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TOWN & COUNTRY PLANNING ACT 1990

APPEAL BY

MR D BALL

REGARDING

“WESTVIEW”,
CHURCH ROAD, HOCKLEY

PLANNING EVIDENCE

APPEAL REFS:

APP/B1550/A/02/1104593

APP/B1550/A/03/1111215

APP/B1550/A/03/1111218

INQUIRY: 29TH APRIL 2003

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My name is EDWARD ROBERT GITTINS. I am a Chartered Town Planner and Principal of Edward Gittins & Associates – a firm of Planning and Development Consultants based at Fordham Heath, Colchester. I hold a BA Honours Degree in Geography from the University of Liverpool, a Postgraduate Certificate in Education from the University of London, a Postgraduate Diploma in Town Planning from the former Regent Street Polytechnic, London, and I am a Fellow of the Royal Town Planning Institute. Prior to founding my Practice in 1991, I held senior posts in Local Government and Planning Education with Essex County Council, the former Polytechnic of the South Bank, London, and Colchester Borough Council, for whom I served as Head of Local Plans from 1974-89.

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1.0 INTRODUCTION

1.01 My approach to this Inquiry is to examine the various points of disagreement between the parties in order to identify a range of key issues – which are then examined in turn. Firstly, however, I am sure it would assist if I indicate the approach that I have adopted to what I call “the core dispute”, that is, that part of the Council’s case alleging encroachment of “inappropriate development” into the Metropolitan Green Belt (MGB). Clearly, if small scale plans are used, there are difficulties in establishing beyond all reasonable doubt the exact line of the MGB boundary across sites such as “Westview. However, Inspector Maile, in paragraph 5 of his 1995 Appeal decision, made reference to the Green Belt boundary lying some 30.0 metres from the southern boundary – with no attempt being made by the Council to “correct” this statement. This “fix” point was not challenged in 1999 by Inspector Ware when granting Outline Planning Permission for that part of the site outside the Green Belt. Finally, Inspector Pike, towards the end of the Inquiry into the 2001 Appeal, offered the Appellant a “split decision” based on a 1:200 layout plan which confined the free-market housing to the south of the site based on a 31.0 m frontage. In this layout, only part of one garage and part of the access road strayed outside this frontage. That offer – which was respectfully not accepted – must be considered in the context of the Inspector’s view expressed in paragraph 52 that:

“However, while the Green Belt boundary across the Westview site is not currently identifiable, it is likely that greater definition to the edge of the settlement will occur when the extant planning permission is implemented”.

1.02 His decision was based on the unacceptability of the then proposed affordable housing in the Green Belt, (see paragraph 20), and not in relation to the area of the site proposed to be occupied by the free-market housing base on a 31.0m frontage. There was nothing in his decision which alleged encroachment into the Green Belt by the free market housing, and this fact alone indicated that he was satisfied that this element of the proposals lay within the Outline Permission granted by Inspector Ware. It does not support the Council’s case that a narrower frontage should apply.

1.03 As I believe that the earlier Appeal decisions support the Appellant's case that the Reserved Matters site does not extend into the Green Belt by differing from the intended area to be covered by the extant Outline Permission, I believe that the Council's claim that the Outline Permission is confined to a 24.38m frontage to be weak.

1.04 Without prejudice to our position on the 31.0 m frontage, I therefore prefer to leave the conflicting arguments stand and to approach the dispute from a different perspective.

1.05 I take the view that even if the evidence that the frontage of the site outside the MGB amounts to only 24.38 m is preferred, and that there is a limited encroachment of built-development over and above the site access road, there still remain good reasons for planning permission to be granted in this case. I would like to set these points out in summary at the outset:-

1. Three previous Planning Inspectors have dealt with the thorny issue of the MGB boundary at "Westview" and at no point has a frontage of 24.38m ever been considered never mind supported.

2. As the parties will seemingly never agree the overriding merits of each other's arguments on the MGB boundary hereabouts, it should be common ground that any encroachment on the MGB is very small and probably not greater than 6.62 m.

