



Department for  
Communities and  
Local Government

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Our Ref: APP/M1520/A/12/2177157  
Your Ref:

26 June 2013

Dear Sirs,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY FOX LAND AND PROPERTY LTD  
AT LAND OFF GLEBELANDS, THUNDERSLEY, ESSEX, SS7 5TN  
APPLICATION REF CPT/7/12/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Felgate, BA(Hons), MA, MRTPI, who held a public local inquiry on 11-14 and 18-19 December 2012 into your appeal against a decision of Castle Point Borough Council (the Council) to refuse planning permission for residential development of up to 165 dwellings, landscaping, open space, access, and associated works at Land off Glebelands, Thundersley, Essex, SS7 5TN, in accordance with application reference CPT/7/12/OUT, dated 3 January 2012.
2. On 20 June 2012, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because the appeal involves a proposal for residential development of over 150 units, on a site of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities; and that the proposal is for significant development in the Green Belt (GB).

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission be granted subject to conditions. For the reasons given below, the Secretary of State disagrees with his recommendation. A copy of the Inspector's report (IR) is

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enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

#### **Matters arising after the close of the inquiry**

4. Since the close of the inquiry the Secretary of State is in receipt of letters dated 11 January and 19 February 2013 from Rebecca Harris MP which enclose extracts from Basildon Council's Strategic Housing Land Availability Assessment (SHLAA). The SHLAA includes site SS0207 which borders the A130 directly opposite the appeal site. Mrs Harris is concerned that SS0207 is identified as a potential site for development and that if both the appeal site and SS0207 are built on there will be continuous urban sprawl between the towns of Thundersley and Pitsea. The Secretary of State takes the view that the inclusion of SS0207 in the SHLAA merits little weight for his decision on the appeal currently before him. In reaching this conclusion he has taken into account that the site remains within the designated GB in Basildon (IR262) and he is satisfied that any planning application to develop this site while it remains designated GB, or any proposal to remove the GB designation through the local plan process, will be considered on its merits, having regard to national policy in the National Planning Policy Framework (the NPPF) including in respect to the protection given in it to the GB. The Secretary of State is also in receipt of a letter of 19 December 2012 from Steve Guest on behalf of Residents for a Green and Safe Glebelands and Sadlers which was not considered by the Inspector before the Inquiry was closed. Given the basis on which the Secretary of State has reached his decision as set out in this letter, he considers that there is nothing that could be achieved by consulting parties to the appeal on Mrs Harris' or Mr Guest's representations. Copies of both representations are available on request from the addresses at the foot of the first page of this letter.

#### **Policy considerations**

5. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case, the development plan comprises the saved policies of the 1998 Castle Point Local Plan (the LP). The Secretary of State considers that the development plan policies most relevant to the appeal include LP policies EC13 and H7 which are referred to in the Council's reasons for refusal, and also LP policies GB2-GB7, to the extent that they relate to his conclusion of the status of the GB in Castle Point at paragraph 9 below.
7. The Secretary of State notes that, in September 2011, the Council withdrew its previous Core Strategy and agreed to start work on a new Local Plan (IR38). He further notes that, in December 2012, the Council accepted that the new Local Plan should adopt a housing target of 200 dwellings per annum (plus a 20% addition); that a number of strategic locations be included within the first 5 year period; and that this included a number of GB sites (IR 41-43). Having had regard to the Inspector's comments, the Secretary of State considers that, although the

Council are moving towards an up to date Local Plan in line with national policy set out in the NPPF, he attributes limited weight to it at this stage.

8. Other material considerations which the Secretary of State has taken into account include: the NPPF; the Technical Guidance to the NPPF; Circular 11/95: The Use of Conditions in Planning Permissions; the Ministerial Statement by the Rt Hon Eric Pickles MP – Housing and Growth (6 September 2012); the Community Infrastructure Levy (CIL) Regulations 2010 and 2011; the Castle Point Green Belt Landscape Assessment report (2010); and the Castle Point Green Belt Functions Assessment report (2010).

### **Main issues**

#### **The status of the Green Belt in Castle Point**

9. For the reasons given by the Inspector at IR241-248, the Secretary of State agrees with his conclusions at IR249 that the most reasonable interpretation of the saved LP policies is that the Green Belt (GB) remains, because its continued existence is necessary for the purposes of LP policies GB2 – GB7, and that the saving of those policies has therefore had the effect of preserving the existence of the GB in Castle Point.

#### **Effects on the Green Belt**

##### *Openness*

10. The Secretary of State agrees with the Inspector's reasoning and conclusions on openness at IR252-253. Like the Inspector he considers that the majority of the site would become urbanised and would lose its openness completely, contrary to the aims of NPPF paragraph 79 (IR253).

##### *Urban sprawl*

11. In respect of urban sprawl, the Secretary of State does not disagree with the Inspector's assessment that the appeal site appears as a relatively small, isolated pocket of undeveloped land, surrounded by urban structures and uses (IR256). Notwithstanding this, he also attaches weight to: the Council's assessment that this part of the GB is characterised by open fields (IR55); the fact that the appeal site would extend the build up area of Thundersley beyond its existing boundaries (IR254); and the appraisal of the 2010 Green Belt Functions Assessment report (document FLP/CD20) that Parcel 10 (which includes the appeal site) serves a function of checking the urban sprawl from the settlement of Benfleet. On balance the Secretary of State considers that moderate harm would arise in that it would remove one of the GB purposes of checking unrestricted sprawl (in accordance with paragraph 80 of the NPPF).

##### *Encroachment on the countryside*

12. The Secretary of State agrees with the Inspector that in policy terms, the appeal site lies within the countryside, and to that extent, its loss to development would be an encroachment upon that area (IR257). Whilst he notes the Inspector's view

(IR258) that the site contributes little to the countryside, and its loss would have little effect, the Secretary of State considers that moderate harm would arise in that it would remove one of the GB purposes of safeguarding the countryside from encroachment (in accordance with paragraph 80 of the NPPF).

#### *Merging of neighbouring settlements*

13. The Secretary of State shares the Inspector's view that the site forms part of a relatively narrow section of the GB between Thundersley and Bowers Gifford/ North Benfleet and that development on the appeal site would narrow that gap further (IR260). While he does not disagree with the Inspector that narrow gaps between settlements are not unusual in this part of South Essex (IR263), he nonetheless also sees merit in Council's analysis that this part of the GB is particularly vulnerable and that piecemeal incursions would be especially damaging to its function in keeping the neighbouring settlements separate (IR55). The Secretary of State furthermore gives weight to the conclusion of the Green Belt Functions Assessment report that Parcel 10 (which includes the appeal site) has a function of ensuring that Benfleet does not merge with neighbouring urban settlements within the adjacent borough of Basildon. Overall he considers that the proposal would give rise to a moderate degree of harm to the GB purpose of preventing neighbouring towns merging into one another and he therefore disagrees with the Inspector's overall reasoning and conclusion (IR263-265).

#### *Effects on the Green Belt's character and appearance*

14. The Secretary of State has carefully considered the Inspector's assessment of the effects on the GB's character and appearance. He also gives weight to the Green Belt Landscape Assessment report (document FLP/CD19) and its appraisal that Area 10 (which includes the appeal site) is of medium landscape sensitivity and medium to high visual sensitivity. The Secretary of State furthermore has some sympathy for the Council's argument that at present the A130 has the appearance of a road running through the countryside with fields on either side and that if the appeal site were developed, it would become a road skirting an urban area (IR58). He does not agree with the Inspector that the impression already gained by passers-by is of a road skirting an urban area (IR267). Drawing these points together, the Secretary of State takes the view that the site's development as proposed would cause a moderate level of harm to the visual appearance of this part of the GB.

