

**TEWKESBURY BOROUGH PLAN:
EXAMINATION 2020**

**MATTER 3C – ALLOCATIONS AND SETTLEMENT BOUNDARIES IN THE GREEN
BELT**

Statement on behalf of Richborough Estates (RE) ID. 337 and 341

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Approval for issue

Authorised by:

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Matter 3C – Allocations and Settlement Boundaries in the Green Belt

Main Issue

Issue: Whether the housing allocations and settlement boundaries identified in the TBP are consistent with the provisions of the JCS and justified and whether the site-specific allocation policies are effective. In addition, in the case of Shurdington, whether exceptional circumstances have been demonstrated to justify deleting land from the Green Belt.

(Note: This matter includes site specific issues, non-site-specific issues of principle are considered under Matter 2).

3.10 *When was the Green Belt inset boundary for the settlement first defined and has it been reviewed subsequently?*

3.10.1 A Green Belt between Gloucester and Cheltenham was first proposed in 1957 and was later formally approved in 1968 as part of the County Development Plan Quinquennial [five-year] Review. The TBLP states that the retention of the Green Belt separating Gloucester and Cheltenham was confirmed in the 1981 Structure Plan.

3.10.2 At the local level, the TBLP states “...*that detailed boundaries of the current Green Belt within Tewkesbury Borough were originally defined in the Green Belt Interim Policy Statement (1980); a non-statutory document prepared in advance of Structure Plan approval...* [TBLP, page 37].

3.10.3 It is clear, therefore, that the Green Belt inset boundary for Shurdington is likely to have existed from as far back as 1980. Since then, the interim policy document was superseded at various points between 1983 and 1990 by a number of ‘local’ plans, formally adopted by TBC covering three separate sub-areas of the Borough. However, it is not clear whether any of these area-based plans adjusted the boundary at Shurdington. In any event, each of these documents was then consolidated into the first statutory document to encompass the whole of the Green Belt within the Borough; namely the TBLP, which was adopted in March 2006 [TBLP, page 37].

3.10.4 RPS also notes that the TBLP included a number of Green Belt deletions (eleven sites borough-wide), under Policy GRB2, including the release of land at Shurdington (i.e. Hillview Nurseries), which comprised a very modest site with a capacity of 12 dwellings [TBLP, Policy GRB2 / SD1]. Part of the justification of releasing sites for housing in the TBLP related to a requirement under the Regional Plan (RPG10) to “...*critically review the*

Green Belt & remove land from the Green Belt for development if, on balance, this would provide the most sustainable solution for accommodating future development requirements and which would not compromise Green Belt objectives... [TBLP, page 38].

3.10.5 Consequently, this demonstrates an example of the release of land from the Green Belt at Shurdington based on previous local plans. However, RPS notes that the Hillview site (for 12 dwellings) remains the only parcel of Green Belt land formally released for housing development through the development plan at Shurdington either since, or before, the adoption of the TBLP in 2006.

3.11 *Have exceptional circumstances been established for allocations and an extended inset boundary for Shurdington within the Green Belt? Has the need for these been established through the JCS?*

3.11.1 Yes, both TBC and RE agree that exceptional circumstances exist to justify the release of Green Belt land at Shurdington, in particular SHU1 [SOCG10, para 5.1]. The reasons for this are summarised below [SOCG10, Appendix 1: Summary of Technical Evidence Supporting SHU1]:

a) National policy on amending Green Belt boundaries (NPPF) allows detailed amendments to be made to those boundaries through non-strategic policies;

b) Strategic policies in the Joint Core Strategy and the clear observations of the JCS Inspector provide the local policy framework for the Green Belt review in Tewkesbury Borough;

c) Shurdington is identified as one of the borough's Service Villages within the Joint Core Strategy (Policy SP2), in recognition of its ability to accommodate further development in a sustainable location. However, Shurdington has suffered from a chronic lack of the new residential development (due to the GB boundary acting as a collar around the village) in comparison to other non-Green Belt settlements;

d) Shurdington is the second largest service village in the Borough, is the joint highest scoring Service Village for functionality and is the highest scoring Service Village in accessibility terms. Despite this, only 15 dwellings have been committed at the village within the plan period (as of April 2019) which is low in comparison to the other service

villages in the Borough [NB: supply figures now updated, as summarised in RE's response to question 2.9 under Matter 2] .