3. Notwithstanding the disagreement over the exact line, the acceptance of the Appellant's line based on a 31.0m frontage would establish a situation whereby half the "Westview" site is held to lie within the MGB and half not – a symmetrical solution if nothing else.

4. Other than the issue of the position of the Green Belt boundary, there are no material planning implications to distinguish between the 24.38 and 31.0 lines. In other words, in terms of amenity or other matters of acknowledged planning importance, any distinctions drawn between the impact of development on the

wider frontage rather than the narrower frontage would be extremely fine ones and to all intents and purposes - “de minimis”.

2.0 RELATED CASES

2.01 With the above in mind, I would like to elaborate my point that it should still be possible to grant planning permission even if part of the proposed development encroaches into the Green Belt and is therefore, by definition, “inappropriate development” as defined in PPG2. There clearly needs to be very special circumstances sufficient to overcome the presumption against any inappropriate development in the Green Belt. Before identifying and considering the very special circumstances that appertain to the “Westview” site, I have selected a handful of other Appeal decisions within or affecting Green Belts which illustrate some of the issues and circumstances which have been accepted as “very special circumstances” elsewhere. I stress that the principal aim is to draw attention to the “very special circumstances” rather than to any direct comparisons with “Westview”:-

A - 248 Benfleet Road, Benfleet (ANNEX ERG 1a) - This case relates to a replacement dwelling in the Green Belt where the replacement was much larger than its predecessor. In Paragraph 8, the Inspector found that the proposal was an inappropriate form of development in the Green Belt but considered arguments put forward by the Appellant that special circumstances existed under various headings. The Inspector found that the “character of the area” was important, in that he found the area to be “suburban” and that the physical and visual characteristics of the area were a material consideration. He also gave weight to the view that the site failed to make any contribution to any of the fundamental aims and purposes for including land in the Green Belt.

B - Land at Meads Lane, Wheathampstead (ANNEX ERG 1b) - A dwelling was accepted in this location as an infilling development which would not harm the openness of the Green Belt.

C - Land adjoining Vesta, Forest Road, East Horsley, Leatherhead (ANNEX ERG 1c) - In this case the Inspector concluded in Paragraph 7 that the site was substantially surrounded by development and that Green Belt policy would not therefore be undermined.

D - Land at Trowley Hill Road, Flamstead (ANNEX ERG 1d) – This Secretary of State decision notes in Paragraph 10 that the development would appear as an extension into the Green Belt of the built form of the village. He nevertheless accepted his Inspector’s opinion that although the development projects beyond the confines of the village, it would not be conspicuous from public views on nearby footpaths and would be visually integrated with existing development. The Secretary of State concluded that the development would not be intrusive or unacceptably affect the openness of this part of the Green Belt.

E - Land off South Dumbreck Road, Kilsyth (ANNEX ERG 1e) – This Scottish Minister’s decision is of interest because the proposed access encroached into the Green Belt, as at “Westview”, with a further similarity referred to in Paragraph 4.3 concerning the most appropriate Green Belt boundary. In Paragraph 4.8 the Inspector indicated that the development offered a superior Green Belt boundary whilst the offending access area made no important contribution to Green Belt objectives.

3.0 “VERY SPECIAL CIRCUMSTANCES” AT “WESTVIEW”

3.01 I now identify what I regard as the very special circumstances which might enable a decision to be made which allows development to take place based on the 31.0 metre frontage if it is considered that this would involve an encroachment into the MGB.