#### *General comments regarding the effects on the Green Belt*

15. The Secretary of State has had regard to the Inspector's comments at IR270-271. He has taken into account the Inspector's assessment that the appeal site's functional and visual value to the GB is heavily compromised by its location adjacent to the A130 (IR270). However notwithstanding this, overall, and for the reasons identified in paragraphs 11-13 above, the Secretary of State has identified that moderate harm would arise in respect of three of the purposes of the GB set out in the NPPF. He also considers that national policy is very clear that amendments to the GB should be undertaken as part of the Local Plan process and that the Council, in this instance, are following the appropriate

processes, albeit that he accords limited weight to the emerging Local Plan in this appeal case.

#### *Conclusion on the GB impact*

16. In conclusion on the GB, the Secretary of State has identified: harm by reason of inappropriateness; harm by way of the complete loss of openness; moderate harm in respect of urban sprawl; moderate harm by way of encroachment; moderate harm in respect of the merging of neighbouring settlements; and moderate harm to the visual appearance of this part of the GB. The Secretary of State considers that together this represents a considerable level of harm. In accordance with the NPPF, the Secretary of State attaches substantial weight to this harm to the GB.

#### Effects on wildlife and biodiversity

17. For the reasons given at IR274-280, the Secretary of State agrees with the Inspector's conclusion at IR281 that the proposed development would be capable of making adequate provision for the protection and enhancement of wildlife and biodiversity in accordance with LP policy EC13 and NPPF paragraphs 9 and 109. In reaching this conclusion the Secretary of State has had regard to any potential impact on Benfleet and Southend Marshes Special Protection Area (SPA)/ Ramsar site and to the requirements of the Habitats Regulations. Like the Inspector (IR279) the Secretary of State is satisfied that the provision of 2.65ha of green space would be proportionate to the development in terms of the recreational and amenity needs of future occupiers as well as any requirement for offsetting in relation to the SPA.

#### Effects on traffic, local services, flooding and related issues

18. For the reasons given at IR282-285, like the Inspector (IR286) the Secretary of State finds no reason to doubt that the development can be accommodated without harm to highway safety, and without unduly exacerbating the inconvenience or hazards suffered by local residents due to existing traffic levels. Having had regard to the Inspector's comments on local services at IR287-288, the Secretary of State agrees with him that none of the matters raised in this respect justifies refusing planning permission for the proposed development (IR289).

19. The Secretary of State agrees with the Inspector's reasoning and conclusions in respect of drainage and flooding at IR290-291 and like him is satisfied that the development would not be likely to materially exacerbate any existing flooding problems and thus does not give rise to any justifiable planning objection in this respect (IR291). The Secretary of State agrees with the Inspector's reasoning and conclusions on those other matters identified at IR292-296.

#### Housing Land Supply

20. The Secretary of State agrees with the Inspector's analysis of housing land supply at IR297-334. He shares the Inspector's conclusions that the requirement figure for assessing the 5-year forward supply should be 2,350 dwellings (IR323).

He also agrees that 333 units is the realistic, deliverable supply (IR332), that this equates to 0.7 years worth of supply (IR333) and that this represents a very significant shortfall against the NPPF's requirement for a 5-year forward supply (IR334). Whilst the Secretary of State broadly agrees with the thrust of the Inspector's overall conclusions on land supply and housing delivery, as set out in IR335-340, he does not agree with the Inspector's comment at IR339 that the current programme for adoption looks somewhat optimistic, especially in the light of the Council's experience with the now aborted Core Strategy (CS). In the Secretary of State's view, whilst the now withdrawn CS was in preparation, there were no real drivers to ensure that the Council pressed ahead. With the publication of the NPPF, he is more positive than the Inspector that the Council can achieve its' programme for LP adoption, especially given the drivers within it. The Secretary of State does not disagree that, apart from its GB status, the present appeal site has no overriding constraints (IR340).

#### Affordable housing

21. The Secretary of State agrees with the Inspector's analysis in respect of affordable housing at IR341-348. He has taken into account that the scheme would provide 35% affordable housing which would equate to about 58 dwellings (IR349). Like the Inspector, the Secretary of State considers that in the context of the low levels of existing and planned provision in the District, an injection of new affordable units on this scale would represent a substantial benefit and would contribute to meeting the aims of saved LP policy H7 (IR349).

#### The planning and Green Belt balance

22. The Secretary of State has had regard to the Inspector's planning and GB balance set out at IR350-364.

23. He has concluded at paragraph 9 above that there is still a GB in Castle Point. The Secretary of State has had regard to national policy set out in the NPPF which sets out that very special circumstances to justify inappropriate development in the GB will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

24. Weighing against the appeal, the Secretary of State agrees with the Inspector (IR351) that, in addition to constituting inappropriate development, the proposed development would cause harm to the GB's openness, and some moderate harm to the GB's purpose of preventing encroachment on the countryside. Furthermore the Secretary of State has identified moderate harm in respect of urban sprawl, moderate harm in respect of the merging of neighbouring settlements, and moderate harm to the visual appearance of this part of the GB. The Secretary of State considers that together this represents a considerable level of harm. In accordance with the NPPF, the Secretary of State attaches substantial weight to this harm to the GB. Setting aside GB issues, the Secretary of State shares the Inspector's analysis of neutral effects at IR352-354.

25. In respect of beneficial effects, the Secretary of State, like the Inspector (IR355) gives weight to the provision of 165 new dwellings in a District where the delivery

of new housing over more than a decade has been grossly inadequate and where there is an urgent need to make up for past failings in this respect. Overall the Secretary of State considers that this matter attracts significant weight. He agrees that the provision of 58 units of affordable housing in an area where there has been particularly poor delivery of this kind of housing over the same period is a benefit (IR356) and shares the Inspector's view that the beneficial effects on the local economy identified at IR357 merit some weight, albeit more limited.

26. In respect of the other considerations identified by the Inspector at IR358-362, the Secretary of State agrees that the Borough's housing land supply of 0.7 years is exceptionally low (IR358). While he also agrees with the Inspector that there have clearly been difficulties for many years in planning for sufficient housing in Castle Point, he does not consider that this history means that the task of preparing a new local plan cannot be accomplished easily or quickly (IR359). He strongly agrees with the Inspector's view that planning decisions should be planned where possible (IR359). Regarding the Inspector's comment that the Council's announcement of a list of preferred housing sites as being an acknowledgement that some decisions will not be able to wait for the new plan to be in place, the Secretary of State also observes that Council's letter of 11 December 2012 to the Planning Inspectorate (document CP-ID1) indicates that in respect of the Catherine Road, Benfleet, 396 to 408 London Road, Benfleet, and Castle View School sites, work to make amendments to the GB boundary will be taken forward through the LP process. The Secretary of State has taken into account that the Council has acknowledged that there is a need to take land from the GB, even for the lower level of housing provision that it currently proposes (IR360). However he also gives weight to the Council's case that those 'strategic sites' agreed to by the Council in December 2012 that are in the GB were preferred to the appeal site for sound planning reasons (IR91) and he considers that this diminishes the weight that can be attached to the acknowledged need to take land from the GB as a factor in favour of allowing this appeal.
27. The Secretary of State has had regard to the Inspector's overall balance at IR363. However, he considers that the harm by reason of inappropriateness, and the other harm identified, is not clearly outweighed by other considerations and he concludes that very special circumstances do not exist to justify a grant of planning permission.

