

APPEAL BY THE APPELLANT LAND LLP
LAND SOUTH OF COOMBES FARM, STAMBRIDGE ROAD, ROCHFORD
GROUND OFS OF APPEAL

1.0 Introduction

- 1.1 This appeal is made following the decision by Rochford District Council to refuse planning permission for an outline planning application for up to 326 residential units.
- 1.2 The application was considered at Rochford District Council's Development Control committee on the 19th November 2009 where it was resolved to refuse permission for the following four reasons:
1. The proposed development of up to 326 residential dwellings and associated community uses would not accord with the adopted development plan, the Rochford District Replacement Local Plan (2006) and would also not accord with the emerging Core Strategy submission, which is currently at an advanced stage with submission to the Government scheduled for before the end of the year. There are no material planning considerations that indicate that this proposal should be determined favourably and not in accordance with the adopted development plan.
 2. The Rochford District Replacement Local Plan (2006) shows the site to be within the Metropolitan Green Belt. Within the Green Belt, as defined in Planning Policy Guidance 2: Green Belts, planning permission will not be given for inappropriate development except in very special circumstances.

The proposed development, by virtue of the proposed change of use of the land from agriculture to residential and community uses, would amount to inappropriate development in the Green Belt, which is by definition harmful. In addition, further harm to the Green Belt would be caused as a result of the proposed development including the sprawl of a large built up area, the encroachment into the countryside, the loss of an open, attractive landscape close to where people live and the loss of opportunities for outdoor recreation close to an urban area. There is no need to release Green Belt in this location in order to retain an up-to-date supply of deliverable sites for residential development.

No very special circumstances exist that would overcome the harm to the Green Belt and consequently the proposed development would be contrary to Planning Policy Guidance 2: Green Belts.

3. The Applicant has failed to submit information that demonstrates that acceptable mitigation can be achieved to prevent adverse impacts by way of increased recreational disturbance to the Crouch and Roach Special Protection Area (SPA or the Crouch and Roach Estuaries Site of Special Scientific Interest (SSSI). The Local Planning Authority cannot therefore ascertain that the proposed development would not adversely affect the integrity of these wildlife sites, contrary to Regulation 48 (5) of the Habitats Regulations 1994 and Planning Policy Statement 9: Biodiversity and Geological Conservation.
 4. The proposed development would result in a change in the use of an area of land that lies within the Public Safety Zone from use for agriculture to use as public open space, which is considered unacceptable because it would result in a significant increase in the use of land by members of the public, especially given the proximity, relationship and association of the public open space within a large new residential development.
- 1.3 The Council's first and second Reasons for Refusal are considered to represent the substantive part of the Council's case and the Appellant's detailed Grounds of Appeal in response to these issues are addressed in turn below. The Council's third and fourth Reasons for refusal raise technical objections which the Appellant considers may be resolved through discussions on the Statement of Common Ground. If, however, no agreement can be reached it is intended that expert witness evidence will be provided to address these Reasons for Refusal.
- 1.4 The Appellant has requested for this appeal to be addressed by means of the Public Inquiry procedure and the following dates have been proposed to the Council:
- 23rd to 25th February 2010, or
 - 3rd to 5th March 2010.
- 1.5 The Council do not raise the issue of developer contributions as a Reason of Refusal which we take to reflect the fact that discussions have taken place with the Appellant to agree (in principle) Heads of Terms. The Appellant is committed, in appropriate circumstances, to making financial contributions, and these will be specifically identified in a supporting S106 agreement.

2.0 Appellant's Grounds of Appeal in Response to the Reasons for Refusal.

Reason for Refusal 1

2.1 For ease of consideration this Reason for Refusal is broken down into two elements which are considered in turn as follows:

i) Conflict with the Adopted Local Plan

2.2 The Appellant does not dispute the Council's Statement that technically the proposed development does not accord with the Adopted Local Plan. It is important, however, in assessing the relationship with the Adopted Plan to also consider the current context and status of the Plan. Whilst the Coombes Farm site was not allocated for development in the Adopted Local Plan, this Plan only sought to cover Rochford's growth for the period 2006-2011, and thus is now out of date and no longer the primary planning document for considering the acceptability of future development proposals.