1. The need for certainty in relation to the Green Belt boundary itself

Notwithstanding the fact that earlier Appeal decisions have not resulted in a shared view of the Green Belt alignment at “Westview”, this uncertainty must now be removed in order to enable Reserved Matters to be approved following

the granting of the Outline Permission at Appeal. Without prejudice to the case that the Green Belt boundary was originally drawn to equate to a 31.0m developed frontage, the fact remains that the difference between the two alignments is only 6.62 m. In the event of it being found that there no compelling arguments to support either alignment, I consider that particular note should be paid to the following points:-

- i) **The Green Belt boundary was originally defined when planning permission existed for the residential redevelopment of the “Westview” site.**
- ii) **A CLOPUD has been issued which would enable the northern part of the site indisputably within the MGB to be developed for various forms of Permitted Development (ANNEX ERG 2).**
- iii) **The “Westview” site constitutes “previously-developed land” as defined in PPG3 – Annex C (See ANNEX ERG 3). This is common ground between the parties.**
- iv) **The development proposed in this location has been held on Appeal to be sustainably located. I refer here to paragraphs 37 & 40 of Inspector Pike’s decision.**

3.02 To summarise, the narrow wedge of land between the Council’s and the Appellant’s definition of the MGB boundary has in the past formed part of a site which was the subject of an expired residential permission, is part of an area that can be developed with various buildings and domestic facilities ancillary to the residential use of “Westview”, (indeed, the drive to serve these substantial PD structures has itself been substantially commenced as the site inspection will reveal), is part of a larger area of “previously-developed land” which is generally to be preferred to greenfield releases for new residential development, and is part of a site which in the view of one Planning Inspector “fully satisfies many of the criteria set out in PPG3”.

3.03 It is a fact that the thickness of a line on a small-scale plan has bedevilled the attempts to reach agreement between the Council and the landowner as to where the boundary lies, whilst there is no feature on the ground to which the boundary relates. It is obviously regrettable that this continuing uncertainty has come to a head at the Reserved Matters stage, such that the Council has seen fit to dispute the area covered by the Outline Permission granted on Appeal to the most minute detail of two decimal places.

3.04 It is ironic that the purpose of Development Plans is to provide a measure of certainty and predictability which has not proved so in the case of the "Westview" development boundary! The uncertainty in this case causes difficulty in the interpretation of Section 54A of the 1990 Act as there are competing arguments in relation to the Green Belt boundary. It is also a basic principle that the planning system should not inhibit development which can reasonably be permitted. Again, unless the case can be proven that the development is materially harmful to issues of acknowledged planning importance, it would not be unduly lenient to allow the development based on a 31.0 metre frontage. The circumstances of a disputed boundary are not unique. The particular circumstances that exist at "Westview" are nevertheless unusual in my experience such that it is highly unlikely that any leniency shown here in favour of the 31.0 m frontage would serve as a general encouragement to other landowners. Indeed, I have given several examples of development deemed as inappropriate within a Green Belt but nevertheless this factor has been outweighed by other circumstances. I believe it is in the interests of all concerned in this case that a final decision is reached which will enable the development to proceed as proposed, – (especially given the spirit of Inspector Ware's split decision), – in order to remove, for once and for all, the current uncertainty over the exact alignment. Unless there is conclusive evidence that the Reserved Matters Application strays outside the area granted an Outline Planning Permission at Appeal, I feel that the proposals now under consideration should be supported. I believe the burden of proof in this regard lies with the Council and to date I have not been convinced that their arguments are conclusive on this matter. Indeed, the steady stream of different dimensional locations for the Green Belt boundary of 24.38m, 25.00m etc. are evidence of the Council's own uncertainty even as authors of the Plan. I do regard the difficulties that have occurred as a result of the dispute to constitute a very special circumstance and

that in the absence of any proven harm, the benefit of any doubt should be given to the Applicant.

2. The effect on the openness of the Green Belt.

3.05 Referring firstly to the 2001 Appeal, Inspector Pike indicated in Paragraph 24 of his Decision Notice that he observed “a noticeable distinction between the loose knit, spacious character of the housing to the north and west of the Appeals site and the denser, more suburban residential development to the south”. He observed that the development of the entire frontage in depth would result in a significant loss of openness. What is being considered today, however, is a very different proposal involving only about 6 metres of development beyond what the Council claim to be the Green Belt boundary. A wide undeveloped gap would remain to the north and the gap that currently exists between “Westview” and “Windfield” would largely remain intact. I believe that the development now proposed on a 31.0 metre frontage would not materially harm the already compromised openness of the Green Belt in this location, and is of a scale which can be considered as a minor departure – similar in principle to the very special circumstances found to exist in relation to the Appeal example at Flamstead cited above.

