

Tracy McFadden (ref: 288)

Response to Inspectors Matters/Issues and Questions

Erewash Borough Council revised Core Strategy 2023/24

Matter 1 – Procedural/Legal Requirements

With reference to the above subject matter concerning the Procedural/Legal Requirements that Erewash BC have adopted in the past and indeed looking to ensure that all Procedural Requirements have been adhered to both past, present and future. I can confirm that Erewash adopted a GB policy back in July 2005 (this was procedurally and legally unlawful). Please refer body of Evidence Doc 1, Timeline of Events – Crowley Associates, Doc 2, Hansard – Beverley Hughes, 23rd April, 2001: Column:76W, Doc 3, Title Deed No DY334259 Queens Head Pub House and Car Park, Doc 4, Title Deed No DY130925.

The body of evidence provided will contest the lawfulness of the Greenbelt in Erewash. The Greenbelt was revised by Erewash Council in the final adopted local plan of July, 2005 as confirmed in a letter from Adam Reddish 13th April, 2005 (doc ref 10) confirming that the then plan occurred in accordance with the Town and Country Planning (Development Plan) (England) Regulations 1999.

With reference to the two sites aforementioned I can confirm that no evidence exists, no background documents, no exceptional circumstance argument as required by policies internally and externally. This change of Greenbelt regarding these two sites is only documented on the title No DY334259 (refer Doc 3) please note the update to the title deed on 13/08/2001, where upon it states, a new title plan based on the latest revision of the Ordnance Survey Map ref: SK4235NW. This map confirms that the Queens Head Public House and Car Park was removed from the Greenbelt without documented evidence. It also shows house no 244, DE72 3RL (as this property is in close proximity). The revised OS map

shows a series of dashes drawn very tightly along the whole rear elevation of that property which confirms the start of the Greenbelt (also refer Doc 5 Greenbelt Designation EBC 3rd February 2012). This series of dashes DO NOT appear on Title DY130925 (refer Doc 4) and never has, there is also no stated updated revised plan on that title deed as per referenced in title DY334259 (refer Doc 3). Please note, the date of the OS map revision is 13/08/2001, many months before 244, DE72 3RL was purchased (Nov 2002 - refer Doc 8 – request to EBC search doc for 244 from conveyancing solicitor). You will notice on this search document the council does not confirm the change of designation into the Greenbelt of the land at 244, it merely states that a local plan is being revised. Question is: should the council of confirmed to the conveyancing solicitor that this designation of land had already been allocated to the Greenbelt as per the adoption of the first stage deposit of their then local plan? Please be reminded that no documents exist appertaining to the inclusion and release from the Greenbelt concerning the two mentioned sites. Furthermore, this confirms that the Greenbelt was changed years before formal adoption of the Erewash Local Plan of July, 2005. The council to date cannot provide evidence to substantiate this change, nothing is documented. It should be, (refer Doc 6 – internal email EBC). Given that EBC's GB policy is current, should all documented evidence be freely accessible, I say this because Local Plans/Core Strategies are statutory, therefore should all information, documented evidence to substantiate decision making be kept indefinitely? If so, then why is it that the council has constantly confirmed "we have no evidence". They should have!

An internal email confirms that a very experienced member of the planning team at Erewash decided to drive around the Borough changing Greenbelt boundaries without documenting evidence nor providing the exceptional circumstance argument for doing so. I want to know what policies both internal/external, procedural regulations did Erewash Borough Council adhere to when altering the Greenbelt boundaries on the aforementioned

sites (this may have happened at other sites). The evidence suggests not one regulatory policy, procedural, legal requirement was adopted by the council at this time. Please note that this policy remains current under the councils' body of Local Plan policies, under their current Core Strategy arrangement. This is unlawful and always has been (Please ref Doc 2 Hansard and also Doc 6). The council cannot move forward with their proposed Core Strategy arrangement when their current adopted Core Strategy contains unlawful, undocumented alterations of Greenbelt boundaries, therefore creating policies that have been subsequently created without procedural, legal requirements that are a pre-requisite. What motivated the council to change Greenbelt boundaries without adopting proper lawful, procedural requirements (refer Doc 6). To date the council has not provided an answer.