2.3 The Local Development Framework Core Strategy Submission Draft Document, September 2009, recognises that there is not sufficient brownfield land in the District to address housing land supply and thus there is now a clear and accepted need to release greenfield land. This stance provides a clear and demonstrable example of how, in practical terms, the Adopted plan is now out of date.

ii) Conflict with the Emerging Core Strategy

2.4 The Core Strategy Submission document is not adopted and at the time of appeal has not been formally submitted for consideration, and hence has not been subjected to an independent Examination in Public. The document cannot therefore be given significant weight.

2.5 The appeal submission has been made within the context of the guidance in paragraphs 71 and 72 of Planning Policy Statement 3: Housing (PPS3), which confirms that where Local Planning Authorities cannot demonstrate an up to date five year supply of deliverable housing sites, they should consider applications for housing favourably, and applications should not be refused solely on the grounds of prematurity. The Appellant considers that the Council cannot demonstrate an up to date five year housing land supply of deliverable sites as detailed in the grounds below with reference to the Council's second Reason for Refusal. Consequently the emergence, or otherwise of the Council's LDF Core Strategy is not considered to be sufficient justification to refuse the appeal proposals.

2.6 Reference is made under this Reason for Refusal to material planning considerations. It is considered that this matter is more appropriately addressed as part of the case for Very Special Circumstances as set out below.

Reason for Refusal 2

2.7 The Appellant accepts that by definition the proposals represent inappropriate development within the Metropolitan Green Belt, as defined within PPG2. Accordingly it is recognised that it is necessary to demonstrate that there are Very Special Circumstances to overcome the loss of Green Belt land. The Very Special Circumstances case is outlined in detail below. However, the elements of perceived further harm, as raised in the Reason for Refusal are firstly considered:

i) Further Harm Due to Urban Sprawl

2.8 The Appellant disputes that further harm would be caused as a result of the proposed development including the sprawl of a large built up area. The scale of development is of an appropriate scale and size which will be subservient to and in keeping with the existing Rochford urban area. The Appellant has not promoted development up to the edge of the landholding and has made generous provision for amenity and open space both within and outside of the site. The proposals have been developed to respond to the local context and represent a high quality development which will provide a logical rounding off of the existing urban area.

ii) Further Harm due to Encroachment into the Countryside

2.9 The appeal site is supported by a well considered Design and Access Statement, Masterplan and parameter plans, and through the preparation of the Environmental Statement and Planning Application submission due consideration has been given to the long term relationship of the appeal site with the Green Belt.

2.10 The contribution of the appeal site to the wider aims of Green Belt policy has been assessed in the context of the purposes of including land in the Green Belt, and the guidance on defining boundaries contained within Planning Policy Guidance Note 2: Green Belt (PPG2). It is considered that the development of the appeal site would positively accord with the wider aims and aspirations of PPG2, and development of the site would contribute to securing a long term defensible boundary to the Green Belt. The application site is contained within an area bounded by existing residential development and the long-term strong and defensible boundary created by the Environment Agency Flood Zones and the London Southend Airport Public Safety Zone. Beyond the application boundary, the wider landholding is also bounded

by Stambridge Mills, the River Roach and to the south of the River Roach by Purdeys Industrial Estate. The defensible boundary can be further protected through the reserved matters stage by the submission of a detailed landscape strategy.

iii) Further Harm by the Loss of an Open Attractive Landscape Close to Where People Live.

2.11 The appeal scheme makes provision for a large area of open space within the site boundary and there is also a larger area of undevelopable open space to the south east which is outside of the red line boundary but also in the Appellant's control.

2.12 Until recently the site was in active use for agricultural purposes and thus the character of the landscape has been influenced by the functional requirements entailed in farming. Existing public access rights to the site are limited to footpaths which bisect the site running east to west. Access via these footpaths, however, is limited solely to the paths themselves, and there are no existing rights to access open areas of the site.