e) Based on an analysis of ONS figures the population of Shurdington has remained broadly static since 2011 (increasing by only 1.8%). In contrast, the population of the Borough has risen considerably since 2011 (13%);

f) Failure to tackle this problem and address the objectives of national policy will result in the continued fluctuations and stagnant population change in Shurdington. Ultimately, this will undermine the Council's own adopted policy measures seeking to maintain and promote the settlement hierarchy as a key plank of the wider Spatial Strategy, which relies on growth at the rural villages to help support the continued vitality and viability of local services;

g) In terms of reasonable alternative sites outside the Green Belt at Shurdington, only one previously-developed site has been promoted at Shurdington (but will only deliver six dwellings), and promoting development towards locations beyond the outer Green Belt boundary would not address the need for additional growth in Shurdington and would run contrary to the spatial strategy which seeks to focus growth at the defined settlements; and

h) Based on the analysis in the Partial Green Belt Review 2017 (paragraph 4.25-4.2.7), the release of the site would not undermine the purposes of the Green Belt in this part of the Borough.

3.11.2 In addition, it is relevant to note that the Submission Version (Regulation 19) of the adopted JCS originally included proposals to amend the Green Belt boundary at Shurdington, to allow for limited development and to provide a more appropriate boundary at the settlement (para 4.6.11-4.6.12 refers). However, these sites were deleted from the JCS prior to its adoption. With respect to SHU1, one of the aforementioned deleted sites, the sole reason given by the JCS Inspector was that the site should be removed from the JCS because it was not proposed as a 'strategic' allocation for development [GCT JCS, EXAM146, para 118). No discussion took place regarding the merits or otherwise of the sites, it was purely a matter they were too small to be classed as 'strategic' - with the Inspector leaving the issue for this plan. It does nonetheless signal the longstanding commitment of the Council to support a sustainable level of growth at Shurdington.

3.11.3 Therefore, whilst ultimately the site was deleted from the JCS, the Inspector drew no conclusions as to the merits or otherwise of releasing SHU1 from the Green Belt, nor did she preclude its release through any lower order plan (i.e. the TBP). It remains the case, however, that no land was released from the Green Belt to support the needs of Shurdington as part of the JCS process.

3.11.4 Consequently, without an appropriate level of land being released from the Green Belt, Shurdington will effectively remain sterilised from development throughout the plan period. Inevitably, this will lead to Shurdington declining in its role as a Service Village [ECR, paragraph 5.2.7 and 5.3.2].

3.11.5 Similarly, the submissions to the examination also includes a Legal Opinion (LO) prepared on behalf of RE by Killian Garvey of Counsel, which is also appended to the Regulation 19 representations [SOCG, Appendix 3]. In relation to points raised on planning policy and law, the Inspector is respectfully drawn to paragraphs 2.5-2.6 of the LO, which helpfully clarifies that,

“2.5 Whether ‘exceptional circumstances’ exist is a matter of planning judgment. It constitutes a different and lower threshold than the very special circumstances test...

2.6 ...the examination inspector is required to consider all factors relevant to a particular site and the plan as a whole, to see whether material considerations indicate collectively that exceptional circumstances exist to justify the release of any particular site from the Green Belt...” [emphasis added]

3.11.6 On this basis, RE consider that there are a wide range of factors that, *collectively*, demonstrate the existence of exceptional circumstances for releasing Green Belt land at Shurdington. The ECR summarises each of the factors defined as a basis for these circumstances and justification for the release of GB land at Shurdington in the main conclusions (para 8.1.2 refers).

3.11.7 In addition to the Exceptional Circumstances Report attached to the SOCG (Appendix 1 to this Statement), is a review of a number of recent Local Plan Inspector’s reports, which have recommended the removal of Green Belt land. Such cases include, for example, the Rugby Local Plan (see Appendix M of the appended report for the full extract), where the Inspector accepted that exceptional circumstances included:

- the need to support the role of the Main Rural Settlements as sustainable rural communities, given these were most sustainable rural settlements in the borough with a range of local facilities;
- the provision of some limited housing development at these settlements would help to sustain these facilities and the rural communities they serve; and
- to ensure a five-year land supply can be demonstrated on adoption of the plan (para 159-161).

This case clearly resonates with the current situation in Tewkesbury.