In a letter dated 13th April, 2005, (ref Doc 10) Adam Reddish confirms that all Consultations of the draft plan occurred in accordance with the Town and Country Planning Act 1990. Does this plan include and agreeing changing Greenbelt boundaries without providing background evidence, nor the exceptional circumstance argument?

Please also see details of a full council meeting in October, 2000 (ref Doc 14), although signed January 2001. At this meeting the council voted to allow the Principal Planning Officer (Local Plans and Special Projects) Mr Peter Wigglesworth Dip TP, Dip CM, MSc(Dist) MRTPI to alter the local plan under the provision of Typograph, grammar, spellings errors without having to raise the matter with the council. It was the same Mr Wigglesworth who wrote to me confirming he had nothing to do with the local plan at that time. He lied. Further more, I can confirm that Yvonne Wright (now a planning inspector) who was the principal planning officer at EBC, in her role as acting planning inspector to oversee the lawfulness of the local plan at Chelmsford City Council, she confirmed in writing that the paragraph used in the Full council meeting at Erewash on Oct 2000 (doc 15), be

deleted from their local plan. Why did she do this? Perhaps she knew that that paragraph could be potentially open to abuse.

The council has become unwelcome to disclose information past and present nor recognise the wrong doing and subsequently chose to gather ranks and cover up their unlawful policy making, no evidence = illegal. Indeed I have challenged the council on many occasions but the narrative is always the same (ref Doc 7, email to citizens advice 2022 from Head of Planning EBC).

Further, it is confirmed in a letter from Ros Theakstone (ref Doc 9), in her words “No recorded minutes exist which refer specifically to your property” and indeed went on further to say “Given that the revised plan was presented to and considered by members it seems very unlikely that proposed changes to the Greenbelt would not of been drawn to their attention as it would be of particular interest to members in rural constituencies”. However, again getting the parish to disclose information has proven fruitless (ref Doc 11) I am still awaiting a response.

Indeed the Ombudsman has been involved and considered evidence and stated that the council had followed due processes. However, what the Ombudsman failed to do was look at the procedural processes, regulatory policies that the council should of adhered to. The Ombudsman failed on this part. I have further updated the Ombudsman with factual evidence now in my possession. Please see their response (ref doc 16), furthermore the Ombudsman will no longer communicate regarding this matter and allow me to send further evidence (ref doc 17), not until six months has passed since the date of their letter.

I can also confirm that I have asked on many, many occasions information from the council with reference to my forced predicament, I understand that Yvonne Wright put a file together concerning the whole saga, although the council has responded that this does not exist and it does not have any information. I can confirm also that I have recently started to

use the online social media platform “what do they know” I am still awaiting responses from the council. As soon as I receive responses I shall update.

Please also refer to Planning Application ERE/1112/0009 and also Appeal Reference APP/N1025/A/13/2200023. To include Hearing statement from Appellant T McFadden, Hearing Statement from DLA Piper, Appeal by Ms T McFadden.

In October, 2023 I was allowed to ask full council of Erewash the following question (ref doc 18) and their response (ref doc 18).

The situation as I type remains that the council has done no wrong, however, the council does not have the proof to provide to confirm otherwise and never has. No evidence. They should have!

It has also become apparent that Punch Breweries who own the Queens Head Public House, sold their pub stock to Patron Capital (venture capitalists in London) within 24 hours Patron Capital sold on to Heineken Europe creating millions of pounds of profit, further Heineken Europe has sold I believe 48% share ownership to Bill Gates.