2.13 Although landscaping is a reserved matter, the indicative details provided in the Application submission demonstrate that through the development of the site there is an opportunity to significantly enhance the landscape and public access. As opposed to the loss of an open attractive landscape the Appellant contends that the scheme would provide a sensitive extension to the existing urban area and would facilitate access to usable areas of open space which would benefit both existing and future residents.

iv) Further Harm due to Loss of Opportunities for Outdoor Recreation Close to Urban Areas

2.14 This is a private site which was previously farmed and currently offers no public access rights for formal recreation. The only limited access to the site is via a public right of way from the Rocheway across the site to Mill Lane, which will be retained.

2.15 The proposed development would provide 4.16 Ha of public open space within close reach of urban areas. The proposals would therefore greatly enhance the opportunities for outdoor recreation on the site which would represent a significant net benefit to the Rochford Urban area.

v) There is no Need to Release the Green Belt in This Location in Order to Retain an Up-to-Date Supply of Deliverable Sites for Residential Development

2.16 The Appellant strongly disputes the assertion that there is no need to release the Green Belt in this location. It is considered that the site has direct implications on the housing delivery targets set out in the East of England Plan, and in maintaining the momentum of growth in Rochford. The Appellant's detailed grounds in response to this issue are set out as follows:

- The residential development of the appeal site would contribute to meeting the strategic housing growth targets set out in the East of England Plan;
- There is a significant shortfall of appropriate sites within the District to accommodate both the five year housing land supply trajectory and the 15 year targets of the East of England Plan;
- Under the provisions of Policy H1 of the East of England Plan, Rochford has a requirement to deliver a minimum of 4,600 net new dwellings over the period 2001-2021. The guidance in PPS3 (paragraph 53), is clear that at the local level, Local Planning Authorities should set out in Local Development Documents their policies and strategies for the continuous delivery of housing for at least 15 years from the date of adoption. (in the case of Rochford District this is conservatively projected to equate to a need to provide a supply of units through to 2025/2026);
- The minimum dwelling provision target equates to an average annual delivery rate of 230 dwellings per annum. Policy H1 of the East of England Plan confirms that average annual delivery rates fell short of projected targets with 810 dwellings being provided, equating to an average annual delivery rate of 160 dwellings per annum. Accordingly, the annual average delivery rate from March 2006 required to meet the Regional housing provision has increased to 250 net additional dwellings per annum;
- Rochford District Council have confirmed within the emerging Local Development Framework (LDF) Core Strategy that future housing provision cannot be met on brownfield sites alone;
- The Core Strategy Submission draft document identifies that 59% of new housing development will need to be provided on greenfield sites as sustainable extensions to existing settlements within the Plan period 2001 – 2021. As the District is predominantly Green Belt, the document identifies the need to allocate land currently allocated as Green Belt for housing and employment development;
- Rochford District Council acknowledge that approximately 1,200 residential dwellings will be delivered as extensions to the envelope of the existing settlement of Rochford/Ashingdon to 2025 (Policies H2 and H3 of the Core Strategy Submission draft document which identifies housing targets for West Rochford and East Ashingdon);
- The Appellant has undertaken a summary assessment of the Five Year Housing Land Supply trajectory contained within the Council's most recent Annual Monitoring Report, published in January 2009. This assessment indicates that discounting those sites that the Department for Communities and Local Government (CLG) has identified as not counting towards the Five Year Housing Land Supply, which includes land not currently

allocated for residential use in an adopted Development Plan, the Council can identify 437 dwellings, or a 1.7 year housing land supply. It should be noted that this assessment is considered to represent a generous assumption at this stage taking account of the potential for certain sites with planning permission not to come forward for development.