3.12 *What evidence is there that the additional housing development that would be provided by the allocations and extended boundary at Shurdington is needed? In addition to the proposed allocations, how much additional infill development is likely? Are there any other reasonable options for meeting this need on brownfield land or land outside the Green Belt?*

3.12.1 The evidence that additional housing development is needed at Shurdington is set out in RE's submissions to Regulation 19 version of the TBP (under Policy RES1). Relevant evidence is also presented in RE's Exceptional Circumstances Report (with particular reference to paragraphs 4.2.5-4.2.6 and 5.2.6-5.2.8) and also summarised at paragraphs 3.4.3-3.4.7 of the LO, submitted on behalf of RE.

3.12.2 In addition, RE consider that the release of land at Shurdington would assist in reducing the potential adverse effects on the affordability of housing in the settlement, as acknowledged by TBC in the SOCG [SOCG10, paragraph 3.7]. It would also assist in meeting the shortfall in the supply of affordable homes, in accordance with the JCS affordable housing requirement.

3.12.3 In particular, Policy SD12 of the JCS identified a need for 638 affordable homes per annum across the JCS area up to 2031 [DP001, paragraph 4.12.6]. Of this, 126 affordable homes were needed annually in Tewkesbury Borough. Information published by the JCS authorities in the Housing Implementation Strategy, dated June 2017 (HIS 2017), identified a total affordable housing need for the JCS area of 10,208 homes, with 2,016 affordable homes required in Tewkesbury Borough (Figure 17 refers). RE notes that Policy SD12 does not apportion the requirement to each JCS authority.

- 3.12.4 After considering the likely sources of affordable housing supply, the HIS 2017 identified a shortfall against the total affordable need figures referred to above. Notably, for Tewkesbury, the HIS identified an ongoing affordable housing requirement for 970 affordable homes at the end of March 2017 (HIS 2017, Figure 18 refers). Significantly, however, the identified shortfall across the JCS area as a whole was 3,396 affordable homes in 2017. This remains the most up to date information published by TBC on the extent of the current affordable housing shortfall in Tewkesbury.
- 3.12.5 However, the recent planning appeal (at Gotherington), referenced under RE's Matter 2 statement, also considered the extent of the current shortfall in affordable housing supply against the need in the Borough¹. The decision letter was issued on 12th January 2021 and, in that case, the Inspector accepted that there was a clear need for affordable housing in the Borough (based on a shortfall of 333 affordable homes over the next five years) and therefore 'significant weight' should be given to the delivery of affordable housing. It is also noted from the Inspector's report that this estimate of the current shortfall was not challenged by TBC at the appeal (IR, paragraph 75).
- 3.12.6 Based on this, RE contend that there remains a pressing need for the provision of additional affordable housing in the Borough against the JCS requirements, even after considering potential supply from the TBP site allocations (including those sites identified at Shurdington). Whilst RE acknowledge that a proportion of this shortfall will have been contributed to by new planning applications approved post-2017 (up to the present), the remaining shortfall in affordable homes is still, in RE's view, considerable. In addition, RE contend that the committed development sites currently approved for housing development at Shurdington, totalling 16 dwellings at end of March 2020 [EXAM001B, Appendix 4, Table 6] does not include any provision for affordable housing, and thus will make no contribution towards the affordable housing needs of the Borough without further land release.

¹ APP/G1630/W/20/3256319

3.12.7 Consequently, in addition to the evidence submitted by RE at the Regulation 19 stage, RE consider that the following provide clear evidence that there is a need for additional sites to be allocated at Shurdington:

- the ongoing shortfall in affordable homes supply across the Borough;
- the significant shortfall across the JCS area as a whole;
- the specific benefits that can be delivered from each allocation; and
- the lack of current committed supply at Shurdington for affordable housing.

Potential supply from alternative sources

3.12.8 In relation to the consideration of other sources of land that could provide opportunities for housing development at Shurdington, RE has undertaken an analysis of these sources in accordance with the test set out in the Framework [NPPF 2019, paragraph 137]. This is set out in Chapter 6 of the Exceptional Circumstances Report [SOCG10, Appendix 2].

