

**Appeal Statement of Case:
APP/B1550/A/09/2118433/NWF**

**Land South of Coombes Farm,
Stambridge Road, Rochford**

**Iceni Projects Limited on
Behalf of Colonnade Land LLP**

27th January 2010

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1. INTRODUCTION

- 1.1 This statement outlines the main points of the Appellant's case in accordance with the Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009. It is submitted in respect of the appeal against the decision by Rochford District Council to refuse planning permission for an outline planning application for up to 326 residential units, associated accesses and community uses with all matters reserved for future determination, apart from means of access (Reference: 09/00528/OUT).
- 1.2 The application was submitted on 8 September 2009 and was subsequently reported to Rochford Planning Committee on 19 November 2009.
- 1.3 In setting out the main points of the Appellant's case, the Appellant addresses in turn the Reasons for Refusal given by the Council and provides an overview of the evidence that will be produced to support the appeal scheme. Where appropriate reference is made to the general content of the case for the development, including the material submitted in support of the planning application made to Rochford District Council.
- 1.4 The Appellant reserves the right to take into account and respond to any other issues raised or considered pertinent to the Inquiry not directly covered in this Statement.
- 1.5 The Appellant endeavours to agree as much common ground as possible with Rochford District Council prior to the Inquiry.

2. APPEAL SITE AND SURROUNDING AREA

- 2.1 The appeal site lies to the east of Rochford Town Centre. The appeal site (red line boundary) covers an area of 13.68 hectares, 10.84 hectares of which comprises the residential developable area and 2.68 hectares of which is structural landscaping. The application site is set within a wider site (blue line boundary) that is controlled by the appellant, which covers an area of 19.4 hectares. The site falls entirely within the administrative area of Rochford District Council.
- 2.2 In evidence the appeal site will be described in detail. Particular reference will be made to the location of the site; its proximity to the services and facilities of Rochford Town Centre; its location in relation to public transport facilities; and the boundaries of the site.
- 2.3 The Appellant's evidence will provide further details of the site and surrounding area, including the wider Rochford administrative area, as necessary.

3. PLANNING HISTORY

- 3.1 There is no planning history for the appeal site.
- 3.2 Reference will be made to other relevant application and appeal cases, including, but not limited to those relating to development in the Green Belt, both within and beyond the Rochford District Council administrative area.

4. APPEAL PROPOSALS

- 4.1 The appeal scheme proposes the residential development of the appeal site to provide up to 326 residential units, associated accesses and community uses. The appeal scheme was submitted in outline with all matters reserved for future determination, apart from means of access.
- 4.2 A full description of the appeal proposals will be provided, including a description of the illustrative design proposals that have been produced, which confirm that the quantum of development can be accommodated on the site.
- 4.3 Reference will also be made to the documentation submitted with the original application submission and where appropriate, any additional illustrative information in response to the Council's Reasons for Refusal.

5. RELEVANT GOVERNMENT GUIDANCE

- 5.1 The Appellant will refer to Government advice and guidance relevant to, but not limited to, Sustainability, Green Belt, Housing, Transport, Biodiversity, Rural Areas, Open Space and Flooding , and in particular that contained within PPS1, PPG2, PPS3, PPS7, PPS9 PPG13, PPG17 and PPS25.
- 5.2 Regard will also be had to other guidance, advice and practice guidance issued by the Government and its Agencies.

6. DEVELOPMENT PLAN AND OTHER POLICY GUIDANCE

- 6.1 The Appellant will refer to the adopted and emerging East of England Plan, the purpose of which is to provide a clear, agreed, long term spatial vision for the region, including the provision of minimum housing delivery targets.
- 6.2 The Appellant will make reference to the adopted Local Plan, the emerging Local Development Framework Core Strategy and the Local Development Framework evidence base where relevant.
- 6.3 Particular reference will be made to guidance contained within the above documents relating to, but not limited to, housing targets and the delivery and distribution of future housing.

7. PLANNING CASE

7.1 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.

7.2 The Appellant's evidence will address each of the Reasons for Refusal as follows:

a) **Reason for Refusal 1**

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

i) **Conflict with the Adopted Local Plan**

7.4 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 within the District.

7.5 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 – which by definition, automatically extends to the release of Green Belt land within the District. 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**

7.6 Rochford District Council's LDF Core Strategy document has not been adopted, and at the time of the appeal submission, had not been formally submitted for consideration, and hence

had not been subjected to an independent Examination in Public. The document cannot therefore be given significant weight.

7.7 The appeal submission has been made within the context of the guidance of Planning Policy Statement 3: Housing (PPS3), and in particular, paras 71 and 72, which confirm 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. Consequently, the emergence or otherwise of the early stages of the Council's LDF Core Strategy is not considered to be sufficient justification to refuse the appeal proposals.

b) Reason for Refusal 2

7.8 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

7.9 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 that will provide a logical and robust extension to the existing urban area.

ii) Further Harm due to Encroachment into the Countryside

7.10 The appeal site is supported by a well considered Design and Access Statement, Illustrative 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 both the Green Belt and the urban area.

