure.
- 2.11 In terms of national policy, the NPPF definition of affordable housing does not rank the different tenures of affordable housing. It is vital to distinguish between the Council's concerns about the NPPF definition of DMS and the fact that the NPPF defines DMS in relation to a discount from the market sale price of at least 20%, the Appellant proposes a discount of 30% which is in excess of that required under the NPPF definition.
- 2.12 The Appellant's primary position is that the proposal should follow the tenure mix of the proposed affordable housing reflects the recommendations of the 2024 LHNA and that is what is being proposed in the Appellant's section 106 agreement.
- 2.13 It is only if neither the Council nor a Registered Provider wishes to take on the affordable housing proposed by this scheme will it revert to DMS.
- 2.14 It is crucial to recognise that the Council's assertion (paragraphs 6.17 and 6.18 of its PoE) that the cascade mechanism does not ensure that the proposal would *'satisfy the provision of the NPPF or ensure provision of DMS secured as an affordable tenure'* is unsubstantiated.
- 2.15 Furthermore, it fundamentally fails to distinguish between the cascade mechanism securing the fallback position of DMS provision should the primary position of 70% Affordable Rented Tenures and 30% Affordable Homeownership Tenures not be taken up by a Registered Provider, a position which is not reflected by the LPA is assigning weight to the Appellant's primary position.
- 2.16 Should the fallback position secured by the cascade mechanism be triggered there is no basis to conclude that it would *'impact on the overall level of affordable housing delivery'* (paragraph 6.25 of the Council's PoE) as the fallback position secures 50% affordable housing. On the contrary, the cascade mechanism ensures that affordable housing delivery is maintained at 50%. More particularly, it is only under the Council's

presently adopted position (i.e. there should be no cascade mechanism), that there will be an impact on the overall quantum of affordable housing (i.e. 50%).

- 2.17 The Council's position would mean that there would in fact be no affordable housing delivered at all on this site if the Council and Registered Providers did not take up the affordable housing proposed on the site.
- 2.18 Paragraphs 6.20 to 6.26 of the Council's PoE express concern over the affordability of homes sold at a 30% discount from the market value and references the 2024 LHNA's findings (Table 7.46 of the 2024 LHNA) in relation to the level of discount required for different sizes of property to be affordable. It also highlights (paragraph 6.26) that increases in interest rates '*will further impact on the ability for people in rental accommodation being able to afford some of these discounted price points.*'
- 2.19 The findings of the 2024 LHNA are not disputed but the Council's interpretation fails to recognise that a 30% discount on the market value of the homes will self-evidently make them more affordable for those seeking to purchase a home in the area and in line with the definition of affordable housing in the NPPF. It will in effect help different people. It will help people into home ownership. In the main it will help people who are in employment but who cannot afford to buy at market rates in the area. In all probability it will help many young people and young families struggling to get on the housing ladder in the area. But this only occurs if neither the Council nor any Registered Provider is prepared to take on the properties.
- 2.20 The assertion in paragraph 6.31 of the Council's PoE that under the cascade mechanism if the delivery of affordable housing '*entirely [as] DMS were triggered this would result in 210 no. households in housing need missing out on any opportunity to benefit from affordable housing ...*' is wholly rejected. Those benefitting from the affordable housing if it comes forward as DMS would still benefit from the affordable housing being provided. It would just be different people in housing need.
- 2.21 While it is true that people in need of affordable housing from the LPA's Housing Register would very likely not benefit, it would help to meet the needs of a sub-sector of the community who are in need of homes, but for a variety of reasons do not qualify for other tenure types of affordable homes. The 2024 LHNA identifies a net need for **163 affordable home ownership homes per annum** in Three Rivers District between 2021 and 2041, equivalent to 3,260^[1] dwellings over the 20-year period. Across Hertfordshire, this figure rises to **1,066 affordable home ownership homes per**

^[1] 163*20 = 3,260

annum. The 2024 LHNA does its own affordability studies as mentioned above, although needs of those seeking a smaller home more likely to be met than those seeking a 3 or more bed home.

