

**APPEAL BY GLADMAN DEVELOPMENTS LTD  
LAND AT THE HILL, LITTLEBOURNE**

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**OPENING STATEMENT ON BEHALF OF THE APPELLANT**

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**Introduction**

1. The country is facing ‘the most acute housing crisis in living memory. Home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home’.
2. Such were the words used by the then Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government in a Written Ministerial Statement published not long after the government took office, where she explicitly acknowledged the scale of the housing crisis facing the country<sup>1</sup>. A similar sentiment was expressed by the Minister of State for Housing and Planning several months later, when he lambasted the ‘acute and entrenched housing crisis’ that the government had inherited<sup>2</sup>.
3. To its great credit, the government has committed to address this crisis, pledging to deliver 1.5 million homes over the course of this Parliament. This is a significant and ambitious target, and one that will only be met with the government’s commitment ‘not to duck the hard choices that must be confronted in order to tackle the housing crisis – because the alternative is a future in which a decent, safe, secure and affordable home is a privilege enjoyed only by some rather than being the right of all working people’<sup>3</sup>.
4. It is of course local planning authorities – and Planning Inspectors – who are at the coal face of delivering the government’s ambitious target, so it is to them that the government must look not to ‘duck the hard choices’ to deliver the new homes that the country desperately needs. That is the context in which this Appeal should be viewed.

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<sup>1</sup> Written Ministerial Statement, Building the homes we need, 20 July 2024 (CD 6.05).

<sup>2</sup> Written Ministerial Statement, Building the homes we need, 12 December 2024 (CD 6.06).

<sup>3</sup> Ibid.

5. This Appeal is brought by Gladman Developments Ltd ('the Appellant') against Canterbury City Council's ('the Council') refusal of outline planning permission at Land at the Hill, Littlebourne<sup>4</sup> ('the Application').
6. In the context set out above, the Appeal Scheme would deliver up to 300 new homes including new affordable housing, something desperately needed by the Council<sup>5</sup>. Despite this, and against the clear recommendation of their officers<sup>6</sup>, councillors resolved to refuse the Application and provided five reasons for refusal ('RFR')<sup>7</sup>:
  - a. RFR 1: insufficient provision of sustainable transport modes;
  - b. RFR 2: adverse impact to the Chalk Stream;
  - c. RFR 3: concern of lack of adequate sewerage disposal;
  - d. RFR 4: loss of Best and Most Versatile ('BMV') agricultural land; and
  - e. RFR 5: landscape harm.
7. None of these were reasons that officers had believed would justify refusal, and councillors came belatedly to agree with their officers; at a subsequent meeting of the Planning Committee, councillors 'carefully reconsidered the justification and the evidence' of the RFRs before voting not to defend any at Appeal<sup>8</sup>.
8. We therefore have an Appeal in which the Council will adduce no evidence and defend none of its RFRs, serving only to delay the delivery of much-needed new housing.
9. Not only is the Council offering no evidence, but it is common ground between the parties that the Council is unable to demonstrate a five-year housing land supply and that in its latest published 2023 Housing Delivery Test it achieved just 67 per cent<sup>9</sup>. As such, the 'tilted balance' in paragraph 11(d)(ii) of the National Planning Policy Framework ('NPPF') is engaged, meaning that planning permission should be granted and

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<sup>4</sup> Application reference: CA/23/00484.

<sup>5</sup> See [4.18] in the Proof of Evidence of Jason Tait. See also [4.4.2] in the Statement of Common Ground (CD 6.04), which states: 'As set out in paragraph 25 of the May 2025 Officer Report, there is a significant need for more affordable homes in Canterbury.'

<sup>6</sup> See May Officer's Report to Planning Committee (CD 5.01) and July Officer's Update Report to Planning Committee (CD 5.02).

<sup>7</sup> CD 5.03.

<sup>8</sup> CD 6.17.

<sup>9</sup> See [4.15.1] and [4.16.3] in the Statement of Common Ground (CD 6.04).

only be refused if the adverse impacts ‘significantly and demonstrably’ outweigh the benefits.

10. The Council acknowledges that the delivery of housing is a very significant benefit of the Appeal Scheme, and that the provision of this scale of affordable housing is also a very significant benefit<sup>10</sup>. It is the Appellant’s case that in the overall planning balance, none of the impacts of the development even outweigh the benefits, let alone doing so ‘significantly and demonstrably’ as would be required to justify refusal<sup>11</sup>.

11. On that basis, the Appellant will invite the Inspector in due course to allow the Appeal.

### **The Development Plan**

12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications should be determined in accordance with the adopted development plan unless material considerations indicate otherwise.

