

Council’s Response to Inspector’s Further Matters (August 2013)

Further and additional representations

1. Although the Council has responded to question iii) of Issue 1 regarding a 5 year housing land supply it would be helpful to receive any further comments or explanation by **Friday 30 August** in the light of the hearing statements provided by others and particularly paragraphs 3-7 of the statement on behalf of Representor 29064.

The housing requirement for the District is set out in the adopted Core Strategy. The Core Strategy, as a strategic document, contains the housing figures which were agreed by local authorities within the east of England region and stipulated in the 2008 East of England Plan. These figures were based on an objective assessment of need, and were examined and adopted. However, the 2008 East of England Plan has now been revoked, and so the only housing figure for the District within a development plan document is that contained within the Core Strategy, which is itself taken from the East of England Plan. This states that the District’s housing requirement is 4,750 dwellings between 2006 and 2025 (figures from the East of England Plan that took into account historic shortfall). The Allocations Document must conform to the Core Strategy and subsequently the housing figures set out within it.

The Core Strategy has been through an independent examination, which considered the thrust of emerging national policy within the draft National Planning Policy Framework (NPPF), and was found to be sound. Since the adoption of the Core Strategy in December 2011, the NPPF has come into force. As such the Council produced an NPPF compliance review, using the Planning Advisory Service (PAS) template. This compliance review concluded that the Core Strategy is broadly in compliance with the NPPF, however, it noted that whilst the Core Strategy was produced accounting for evidence that was in place at the time, it should be acknowledged that new evidence is constantly emerging, and in particular it recognised that the review of the Core Strategy would need to be informed by a new and updated Strategic Housing Market Assessment (SHMA).

Representor 29064 claims that there are four main compliance issues between the Core Strategy and the NPPF. Taking each issue in turn:

1. *The simple need to rectify matters such as the absence of a policy on the ‘presumption in favour of sustainable development’*

A section on the presumption in favour of sustainable development contained within the NPPF is set out, in the form of the PAS ‘good practice’ wording, on pages 12-13 of the Allocations Submission Document (April 2013).

2. *The requirement to comply with the Duty to Cooperate*

The preparation of the 2008 East of England Plan was consulted on and agreed by local authorities in the region. The housing and employment requirements have

been incorporated into the Core Strategy – a document which has been found sound and which forms part of the development plan for the District.

3. *Drafting matters such as the absence of any reference to the NPPF and the continued reference within the Core Strategy to the Planning Policy Guidance and Statements that preceded the NPPF*

The Core Strategy was adopted in December 2011, whereas the NPPF did not come into force until March 2012. As such, the Core Strategy refers to national policy that was in place at the time of submission, examination and adoption. The name attributed to national planning policies is not considered significant – only the substance of such policies. These have been considered as part of the compliance review.

4. *More fundamental matters such as the lack of any objective assessment of housing and employment land supply, continued reference to the East of England Plan (now revoked), the length of the plan period, and the reliance on an out-of-date evidence base*

As explained above, with the revocation of the 2008 East of England Plan, the Core Strategy is the only development plan document that contains housing and employment figures for the District. These were agreed by local authorities within the region.

The Core Strategy was informed by a robust evidence base which included *inter alia* Strategic Housing Market Assessment; Retail and Leisure Study; and Employment Land Study.

Failed legal challenges against the Core Strategy and other unforeseen events contributed to the delay in the adoption of the Core Strategy and subsequently impacted on the length of the plan period. However, this was again considered during the Core Strategy examination, and the Inspector was satisfied provided that the Council committed itself to an early review of the Plan. This commitment is clearly set out in the foreword of the Plan.

Naturally as part of the review of the Core Strategy the evidence base will continue to be updated. An updated SHMA is currently being prepared in conjunction with other local authorities within the housing market area, including Castle Point, Southend, Thurrock and Basildon Borough Councils, in accordance with the NPPF. Other documents that will be updated to inform the review include the Employment Land Study and the Retail and Leisure Study.

Representor 29064 has also attempted to calculate the NPPF compliant five year housing land supply target and the projected housing land supply for the District in particular. At this point it is worth reiterating that being a strategic issue, the housing numbers as well as the general locations for development have been found sound and already form part of the development plan. Nevertheless, the calculations that the representor has supplied are based on erroneous information. A figure has been calculated for the residual undersupply between 2001 and 2013 but any undersupply

in housing delivery for the period from 2001 to 2006 has in fact already been accounted for within the housing target established in the 2008 East of England Plan, and consequently carried forward within the adopted Core Strategy. Inclusion of this figure within the calculations constitutes a form of double counting. The subsequent figures quoted and conclusions drawn can therefore be considered wholly inaccurate in this regard.