Appendices - Evidence Documents

- 1 Timeline of Events – Crowley Associates
- 2 Hansard – Ms Beverley Hughes
- 3 Title Deed and Plan DY334259 Queens Head Public House & Car Park,
Victoria Avenue, Ockbrook, DE72 3RN
- 4 Title Deed and Plan DY130925 244 Victoria Avenue, Ockbrook, DE72 3RL
- 5 Greenbelt Designation at 244 Victoria Avenue, Ockbrook. Prepared by Mr S
Birkinshaw in response to Crowley Associates. 3rd February, 2012
- 6 19th July, 2005 – internal EBC communication between Ros Theakstone,
Yvonne Wright and Adam Reddish. This confirms no evidence exists
- 7 Email to me from Citizens Advice provided to them by Mr Birkinshaw Head
of Planning EBC
- 8 Search document dated July 2002 received by conveyancing solicitor
- 9 Letter from Ros Theakstone 6th July, 2005
- 10 Letter from Adam Reddish
- 11 Email from Ockbrook and Borrowash Parish Council and my email to Mr
Birkinshaw requesting further details. I have received no reply to either
- 12 Letter from Local Government Ombudsman 17th July, 2006

- 13 Copy of meeting of full council EBC 5th October, 2000 pages 179,180 and 181
- 14 Copy of letter from Planning Inspector, Yvonne Wright to Chelmsford City Council instructing them to remove paragraphs from their local plan.
- 15 Ombudsman final response letter from Ros Aitchison 16th December, 2005
- 16 Recent Ombudsman Final response letter and also online response preventing access.
- 17 My most recent question to EBC in October 2023 and their response.
- 18 Internal email EBC Councillor Chris Corbett, Steve Birkinshaw, Jeremy Jarowsek, Richard Snow, Yvonne Wright, Susan Crowley.
- 19 Memo to Ros Theakstone from Yvonne Wright 8th November, 2005.
- 20 Copy of Inspectors Report – Greenbelt Chapter 10
- 21 Briefing note for Ros Theakstone prepared by Yvonne Wright 25/05/2005
- 22 Email exchange by Richard Snow EBC and Susan Crowley of Crowley Associates 17th November 2011
- 23 Letter from Steve Birkinshaw EBC to Crowley Associates 3rd February 2012
- 24 Copy of Outline Planning Application refusal – Delegated

Timeline of relevant events

	2000:	Local Plan Review commenced and proposed additions to Green Belt boundary ratified by full Council on 5 October 2000. Proposed Green Belt additions brought forward on a case-by-case basis and on the grounds that their inclusion was justified owing to certain exceptional circumstances at play. No records exist referring to the inclusion of Client's land. No records exist setting out exceptional circumstances argument.
March	2001:	Publication of first Deposit Draft for 6-week consultation
November	2002:	Client moved into property at 244 Victoria Avenue. Her legal team were notified during local land search that Local Plan Review underway but NFA taken on their part. Client not aware of local plan review and proposals to include her property within the Green Belt.
October	2002:	Second Draft Deposit out to consultation. Client not aware of consultation document.
January	2004:	Public Inquiry into soundness of plan opened. Public Inquiry closed in March 2004. Numerous objections received to proposed additions to Green Belt. The Inspector in testing the Local Plan Review made it clear that there was no possible justification for altering the Green Belt boundary by adding sites to it. He recommended that no alterations be made. He did not qualify his recommendation by suggesting that it be confined to sites on which objections to the Local Plan proposal (to modify) had been received. His recommendation was clear and unambiguous; no additions, whatsoever should be made to the already adopted Green Belt boundary. Please refer to chapter 10 (from page 180) of Inspector's report, which refers specifically to the proposed alterations to the Green Belt.
February	2005:	Local Authority produced its "Statement of Decisions and Proposed Modifications". They were out to consultation on this for 6 weeks sometime during March 2005. Notable is proposed modification number 140 (please refer to page 109 of the statement of modifications) whereat the local authority responds to the inspector's recommendation concerning Green Belt additions. In short, without apparent justification and certainly without stating its reasons clearly and cogently, the local authority advised that where an objection to the proposed inclusion of a particular site in the Green Belt had been received by the Local Authority during the preparation of the local plan review and was considered by the Inspector in his report, the proposals map would be altered to remove that site from the Green Belt boundary.
20 March	2005:	The Client wrote to the Local Authority expressing her concerns. The modifications document was still out to consultation.
13 April	2005:	Local Authority issued its response to the Client's complaint stating that it had followed the required consultation procedures, advising that the review had reached the modifications stage but making no reference to the client's right to object to the modifications document. No reference to Inspector's recommendations and local authority's response.
29 April to 6 July	2005:	The Client exchanged a series of letters with the local authority highlighting her concerns. The local authority customer services division investigated and concluded that decisions as regards the inclusion of her property in the Green Belt had likely been made in 2000 although no specific reference to her property could be found. Internal investigation focussed on the process of consultation and the Client's right or otherwise to have her objections heard. No one appeared to consider the matter in context by looking at it from