3.06 Whilst the same argument could be put in support of the Council’s line, I believe the scales can be tipped towards the Appellant’s proposals in view of the limited scale of any encroachment into the Green Belt held to exist. Also, in view of the retention of the main undeveloped gap between “Westview” and “Windfield”, the conclusions drawn by Inspector Pike on the contribution this particular area makes to the openness of the Green Belt will not be undermined.

3. Limited Impact on the Green Belt and Countryside

3.07 Paragraph 3.15 of PPG2 requires that regard be held to the impact of development on the amenity of the Green Belt even when sites are outside the Green Belt. I will be submitting more detailed evidence shortly to address the issue of visual impact on the adjoining areas, but if the conclusion is drawn that the impact is relatively limited and not unduly harmful, I believe this can be held to be a “very special circumstance” as indicated in certain of the Planning Appeal examples cited above. I would, however, draw attention to a further Appeal Decision This case (ANNEX ERG 4) relates to a site at Nos. 41 & 43 Bucknalls Drive, Bricket Wood. Here the Inspector concluded that development on the edge of the Green Belt would not be harmful. In the case at “Westview”, it is a fact that there is development on all sides of the existing curtilage, with residential development on three sides and large-scale agricultural/horticultural buildings on the other. This is sharply illustrated in ANNEX ERG 5 where the Plan shows buildings in solid black. This emphasises the amount of built development in the locality, which is the dominant feature and subordinates the openness normally found in Green Belt countryside. Thus whilst I accept that this is a transitional area between the built-up area of Hockley and the genuine open countryside, there is still a strong “suburban” or “semi-urban” character gained in all directions from the roadside in front of “Westview”. True, Inspector Pike remarked in paragraph 24 of his Decision on the “openness” as shown in aerial photographs, but this spatial separation of buildings is far less evident at ground level. Accordingly, any minor extension of the built-up area involved as a result of the difference between the 24.38 metre and the 31.0 metre frontages must be assessed in relation to existing built development as well as the openness of the area.

3.08 The key question is: would the difference between the two development limits be “material”?

3.09 In a recent case at Eastwood Lodge, Rochford District Council approved a scheme where there was marginal encroachment into the MGB, shown in a pecked green line. (ANNEX ERG 6). This line is incorrectly drawn, and because

of the ability in this case to identify the alignment of the Green Belt boundary by physical features on the ground, it is possible to identify the correct boundary in solid green. The correct alignment involves an incursion of about 6.0m – similar to the situation at “Westview”.

3.10 In the “Westview” case, as at Eastwood Lodge, the minor encroachment into the MGB would not result in any material “increased urbanisation” or material “loss of openness and rural character”.

4. Wider Planning Considerations

3.11 I believe that considerable weight should be given to the whole series of factors which support the granting of planning permission:-

a) Sustainability

3.12 As noted above, Inspector Pike observed in paragraph 40 of his Decision that: “it is evident that the site fully satisfies many of the criteria set out in PPG3.” He also stated in paragraph 45, that: “I accept that there are no physical or environmental constraints on the development site, and that the site is previously-developed land”. These conclusions were drawn after exhaustive evidence on this aspect at the September 2001 Inquiry. It is hoped that these conclusions constitute common ground. Clearly, the same conclusions apply to the now reduced site area based on a 31.0m frontage only. Whether or not it is accepted that the definition of the Green Belt boundary relates to a 31.0m frontage, the location is a sustainable one. Again, it is hoped that this will be common ground.