13. For the purpose of this Appeal, the adopted development plan comprises the Canterbury District Local Plan (‘the Local Plan’) which was adopted in July 2017. The now undefended Decision Notice alleged conflict with the following policies in the Local Plan<sup>12</sup>: Policy T1 – Transport Strategy; Policy QL12 – Potentially Polluting Development; Policy EMP12 – Agricultural Land; and Policy LB4 – Landscape Character Areas.

14. The most important policies in the determination of the Appeal are out-of-date by virtue of footnote 8 of the NPPF. Notwithstanding that, the Appellant will adduce evidence at the Appeal to address each of these alleged conflicts.

### **Canterbury District Draft Local Plan 2040**

15. The Council is currently in the process of developing a new Local Plan to cover the period to 2040 (‘the emerging Local Plan’). Under draft Policy R7, the Appeal Scheme site would be allocated for the development of ‘approximately 300 dwellings’.

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<sup>10</sup> Ibid at [4.4.1] and [4.4.4].

<sup>11</sup> See [5.15] in the Proof of Evidence of Jason Tait.

<sup>12</sup> CD 5.03.

16. The Council plainly recognises that the Appeal Scheme site is suitable for development, as it has been identified in two iterations of the emerging Local Plan: the Regulation 18 draft of the Canterbury District Local Plan 2045 under draft Policy R15 (October 2022), and the current emerging Local Plan to 2040 under draft Policy R7 (March 2024). It was retained in the most recent Regulation 18 focused consultation (September 2025). Furthermore, it was initially assessed as part of the Council's Strategic Land Availability Assessment ('SLAA') in 2022, where it was identified as being suitable, available and achievable for the development of circa 302 dwellings<sup>13</sup>.
17. The Canterbury Housing Needs Assessment Update (July 2025) sets out that the standard method Local Housing Need figure for Canterbury is 1,215 dwellings per year, equating to 23,085 dwellings over the plan period of 2024-2043.
18. Whilst the emerging Local Plan is not due to be adopted until December 2027 and can only be afforded limited weight<sup>14</sup>, it is the Appellant's case that it provides helpful context and highlights the substantial housing need that the Council will be required to meet<sup>15</sup>, to which the Appeal Scheme would make an important contribution. Moreover, it is common ground that the Appeal Scheme site's identification in the SLAA and inclusion as a draft allocation in the emerging Local Plan demonstrates 'the Council's direction of travel with regards to the suitability of the site'<sup>16</sup>.

### **National planning policy**

19. The NPPF sets out three overriding objectives that should be pursued to achieve sustainable development: economic, social and environmental. It is the Appellant's case that the Appeal Scheme would broadly accord with these objectives<sup>17</sup>.
20. As set out above, it is common ground that the Council is unable to demonstrate a five-year housing land supply under paragraph 78 of the NPPF: the Council's own analysis, untested by the Appellant, is that it has a 4.16-year supply, a substantial shortfall of

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<sup>13</sup> See [4.5] of the Appellant's Statement of Case; [3.14]-[3.18] of the Proof of Evidence of Jason Tait; Appendix C of the SLAA (CD 6.10).

<sup>14</sup> See [49] of the NPPF.

<sup>15</sup> See [3.18] in the Proof of Evidence of Jason Tait.

<sup>16</sup> See [3.3.3] in the Statement of Common Ground (CD 6.04).

<sup>17</sup> See [3.21]-[3.23] in the Proof of Evidence of Jason Tait.

- 1,225 dwellings against the five-year requirement of 7,296 dwellings. It is common ground that this is significant<sup>18</sup>.
21. The consequence of the Council's failure to demonstrate a five-year housing land supply is that the most important policies for determining the appeal are out of date and the 'tilted balance' in paragraph 11(d)(ii) is engaged. Importantly, this approach is also similarly reflected in Policy SP1 of the Local Plan<sup>19</sup>.
22. Accordingly, it is the Appellant's case that not only does the planning balance weigh in favour of granting planning permission in the application of paragraph 11(d)(ii) of the NPPF, but also in accordance with Policy SP1 of the Local Plan<sup>20</sup>.

### **Material considerations**

23. It is the Appellant's case that there are no material considerations that would warrant refusal of the Appeal Scheme, a point apparently now acknowledged by the Council.

### **Sustainable transport**

24. The Appellant will adduce evidence from Ms Eggleston on transport and highways<sup>21</sup>. Ms Eggleston will say that the Appeal Scheme site is accessible with a range of facilities within a 15-minute walk in Littlebourne<sup>22</sup>, which has the potential to be supplemented by the on-site provision of small-scale retail and community facilities. Indeed, the Council itself has recognised that this 'would contribute towards the delivery of a walkable neighbourhood and would therefore, on balance, contribute towards the sustainability of the development'<sup>23</sup>. Moreover, Ms Eggleston will say that Littlebourne is well-related to Canterbury, which provides a wide range of facilities including for education and health, as well as extensive employment opportunities<sup>24</sup>.
25. Ms Eggleston's evidence will show that the Appeal Scheme site is well located to existing bus services running between Canterbury and Sandwich, via Littlebourne. She

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<sup>18</sup> See [4.16.3] in the Statement of Common Ground (CD 6.04).