7.11 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 within 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 that the development of the site would continue to fall within the existing long-term defensible boundary of the Green Belt in this location. The appeal site is partly bounded by existing residential development (to the west and north), whilst to the south, the Environment Agency Flood Zones and the London Southend Airport Public Safety Zone already provide a long-term practical and defensible boundary to the Green Belt. Moreover, the site does not extend into open countryside; Stambridge Mills is situated to the south east, and the Purdey's Industrial Estate falls to the south of the River Roach. The defensible boundary can be further enhanced through the determination of a detailed landscape strategy at reserved matters stage, the details of which will also be provided to Rochford District Council (and in turn the inquiry) during continuing negotiations on the Statement of Common Ground.

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

7.12 The appeal scheme makes provision for a large area of open space within the site boundary, whilst there is also an extensive area of undevelopable open space to the south east, which is outside of the red line boundary, but within the Appellant's control (within the blue line boundary). As such, there is an opportunity to safeguard land for open space and recreational purposes where only limited public access rights or usage presently exist.

7.13 The site was used for agricultural purposes, and thus the character of the landscape has been influenced by the functional requirements of 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.

7.14 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. These opportunities will be further considered through the production of a landscape strategy document, which the appellant will seek to present through discussions with the Council on the Statement of Common Ground. 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 that the associated landscape proposals would benefit both existing and future residents.

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

7.15 The appeal site is a private landholding that is farmed, and currently offers limited public access rights for formal recreation. The only access through the site is via a public right of way from the Rocheway across the site to Mill Lane, which will be retained and enhanced, should the appeal proposals proceed.

7.16 The proposed development would provide 4.16 Ha of public open space within the appeal site, which lies within close proximity to the existing urban area and Town Centre. The proposals would therefore greatly enhance opportunities for outdoor recreation on the appeal site, together with the provision of further landscape enhancements within the blue line boundary, 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

7.17 The Appellant strongly disputes the assertion that there is no need to release land from the Green Belt in this location. It is considered that the appeal site would positively contribute to the housing delivery targets set out in the East of England Plan, and would specifically kick-start housing delivery within Rochford. The Appellant's evidence will cover the following issues;

- 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 additional 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 net dwelling provision target equates to an average annual delivery rate of a minimum of 230 additional 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 between 2001 and 2006, 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 has 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;
- The need to release Green Belt land for residential development in and around Rochford will continue to exist irrespective of the outcome of the appeal proposals;
- 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, and;
- The Brownfield sites identified by the Council are current or former employment locations, the development of which will need to be compensated for through the release of additional Green Belt land.

7.18 In light of the above, it can therefore be demonstrated that there is an urgent need to release Green Belt land within Rochford to meet minimum housing delivery requirements, and the appeal site is considered to be both suitable and readily available for development.

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

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

7.20 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. However, when taken in combination with the other considerations identified by the Appellant, the case is compelling.

7.21 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 a) the five year period, b) the East of England Plan period, and c) a fifteen year period, of a type that is both demanded by house builders and, 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, Rochford District Council has not addressed the rising need, insufficient supply, or lack of housing delivery that is currently being experienced in Rochford – The Council has specifically not identified additional sites to counter this lack of delivery;
- The appeal proposals can kick start housing delivery within Rochford – The Appellant is committed to bringing forward the appeal site, and has the backing of delivery partners to ensure that development can commence without delay. In contrast, there is little prospect of other sites proceeding within the short term, and in any event, to a level that would overcome the Council's existing lack of five year housing land supply;
- Links to strategic employment and infrastructure – The appeal site is ideally placed to benefit from the planned development of London Southend Airport, a project identified by the East of England Plan as key to the regeneration and job creation of the Essex Thames Gateway. Equally, the appeal site would provide a range of residential opportunities for future employees of the Airport to live locally to their place of work;

- Links to local employment – The appeal site is located close to a range of local employment opportunities in Rochford including the Purdey’s Industrial Estate. The site is also in very close proximity to Rochford Town Centre, and other opportunities in the local area that are accessible via public transport links, including Southend Town Centre and seafront.
- The lack of harm that would result as a consequence of the removal of the appeal 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, and that no constraints exists to preclude its development;
- East Rochford as a location for residential development – East Rochford has been promoted by Rochford District Council as an appropriate location for residential development through the emerging LDF, 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 flood zone;
- The provision of much needed infrastructure improvements – 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 local highway network as well as the provision of on-site community facilities;
- Ability to deliver the necessary scale and type of affordable housing – The Appellant has the support of Registered Social Landlord partners regarding the delivery of affordable housing, and is committed to providing the necessary quantum of units to meet the District’s policy requirements, and the appropriate product to best contribute to the District’s housing needs. 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).
- Commitment to sustainability – The Appellant is committed to meeting the necessary sustainability standards required by Rochford Council and has also set out a commitment to providing affordable housing as ‘tenure blind’, subject to the detailed requirements of the delivery partner;
- Aligning homes with jobs – The appeal proposals will provide open market and affordable family housing in an accessible location for local facilities and employment destinations, including London Southend Airport.