b) Housing Needs

3.13 It is well documented that Essex, along with the rest of South East England, is experiencing enormous pressures for the release of housing land. With the advent of PPG3 in March 2000, a sequential approach is required in the release of new housing sites which encourages the efficient use of land, and the use of “previously developed

land” in particular, especially within urban environments. The whole of the “Westview” site is acknowledged to be “previously developed land” but only part being suitable for redevelopment in view of the Green Belt annotation that prevails. It seems to me that in the context of the need to maximise the efficient use of land in a climate of strong housing pressures, it can be argued that if there is uncertainty as to the exact line of the MGB boundary, it would tend to favour a larger rather than a smaller developable area – all other things being equal. If the site – as previously developed land – is able to assimilate additional capacity, this represents a positive factor.

c) Character of the Area

3.14 A density of just under 30 dwellings per hectare was deemed acceptable by Inspector Pike without causing harm to the residential character of the area. It should, therefore, be possible to achieve a density well above that of the surrounding area without harm to the residential character of the area. Similarly, if a lower density is justified to reflect the surrounding development and the “transitional” status of the area, it is encouraging to know that it cannot be sensibly argued that the difference between the 24.38 and 31.00 m frontages is material in terms of the character of the area. Again, such distinctions are extremely marginal.

4.0 POLICY

4.01 My approach to policy considerations is to deal firstly with the core issue of “housing” in the context of the location on the edge of Hockley and on the edge of the MGB before considering other more detailed policy matters. The Development Plan comprises of the Essex and Southend-on-Sea Replacement Structure Plan (April 2001) and the Rochford District Local Plan (April 1995).

Housing Policy

4.02 Because the main area of dispute centres on a narrow strip of land which the Council claim lies outside the residential allocations in their Local Plan, there is probably little point in submitting a case which covers all the wider aspects of contemporary planning policy relating to housing. If, as a result of this Appeal, it is

determined that the 31.0 metre frontage site lies within the residential allocations, or if it is determined that the disputed strip lies within the MGB but can be developed due to very special circumstances, then much of the policy background relating to housing would be somewhat superfluous. However, I have argued that the relationship of the disputed strip to the built-up area of Hockley and its limited effect on MGB and countryside objectives, as well as the sustainability credentials of the location, are factors which can be held to be “very special circumstances” in this case. My reference to policy is therefore to support the view put forward earlier that even in the event of the disputed strip being held to lie within the MGB, there is much within existing policy which would support the release of the marginally larger site. In particular, I aim to show that even if it is held that the disputed 6.62 metre frontage lies within the MGB, then:-

- i. The departure to the Plan would not materially conflict with many plan objectives and any such departure would be minor.
- ii. The effect of any such departure would be “de minimis”.

Structure Plan

4.03 The policies to which I refer are set out in ANNEX ERG 7.

Policy CS1 Achieving Sustainable Urban Regeneration

4.04 This policy sets out the key aims which influence future development. I draw particular attention to Limb 2 and the reference to “maximising the use of spare capacity in terms of land, buildings and infrastructure within urban areas”. Without entering the debate as to whether Hockley qualifies as an urban area, it is clearly a sizeable settlement with extensive existing residential areas where there will be opportunities for achieving a more efficient use of land on previously developed land. The preference for such areas is highlighted in Limb 3. It is common ground that part of the “Westview” site falls within the residential allocations and that the redevelopment of the site can constitute sustainable urban regeneration.

Policy CS2 Protecting the Natural and Built Environment

4.05 Again these constitute a set of aims relating to the protection of the natural and built environment. The introduction of a denser form of housing development on part of the “Westview” site has been endorsed by an earlier Appeal and by the District Council. The differences between the parties are limited to matters of detail, namely, the extent of the appropriate development area and matters of visual and residential amenity. It is understood that the Council’s concerns centre on character and appearance and residential amenity, and not on any specific conflict with a material loss of countryside. With regard to Limb 5 of this Policy, this is relevant on the MGB/urban fringe. It is considered that the development proposed will create a clear break which demarcates the built-up area of Hockley.