<sup>19</sup> See Appendix 1 in the Proof of Evidence of Jason Tait.

<sup>20</sup> Ibid at [5.19].

<sup>21</sup> See Proof of Evidence of Vanessa Eggleston.

<sup>22</sup> Ibid at [2.2.8].

<sup>23</sup> Ibid at [2.3.9]. See also [28] in the May Officer's Report to Planning Committee (CD 5.01).

<sup>24</sup> Ibid at [2.4.1].

will say that there are existing bus stops along the northern boundary of the Appeal Scheme site which will be within a 400 metre (five minute) walk from most dwellings, with bus services providing half-hourly connections to Canterbury and Sandwich during the day Mondays to Saturdays and an hourly service on Sundays<sup>25</sup>.

26. Furthermore, Ms Eggleston will give evidence on the comprehensive transport strategy prepared by the Appellant which has been designed to promote sustainable travel trends and reduce the number of vehicular trips generated by the Appeal Scheme<sup>26</sup>. She will say that the delivery of the transport strategy and implementation of the Travel Plan will assist in prioritising active lifestyles and sustainable travel and in reducing the need to travel, such that the Appeal Scheme complies with paragraph 115(a) of the NPPF<sup>27</sup>.

27. On that basis, it is the Appellant's case that the Appeal Scheme site is sustainably located and accords with Policy T1 of the Local Plan<sup>28</sup>.

#### Impact on the Chalk Stream

28. The Appellant will adduce evidence from Ms Mansfield on the impact of the Appeal Scheme on the Chalk Stream<sup>29</sup>.

29. Ms Mansfield's evidence will demonstrate that the Appeal Scheme provides for controlled and reduced surface water discharge, significantly reducing the surface water run off entering the Chalk Stream. She will say that proposed condition 14 would allow the Council to ensure that run off is appropriately treated on the Appeal Scheme site<sup>30</sup>. It is the Appellant's case that this would satisfactorily address the Council's RFR 2.

#### Sewerage disposal

30. The Appellant will adduce evidence setting out the position in relation to sewerage disposal<sup>31</sup>. This will show that the Water Industry Act 1991 provides a legal mechanism

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<sup>25</sup> Ibid at [2.4.6]. The bus operator confirmed the Appeal Scheme would result in additional demand which would support the commercial viability of the service. See [4.1.6.6] in the Statement of Common Ground (CD 6.04).

<sup>26</sup> Ibid at [2.5.12].

<sup>27</sup> Ibid at [2.5.13].

<sup>28</sup> See [5.17(ii)] in the Proof of Evidence of Jason Tait.

<sup>29</sup> See Proof of Evidence of Suzanne Mary Mansfield.

<sup>30</sup> Ibid at [10.6].

<sup>31</sup> See [4.58]-[4.64] in the Proof of Evidence of Jason Tait.

for additional foul drainage infrastructure to be provided by the relevant sewerage undertaker, in this case Southern Water<sup>32</sup>. This is common ground between the parties<sup>33</sup>.

31. The evidence shows that in correspondence on the Application, Southern Water made clear that any reinforcement works required to mitigate the impact of the Appeal Scheme on the sewerage network would be undertaken by Southern Water, and that modelling would be carried out only *after* planning permission is granted and an application is made for a connection to the system<sup>34</sup>.
32. As such, the Appellant will say that this is not a matter which should prevent planning permission from being granted and that a planning condition would provide appropriate controls on the occupation of development linked to the foul drainage proposals<sup>35</sup>. It is the Appellant's case that a condition requiring development to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement work would fully meet the planning tests and would satisfactorily address the Council's RFR 3.

#### Best and Most Versatile agricultural land

33. The Appeal Scheme site comprises Grade 3a and 3b agricultural land: the majority (62 per cent) is sub-grade 3b with the remainder (38 per cent) comprising BMV grade 3a agricultural land, the lowest end of the BMV classification scale<sup>36</sup>. Mr Tait will give evidence that the quantity of the loss of BMV agricultural land is relatively modest and would not be seen as significant in the context of the housing need. Furthermore, Natural England was consulted and did not object to the Application or raise any specific concern about the loss of BMV agricultural land<sup>37</sup>.
34. Policy EMP12 of the Local Plan allows for planning permission to be granted on BMV agricultural land where it is demonstrated to be necessary in order to meet a housing, business or community need.

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<sup>32</sup> Ibid at [4.59].

<sup>33</sup> See [4.9.2] in the Statement of Common Ground (CD 6.04).