c) Reason for Refusal 3

7.22 Contrary to the Reason for Refusal, the Appellant has provided clear evidence to demonstrate that there would be no 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).

7.23 This position has been accepted by Natural England who responded on the 12th November 2009, confirming 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.”

7.24 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. Indeed, the Appellant would respectfully suggest that to conclude otherwise, in the fact of the advice of Natural England, would be unreasonable.

7.25 The Appellant will continue to engage in discussions with Rochford District Council through the preparation of the Statement of Common Ground on this issue with a view to resolving the Reason for Refusal prior to the inquiry. However, the appellant continues to reserve the right to produce detailed evidence on ecological matters.

d) Reason for Refusal 4

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

7.27 London Southend Airport was formally consulted on the proposals during the application process and initially raised a holding objection. However, this objection was removed once the Airport had concluded its assessment of the application supporting documentation. The

Appellant considers that had the Airport been concerned that the appeal proposals would in any way impact on its commercial operation, or matters of health and safety, that it would have maintained its objection.

- 7.28 The proposed residential development is outside of the existing PSZ. In developing the appeal proposals, allowance was made for a potential extension to the runway, based on data set out in the Joint Area Action Plan Issues and Options Report. The Appellant understands that this extension is in practice not required. The proposed development complies fully with the DfT guidance on the types of use which are both allowed and opposed within a PSZ, and detailed information was provided in the Masterplan Aviation Compliance document which was submitted with the application submission.
- 7.29 In respect of the associated area of open space within the appeal proposals, the Appellant equally considers that the proposals comply with DfT guidance on PSZ.
- 7.30 The appellant will continue to liaise with Rochford District Council through the production of the Statement of Common Ground with a view to aiming to resolve this matter in advance of the inquiry. However, the Appellant reserves the right to provide detailed evidence on issues relating to the PSZ, and indeed, all matters relating to aviation.

e) Overview on the Reasons for Refusal

- 7.31 The Appellant concludes that the appeal proposals are able to fully address Rochford District Council's Reasons for Refusal and that in all respects, the appeal proposals warrant the grant of planning permission.

f) Other Matters

- 7.32 The above case represents the core element of the Appellant's evidence, although the right is retained to address any additional matters as may be raised by the Council or third parties prior to, or during, the course of the appeal.
- 7.33 The Appellant's evidence will also look to confirm, should it be necessary, that the appeal proposals are acceptable in the context of all other technical matters assessed in the application submission, and/or in response to any issues raised by any other party in evidence.
- 7.34 The Appellant has sought to engage Rochford District Council in discussions regarding both the form and content of a proposed S106 Agreement together with conditions, should planning permission be granted. Equally, discussions have been held with Rochford District Council with regard to a Statement of Common Ground. At the time of writing, the Appellant

awaits the comments of the Council on these matters, albeit, the Appellant has been happy to agree to an extension to the target deadline for the submission of the Statement of Common Ground (until the 5th February 2010). Notwithstanding this fact, the Appellant reserves the right to respond unilaterally to any of these matters either in advance or at the inquiry.

- 7.35 For the avoidance of doubt, the Appellant accepts the conditions proposed by the Environment Agency, Essex County Council Archaeology, Essex County Council Highways, London Southend Airport and Rochford District Council Environmental Services as summarised in the Officer's report to committee and in consultation responses.

8. LIST OF DOCUMENTS

8.1 The Appellant may refer to some or all of the following documents:

- Central Government guidance in the form of Circulars, Planning Policy Guidance notes, Planning Policy Statements, or other publications or press releases, as referred to in this statement or as may become relevant;
- Strategic Planning Guidance and Development Plan Documents, including any supporting, background or technical papers produced, or as may become relevant;
- The planning application and supporting information as submitted and all relevant correspondence with the planning authority and other relevant parties both during the application process and prior to the submission of the application as appropriate;
- Notes of meetings with the planning authority and other relevant parties both during the application process and prior to the submission of the application as appropriate;
- Decision notices, committee reports and other supporting documents relevant to the appeal site and other relevant sites; and
- Appeal decisions and other planning permissions of relevance to the appeal proposals.

8.2 The Appellant reserves the right to add to or amend the list of documents to be referred to at the Inquiry.