Policy CS4 Sustainable New Development

4.06 This policy encourages wider sustainability objectives with emphasis on existing built-up areas. I draw particular attention to Limb 3 and to the aim to “encourage intensification of use of existing sites where appropriate”. The broad principle of the appropriateness of the location has already been accepted.

Policy C2 Development within the Metropolitan Green Belt

4.07 This policy seeks to provide the guidance for development within the MGB consistent with advice in PPG2. I will address these particular matters shortly when considering Central Government Guidance in greater detail.

Policy NR6 Nature Conservation Sites

4.08 It is noted that the specific concerns expressed on earlier occasions about certain protected species are no longer being raised.

- **to assist in safeguarding the countryside from encroachment;**

4.27 The advantages of the existence of an established and clear-cut boundary apply equally to the countryside as to the MGB, bearing in mind the fringe nature of the site on the edge of the built-up area. The MGB boundary is a policy boundary not only distinguishing the area where Green Belt policy applies but also in this case where countryside policies apply also. Definition of the MGB boundary at “Westview” therefore simultaneously clarifies the countryside policy area.

- **to preserve the setting and special character of historic towns;**

4.28 This particular “purpose” is not relevant in this case.

- **to assist in urban regeneration by encouraging the recycling of derelict and other urban area;**

4.29 Whilst it should be common ground that the entire curtilage of “Westview” is “previously-developed land”, only part of it is allocated for development. Part of the site can therefore provide additional urban housing on recycled land. This is a positive factor if it is determined not to conflict with Green Belt or countryside objectives, in which case it can be claimed in support of a more generous frontage development in the absence of certainty on the exact demarcation of the policy boundary.

4.30 I therefore consider that the marginal differences in relation “the core dispute” as to the exact position of the MGB boundary has little direct relevance in terms of the purposes of the Green Belt. Again I believe the greatest benefit is to provide certainty so that the functions of the Green Belt and the policies which protect the MGB and the countryside can be operated effectively. The difference between the two lines is too small to make any perceptible difference to the safeguarding of the purposes for which the MGB has been designated.

4.31 I draw the same conclusion in relation to the Green Belt objectives, as listed in paragraph 1.6 of PPG2 (ANNEX ERG 8). Even if it is established that the narrow sliver of land in dispute does lie within the MGB, it is not considered that any of the relevant objectives will be harmed or materially compromised.

5.0 DESIGN CONSIDERATIONS

5.01 It appears that the Council's main concerns in terms of design focus on the scale ^{and} character of the development in relation to the existing development in the area and to matters of residential amenity. In order to assess the general validity and consistency of the criticism being levelled at the schemes, it is worthwhile to remind oneself of the assessment of Inspector Pike in his 2001 Decision. In Paragraphs 47-49 of his Decision Letter he describes the character of the area and the impact of the development then proposed on the neighbours. The layout at that time related to 2 schemes – 1 for 12 units and the other for 15 units within the “Westview” curtilage. The second scheme involved the provision of 10 affordable houses on the “Greenbelt” part of the site and 5 free-market houses at the southern end of the site. This latter part of the scheme is very little different in principle from either of the current schemes. Considering the effect of these proposals on the character and appearance of the locality, Inspector Pike commented as follows:-

“The immediate environs of the site comprises low density development with dwellings set in large plots, some with heavily landscaped frontages....there is no doubt that the proposals would bring about a change in the character of the immediate locality creating a more urban, in-depth form of house that would differ from the spacious frontage development that presently exists. But the mere fact that it would be different does not necessarily mean that it would be harmful.”

5.02 I understand this to mean that the character and appearance of a new development can be different from that of surrounding development without harming the character of the surrounding development. If I am right in this respect, then I agree with this premise.

Inspector Pike went on to say:-

“I have already indicated that the Appeal proposals would effectively move the boundary of the settlement to the northern edge of the site, and in this context I consider that the densities would be appropriate.”