first principles and checking the legitimacy of having included her land in the Green Belt in the first place. No apparent examination of the Inspector's report was undertaken; no reference to local authority's decision to remove from the Green Belt those sites only to which objections had been received during the consultation process was made.

July **2005:** Local plan review adopted.

October **2005:** The Local government ombudsman acknowledged the Client's complaint against the local authority. The ombudsman confined its investigation to the "way in which a large plot of land to the rear of [the Client's] property [had] been allocated as Green Belt". Their approach focussed on checking whether key processes had been followed by the local authority. It examined copies of documents supplied to it by the local authority, which dealt with changes to the Green Belt during the adoption process. It examined the advertisement procedures put in place by the local authority and it looked at objections to the proposed Green Belt changes. It also asked for clarification from the local authority as to whether it had notified the Client's legal team of the local plan review during the local land search.

In supplying its information to the local government ombudsman, the local authority did submit the relevant extract i.e. chapter 10 of the Inspector's Report. However officers of the local authority failed to highlight the Inspector's objections to the planned changes to the Green Belt and they made no reference to the proposed modifications post Inquiry. The Ombudsman was led to believe that beyond the objections received during consultation on the second draft deposit, no further objections were received and that the plan proceeded to adoption without further ado. The Investigator evidently did not pick up on the inspector's recommendations nor did they request to see a copy of the local authority's statement of modifications.

December **2005:** The Ombudsman issued its decision finding there to be no maladministration on the part of the local authority. In coming to its decision on the matter of maladministration, the Ombudsman stated that there was no evidence of any procedural failure on the part of the local authority, which had prevented the Client from being able to influence the decision to include her land within the Green Belt. Thus, they found no injustice.

On the matter of the financial loss incurred by the Client arising from the fact that designation of her land as Green Belt would prevent her from developing the site for residential use, the Ombudsman found the claim to be "too speculative" since in its view there was no guarantee that the Client would have brought the site forward for development and indeed there was no guarantee that even if the site were not included within the Green Belt that planning permission would have been granted.

Its decision failed to take account of Inspector recommendations and seemingly arbitrary post inquiry modifications.

2008: The Client applied for outline consent under application number ERE/0308/0039 seeking permission for the principle of erecting a single dwelling on land to the rear of her property at 244 Victoria Avenue. The application was refused on two grounds:

- It was considered to be contrary to the provisions of Local Plan Review Policy GB1, and;
- Access to the property if taken alongside the existing dwelling could prove injurious to the amenities of any future occupiers of that dwelling.

The second reason for refusal holds little weight.

November 2011: Crowley Associates begin investigation:

- 10.11.11** Report compiled and submitted to local authority, alerting them to perceived anomalies; asking them to reconsider the inclusion of the Client's property in the Green Belt and to treat the matter as an exceptional circumstance in the consideration of any future planning applications.
- 17.11.11** Response received from local authority stating that in its view the material circumstances with regard to the Green Belt had not altered since the previous application was refused; that the matter of whether the land was appropriately designated as Green Belt had already been considered by the Ombudsman and that if another application were to be submitted it was unlikely that the local authority would change its position on the acceptability or otherwise of development.
- 8.12.11** Meeting on site with Officers from the local authority (Richard Snow and Yvonne Wright). The Inspector's report was presented for discussion. The Officer responsible for dealing with the Ombudsman's complaint, Ms Yvonne Wright, was visibly shocked when presented with the relevant section of the Inspector's report into the Local Plan Review. Despite being the Officer responsible for dealing with the LGO's original investigation, despite being fully aware of the client's history of complaint and despite having sufficient notice to prepare for our meeting, Ms Wright, in response to direct questions, stated that:
- She did not know why Ms McFadden's land had been included in the Green Belt, and
 - She did not know why the Local Authority had failed to follow Inspector recommendation in adopting the Local Plan Review.
- Both Officers left the meeting promising to undertake a full review of the situation.
- 12.01.12** Having heard nothing from the local authority (despite repeated requests for a response to the evidence placed before their Officers on 8.12), Crowley Associates submitted a letter setting out our concerns as regards the way in which the Green Belt had been adopted to include the Client's property. We appealed for the local authority to consider the matter an anomaly (whether a drafting error or otherwise) and asked that they treat it as an exceptional circumstance in the consideration of any future planning applications.
- 03.02.12** The local authority issued its response to our letter submitted 12 January. It stated that it did not consider there to have been any drafting error made in the preparation of the local plan review. It also stated that it would not be willing to re-examine the Green Belt designation in any context. It suggested that if a planning application were to come forward it would be minded to refuse. Its response was felt to be inept in the extreme and failed to examine the substantive issue.
- 09.02.12** Crowley Associates issued a response to the local authority's letter, challenging their position and requesting that it address the substantive issue. At this time, Crowley Associates was still unaware of the contents of the Statement of Modifications. Copy attached for reference.
- 10.02.12** Crowley Associates obtained a copy of the local Authority's Statement of Modifications wherein it provides a response to the Inspector's recommendations. Copy of this document with relevant text highlighted and copy of Inspector's report with relevant text highlighted forwarded to local authority for consideration and response. No response ever received to the email issued.

14.05.12: Ms McFadden was advised in writing that (having submitted her land at 244 Victoria Avenue for promotion under the SHLAA framework) that her site would not be included in the 0-5,6-10 or 10-15 tranches of suitable and available housing sites. The local authority cited the Green Belt as an issue and made reference to her site being Greenfield without any proper justification or explanation.

01.06.12 Following legal advice, planning application submitted via the planning portal and received by local authority. Specific request to have all communication exchanged in electronic format. Planning fee submitted.

25.06.12 Meeting with Ian Sankey (Deputy Chief Executive at Erewash) to explain Client's frustration and to discuss legitimate concerns as regards conduct of local authority officers and legality of green belt designation. Ian Sankey commits to investigating the legal and wider issues fully with borough solicitor Brendan Morris.

26.06.12 Letter from local authority confirming that application validated – All matters with the exception of the access to be reserved. Date of validation confirmed as being the **18 June 2012**. Thirteen-week expiry date to fall on 17 September 2012.

16.07.12 Letter received from the local authority stating it is unable to determine the application separate from the matter of the "layout" and formally requesting additional information as per the powers accorded it under section 4 (2) of Part 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2006 (amended 2010). Copy of letter attached. Separate request made for a full tree survey under BS5837.

18.07.12 Email to Ian Sankey setting out our renewed concerns at the way in which this latest application is being dealt with.

Proposal presented to Parish Council at a meeting. Described as development in the Green Belt. No mention of the substantive issue. Council voted unanimously against the proposal.

19.07.12 Email to planning department contesting the reasonableness of its request for additional information by stating that time limit for making such a request under Section 4 (2) of Part 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2006 (amended 2010) had expired on 1 July 2012. Email also contested need for full tree survey. No response received to date from case officer.

19.07.12 Email from Ian Sankey confirming that application will not be determined until his investigation complete and stating that external legal advice being sought on local authority's position.

15.08.12 Email to Ian Sankey requesting a full response setting out the council's position by 17 September (to coincide with the expiry of the planning application determination period). Copy attached. Holding reply from PA.