#### Conditions

28. The Secretary of State has considered the Inspector's proposed conditions at Annex 4 to the IR, his comments on conditions suggested by the Council at Annex 3, his comments at IR373-376 and national policy as set out in Circular 11/95 and NPPF paragraph 206. Taking all of this into account, the Secretary of State is satisfied that the proposed conditions at Annex 4 to the IR are necessary and meet the other tests set out in Circular 11/95 and NPPF paragraph 206. However, he does not consider that they overcome his reasons for dismissing the appeal set out above.

## Obligation

29. The Secretary of State has carefully considered the executed unilateral undertaking tabled at the Inquiry, the Inspector's comments at IR15-19 and IR365-372, national policy as set out in the NPPF and the CIL regulations. For the reasons given at IR370-372, the Secretary of State agrees with the Inspector's conclusions that the highways and healthcare contributions set out in the undertaking fail to comply with the CIL regulations (IR372) and he gives them no weight in coming to his decision on the appeal. In other respects, for the reasons given at IR365-369, the Secretary of State is satisfied that the provisions of the undertaking comply with the CIL regulations and meet the tests set out at NPPF paragraph 204.

## Overall Conclusions

30. The Secretary of State concludes that the appeal proposals are inappropriate development in the Green Belt. Additionally he has identified harm to the GB's openness and harm to the GB's purposes of preventing urban sprawl, preventing encroachment on the countryside and preventing the merging of neighbouring settlements and, furthermore, harm to GB's character and appearance. He considers that, together, this represents considerable harm, to which he attributes substantial weight. The Secretary of State has found that there are factors in favour of the appeal including a severe lack of a forward housing land supply and that, setting aside GB considerations, development of the appeal site would not cause demonstrable harm. He also wishes to emphasise that national policy is very clear that GB reviews should be undertaken as part of the Local Plan process. In light of all material considerations in this case the Secretary of State is concerned that a decision to allow this appeal for housing in the GB risks setting an undesirable precedent for similar developments which would seriously undermine national GB policy.

31. Having weighed up all material considerations, he is satisfied that the factors which weigh in favour of the proposal do not clearly outweigh the harm to the Green Belt that would arise from the proposal. The Secretary of State therefore concludes that the appeal should be dismissed.

## Formal Decision

32. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your appeal and refuses planning permission for residential development of up to 165 dwellings, landscaping, open space, access, and associated works at land at Land off Glebelands, Thundersley, Essex, SS7 5TN, in accordance with application reference CPT/7/12/OUT, dated 3 January 2012.

## Right to challenge the decision

33. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.



34. A copy of this letter has been sent to Castle Point Borough Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Richard Watson**

Authorised by Secretary of State to sign in that behalf

Richborough Estates



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# Report to the Secretary of State for Communities and Local Government

by John Felgate BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 20 February 2013

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TOWN AND COUNTRY PLANNING ACT 1990

CASTLE POINT BOROUGH COUNCIL

APPEAL BY FOX LAND AND PROPERTY LIMITED

Relating to

LAND OFF GLEBELANDS, THUNDERSLEY, ESSEX

Inquiry held on 11-14 and 18-19 December 2012

Land off Glebelands, Thundersley, Essex, SS7 5TN

File Ref(s): APP/M1520/A/12/2177157

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Richborough Estates

## ABBREVIATIONS USED IN THIS REPORT

CIL	Community Infrastructure Levy
CLU	Certificate of Lawful Use
CPBC	Castle Point Borough Council
CS	Core Strategy
DPD	Development Plan Document
ECC	Essex County Council
EEP	East of England Plan
EiP	Examination in Public
EWT	Essex Wildlife Trust
FLP	Fox Land &Property
GB	Green Belt
LP	Local Plan
LWS	Local Wildlife Site
NPPF	National Planning Policy Framework
PDL	Previously Developed Land
RC	Recommended Condition
RR	Refusal Reason
RS	Regional Strategy
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SoS	The Secretary of State for Communities and Local Government
SEA	Strategic Environmental Assessment
SFRA	Strategic Flood Risk Assessment
SINC	Site of Importance for Nature Conservation
SP	Structure Plan
SPA	Special Protection Area

**File Ref: APP/M1520/A/12/2177157**

**Land off Glebelands, Thundersley, Essex, SS7 5TN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Fox Land and Property Limited against the decision of Castle Point Borough Council.
- The application Ref CPT/7/12/OUT, dated 3 January 2012, was refused by notice dated 3 April 2012.
- The development proposed is residential development of up to 165 dwellings, landscaping, open space, access, and associated works.

**Summary of Recommendation: The appeal be allowed**

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**PRELIMINARY MATTERS**

1. The inquiry sat for 6 days, on the dates shown above, between 11 December and 19 December 2012. I carried out an accompanied inspection of the appeal site itself on 19 December, and an unaccompanied tour of the Borough on 14 December, including all of the sites on the itinerary<sup>1</sup> agreed between the Council and the appellants. During the course of the inquiry, I also carried out a number of informal visits to the Thundersley area and its surroundings, including all of the residential roads surrounding the site, the Tarpots local centre, the A130/A13 road junction (Sadlers Farm), and taking in views from the A130 and surrounding area.
2. Jurisdiction over the appeal was recovered by the SoS in a letter dated 20 June 2012<sup>2</sup>. The reasons for recovery are that the appeal involves a proposal for residential development of over 150 units, on a site of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities; and that the proposal is for significant development in the Green Belt (GB).
3. In a screening opinion issued by the Council on 26 July 2011, under the *Town & Country Planning (Environmental Impact Assessment) Regulations 2011*, the proposed development was held not to require an environmental statement<sup>3</sup>. On 12 September 2012, the Secretary of State (SoS) issued a direction that the development was not EIA development<sup>4</sup>.
4. During the inquiry, it was announced that an Order had been laid in Parliament to revoke the Regional Strategy (RS) for the East of England, including the East of England Plan (EEP), with effect from 3 January 2013<sup>5</sup>. The effects of this announcement were addressed in oral submissions during the inquiry.
5. Before the close of the inquiry, the appellants tendered a completed and executed legal undertaking<sup>6</sup>. The contents of the undertaking are dealt with more fully elsewhere in this report.