- Following refusal of the planning application Rochford District Council has published its Strategic Housing Land Availability Assessment. This document provides a relevant data source in considering housing land supply, and accordingly the Appellant intends to address relevant aspects of this document within evidence;
- There are no other sites within or adjoining Rochford that have been actively promoted by developers during the application process, and which are expected to come forward in the short term to offer a realistic alternative to the appeal site.

2.17 In light of the above, it can therefore be demonstrated that there is a need to release Green Belt land within Rochford, and the appeal site is considered to be the most suitable and readily available for development.

vi) No Very Special Circumstances Exist That Would Overcome the Harm to the Green Belt

2.18 The Appellant considers that the case for development constitutes 'Very Special Circumstances' to justify development in the Green Belt.

2.19 As has been unequivocally demonstrated in the above grounds, the lack of a demonstrable five year housing land supply, both across the District and specifically within the Rochford area is considered in its own right to represent very special circumstances which would overcome any harm to the Green Belt.

2.20 In addition the following considerations are considered both individually and in combination to demonstrate Very Special Circumstances in this case:

- The role of the appeal site in the delivery of the East of England Plan Housing Growth Targets. Unlike many of the housing sites identified by Rochford Council, the appeal site is immediately available, viable, deliverable and capable of providing up to 326 homes within both the five year period and the East of England Plan period of a type that is both deliverable to house builders and is required to meet the housing needs of the District. As such, the appeal site can play a positive role in the fulfilment of the District's Regional targets;
- By virtue of not demonstrating a Five Year Housing Land Supply this has resulted in there being no delivery strategy in place to address the rising need, insufficient supply, and the failure to deliver housing that is currently being experienced in Rochford;

- The ability of the Appellant to deliver housing growth – The Appellant has shown a significant commitment to bringing forward the appeal site within the current market and has the backing of delivery partners to bring forward the development of the site immediately;
- Links to Strategic employment and infrastructure – The appeal site has a key role to play in maintaining momentum and delivery of development and regeneration within Rochford. By virtue of London Southend Airport, Rochford also has a significant role to play in delivering the objectives of the London Thames Gateway which is a planning initiative of national importance. The site will provide linkages to the strategic employment growth and infrastructure provision at London Southend Airport (namely the Airport’s committed new railway station).
- Links to local employment – The site is close to a range of other local employment opportunities in Rochford including the Purdey’s Industrial Estate. The site is also in very close proximity to the town centre and opportunities in the local area via public transport links.
- The lack of harm through removal of the site from the Green Belt - As has been demonstrated through the application process, the absence of technical objections from Essex County Council Highways Authority, London Southend Airport and Natural England establishes that there are no technical reasons that would prevent the site’s removal from the Green Belt. Rochford has historically been tightly constrained by Green Belt and thus the lack of a technical objection provides compelling justification to support the Appellant’s case that the site is a suitable location for development;
- East Rochford has already been accepted as an appropriate location for residential development by virtue of the identification of the Stambridge Mills site. As a matter of fact, Stambridge Mills is more removed from the urban area than the appeal site, and unlike the appeal proposals, constitutes a proposed development within the Zone 3 floodplain;
- The Appellant has confirmed the intention to contribute towards the provision of necessary and related infrastructure which would benefit both the proposed development and the existing community. Specific measures include improvements to the existing deficient highway junction as well as the provision of on-site community facilities;
- Ability to deliver both the qualitative and quantitative benefits of affordable housing and infrastructure improvements – The Appellant has the support of Registered Social Landlord partners regarding the delivery of affordable housing. The provision of affordable housing on a site close to the town centre will help to address the “acute shortage” identified by the Council in the Core Strategy draft documentation (Paragraphs 2.35, 2.42, 4.29- 4.32 and Policy H4).
- The Appellant is committed to meeting the affordable housing standards required by Rochford Council and has set out a commitment to providing affordable housing as ‘tenure blind’ subject to the detailed requirements of the delivery partner;
- Provision of low-cost family housing in an accessible location for local facilities and employment destinations including Southend Airport, commuters to London and other settlements within Essex including Southend.