17.09.12 Email from Ian Sankey's with letter attached stating the local authority has no case to defend and that the land has been legally designated to the Green Belt.

02.11.12 Letter confirming that the application had been invalidated because the description of the development did not state the number of dwellings. Objection submitted on behalf of the client stating that the local authority could and should have resolved the matter by way of

an exchange of correspondence. The matter did not merit having the application made invalid.

2.11.12

to 25.11.12 Objection ignored by the local authority who moved to re-validate the application. Thus two applications appeared on their website, one invalid, the other valid. The invalid application was subsequently removed from public view along with all of the correspondence and letters of representation. The local authority prepared a statement for the Parish Council advising Members of their decision to invalidate. The statement included factual inaccuracies concerning the date and content of communications between the Client and the local authority and it made false statements about the Client's unwillingness to cooperate with the local authority. In our opinion it was designed to mislead Members. Briefing note prepared for and presented to Members of the Parish Council (copy attached).

Matter of invalidation raised directly with Brendan Morris, Borough Solicitor, who responded that his Officers were entitled to invalidate.

A second letter was submitted to Brendan Morris advising him that whether or not he felt Officers of the local authority had followed the correct procedures by invalidating the application they had no right to ignore the Client's objection to having the application made invalid. By ignoring the Client's objection, Officers had in fact removed her right to appeal the reasons for having the application invalidated in the first place. In short Officers were operating outside of their remit and contrary to procedural orders. We have never had a response from Mr Morris on this matter.

01.01.13 to 31.01.13

Local authority's justification for and evidence base in support of its Core Strategy brought into question by the Inspector (over two letters) appointed to test the soundness of the Plan at its Examination in Public.

01.02.13

Application determined under delegated powers and refused. We have concerns about the process of determination. We feel that Officers have failed to abide by the local authority's Constitution. Part 8 Para. 92 of the Constitution required that the application be determined by Committee. We have requested an explanation as to why Officers felt able to determine the application under delegated powers. We have had no response.

Tracy Mcfadden (ref 288)

Erewash Borough Council Revised Core Strategy -2023/2024

Response to Inspectors Matters/Issues and Questions

Personal Summary

With reference to the above subject matter. I would like to inform that I am no planner, I am not qualified, I do not hold any planning qualifications nor experience and indeed as such absolutely no planning lawyer.

Myself and my early family returned to the parish of Ockbrook and Borrowash in November 2002, where I grew up. Like many, I chose to return to the villages of my upbringing, my parents and my sister were also living in the village, I could help look after my parents as well as my expanding family. We could all help one another. I was 34 years old.

I am a former (14 years) Subpostmistress of the former Sandiacre Branch Post Office situated in the Springfield Ward Parish of Erewash Borough Council (7 mins drive from my house). This Post Office was forced to close. The branch experienced failings in the Horizon Computer Software we were forced to use. The branch closed in 2016. I was blamed for its closure. I lost my businesses, my investments, my reputation, my pensions, my mental and physical well being, my marriage plus more. (One of the parish/borough councillors in the Springfield ward is also a Regional Post Office Manager, his wife and sister-in-law worked within my business for over 9 years).

I managed to save my house because family helped out over and above financially.

I am now 58 years old and beg the state for benefits and live in a house that is not my home as it has been medalled with by the Local Authority for many years. This now has to be acted upon under the revised core strategy proposed by government, so that I may sell. It has become very apparent something is clearly wrong with decision making at the council, the evidence that has now prevailed has proven this to be the case. I will not give up until all is put right.

I need to leave the borough of Erewash, investing, purchasing, employing in this Borough has proven to be "the kiss of death" for myself and my family since 2002.

All the evidence is provided is what I have collated over the years, but more specifically since obtaining the title deed and plan of the Queens Head Public house as that document provided me to means to contest the councils decision making once again, unfortunately without much luck. But it also gave me the backdrop to ask the council further questions as I remain very sceptical of the councils adopted processes past and present.