5.03 A development of the form then being proposed, which was close to achieving 30 dwellings per hectare, was the subject of the most vehement objection in terms of its density and in terms of its appearance and character by both the Council and many local residents. It is therefore surprising and inconsistent that the much more limited development now being proposed is still attracting similar criticisms to those levelled at the previous scheme, especially as those views were not endorsed by the Inspector.

5.04 The same is true in relation to the consideration of the amenity of neighbouring occupiers. Inspector Pike concluded as follows:-

“What is clear however is that neighbouring dwellings are mostly positioned some distance from the boundary of the Appeal’s site, and in my view it should be possible to design dwellings in the position shown without causing a significant loss of amenity.”

5.05 That judgement was based on a layout only and in the absence of elevations, but nevertheless the Inspector, using his judgement, gave a strong indication that alleged claims of loss of amenity in terms of overlooking or loss of light would not appear to be well founded.

He also commented as follows:-

“As to the distances from plot boundaries and the acceptability of garden sizes, I do not believe that strict adherence to the standards set out in the Essex Design Guide is an overriding consideration in the light of the advice in PPG3.”

5.06 This is clearly a reference to advice in PPG3, Paragraph 57, which states that: “Local Planning Authorities should therefore examine critically the standards they apply to new development, particularly with regard to roads, layouts and car parking, to avoid the profligate use of land.”

Inspector Pike concluded as follows:-

“I have also found that the proposals would lead to a change in the character and appearance of the immediate locality, though this would not be untypical in the wider context of Hockley. Having regard to the advice in PPG3, I consider that the impact on the character and appearance of the area would be satisfactory.”

5.07 I am generally happy to leave the evaluation of the suitability of the current schemes to the Inspector, but do so indicating that I do not consider the present schemes for the site to be sufficiently different to justify the types of objection cited by the Council and local residents. In recent days, the Council has indicated that it would have supported the proposals for 6 dwellings on the narrower frontage site and this is very close in capacity terms to the 5 dwellings proposed on the 31.0m frontage. It is unclear at the time of writing whether the Council may have modified its position in terms of the 5 dwelling scheme as a result of its late conversion to the merits of the 6 unit scheme. I believe, because of this uncertainty, it may be necessary to re-evaluate the specific criticisms of the schemes in terms of design and their impact on residential amenity in the light of the recent indication that planning permission would have been granted for the 6 dwelling scheme.

5.08 The case will be presented at the Inquiry that the Council has failed to take appropriate account of the “steer” on matters of design, density and impact to be found in Inspector Pike’s Decision Letter. There are similarities between the schemes being considered then and now and it is therefore very difficult to accept that what is now being proposed can reasonably be regarded as out of character or over-development within this fringe urban site especially, taking account of the Inspector’s findings. Whilst over-development is being cited, it is also been pointed out by the Council that the density is low compared to Government guidance. The capacity of the sites has been determined by the character of the area and the belief that both the

Council and local residents would feel more comfortable with a lower density form of development to reflect the semi-urban character of the area. The designer has taken on board the views of the previous Inspector which endorsed the suitability of a much higher density, but has also heeded the local perspective that a less tight-knit development would be more appropriate in this location. It is ironical, therefore, that the criticisms now being levelled at the schemes would, if the densities currently being proposed are rejected as too low, attract a higher density scheme which local residents found very unpalatable in the recent past.

5.09 I also consider that the Council overstates its case on the impact of the road access and the visual impact of the edges of the development on the character of the area and the Green Belt. I do not believe that the Council's fears would be realised in practice and low and high level planting can offset most of their concerns. I believe the detailed proposals reflect the advice contained in paragraph 54 of PPG3, namely:-

“Designing for quality: Good design and layout of new development can help achieve the Government’s objectives of making the best use of previously-developed land and improving the quality and attractiveness of residential areas. In seeking to achieve these objectives, local planning authorities and developers should think imaginatively about designs and layouts which make more efficient use of land without compromising the quality of the environment.”