- 2.22 Moreover, as the Council highlights with reference to fluctuations in interest rates, affordability is not static. Whilst a 30% discount from market value plainly does not mean that every household in need of an affordable home in the District would be able to purchase the size of property they seek it will help a whole group of people who are still in need for affordable housing under the NPPF definition.
- 2.23 It is further emphasised that the Council's concern is focused entirely on the position that arises under the cascade mechanism. There is no basis to conclude that the cascade mechanism would or is likely to be triggered and should it be triggered it ensures that the appeal scheme would deliver affordable housing.
- 2.24 The Government has committed £39 billion for investment in affordable housing over the next 10 years. This will inevitably help Registered Providers to overcome some of the problems they are presently facing and help address the present widespread reluctance to accept new affordable housing through Section 106 obligations.
- 2.25 Paragraph 6.32 of the Council's PoE does not reflect the nature of the cascade mechanism as safeguarding the quantum of proposed affordable housing provision at 50%. The cascade mechanism only takes effect in the event that the preferred affordable housing tenure mix (70/30) cannot be delivered as a result of the proven absence of take up from Registered Providers and the Council. In other words, the cascade mechanism is not a 'failure' to secure the benefit of affordable housing provision it safeguards that benefit.
- 2.26 The cascade mechanism is therefore a benefit of the scheme that acts as a backstop to ensure that appeal scheme delivers affordable housing in tenures consistent with the NPPF definition.
- 2.27 It should be added that housebuilders usually welcome a sale of properties to a Registered Provider as it greatly assists with cash flow in the development of a site. This is especially true on larger sites such as this one where a significant number of affordable homes would be sold.
- 2.28 It should be added that most housebuilders would prefer not to have to revert to DMS as a tenure type as it creates direct competition for the new homes they are trying to sell at market value. This is sometimes referred to by housebuilders as "cannibalising" their own market stock. There is therefore an actual incentive for housebuilders to

attract a Registered Provider onto a new housing site to avoid any such cannibalisation. This is especially relevant at the moment as house sales, especially in the south of England are very slow.

Impact of the cascade mechanism on the Golden Rules

- 2.29 Paragraphs 6.34 and 6.35 of the Council's PoE assert that the cascade mechanism *'undermines the Appellant's ability to demonstrate compliance with the 'golden rules'.* on the basis that it represents a risk to the quantum of affordable housing provision.
- 2.30 For the reasons detailed above, the cascade mechanism does the opposite to the Council's stated assessment; the cascade mechanism safeguards the quantum of affordable housing provided by ensuring that in the event that the preferred tenure mix is not taken up by a Registered Provider or the Council the same number of affordable homes will be delivered in an NPPF compliant tenure.
- 2.31 Consequently, the cascade mechanism ensures that the appeal scheme will accord with the Golden Rules even if there is no Registered Provider take up of the affordable housing in the preferred tenure mix.

The weight to affordable housing

- 2.32 The Council states in paragraph 7.5 of its PoE that the cascade mechanism risks a reduction in the quantum of affordable housing and deviation from the preferred tenure mix and consequently the appeal scheme's compliance with Policy CP4 and the Golden Rules, on which basis *'reduced weight'* should be ascribed to the proposed affordable housing provision.
- 2.33 This is rejected as the weight to affordable should be considered on the basis of the primary position, which being the tenure mix recommended by the 2024 LHNA. The cascade mechanism acts as a positive safeguard should the preferred affordable housing tenure mix not be taken up. As such it has no effect on the weight to affordable housing ascribed by the Appellants.

Conclusion

Section 3

Introduction

- 3.1 This rebuttal demonstrates that the Council has not focussed on the merits of the affordable housing position primarily proposed and secured under the section 106 planning obligation. Instead, the Council has focussed on assessing the merits of the fallback affordable housing provision secured by the cascade mechanism.
- 3.2 It is my opinion that this misunderstands the purpose and nature of the fallback position. The cascade mechanism is not a discretionary alternative to the proposed affordable housing; instead, it is a positive means of safeguarding the quantum of affordable housing that will be delivered by the appeal scheme in the event that there is no take up by Registered Providers or the Council of the preferred tenure mix of affordable housing.
- 3.3 Consequently, and contrary to the Council's assertions, in the event the cascade mechanism is triggered it ensures that the appeal scheme delivers the same quantum of affordable housing in a tenure consistent with the NPPF definition of Affordable Housing. This safeguards the benefit of affordable housing to be delivered and the appeal scheme's compliance with Policy CP4 and the Golden Rules for residential development in the Green Belt.