<sup>34</sup> See [4.61]-[4.62] in the Proof of Evidence of Jason Tait.

<sup>35</sup> Ibid at [4.63].

<sup>36</sup> Ibid at [4.33].

<sup>37</sup> Ibid at [4.35].

35. On that basis, it is the Appellant's case that in the context of the need for housing, the relatively small scale of the loss of BMV agricultural land is something that should be afforded limited adverse weight in the planning balance<sup>38</sup>.

### Landscape

36. Evidence on landscape and visual impacts comes from Mr Jackson<sup>39</sup>. His evidence is, that whilst the development of the Appeal Scheme would inevitably result in some adverse landscape and visual effects, these would not be extensive or major, and at a localised scale the effect would be moderate adverse reducing to minor / moderate adverse over time<sup>40</sup>.

37. Furthermore, the visual effects would be localised and well contained and would not extend to a large number of visual receptors or locations<sup>41</sup>.

38. Indeed, it is common ground between the parties that 'the site is visually well-contained and mostly screened to accommodate a well-designed and considerate development which would not have any unacceptable landscape and visual effects'<sup>42</sup>.

39. Mr Jackson will say that there are no justifiable or valid reasons to withhold planning permission on landscape and visual grounds<sup>43</sup>.

40. The parties agree that any landscape harm should be attributed limited weight in the planning balance<sup>44</sup>.

### Planning benefits

41. Set against the limited harm identified above, are the significant planning benefits that the Appeal Scheme would deliver. In summary, the Appellant considers that these are<sup>45</sup>:

- a. the delivery of up to 300 new homes in a sustainable location;

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<sup>38</sup> Ibid.

<sup>39</sup> See Proof of Evidence of Timothy Jackson.

<sup>40</sup> Ibid at [9.11].

<sup>41</sup> Ibid at [9.13].

<sup>42</sup> See [4.13.1] in the Statement of Common Ground (CD 6.04).

<sup>43</sup> See [9.16] in the Proof of Evidence of Timothy Jackson.

<sup>44</sup> See [4.13.3] in the Statement of Common Ground (CD 6.04).

<sup>45</sup> See [7.1.5] in the Appellant's Statement of Case.

- b. the delivery of 30 per cent on-site affordable housing to address an identified housing need, and provision of older person's accommodation;
- c. provision of a community hub benefitting both new and existing residents;
- d. the delivery of 7.145 hectares of public open space;
- e. the delivery of a 20 per cent biodiversity net gain<sup>46</sup>; and
- f. significant economic benefits including:
  - i. construction spend of circa £36 million;
  - ii. supporting 654 full-time equivalent direct and indirect construction jobs per annum over a six-year build period;
  - iii. an estimated resident gross annual expenditure of circa £10.7 million;  
and
  - iv. additional Council Tax receipts of £590,000 per annum.

42. On any measure, the benefits that the Appeal Scheme would deliver are cumulatively 'very significant', with both the delivery of new housing and the affordable housing being 'very significant' in their own right<sup>47</sup>, particularly in the context of the scale of local housing need and significant shortfalls in supply. The Council agrees that the delivery of housing would be 'a very significant benefit'<sup>48</sup> and that the provision of the scale of affordable housing 'is also a very significant benefit'<sup>49</sup>.

### **Planning balance**

43. The application of the tilted balance means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. This is also similarly reflected in Policy SP1 of the Local Plan.

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<sup>46</sup> The parties agree that this is a significant benefit. See [4.8.2] in the Statement of Common Ground (CD 6.04).

<sup>47</sup> See [5.15] in the Proof of Evidence of Jason Tait.

<sup>48</sup> See [4.4.1] in the Statement of Common Ground (CD 6.04).

<sup>49</sup> Ibid at [4.4.4].

44. It is common ground between the parties that there are no policies in footnote 7 of the NPPF which would provide a strong reason for refusing the Appeal Scheme and disengaging the tilted balance<sup>50</sup>.
45. The Appellant's case is that the significant benefits associated with the Appeal Scheme would not be outweighed by the modest and limited harm that arises from the impacts.
46. On that basis, the Appellant will say that the planning balance weighs in favour of granting planning permission in the application of paragraph 11(d)(ii) of the NPPF and in accordance with Policy SP1 of the Local Plan<sup>51</sup>.

### **Conclusion**

47. For the reasons set out above, the Appellant will in due course invite the Inspector to allow the Appeal and grant outline planning permission.

**THEA OSMUND-SMITH**

**TOBIN BYERS**

**NO5 BARRISTERS' CHAMBERS**

**Birmingham – London – Bristol**

**17 February 2026**

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<sup>50</sup> See [4.17.2] in the Statement of Common Ground (CD 6.04).

<sup>51</sup> See [5.19] in the Proof of Evidence of Jason Tait.