The Council also disputes the assessment prepared by Representor 29064. The assessment seeks to determine in minute detail the accuracy of projected delivery of housing sites contained within the 2009-10 Annual Monitoring Report (AMR), discounting sites of fewer than five units.

The 2009-10 AMR included many sites which, at the time, had been granted planning permission and permission was still extant. In cases where planning permission subsequently expired without the site being implemented the Council rightly removed these sites from the housing trajectory within the 2012 Strategic Housing Land Availability Assessment (SHLAA) Review, where appropriate.

With respect to sites with planning permission, the NPPF states the following:

“Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.” (page 12)

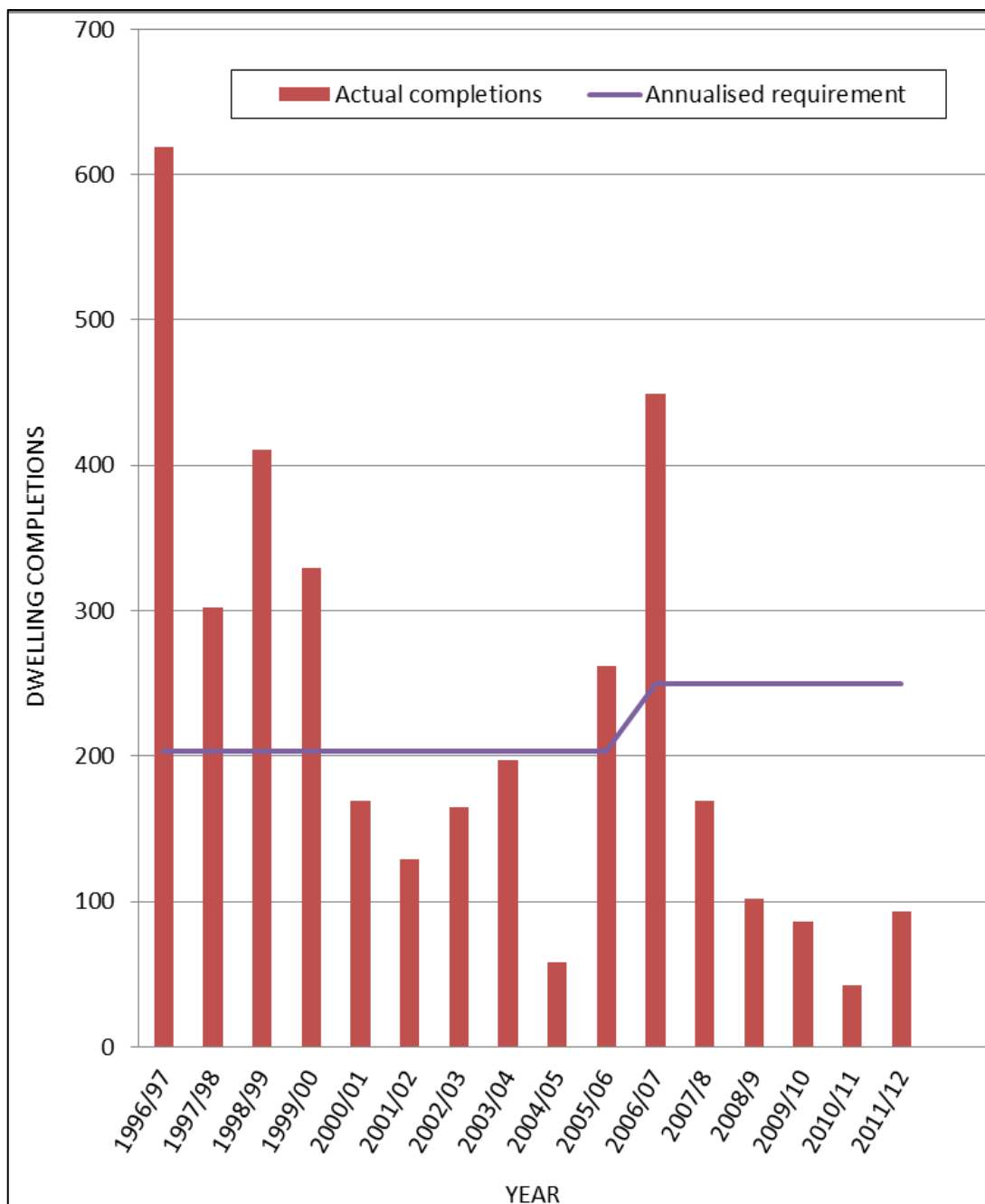
As such, the Council has taken the correct approach in this regard. Nevertheless, excluding such sites as those critiqued by the representor where planning permission has expired, the 2012 SHLAA review still demonstrates that the Council has a rolling five-year supply of land housing in line with the adopted Core Strategy.