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<sup>1</sup> Doc. GEN-ID9 (tour itinerary map)

<sup>2</sup> Recovery letter filed in blue sub-folder of main casefile

<sup>3</sup> Screening opinion forms part of Questionnaire bundle (blue folder No. 1)

<sup>4</sup> Screening Direction filed in blue sub-folder of main casefile

<sup>5</sup> Doc. GEN-ID2 (Ministerial statement and letter re revocation)

<sup>6</sup> Doc. FLP-ID6 (the Undertaking)

## THE SITE AND SURROUNDINGS

6. The appeal site comprises about 7.4 ha of agricultural land, on the western edge of Thundersley. The site's eastern boundary backs onto residential properties in Glebelands, Sadlers, Steeple Heights and Ivy Road. To the north is the Glenwood School and its playing fields. The western edge is formed by the A130 dual carriageway road. The short southern boundary abuts a short, truncated section of London Road, which was originally part of the A13, but is now a cul-de-sac, accessed from Clare Road. The present A13/London Road runs immediately to the south of this<sup>7</sup>.
7. Internally, the site is divided into three fields of varying sizes, identified as Compartments A, B and C<sup>8</sup>, separated by sparse hedgerows. There are also gapped hedgerows around most sections of the site boundaries. On the northern boundary, there is a belt of young trees. Elsewhere, trees are limited to individual specimens within the older sections of the hedges. The land is flat or gently sloping and is used for hay<sup>9</sup>.
8. About 450 m to the east is the Tarpots local centre area, around the junction of the same name, where London Road is met by Rushbottom Lane and South Benfleet High Road. To the west of the A130 is open countryside, stretching towards Bowers Gifford and North Benfleet, and beyond these the new town of Basildon.
9. The A13/A130 junction, known as the Sadlers Farm junction, has recently been extended. The works include an enlarged roundabout, an underpass, earthworks and various overbridges<sup>10</sup>, including one on the northbound carriageway of the A130, which affords partial views over the appeal site. At the time of the inquiry, the main construction works were largely complete, but much of the landscaping remained to be implemented.

## THE PROPOSED DEVELOPMENT

### The Application

10. The application seeks outline planning permission for up to 165 dwellings, with all matters reserved except for access<sup>11</sup>. The submitted plans are listed at Annex 4 to this report. In so far as these plans contain details relating to matters other than access, it was confirmed at the inquiry that these are illustrative.
11. The Development Framework plan<sup>12</sup> and Master Plan<sup>13</sup> propose that the main vehicular and pedestrian access point would be from the cul-de-sac Glebelands, at the site's north-eastern corner. At the southern end of the site, there would be an emergency vehicular access from the cul-de-sac section of London Road, and this would also provide a pedestrian and cycle route, with a connection to the

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<sup>7</sup> These features are seen most clearly on the site location plan, at Doc. FLP/CD1-1.2

<sup>8</sup> Doc. FLP/CD1-1.8, Fig 2: Phase 1 Habitat Plan (Ecological Report)

<sup>9</sup> Photographs of the site can be seen at Figs 4-14 of Doc. FLP/CD1-1.6 (Landscape and Visual Assessment) and p25 of FLP/CD1-1.5 (Design & Access)

<sup>10</sup> Docs GEN-ID6 and GEN-ID7 (highway works plans), and FLP/4/P- Appx 2 (photograph)

<sup>11</sup> Doc. FLP/CD1-1.1 (application form)

<sup>12</sup> Doc. FLP/CD1-1.3 (Development Framework plan)

<sup>13</sup> Doc. FLP/CD1-1.4 (Master Plan)

existing subway under the A130. Two further pedestrian and cycleway accesses are proposed at points on the eastern boundary, connecting via existing paths to Sadlers and Steeple Heights.

12. The indicative layout shown in these two submitted plans would principally comprise four areas for built development, totalling 4.71 ha, served by a north-south spine road and several short lateral spurs. Public open space and habitat areas amounting to 2.33 ha are suggested, mainly along the site's western and northern edges. In addition, the plans illustrate two balancing areas comprising permanently wet ponds and grasslands, of 0.32 ha. A play area of 0.04 ha is also shown, located within the north-eastern housing parcel.
13. The illustrative plans indicate areas where existing hedgerows, ditches and trees could be retained within the proposed open space areas. Certain sections of the eastern boundary are identified where additional planting is suggested to strengthen the existing rear garden boundaries, and a buffer planting strip is proposed along the western boundary.

### **Supporting information**

14. The application was accompanied by a Design and Access Statement and a series of technical reports<sup>14</sup>. The Design and Access Statement<sup>15</sup> describes how the scheme responds to its context, and sets out suggested design code and layout principles in more detail. Of the other reports, those of particular relevance to the present appeal include the Landscape and Visual Assessment report<sup>16</sup> and the Ecological Appraisal<sup>17</sup>. These issues are discussed in detail later.

### **The Legal Undertaking**

15. The executed unilateral undertaking tabled at the inquiry<sup>18</sup> supersedes the draft agreement submitted with the application<sup>19</sup>.
16. The undertaking firstly provides for land to be made available and laid out for open space, a play area, and a habitat management area, in accordance with details to be approved at a later stage, and includes arrangements for the maintenance and/or management of those areas.
17. Secondly, the undertaking provides for contributions of just under £90,000 to healthcare services, £40,000 towards bus stop improvements, £50,000 to highway improvements, and £70 per dwelling towards the provision of travel information packs.
18. Finally, it requires 35% of the total number of dwellings to be affordable (including 'affordable rented' and 'social rented' tenures), and sets out arrangements for the location and detailed mix of sizes and tenures to be agreed at a later stage.

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<sup>14</sup> Docs FLP/CD1, 1.5 – 1.17, 1.20 and 1.21

<sup>15</sup> Doc. FLP/CD1-1.5 (Design and Access Statement)

<sup>16</sup> Doc. FLP/CD1-1.6 (Landscape and Visual Assessment)

<sup>17</sup> Doc. FLP/CD1-1.8 (Ecological Appraisal)

<sup>18</sup> Doc. FLP-ID6 (the Undertaking)

<sup>19</sup> Doc. FLP/CD1-1.18 (draft Agreement)



19. Clause 4.2 of the undertaking specifies that the provisions relating to the healthcare and highways contributions are not to come into effect unless they are found to be compliant with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
20. At the inquiry, the Council confirmed that it was content that the undertaking, in combination with appropriate conditions where necessary, would achieve its purposes, and would effectively secure the provision of the relevant facilities and contributions.

### **The Council's Refusal Reasons**

21. The Council's decision notice<sup>20</sup> contains three refusal reasons (RRs). RR1 relates to Green Belt policy. The RR asserts that the appeal site is allocated as GB. It is suggested that the proposal would constitute inappropriate development, and would be detrimental to the GB's openness, character and strategic function. The RR makes no reference to any Development Plan policies, but refers to the National Planning Policy Framework (the NPPF).
22. RR2 relates to the effects on wildlife. The RR suggests that the area available for wildlife conservation would be reduced to less than a quarter of that currently available; that a Local Wildlife Site would be lost; and that the site's ecological value would be adversely affected. Reference is made to Policy EC13 of the Local Plan, and to the NPPF.
23. RR3 was that the proposal failed to demonstrate adequate commitment in respect of affordable housing. At the inquiry, the Council confirmed that it was satisfied that this objection was overcome by the Undertaking.

### **PLANNING BACKGROUND**

#### **The Development Plan**

24. The development plan for the area now comprises only the saved policies of the Castle Point Local Plan (the LP), adopted in November 1998<sup>21</sup>. On the proposals map, the appeal site is shown as within the Green Belt. However, there are no saved policies relevant to the appeal.
25. At the date of the inquiry, the EEP also formed part of the development plan. Policy SS7 stated that the broad extent of the existing Green Belts in the region was appropriate and should be maintained. However, as noted above, the plan has now been revoked and has no further effect.

#### **Green Belt**

26. A Green Belt was first established in South Essex in the draft Review of the Essex County Development Plan in 1964, which was approved in 1976 and became known as the Approved Review Development Plan (ARDP). The ARDP was eventually superseded by the Essex County Structure Plan (SP), and by subsequent SP Reviews, up to and including the Essex and Southend-on-Sea SP, adopted in 2001. Policies defining the general extent and outer boundaries of the GB were carried forward from each of these plans to the next. In September

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<sup>20</sup> Doc. FLP/CD3 (the refusal notice)

<sup>21</sup> The LP is at Doc. GEN-ID11 [extracts also at Doc. FLP/CD6].

