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Ms L Graham  
The Planning Inspectorate  
Room 403  
2 The Square  
Temple Quay  
Bristol BS1 6PN

13 June 2011

DC/08/256/01  
BY POST & EMAIL

Dear Ms Graham

**ROCHFORD CORE STRATEGY – EXAMINATION IN PUBLIC**

We write further to our letter to you of 18 May and in the context of the emergence of further information of significance to the Rochford Core Strategy Examination in Public (EiP).

Our letter of 18 May was written in advance of the confirmation of the Council's decision regarding the need to undertake further Sustainability Appraisal (SA). The case made on behalf of CLLLP at the EiP included the contention that the SA process was flawed in a number of regards. The recent recognition by the Council that the Rochford SA was flawed with reference to the findings of the High Court judgment on the Forest Heath Core Strategy (Save Historic Newmarket Ltd v. Forest Heath District Council [2011] EWHC 606) vindicates the fundamental elements of the case made by CLLLP to the Rochford Core Strategy, both prior to and at, the EiP.

We agree with your position in correspondence with the Council (11 May), where you confirm that the SA process "is an integral part of the plan making process which should be transparent and open to public participation. It must not be undertaken as an exercise to justify a predetermined strategy." We also note that the Department for Communities and Local Government (CLG) Plan Making Manual also confirms that the purpose of SA is to "appraise the social, environmental and economic effects of a plan from the outset" and that the SA "should inform the decision making process to facilitate the evaluation of alternatives. It should also help demonstrate that the plan is the most appropriate given the reasonable alternatives." In each case the approach followed by RDC is considered to have been flawed.

It is inherent that a sound Core Strategy must be subject to SA that complies with the requirements of SEA Directive; is compliant with the adopted Development Plan; is justified by a comprehensive, transparent and robust evidence base; and has been the subject of meaningful public consultation. It remains the opinion of CLLLP that the only way to achieve this is through the withdrawal of the Core Strategy, which would allow the Council to start afresh without the encumbrance of the current combination of process and policy flaws.

We also take this opportunity to bring to your attention the decision of CLLLP to withdraw the appeal into the proposed residential development at Coombes Farm. You will be aware that the decision to dismiss the appeal was quashed and the appeal was set to be re-determined. The rationale behind the decision to withdraw the appeal is set out in further detail the attached letter, which has been sent to CLG and the Council.

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The letter to CLG also highlights a number of other recent cases where housing and Green Belt release matters have brought the soundness of Core Strategies into question, all of which have parallels with the Rochford Core Strategy. Furthermore, it also refers to the recent Court of Appeal judgment into the case brought by CALA Homes South Limited. We note that the guidance to Inspectors on the Planning Inspectorate website has not yet been updated to reflect on the implications of the judgment, but it is instructive that the judgment confirms that it "would be unlawful for a local planning authority preparing, or a Planning Inspector examining, development plan documents to have regard to the proposal to abolish regional strategies" [24].

In the context of the above, it would be very helpful to receive clear guidance from the Inspectorate regarding the progression of the Rochford Core Strategy. In particular we would be grateful for further guidance on the anticipated timescales for the production of the Rochford Core Strategy, your views on the implications of the accepted need for further Sustainability Appraisal arising from flaws in the process to date and an indication of your initial findings with regard to soundness.

Finally, we confirm that we reserve the right to show correspondence relating to the matters raised by this letter to the Court at a subsequent date.

Yours sincerely,



David Churchill  
DIRECTOR

cc. Andrew Yeardley – Stratland Management Limited, p.p. Colonnade Land LLP



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Mr. J. Pitt  
Department for Communities and Local Government  
Zone 1/H1  
Eland House  
Bressenden Place  
London SW1E 5DU

3 June 2011

Our Ref: DC/08/256/01  
BY EMAIL & POST

Dear Mr Pitt,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78**  
**LAND SOUTH OF COOMBES FARM, STAMBRIDGE ROAD, ROCHFORD SS4 1DW**  
**APPEAL BY COLONNADE LAND LLP**  
**APPLICATION: REF 09/00528/OUT**

For the reasons given below, we are instructed by CLLLP to formally withdraw the appeal. As a consequence, it is not the intention of CLLLP to submit any further material in response to the Secretary of State's Rule 19 invitation.

CLLLP recognises that the Order of the High Court quashes only the Secretary of State's appeal decision and the Inspector's recommendation. For the avoidance of doubt, CLLLP categorically refutes Rochford District Council's (RDC) reasons for refusing the application; a conviction that continues to amplify in light of CLLLP's subsequent representations at the Rochford Core Strategy Examination in Public (EiP), analysis of the written documentation and oral submissions of the Local Planning Authority to the EiP, and subsequent meetings with officers and elected members of RDC. Our client's concerns centre on both the extent of evidence and process employed that underpins the Core Strategy Sustainability Appraisal and its public availability. The EiP Inspector's Report remains outstanding, despite the EiP having commenced in May 2010, and having been brought to a close in February 2011. Most recently (May 2011), RDC posted a public notice on its website confirming that it has formally requested that the publication of the Inspector's Report of the EiP be delayed as a direct result of the Council seeking an extended period to undertake further work (which may necessitate further public consultation) on the Core Strategy Sustainability Appraisal.