The housing trajectory is fluid and is being continually updated in light of new information, such as new and expired permissions. However, windfall sites have not been accounted for in the SHLAA, in accordance with guidance. Since the adoption of the Core Strategy, a large windfall site has come forward which has delivered 101 dwellings (reference: 12/00363/FUL). Windfall sites have historically made a significant contribution to housing supply and it is reasonable to expect that windfall sites will continue to come forward during the plan period.

The representor’s assessment of the AMR (2009-10) states that due to site constraints only 4 units could be provided at the site of 1 The Approach in Rayleigh, rather than 8. The representor’s assessment (dated November 2011) states that due to site constraints only 4 units could be provided on the site, and that this which would not be viable, and so have suggested that the capacity for this site is 0 units. However planning permission has been granted for 14 dwellings at this site (reference 12/00561/REM) demonstrating that the representor’s assessment of the site as only being able to accommodate 4 dwellings was inaccurate. This case raises questions in relation to the robustness of the Representor’s assessment in general.

Representor 29064 asserts that the Council has a record of persistent under delivery of housing, and that therefore a buffer of 20% should be applied to the five-year supply figures, as per paragraph 47 of the NPPF. However, it is relevant to note that the recent under delivery of housing has been a result of changing market conditions at the national level; and delays to implementation of the Rochford Core Strategy caused by significant delays in the examination process which were a result of changes at national level, together with a failed legal challenge to the Core Strategy’s adoption. In any case, there has not been a “persistent under delivery” in the supply of housing. Housing delivery has fluctuated in recent years, with the requirement being significantly exceed in some years (for example in 2006-2007 440 dwellings were delivered).

Figure 1: Annualised dwelling requirement and actual completions (2006-2012)



In addition to previous concerns raised in relation to calculations for the “NPPF compliant five year housing land supply target” and the “projected housing land supply”, Representor 26094 highlights that a 20% buffer has been applied to these calculations due to the perceived “record of persistent under delivery of housing”. However, as noted within the NPPF (paragraph 47), this buffer is primarily concerned with ensuring that there is sufficient flexibility for sites later on in the plan period to be brought forward, if required, rather than increasing the supply of housing *per se*. The Core Strategy has sufficient flexibility to enable sites later on in the plan period to come forward, should they be required.

As part of Representor 26094’s calculations in respect of five-year supply requirements, the representor has assumed that any historical shortfall must be made up within five-years. However, there is also no requirement for historic under supply to be addressed within the first five-years of the Plan. In any case, representor 26094’s approach to calculating historic shortfall is flawed, as previously explained.

The NPPF recognises the importance of the Green Belt and seeks to ensure its openness and permanence. In particular it notes that:

“Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan”.

As such, it would be particularly inappropriate to attempt to address historic shortfall through allocation of additional Green Belt land within the first five-years of the plan period, when there is still potential for the historic shortfall, or a significant proportion of it, to be addressed over the longer plan period.

As evidenced within the 2012 SHLAA Review, the Council does have a five-year housing land supply. However, if this was not the case, then the allocation of sites such as land south of Stambridge Road / Coombes Farm to the east of Rochford suggested by Representor 29064, land at Poyntens Road to the south west of Rayleigh and land at Eastwood Nurseries to the South/South East of Rayleigh would be contrary to the Core Strategy as they are not located within an agreed general location for development.

Nor would it be appropriate to increase the size of the sites identified within the Allocations Document (Policy SER1-9). The sites identified are considered to be appropriate, deliverable and developable within the plan period, and the Allocations Document is sufficiently flexible in line with the Core Strategy to ensure that sites identified for delivery later on in the plan period can be brought forward, if required. The identified sites also have capacity to accommodate additional dwellings where justified (provided that the appropriate criteria is met). The 5% cap is considered to be justifiable in accordance with Core Strategy Policy H1, which seeks to encourage the development of brownfield land prior to greenfield, and Policy GB1, which seeks to ensure that the minimum amount of Green Belt necessary is reallocated to meet need. Whilst the Core Strategy stipulates the number of dwellings to be provided and forms part of the development plan, Policy H2 states that the detailed location and quantum of development will be set out in the Allocations Document. As such, the Core Strategy dwelling requirement plus 5% set out in the Plan is considered to strike a

balance between flexibility in provision of housing on the sites and protecting the Green Belt. Removal of the cap could discourage brownfield development contrary to Core Strategy Policy H1, as well as the delivery of windfall sites, which are a component of housing supply (although not accounted for in housing trajectories).