2007, the SP expired, except for those policies saved by Direction of the SoS. None of the policies relating to GB were saved.

27. In Castle Point, the inner boundary was defined for the first time on the proposals map of the Local Plan adopted in 1998<sup>22</sup>. The appeal site was included in the GB as thus defined. Policy GB1 controlled the types of development to be permitted in the GB<sup>23</sup>. When the LP expired in 2007, Policy GB1 was not saved<sup>24</sup>.
28. However, various other policies relating to the GB were saved. These included Policy GB2 relating to the re-use of buildings in the GB, Policy GB4 relating to rebuilding, and GB5 relating to dwelling extensions<sup>25</sup>.

## **Housing Provision**

### The Adopted Local Plan

29. The LP's stated plan period was to 2001. The plan sought to make provision for housing to meet the SP requirement up to that date, and also allocated four sites as safeguarded land for longer-term needs<sup>26</sup>.
30. The sites allocated for development within the plan period included the Point Industrial Estate at 101 Point Road. The safeguarded sites included two caravan sites at Thorney Bay and Kings Park (formerly Kings Camp), plus land at The Chase/Wensley Road, and land south of Scrub Lane. None of these sites has yet been developed for housing.

### The East of England Plan

31. The EEP<sup>27</sup> was approved in May 2008 and formed part of the development plan until it was revoked in January 2013. The plan's housing provisions were set out in Policy H1. For Castle Point, the minimum requirement for the period 2001-21 was 4,000 dwellings, equating to 200 per annum. Completions up to 2006 were 1,010 dwellings, almost exactly matching the required annual rate.

### Draft Core Strategy

32. The original submission draft of the Castle Point Core Strategy (CS) was published in September 2009<sup>28</sup>. Policy SS1 sought to provide for a total of 5,000 new dwellings over the period 2001 - 2026. The main locations for development were set out in Policy SS2. These included Green Belt land, to the east and west of Canvey Road, and at Castle View School, and the previously safeguarded land to the north of Kiln Road (the site previously referred to as The Chase/Wensley Road).
33. The public examination into the CS was opened in June 2010, but on 6 July 2010 the examination was suspended. The Inspector's letter<sup>29</sup> and accompanying

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<sup>22</sup> Doc. GEN-ID11 (the LP), paragraph 2.2

<sup>23</sup> Doc. GEN-ID11 (the LP), p.13

<sup>24</sup> Doc. FLP/CD7 (the Saving Direction)

<sup>25</sup> Doc. GEN-ID11 (the LP), pages 14-18

<sup>26</sup> Doc. GEN-ID11 (the LP), paragraphs 1.8 and 4.4 - 4.21

<sup>27</sup> Doc. GEN-ID12 (the East of England Plan)

<sup>28</sup> Doc. FLP/CD9 (the 2009 draft CS)

<sup>29</sup> Doc. FLP/CD37 (Inspector's letter of 6 July 2010)

note<sup>30</sup> states that the reason for the suspension was because of changes announced by the SoS, which made it necessary for the Council to reconsider its housing strategy. These changes included amendments to PPS3, and the intended revocation of the RS. However, the Inspector also commented that he had concerns regarding other aspects of the plan, including whether the CS had sufficient flexibility to ensure that key land uses could be delivered. These concerns were amplified in a Guidance Note issued by the Inspector, which set out suggested areas where further work was necessary<sup>31</sup>.

34. In October 2010 the CS was resubmitted in a revised form<sup>32</sup>. The overall aim of providing 5,000 dwellings by 2026 remained. The locations for development were set out in policy SS4. These included Green Belt sites at Castle View School and West Canvey (to be identified in a Canvey Area Action Plan); and safeguarded land at Kiln Road and Scrub Lane. Policy SS5 also provided for contingency sites for up to 500 further dwellings on GB land, to be identified in a later DPD for the Benfleet, Hadleigh and Thundersley area.
35. In May 2011, the Inspector responded in writing to the revised draft plan, highlighting a number of areas of concern<sup>33</sup>. Amongst other comments, the Inspector stated:

*"I consider there remain serious shortcomings in the Council's plan. ....firstly, the approach in relation to the Green Belt; secondly, the consequences of this for the distribution of growth across the borough; and thirdly the Council's ability to demonstrate it can deliver sufficient housing land.."*

*"...I have reservations about the methodology employed and the way in which it appears to have been used [in assessing GB sites], leading to inconsistent and inappropriate site selection."*

*"I therefore consider that the Council needs to revisit its assessment of Green Belt locations....potential locations should not be dismissed because local factors are given too much weight. This appears to have happened previously."*

*"I also have difficulties with the housing land position... I find the supporting evidence to be weak. For instance, the reliance on a large number of small sites makes it difficult to ensure an adequate land supply can be maintained, particularly when a number of such sites are in multiple ownerships, currently occupied, or constrained in other ways, and where the evidence to demonstrate they are genuinely available is limited. In addition, the absence of a reasonable number of large sites is more likely to undermine the Council's ability to deliver its objective to provide affordable housing."*

*"The Council is also reliant on the regeneration of two town centre locations, at Hadleigh and Canvey.... Some respondents doubt whether the potential capacity at these locations can be realised, a possibility I am unable to dismiss. ....this reinforces the need for greater flexibility..."*

*"It is not for me to identify the options available to the Council, but I have been provided with detailed submissions,,, put forward by representatives of the house building industry. One way forward might be to reconsider these, as well as other sites, with a view to identifying land on the mainland capable of early release from the Green Belt..."*

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<sup>30</sup> Doc. FLP/CD35 (Inspector's note)

<sup>31</sup> Doc. FLP/CD36 (Inspector's Guidance)

<sup>32</sup> Doc. FLP/CD11 (the October 2010 draft CS)

<sup>33</sup> Doc. FLP/CD34 (Inspector's letter of 11 May 2011)

*Based on the information before me, the provision of further land equivalent to about 2½ years supply would appear to be sensible.*

*"I would also suggest a similar amount of land is identified to provide flexibility for the middle to later part of the plan period. This could be in the form of broad locations on the mainland to supplement the sites referred to in the SHLAA. ...Finally, it is necessary to identify safeguarded land in mainland locations. ... I would suggest sufficient land should be found to meet potential needs to 2031.*

*"...Unless the Council is able to show how it could rapidly and effectively move to address my concerns, I would suggest it considers withdrawing its Core Strategy..."*

36. On 12 September 2011, following further correspondence with the Inspector<sup>34</sup>, the Council held a Members' Conference to consider the way forward for the CS. A Briefing Paper was prepared for that meeting which set out options and issues<sup>35</sup>.
37. On 21 September 2011, a report was put to the Cabinet<sup>36</sup>, setting out the conclusions of the Members' Conference, which were to support the release of various additional sites, including four new Green Belt allocations, at Jotmans farm, Bowers Road, 396-408 London Road, and east of Rayleigh Road; and an additional safeguarded site at Kiln Road. The report recommended incorporating these sites into a revised CS, and undertaking further changes to address the issues identified by the Inspector, in order to allow the CS examination to proceed to a conclusion.
38. The Cabinet referred the matter to the full Council<sup>37</sup>. At the Council meeting on 27 September 2011, it was resolved that the CS be withdrawn, and that work should start on a new Local Plan<sup>38</sup>.