3.12.9 This evidence demonstrates that the potential supply of additional housing from previously-developed (brownfield) land is very limited at Shurdington, comprising just a single site (SHUR16), with an estimated capacity of six dwellings identified in the TBC Assessment of Land Availability January 2018 report [SOCG10, Appendix 2, ECR, paragraph 6.2.5-6.2.10]. Furthermore, due to the tightly drawn inset boundary that exists, there are also no other alternative non-Green Belt sites, either greenfield or brownfield, located around the edge of Shurdington [ECR, paragraph 6.2.14 refers].

3.12.10 On this basis, RE contend that there are no other reasonable options for meeting the need for development at Shurdington on either brownfield land or land outside the Green Belt, in line with the approach advocated at paragraph 137 of the Framework.

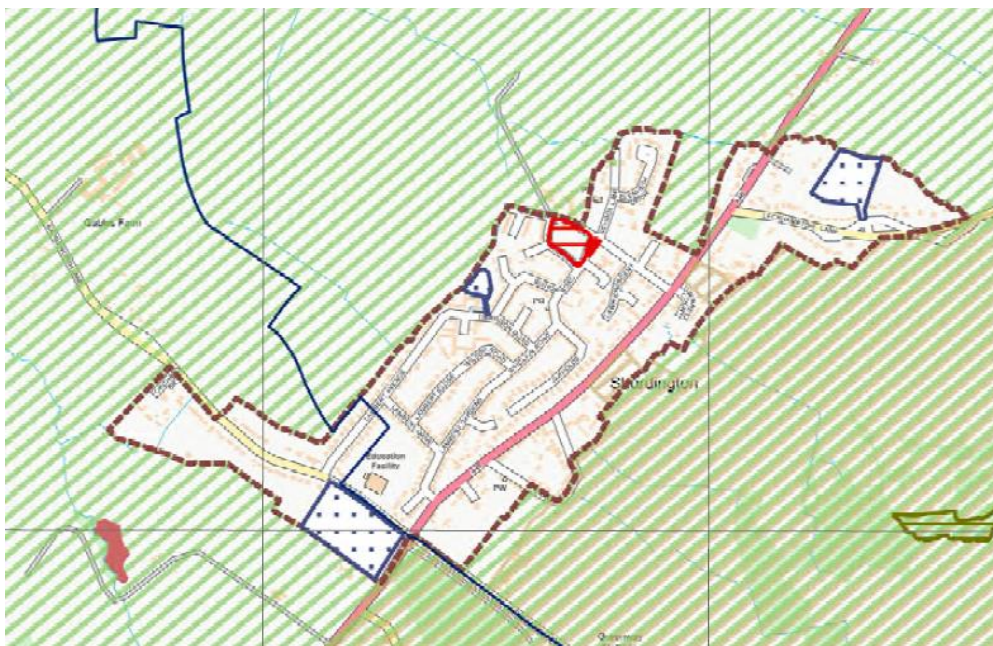
3.13 *What are the criteria that have been used to define the extended settlement boundary in the plan and have they been followed consistently? Is the detailed boundary proposed justified and effective? Should open land to the east of the A46 Shurdington Road be excluded from the Green Belt?*

3.13.1 There appears to be a cartographic error on plan EXAM002A (pdf page 44, 7 ha land) which incorrectly includes land to the east of the nursery indicated to be removed from the Green Belt, which contradicts the Inset Map for Shurdington.

3.14 What would the effect of the allocations and changes to the Green Belt inset boundary at Shurdington be on the five Green Belt purposes and on the openness of the land?

3.14.1 RE notes that the TBP proposes the removal of two parcels of land from the Green Belt inset boundary at Shurdington. This is based on the Green Belt Review (GBR) prepared by LUC in 2017 on behalf of TBC [EB004]. The main findings of the GBR are set out in Appendix 1 of EB004. In relation to the assessment of Green Belt at Shurdington, RE and TBC are in broad agreement on the likely effects of releasing land at the settlement on the five green belt purposes defined in the Framework [NPPF, paragraph 134], particularly with respect to SHU1 (identified as parcel 'P26' in EB004) [SOCG10, Appendix 1].

3.14.2 See below an extract from the submission version TBP proposals map [CD003, Map 21] showing the proposals for Shurdington.



3.14.3 In summary, the GBR finds that both sites are located within areas that are assessed as making a relatively weak contribution to the Green Belt purposes. Consequently, the effect of removing the sites from the Green Belt would result in a relatively low level of harm to the Green Belt. The result, RE contends, will be the creation of a new, robust, and defensible Green Belt boundary in these parts of Shurdington [CD001, paragraph 5.9]. In this regard, therefore, RE and TBC agree.