Additional, unjustifiable Green Belt release would be contrary to the NPPF as well as the Core Strategy. Furthermore when looking to meet objectively assessed need in the context of sustainable development – the ‘golden thread’ running through the NPPF – it is stated that:

“Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.” (paragraph 14).

As stated previously, there is sufficient flexibility to ensure that sites later on in the plan period can be brought forward, if required. Any shortfall, historic undersupply and future projected need will be considered within the emerging SHMA and the forthcoming review of the Core Strategy.

5. In more general terms Regulation 18 (2) (c) refers to “residents or other persons carrying on business in the local planning authority’s area”. By **Friday 30 August** could the Council indicate how it decided who it was “appropriate” to invite representations from?

The Council operates a mailing list for those interested in the future planning of the District. This list was used to invite comments on the preparation of the Core Strategy from 2007 onwards. The adopted Core Strategy (December 2011) establishes the principle of allocating Rawreth Industrial Estate, Stambridge Mills, Eldon Way Industrial Estate and Star Lane Industrial Estate for alternative appropriate uses, including residential (Policy H1 and ED3).

The mailing list consists of residents, landowners, agents, developers and businesses, who have either requested to be kept informed of future planning policy consultations, added themselves to the list or have previously commented on planning policy consultations. The list includes a number of businesses either currently or previously located on Rawreth Industrial Estate (such as PGM Carpentry Contractors Ltd, TubeTech and Robin Stagg Furniture). Rayleigh Chamber of Trade (as are Rochford and Hockley Chambers of Trade) are also on the mailing list. These businesses in particular and the Chamber of Trade were consulted during the pre-submission consultation on the Allocations.

The Council’s Economic Development team also regularly update the Chambers of Trade with information on current and future planning policy consultations, to pass onto their business contacts, as well as attending Chamber of Trade meetings

regularly to discuss the businesses views on the policies and to give guidance on the response process.

Further comments on Inspector’s questions

Using the original numbering:

14. c) I note that there are a range of options to access the site and that the Highway Authority has no objections. However, if access to the south onto Southend Road is a possibility then assurance should be given that use of Old School Meadow is feasible or the site area extended to include a link directly onto Southend Road. Alternatively the text in paragraph 3.288 could be adjusted so that it is less specific.

Noted. In light of the Highway Authorities response in relation to access for SER9a, it is felt that paragraph 3.288 should be replaced with the following:

~~One point of access/egress onto the highway network may be required for each site, depending on the distribution of dwellings between them. This should be determined in consultation with the local highway authority. Connection to the highway network for the site to the west of Little Wakering Road (Policy SER9a), may be provided to the north onto Barrow Hall Road and/or to the south onto Southend Road. The site to the south of the High Street (Policy SER9b) should connect the High Street and, provided appropriate integration is enabled between this site and the land within Policy BFR1, with Star Lane to the west. However, this should be determined at the planning application stage in consultation with the local highway authority.~~

One point of access/egress onto the highway network may be required for each site, depending on the distribution of dwellings between them. In particular, the site to the south of the High Street (Policy SER9b) should connect to the High Street and, provided appropriate integration is enabled between this site and the land within Policy BFR1, with Star Lane to the west. However, the precise detail in terms of the number and location of access points for SER9a and SER9b will be determined at the planning application stage in consultation with the local highway authority.

Modifications

At my request the Council has produced and maintained a list of minor amendments to the Document. At this juncture it may be valuable to set out my understanding of how changes to it should be progressed.

In adopting the Document section 23 of the Planning and Compulsory Purchase Act 2004 provides that a local planning authority may adopt a local development document with both “main modifications” and “additional modifications”. The latter are defined, in short terms, as modifications that do not materially affect its policies. Main modifications are defined as those stemming from section 20(7C) which are required to satisfy legal or procedural requirements or to make the plan sound.

Having reviewed the amendments put forward to date my view is that some of them fall into the category of main modifications. I include within this the changes made to the site

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boundaries for SER1, SER3 and NEL4. Furthermore, because all the policies themselves are lengthy and comprise the site context, site capacity and concept statement the scope to consider the proposed amendments as additional modifications appears to me to be limited. I have not undertaken a detailed analysis but, for example, the statements to the effect that the land allocated for development is identified in the associated Figure should be treated as main rather than additional modifications.

I am raising this now so that the Council can consider its position and it may also wish to prepare by **Friday 30 August** a schedule of both main and additional modifications that can be reviewed during the hearings. Furthermore, I can only recommend main modifications under section 20 (7C) if asked to do so by the local planning authority. Main modifications proposed would need to be the subject of a further 6 week period of publicity before my final report and recommendations.