#### New Local Plan

39. The new Local Plan was incorporated into the Local Development Scheme in January 2012<sup>39</sup>. The programme envisages adoption in February 2014.
40. In January 2012, an Issues and Options discussion paper was issued for consultation<sup>40</sup>. The document summarises some of the issues facing the Borough, but does not contain any draft policies or proposals. A scoping report for the SEA and sustainability appraisal of the new LP was published for consultation alongside the Issues and Options document, and was updated in April 2012, taking account of the responses<sup>41</sup>. A report on the responses to the Issues and Options consultation itself was published in May 2012<sup>42</sup>.
41. On 17 October 2012, a report was put to the Council's Cabinet entitled 'New Local Plan – 5-Year housing Supply'<sup>43</sup>. The report recommended that for its first

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<sup>34</sup> Docs FLP/CD 32, 31, 30 and 29 (correspondence to/from CS Inspector)

<sup>35</sup> Doc. FLP/CD41 (Briefing Paper, Sept 2011)

<sup>36</sup> Doc. CP-CD6 (report to Cabinet 21 Sept 2011)

<sup>37</sup> Doc. CP-CD7 (minutes of Cabinet 21 Sept 2011)

<sup>38</sup> Doc. CP-CD10 (Council minutes, 27 Sept 2011)

<sup>39</sup> Doc. CP-CD4 (Local Development Scheme)

<sup>40</sup> Doc. FLP-CD18 (LP Issues and Options)

<sup>41</sup> Doc. CP-CD18 (LP Scoping Report)

<sup>42</sup> Doc. CP-CD3 (LP consultation report)

<sup>43</sup> Doc. CP-CD1.1 (Cabinet 17 Oct 2012)

five years, the new LP should adopt a housing target of 200 dwellings per annum, plus a 20% addition (to reflect paragraph 47 of the NPPF), making a total requirement of 1,200 dwellings.

42. The report also recommended a number of strategic locations to be included within the land supply for this first 5-year period. Amongst others, these included Green Belt sites at Brickfields, 396-408 London Road, Castle View School, and land at Felstead Road/Catherine Road; and previously safeguarded sites at Kiln Road and Scrub Lane<sup>44</sup>. The report was accompanied by a Sustainability Appraisal and SEA report and an Equality Impact report<sup>45</sup>.
43. The officers' recommendations on the overall target and strategic locations were endorsed by the Cabinet, and were accepted by the full Council at a meeting on 5 December 2012<sup>46</sup>.

### Wildlife Designation

44. The appeal site's north-eastern field (Compartment A), extending to about 3.7 ha, was originally identified in 1990 as a Site of Importance for Nature Conservation (SINC). This was a county-level, non-statutory designation. The designation followed surveys carried out by the Essex Wildlife Trust (EWT), which found the site to comprise neglected and moderately species-rich rough grassland and scrub. The condition of the land was attributed partly to the fact that during the 1970s it had been stripped of topsoil and used for storing spoil in connection with the adjacent housing development, leaving it as disturbed ground with low nutrient levels and seasonal wetting<sup>47</sup>.
45. The site was re-surveyed by EWT on a number of occasions between 1992 and 2007. In the 1994 survey, Common Lizard and Slowworm were recorded. The 2007 survey was conducted from outside the site, using binoculars<sup>48</sup>. At some time during this period, the terminology changed from SINC to Local Wildlife Site (LWS), but the status of the designation did not change.
46. The site remains identified as an LWS. The most recent citation is dated 2007<sup>49</sup>, in which the site is referred to as 'CP2, Montgomery School Meadow'<sup>50</sup>. The designation does not appear in any LP or DPD, or on any Proposals Map, but is contained in a Register maintained by the Trust.
47. Saved LP Policy E13 states that permission will be refused for development prejudicial to wildlife interests or to the retention and management of important habitats.

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<sup>44</sup> The locations of these 'strategic sites' are shown on the plan supplied at Doc. CP-ID3.

<sup>45</sup> Docs CP-CD1.2 and 1.3 (LP Sustainability/SEA and Equality reports)

<sup>46</sup> Doc. CP-ID1 (Council resolution 5 Dec 2012)

<sup>47</sup> Doc. CP-Tab 3 (Mr Harvey's proof, paras 3.1 – 3.10)

<sup>48</sup> Inspector's note: This was due to a lack of access to the land. There was some debate as to whether permission to enter the land was refused, but from FLP/5/A-Appx4 it appears this was not so.

<sup>49</sup> Doc. CP-Tab3, Appx 1 [or at FLP/5/A- Appx 1] (the LWS citation).

<sup>50</sup> Inspector's note: Montgomerie School is in Rushbottom Lane. It was confirmed at the inquiry that the field referred to in the LWS citation as 'Montgomery (sic) School Meadow' has never had any connection with that school, nor with Glenwood School which adjoins the site.

## National policy

48. Relevant national policy is contained in the NPPF. Paragraph 6 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The policies set out in the NPPF itself constitute the Government's view of what sustainability means in practice.
49. Paragraph 14 states that there is a presumption in favour of sustainable development. Where the development plan is absent, silent, or out-of-date, the presumption means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, or unless specific policies in the Framework indicate that development should be restricted. The latter exception is stated to include land designated as Green Belt.
50. Core planning principles are set out at paragraph 17. These include the need for the system to be plan-led, empowering local people to shape their surroundings. However, another of these key principles is that every effort should be made to identify objectively, and to meet, the housing and other needs of an area, and to respond positively to opportunities for growth. Amongst other things, planning decisions should also protect Green Belts, contribute to conserving and enhancing the natural environment, and actively manage patterns of growth.
51. With regard to housing, paragraph 47 states that the aim should be to boost the supply of housing significantly. To that end, authorities should identify and update annually a supply of specific deliverable sites. Paragraph 49 states that if a 5-year supply cannot be demonstrated, local housing policies should not be considered up-to-date.
52. The purposes of Green Belts are set out in paragraphs 79 and 80. These include keeping the land open, preventing urban sprawl and the merging of towns, and protecting the countryside. Paragraphs 87-89 state that inappropriate development in GBs is harmful by definition, and should not be approved except in very special circumstances. New buildings are inappropriate unless for specific purposes, which do not include general housing. Substantial weight should be given to any harm to GBs, including harm by reason of inappropriateness. Very special circumstances will not exist unless the harm to the GB is clearly outweighed by other considerations.
53. Paragraph 109 states that planning should protect the natural environment by minimising impacts on biodiversity, and providing net gains where possible. This may be achieved by establishing coherent ecological networks which are more resilient to current and future pressures. Similar aims are incorporated into paragraphs 9 and, in relation to GBs, paragraph 81. In determining applications, paragraph 118 states that if significant harm to biodiversity cannot be avoided, permission for development should be refused.