3.14.4 Furthermore, the GBR recognises that both sites are currently open and undeveloped but are contained by existing built development at Shurdington, further limiting the potentially harmful effects on the purposes of the adjacent Green Belt areas by releasing the sites for development.

3.15 In relation to the three Shurdington housing allocations in Policy RES1

What is the current use of the site and is there any relevant planning history? Are there any current planning applications or appeals?

Is the housing allocation justified given the site selection criteria, constraints, infrastructure requirements and potential impacts? What would be the effect on the five Green Belt purposes and the openness of the land? Is the site either deliverable during the next five years or developable during the plan period?

Is the indicative capacity figure for the allocation justified?

Is the site-specific policy for the allocation justified, consistent with national policy and would it be effective?

In turn:

SHU1 – Land at corner of Badgeworth Lane and A46

3.15.1 The response to this question is specifically in the context of RE’s interests at Land off Badgeworth Lane (SHU1).

Current use and planning history

3.15.2 To confirm, the current use of the site is agricultural and there is no relevant planning history. There are also no current planning applications or appeals relating to the site.

Justification for the site allocation SHU1

3.15.3 National policy supports the promotion of sustainable development in rural areas where this will enhance or maintain the vitality of rural communities and support local services [NPPF 2019, paragraph 78]. It is common ground between RE and TBC that Shurdington is one of the most sustainable Service Villages in the Borough based on its level of service provision and its accessibility to Cheltenham and Gloucester. Furthermore, Shurdington is a Service Village and thus providing housing site allocations at the settlement would be

consistent with the JCS Spatial Strategy set out at Policy SP2 [SOCG10, paragraph 5.1]. This agreed position has been informed by evidence of the sustainability credentials of Shurdington as set out in Rural Settlement Audit (updated 2017) [EB011a, Appendix 1].

- 3.15.4 The methodology for the distribution of housing development and the identification of sites within the TBP is set out within the Housing Background Paper [EB013], as referenced in the TBP submission version [CD001, paragraph 3.18]. Each site option was assessed against a range of site-level criteria. The explanation for the site selection criteria used in assessing individual sites is presented at paragraphs 5.5-5.18 of EB013 and includes a consistency check against relevant national and local (JCS) policy guidance.
- 3.15.5 In relation to SHU1, results of this initial desktop assessment process are presented at the matrices provided at Appendix E to the Background Paper (*NB: site SHU1 was assessed here under reference BADG008, as the site is located in Badgeworth Parish*). As highlighted in the Exceptional Circumstances Report submitted by RE, the only significant constraints identified in relation to SHU1 is the existing policy constraint (Green Belt) running along the southern boundary of the village. As a result, the only detracting factor in relation to allocating the site was the outcome of the Green Belt Review [paragraph 6.3.3 refers].
- 3.15.6 RE contends that the key infrastructure requirements reasonably related to the development of SHU1 can be adequately accommodated on the site. To support this, RE has prepared a supporting vision document (SOCG10, Appendix 2), which includes an indicative masterplan that clearly illustrates how the various infrastructure needs emanating from the development can be incorporated into the design and layout of the site, and which shows that development can be appropriately integrated into the existing settlement [SOCG10, Appendix 1]. In terms of infrastructure provision, an important benefit that can be secured through the allocation of SHU1 is the provision of parking spaces to off-set the loss of parking outside Shurdington Primary School, which is a consequence of the JCS Transport Strategy A46 mitigation package. This is plainly a significant and unique material consideration unique to this site, which weighs heavily in favour of the allocation of the Site. Indeed, irrespective of the JCS Transport Strategy, the provision of free parking spaces outside Shurdington Primary School, to meet an existing need, is plainly a significant benefit.
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3.15.7 Similarly, with regards to any other potential technical or site-specific constraints, based on the technical work undertaken by RE to date, both RE and TBC agree that there are no technical issues preventing delivery of the site.