5.10 It is also a fact that the site has an existing access on the frontage which can be further developed in connection with any implementation of the extant CLEUD. I believe with appropriate conditioning, the Council's detailed concerns can be addressed – as they appear to have been in relation to the 6 dwelling scheme – including the provision of a clear and firm edge to the built-up area on its interface with the current Green Belt.

6.00 SUMMARY

6.01 It is important to establish the alignment of the MGB boundary where it crosses the “Westview” site for two specific reasons: firstly, as the line is a policy area boundary between the “town” on one side and the “MGB/countryside” on the other, uncertainty will continue in applying the very different policies operating in such policy areas unless the line is clarified; secondly, there is currently deadlock in determining Reserved Matters Applications which have been submitted following the granting of an Outline Permission - and this needs to be resolved.

6.02 The view is put forward that even if in the light of the Appeal history of this site it is considered there is still an absence of compelling evidence as to the exact alignment of the Green belt boundary hereabouts, development based on a 31.0m frontage can be accepted as a reasonable and common sense compromise – if for no other reason than it reflects 50% of the total frontage. It is also argued that even if the 24.38m frontage is preferred and hence that there is some marginal encroachment on the MGB, this can be accepted based on the “very special circumstances” which apply in this case. These are held to be:-

- The need, as just mentioned, for certainty in relation to the Green Belt boundary itself.
- The almost imperceptible effect on the openness of the Green Belt of development on a 31.0m frontage compared to a 24.38m frontage, especially in relation to the gap between “Westview” and “Windfield” to the north.
- The very limited impact on the amenity of the Green Belt and the Countryside generally.
- The site’s credentials in relation to sustainability aims and the sequential test, as previously-developed land, and the absence of harm to the residentially developed character of the area.

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6.03 It is argued that if not individually, then cumulatively, the above considerations amount to “very special circumstances” whereby any marginal encroachment into the Green Belt at this point can, if necessary, be held to outweigh the charge that it constitutes “inappropriate development”.

6.04 Furthermore, setting aside the dispute that the Council continue to raise over the exact alignment of the Green Belt boundary, a resume of Development Plan policy considerations has shown the schemes’ close affinity with the policy aims which were instrumental in the Outline Permission being initially granted. Acceptance of the development based on a 31.0m frontage would not undermine that fact in that any minor departure would not materially conflict with Development Plan objectives, and would in effect be *de minimis*.

6.05 Importantly, it is submitted that the proposals neither materially conflict with any of the 5 main purposes of the Green Belt nor with Green Belt objectives.

6.06 With regard to design considerations, considerable weight must be attached to the findings of Inspector Pike based on his evaluation and findings in relation to density and the residential character of the area. At the same time, it must be acknowledged that there are a wide range of different opinions about the appropriate density for this fringe urban site, as well as the appropriate design concept. The schemes submitted reflect a generally lower density approach in order to achieve closer affinity with development along Church Road, although this approach is itself criticised by some local residents as well as the Council. There are also detailed concerns expressed in relation to overlooking/loss of privacy and the impact of the roadway access and the edge of the development – but these views are not accepted by the Appellant. The Council’s position in relation to its design concerns is now somewhat uncertain in view of its recent decision to support a scheme for 6 dwellings on the 24.38m frontage.

6.07 It is hoped that the current Appeals will lead to the endorsement of the line of the Green Belt boundary to reflect a 31.0m frontage outside the Green Belt. Alternatively, if it is determined that a narrower frontage lies outside the Green Belt, it is submitted that this would constitute only a minor encroachment into the Green Belt which is outweighed by the "very special circumstances" and other material considerations that have been put forward.

Accordingly, I respectfully request that the Appeals be allowed.

A handwritten signature in dark ink, appearing to read 'Edward Gittins', with a stylized, flowing script.

Edward Gittins

Chartered Town Planner

March 2003