## THE CASE FOR THE COUNCIL

### Green Belt

#### Effects on the Green Belt

54. The appeal site is in the Green Belt as defined on the LP Proposals Map. The proposed scheme would constitute inappropriate development, and would thus be harmful to the GB by definition. In addition, in the Council's view, the development would destroy the site's openness, which is one of the GB's essential characteristics. It would also conflict with three of the main purposes of GBs, i.e restricting urban sprawl, preventing towns from merging, and safeguarding the countryside from encroachment.
55. The site forms part of a narrow swathe of Green Belt between Thundersley and Bowers Gifford/North Benfleet, and beyond these, Pitsea and Basildon. This part of the GB is characterised by open fields, and is exactly the kind of countryside that is most valued locally. In the Council's view, the GB is particularly vulnerable here, and piecemeal incursions would be especially damaging to its function in keeping the neighbouring settlements separate.
56. In addition, this section of the GB straddles the Borough boundary, and thus performs a strategic role in separating Castle Point Borough from Basildon District. It is understood that the neighbouring authority is looking at options for future development, and there is concern that development might take place to the west of the A130. In that case, the appeal site could become one of the last remaining links in this part of the GB.
57. Although this section of the Green Belt is bisected by the A130, that does not reduce its value as GB. It is not unusual to see major roads running through the GB in this way, but that does not justify infilling. This is demonstrated by three previous appeal cases involving similar circumstances, at Sutton Coldfield, St Albans and Chester<sup>51</sup>. In all of these cases, the SoS held that the severance of the appeal sites from the surrounding countryside by major roads did not negate their Green Belt functions.
58. At present, the A130 has the appearance of a road running through the countryside, with fields on either side. If the appeal site were developed, it would become a road skirting an urban area. Its character would therefore change for the worse. A landscape strategy for the A130 corridor is currently being prepared, jointly with neighbouring authorities, and the development now proposed would conflict with the aims of that scheme.
59. The above arguments are supported by the findings of two recent Green Belt studies carried out by the Council. In the 'Green Belt Functions Assessment'<sup>52</sup>, Parcel 10, which included the appeal site, was found to contribute to three of the five GB functions defined in national policy. In the 'Green Belt Landscape Assessment'<sup>53</sup>, the appeal site was assessed as medium to high landscape and visual sensitivity.

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<sup>51</sup> Docs CP-CD11, 12 and 13 (Sutton Coldfield, St Albans and Chester appeals)

<sup>52</sup> Doc FLP/CD20 (Green Belt Functions Assessment report, pp25-26 and 46-48)

<sup>53</sup> Doc FLP/CD19 (Green Belt Landscape Assessment, pp49-52, and 115-116)

60. Development at the appeal site could set a precedent for the larger area to the south of the A13, around Sadlers Farm, where a previous proposal for development was dismissed on appeal by the SoS, for reasons which included Green Belt<sup>54</sup>.
61. The possibility of losing GB land to development was ranked by local residents as one of the top four threats to the district in the recent LP consultation<sup>55</sup>. In the Council's view, this shows the strength of local feeling. Significant weight should be given to these local views, especially in the light of the Government's commitment to localism.
62. Paragraphs 87 – 89 of the NPPF apply. In accordance with that advice, substantial weight should be given to the harm to the GB. Very special circumstances are needed. Paragraph 14 and Footnote 9 make it clear that the presumption in favour of sustainable development does not apply in the GB<sup>56</sup>.

#### Status of Green Belt policy in Castle Point

63. Although Policy GB1 is not saved, the Council has never doubted that the Green Belt in Castle Point continues to exist. The GB was not defined by Policy GB1, but by the Proposals Map. That map has never been withdrawn, and therefore still has effect.
64. When the SoS issued his Direction<sup>57</sup> to save certain policies from the LP, all of the other Green Belt policies, GB2 - GB7<sup>58</sup> were saved. All of these apply only within the GB area. The GB must therefore continue to exist, to give effect to those other policies. If there were no GB, the saving of Policies GB2-GB7 would create an absurdity. It would be wrong in law to interpret the Direction in that way.
65. The Green Belt existed before Policy GB1, as a result of earlier development plans and structure plans. Its continued existence did not depend on Policy GB1 and therefore was unaffected by the withdrawal of that policy.
66. The function of Policy GB1 was not to create or define the Green Belt, but to set out the approach to development within it. The reason why that policy was not saved by the SoS was understood by the Council to be because it duplicated national policy and was therefore unnecessary. If GB1 had been essential to the existence of the Green Belt, it would have been saved. There was clearly no intention in the Saving Direction to delete the Green Belt.
67. The NPPF states at paragraph 79 that one of the essential characteristics of GBs is their permanence. It is clear from this that the Government intends GBs to be permanent. Paragraph 83 says that, once established, Green Belt boundaries should be altered only through a review of the local plan, and that they should be capable of enduring beyond the plan period. In Castle Point, no review has taken

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<sup>54</sup> Doc. FLP/1/Appx 2 (Sadlers Farm appeal)

<sup>55</sup> Doc. CP-CD3 (New LP consultation report)

<sup>56</sup> On GB matters generally, see Mr Zammit's evidence, paras 3.1 – 3.21 (Doc. CP-Tab 2)

<sup>57</sup> Doc. FLP/CD7 (Saving Direction)

<sup>58</sup> Doc. Doc. GEN-ID11 (The LP)



place, and therefore the GB boundaries that have already been established continue to apply<sup>59</sup>.

68. The Council also drew attention to a called-in application case in York<sup>60</sup>. In that case, it was held that the site was in the Green Belt, despite there being no adopted LP, and thus no confirmed inner boundaries.

## **Wildlife, ecology and biodiversity**

### The site's ecological value and status

69. Compartment A has established potential as a wildlife habitat. The surveys carried out during the 1980s and 90s showed that this part of the site was then unimproved grassland, which is a habitat type of county-level importance, and that Common Lizard and Slowworm were present. In the 2002 review, specific criteria were introduced, and the north-eastern field was found to fit the category 'lowland meadow', justifying its continued designation as a LWS.
70. In the 2007 survey, no evidence was found that the site no longer merited LWS status, so the designation was retained. Under the revised criteria applying at that time, the site appeared to fall within HCr11, 'old, unimproved or semi-improved pasture or meadow'; and SCr5, the presence of two reptile species. The LWS designation was therefore still justified in 2007<sup>61</sup>.
71. Since 2007, the LWS has been mown, ploughed, re-seeded, and sprayed, and scrub growth has been cleared<sup>62</sup>. These operations have effectively removed most of the grassland community that gave the site its ecological value, so that in its current condition, it no longer justifies LWS status, and is now to be recommended for removal from the register<sup>63</sup>. But these changes are not irreversible. The soil will still be low in nutrients, and the original grassland species will remain in the site's seed bank for some time. The site thus retains the potential to regain its former ecological value. This could be achieved with minimum intervention, over a period of time, by reducing active cultivation and reverting to an annual hay cut. In the Council's view, the loss of this potential would amount to significant harm.
72. Furthermore, the agricultural operations that have taken place on the site over the last few years amount to the deliberate and systematic destruction of the site's ecological value. The use of a disc harrow on a site likely to contain protected reptiles may have been a criminal act or a breach of the Environmental Impact Assessment Regulations<sup>64</sup>. Although the appellants say that the disc harrow was needed to eliminate ragwort, that is not normally regarded as an effective treatment, and is not in accordance with the relevant Code of Practice<sup>65</sup>. In the circumstances, little weight should be given to the site's current cultivated condition, and greater weight to its potential for restoration.