3.15.8 On these grounds, RE contend that the allocation of SHU1 in the TBP is justified.

Green Belt matters

3.15.9 In relation to Green Belt, it is common ground between RE and TBC that SHU1 (assessed as parcel P26 in Green Belt Review) makes a weak contribution to the purposes of the Green Belt and its release would not significantly weaken the Green Belt contribution of adjacent areas of land [SOCG10, paragraph 3.7]. In essence, the evidence [EB004, Appendix 1] suggests that this parcel has a greater connection with Shurdington settlement rather than the countryside beyond. This is principally due to the site being bounded by development on three sides, thus the site lacks a strong rural character [SOCG10, Appendix 1].

3.15.10 On these grounds, RE contends that the likely effects on the Green Belt purposes and openness of the Green Belt are not considered to be significant.

Deliverability of SHU1

3.15.11 Under Policy RES1, the site is currently proposed for c. 50 dwellings [CD001, Table 1, Page 21]. Due to the lack of any significant constraints likely to delay bringing forward the site, RE and TBC agree that SHU1 is capable of being delivered within five years [SOCG10, paragraph 4.1, Table 1]. This is based on the site being in the sole control of RE, who intend to bring forward the site in the short-term given the under-delivery of housing seen at Shurdington since 2011 and the current lack of five-year supply in the Borough. This is also based on the assumption that build out rates would be c. 25 dwellings per annum.

3.15.12 On deliverability, the SOCG states:

“5.1. TBC and RE are agreed on the following matters...the site is deliverable and developable as defined in the NPPF. The summary of technical evidence at Appendix 1 demonstrates that the site is developable and based on this evidence there are no technical issues preventing delivery of the site. The site is available for development

now and it will be delivered within the five-year period starting from the adoption of the Tewkesbury Borough Plan.”

3.15.13 Based on this, the Council and RE agree that the site has realistic prospects of being delivered within the five-year period 2020-2025. Given the concerns highlighted above regarding the five-year land supply position, RE and RPS contend that SHU1 forms a key component in the deliverable supply of land identified in the TBP, thus ensuring that the homes required to meet the local needs of Tewkesbury can be delivered in a genuinely plan-led manner in accordance with national policy [NPPF, para 15].

Site Capacity

3.15.14 In terms of site capacity, despite the capacity figure for the site being ‘indicative’ (under Policy RES1, Table 1) RE nonetheless has demonstrated (as referenced in the illustrative masterplan for the site highlighted above), that a development of 50 dwellings can be appropriately accommodated on the site. Therefore, the capacity of 50 dwellings on SHU1 is justified on the evidence.

Site-Specific policy considerations

3.15.15 RE does not object to the principle of including a site-specific policy (Policy SHU1) in the TBP for the site. However, representations were made at the Regulation 19 stage highlighting a number of soundness concerns with various criteria set out in Policy SHU1. In this regard, RE notes the submission of Schedule of Changes to the Pre-Submission Plan [CD011a], which includes modification PM11. RE agrees with the modification as proposed.

3.15.16 However, there remains disagreement on two criteria set out in Policy SHU1 [SOCG10, paragraph 6.1]; these relate to addressing biodiversity net gain (BNG) and mitigation measures required for the Cotswold Beechwood Special Area of Conservation (CBSAC).

3.15.17 With respect to seeking mitigation measures against ‘increased recreational pressures’ on the CBSAC, TBC rely on a visitor survey carried out in 2019 [EB028]. However, this survey contains virtually no information on the impacts caused by visitors to the CBSAC, nor does it include any analysis specific to visitors coming from Shurdington. RE therefore maintains its contention that there is insufficient evidence to justify contributions from the site and, consequently, this policy criterion is not justified. Furthermore, the criterion as drafted is

vague and does not specify clearly what is expected of applicants in terms of the measures that would be needed to satisfy the policy. In this respect, the policy is also not effective.

3.15.18 On matters relating to biodiversity net gain, whilst RE acknowledge that the Environment Bill is slowly progressing towards being enacted (on 26 January it was announced that this would be further delayed by another 6 months), this has not yet become statute. However, without the legislation in place, any policy criterion must be consistent with national policy and be effective. RE contend that if developers are expected to deliver net gains on the site then there should be clear guidance for applicants as to what is expected of them with regards to preparing planning applications. Furthermore, if it is the intention that such gains are not explicitly required under the policy then this should be expressed in the policy and not left to open to interpretation.

3.15.19 Consequently, RE maintains their objections on these two criteria in line with their Regulation 19 representations.