CLLLP rightly consider that a sound and proper Sustainability Appraisal is integral to the decision making process, and of particular relevance in this instance. It is important to note that the Council's Sustainability Appraisal was a matter of material consideration by the Inspector and Secretary of State in reaching the earlier recommendation and decision on the appeal scheme. Whilst the Secretary of State's appeal decision and the Inspector's recommendation have since been quashed, the recent recognition by RDC that the Sustainability Appraisal is flawed and/or inadequate means that the future decision maker cannot rely on the accuracy and potential soundness of the existing information in these respects.

Cont. 2...

It is therefore to the benefit of all parties that the Planning Inspectorate should be able to rely on a revised Sustainability Appraisal for the District of Rochford, and therefore for the Examination of the Core Strategy to be concluded *in advance* of further consideration and determination of the current planning appeal at Coombes Farm. As this process will not be achieved imminently, the decision to withdraw the appeal has been taken by CLLLP.

In addition to the above, CLLLP considers that the recent Court of Appeal judgment into the case brought by CALA Homes South Limited will be instructive in both the re-determination of the planning merits of the appeal scheme and the progression of the Rochford Core Strategy. The effects of the judgment on the re-determination of the appeal scheme and the EiP are likely to be significant.

Finally, we would like to take this opportunity to confirm that the recent Forest Heath judgment is just one of the many recent cases where the soundness of Core Strategies have been brought into question, even before the CALA Homes Court of Appeal judgment was handed down. Other recent examples where housing and Green Belt release matters have brought the soundness of Core Strategies into question, resulting in suspensions or withdrawals of Core Strategies, have included Surrey Heath, Stevenage and Bury. CLLLP is also monitoring the ongoing exchanges between Castle Point and the Inspectorate regarding the shortcomings of the Castle Point Core Strategy in the context of the Rochford Core Strategy.

Accordingly, taking all of the above into consideration, it is clear that a significant amount has changed since determination of the earlier appeal. Also, having regard to the further time and costs burdens that all parties involved in a fresh appeal determination would face, we confirm that CLLLP considers the most constructive course of action now is to withdraw the current appeal. Nonetheless, CLLLP remains committed to the continued promotion of this site which has the capability to make an early and material contribution to the urgent housing needs of Rochford District.

We can confirm that a copy of this letter has been issued directly to Rochford District Council as well the Planning Inspectorate.

Yours sincerely,



David Churchill  
DIRECTOR

c.c. Mr. S. Scrutton – Rochford District Council  
Mr. A. Yeardley – Stratland Management (on behalf of CLLLP)

# ROCHFORD CORE STRATEGY EXAMINATION

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Ref:

Date: 19 July 2011

Mr. D. Chruchill,  
Director,  
Iceni Projects,  
20 Hanover Square,  
London, W15 1JY

Dear Mr. Churchill,

## **Rochford Core Strategy – Examination in Public**

I attach the Inspector's response to your letter of 13 June.

"I apologise for the delay in preparing this response to your letter of 13 June 2011, but I have been away from my desk. In relation to the SEA Directive and the associated [Environmental Assessment of Plans and Programmes Regulations 2004 \(SI No.1633\)](#), the LPA is the competent authority on adoption and have to deal with any resulting s113 challenge.

I assume you have reiterated your views on the soundness of the CS through the Council's consultation process, and in that case I will take your views into account along with all other responses to the consultation.

As I have previously said to you, your client's proposed development at Coombes Farm is a separate matter, over which I have no jurisdiction, and I am not considering unsolicited evidence at this point in the Examination unless I considered it raises substantive issues, outside the Council's consultation process.

So far as the progress of the Examination is concerned, at present I have nothing to add to the information available on the Council's website, including the timetables for further work.

Regarding guidance on the Inspectorate website, my understanding is that this now reflects the latest position following the decision of the Court of Appeal judgement, and that the action I have taken in respect of the Rochford Examination is consistent with that advice.

You ask for an indication of my initial findings with regard to soundness. As you will be aware from my letter to the Council of 10 May, I have not been able to support their proposed changes which were produced in response to the purported revocation of the RSS. I gave this advance notice as an exception, in order to assist the Council in deciding how it wished to proceed, and to avoid wasted expenditure of public finances. However, it is not appropriate to issue my report or any further interim findings at this stage as the examination is still on-going.

*Laura Graham*

Inspector"

Yours sincerely,

Lissa Higby  
Programme Officer