Reason for Refusal 3

2.21 Contrary to the Reason for Refusal, the Appellant has provided clear evidence to demonstrate that there would not be adverse impacts on the SPA and SSSI. During the course of the Planning Application the Appellant submitted an Urban Greenspace Provision report which clearly demonstrated that the proposals would not have a likely significant effect upon either the Crouch or Roach Estuaries Special Protection Area (SPA) or the Crouch and Roach Estuaries Site of Special Scientific Interest (SSSI).

2.22 The position has been accepted by Natural England who responded on the 12th November to confirm that:

“Subject to the provision of the SANGS to mitigate impacts to the SPA (and SSSI), Natural England advises the planning authority that it now has confidence to conclude that the proposals are not predicted to have a likely significant effect on the SPA (in Habitats Regulations terms), and that such impacts have now been appropriately considered.”

2.23 The Appellant considers that all issues in relation to ecology have been sufficiently dealt with, and the proposals fully accord with both the Habitat Regulations and Planning Policy Statement 9. The Appellant respectfully considers that there is no reason, on grounds of ecology, why the site cannot come forward for development and would hope to clarify this matter with the Council through the preparation of the Statement of Common Ground.

Reason for Refusal 4

2.24 The positioning of open space within the appeal proposals, together with the location of development in relation to the PSZ has been carefully considered in relation to relevant guidance and through consultation with London Southend Airport and Rochford District Council.

2.25 London Southend Airport were formally consulted on the proposals and have raised no objection. The proposed residential development is outside of the existing Public Safety Zone (PSZ). In developing the appeal proposals, allowance has been made for a potential extension to the runway, based on data set out in the Joint Area Action Plan Issues and Options Report. The proposed development complies fully with the DfT guidance on the types of use which are both allowed and opposed within a PSZ.

2.26 Accordingly, detailed information was provided in the Masterplan Aviation Compliance document which was submitted with the application submission. In view of the lack of

objection from London Southend Airport, the Appellant would hope to resolve any outstanding concerns of Rochford District Council through the Statement of Common Ground.

Other Issues

2.27 In addition to the Grounds of Appeal, there are a number of additional issues relevant to the appeal proposals:

- Discussions were held with officers of Rochford District Council throughout the design development process to ensure that the appeal scheme represented an appropriate form of development. The Appellant has sought to produce a high quality appeal scheme that is supported by comprehensive design information that demonstrates that a sustainable and attractive form of development can be delivered on the site. It is notable that the Council's reasons for refusal do not include any objection to the form of development or indicative design;
- Flood Risk – Whilst addressed in detail in the Flood Risk Assessment (which is provided at Appendix 12.1 of the Water and Drainage chapter of the Environmental Statement), none of the proposed development area is within an area defined as at risk of flooding, and hence the appeal proposals would not result in an increased risk of flooding at the appeal site, or in the surrounding area;
- Open Space and Landscaping – Whilst reserved for subsequent determination, the Appellant is committed to the provision of a significant area of open space within the development site, providing a total area of 4.16ha, which exceeds the minimum standards required for a development of this scale. Detailed proposals will also include a formal landscaping scheme;
- Environmental Statement – The appeal scheme has been subject to Environmental Impact Assessment (EIA);
- Section 106 – The Appellant has sought to enter into negotiations with Rochford regarding the provision of Section 106 contributions and intends to submit a Planning Obligation in the form of a Section 106 agreement or Unilateral Undertaking to be determined as part of the appeal;
- The appeal site is located on the edge of Rochford Town Centre and is within close proximity to the railway station and public transport, and is in a location where sustainable residential growth can enhance the vitality and viability of the Town Centre. It will be demonstrated by the Appellant that the site represents one of the most sustainable locations for growth in Rochford; and
- The appeal scheme was submitted following the hosting of an exhibition to present the scheme to key local stakeholders and the general public, the details of which are set out in the accompanying Supporting Consultation Statement.

3.0 Conclusion

3.1 On the basis of the above, the Appellant concludes that the development meets all relevant policy requirements and respectfully requests that the appeal be granted.