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<sup>59</sup> On matters relating to the Green Belt status issue, see Mr Alesbury's closing submissions, paras 1-7 (Doc. CP-ID11)

<sup>60</sup> Doc. CP-CD17 (York case)

<sup>61</sup> Mr Harvey's proof, paragraphs 3.9 – 3.11 (Doc. CP-Tab 3)

<sup>62</sup> Doc. CP-Tab 3 – Appx 2 (Series of aerial photographs, 2008-11)

<sup>63</sup> Mr Harvey's proof, paragraph 4.4 (Doc. CP-Tab 3)

<sup>64</sup> Mr Harvey's proof, paragraph 5.2 – 5.6 (Doc. CP-Tab 3)

<sup>65</sup> Doc. CP-ID10 (Mr Harvey's note on ragwort)

73. In any event, the appellants' own surveys found three species of reptiles (Common Lizard, Slowworm and Adder) to be present in 2010 and 2011<sup>66</sup>. The survey may have underestimated the numbers<sup>67</sup>, but even so, the Adder population qualifies as 'good'. The Adder is on the Essex 'Red Data List' as a locally vulnerable species. Common Lizard and Slowworm are declining in the county<sup>68</sup>. Although the appellants' surveys concentrated on the hedgerows and margins, much of the grassland elsewhere within the appeal site is suitable for reptiles. Parts of the site could therefore still meet criterion SC16 of EWT's LWS latest selection criteria, published in 2010<sup>69</sup>.
74. The hedge denoted as H6<sup>70</sup> is of considerable age, and falls into the category of 'important' as defined in the Hedgerow Regulations 1997.
75. The permanent loss of any of the identified features of ecological value would cause significant harm to the interests of biodiversity and nature conservation.

#### The proposed development's effects on wildlife

76. The area of the existing LWS is 3.7 ha. The area currently used by reptiles may extend well beyond this. In contrast, the illustrative Master Plan and Development Framework show only 2.33 ha of green space in total<sup>71</sup>. This would have to include public open space with a recreational function, as well as any areas intended purely as wildlife habitat.
77. In reality, it would be difficult to manage the proposed open space and habitat areas so as to provide any beneficial habitat value, due to public access, the probable need for lighting, and the proximity of residential properties. Around 1.74 ha of the green areas is intended to offset the possible effects on the Southend and Benfleet Marshes Special Protection Area (SPA), and this part would therefore have to fulfil a primarily recreational function. Given the narrowness of the western boundary strip, these issues would be particularly severe there.
78. Overall, in the Council's view, the proposed development would be unlikely to be able to provide adequate compensation for the loss of existing habitat; and even less likely to make up for those parts of the site where the former ecological value has already been lost.

#### Policy conflicts relating to wildlife, ecology and biodiversity

79. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural environment, by minimising impacts on biodiversity and providing net gains where possible. Paragraph 118 advises that where significant harm cannot be avoided or adequately mitigated or compensated for, permission should be refused. Paragraph 9 seeks a net biodiversity gain, in the interests of

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<sup>66</sup> Docs FLP/CD8 (FCPR Ecological Appraisal report, paras 3.40 -3.46) and FLP/5/P (Miss Hollins proof, paragraph 3.12).

<sup>67</sup> Mr Harvey, in cross-examination

<sup>68</sup> Mr Harvey's proof, paragraph 3.18 (Doc. CP-Tab 3)

<sup>69</sup> Doc. CP-Tab 3, Appx 3 - extract from LWS Selection Criteria [see also FLP/5/A, Appx 5].

<sup>70</sup> Doc. FLP/CD8 (FCPR Ecological Appraisal report, Fig 1).

<sup>71</sup> Inspector's note: this appears to exclude the 0.32 ha of wet areas shown on the plans.

sustainable development. Paragraph 81 emphasises the special need to retain biodiversity in the GB.

80. In the Council's view, LP Policy EC13 is consistent with these elements of national policy in so far as it seeks to protect wildlife interests and habitats.

## **Housing land supply**

### 5-year housing requirement

81. The Council has approved a housing target of 200 dwellings per annum for the first 5 years of the new LP period<sup>72</sup>. That is the figure that will form the basis for preparing the new LP.
82. The justification for this figure is set out in the report to Cabinet in October 2012<sup>73</sup>. Castle Point has a small geographical area. A high proportion is already urbanised, and much of the remainder is affected by constraints such as the GB, the SPA, hazardous installations, and flood risk. These limit the district's capacity. This is supported by the Strategic Housing Land Availability Assessment (SHLAA)<sup>74</sup>, which identifies a modest potential for 392 dwellings on non-Green Belt sites within a 5-year timescale.
83. Account has also been taken of the latest demographic forecasts and ONS projections for Essex, but given the constraints, any scenario above 200 dwellings a year is seen by the Council as unachievable and unsustainable. That figure is the same as the rate that was required for 2001-21 under the EEP, and represents a continuation of the same rate of in-migration as during 2006-10, as envisaged in the 'Migration R' scenario in the demographic forecasts<sup>75</sup>.
84. The Council also acknowledges that there has been under-provision in the past<sup>76</sup>, and accepts that in those circumstances paragraph 47 of the NPPF requires an additional 20% buffer. The overall requirement for the purposes of the 5-year land supply is therefore 1,200 dwellings.
85. The NPPF contains no requirement for any further addition in respect of the past under-delivery. Such an addition would duplicate the 20% buffer. In the Council's view, once the EEP is revoked, there will be no basis for the previous housing targets, and thus no need for any 'catching-up'. The abolition of the RS and the advent of localism mean the Council is entitled to set its own target, according to local preferences. Much of the unmet demand arises from outside the District, and the Council's view is that Castle Point should no longer be required to meet that demand in full. In the absence of testing through the LP process, there is no justification for assuming any alternative requirement figure<sup>77</sup>.

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<sup>72</sup> Doc. CP-ID1 (Council resolution 5 Dec 2012)

<sup>73</sup> Doc. CP-CD1.1 (Cabinet 17 Oct 2012)

<sup>74</sup> FLP/CD28.1 (SHLAA)

<sup>75</sup> Docs FLP/CD23 and 44 (Greater Essex Demographic Forecasts, March 2012/June 2012)

<sup>76</sup> Inspector's note: Miss Raffaelli agreed in cross-examination that the Council's claimed completions were 1,623 dwellings over the 11-year period 2001-12, as in Mr Twigg's Table 1 (Doc. FLP/1/P, p.61), giving a shortfall of 577 against the EEP figure of 200 per annum.

<sup>77</sup> Inspector's note: However, in cross-examination, Miss Raffaelli accepted that an alternative requirement figure of 1,892 dwellings could be justified, based on 5 years at 200, plus 577 historic shortfall, plus 20%.

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### Land supply

86. Prior to the inquiry, the Council's view of the available land supply was as set out in the tables accompanying Miss Raffaelli's main and supplementary proofs<sup>78</sup>. That evidence took as its starting point the SHLAA's figure of 392 dwellings, being the capacity said to be available in years 0-5 on non-GB sites<sup>79</sup>. To this the Council had added various further sites by way of updating. During the inquiry, in response to my request, this information was rationalised into a revised 5-Year Supply Table, in a more convenient format<sup>80</sup>. This revised Table supersedes the earlier versions.
87. As shown in the revised table, housing completions during the seven months from 1 April to 31 October 2012, net of demolitions, amounted to 48 dwellings. A further 87 net units were under construction at that date. Planning permissions are in place for 33 net dwellings. A further 272 are approved subject to the completion of legal agreements; these include the former LP allocated site at Point Road and former safeguarded site at Kiln Road/The Chase/ Wensley Road. These categories add up to 440 units.
88. In addition, capacity for a further 845 dwellings is available on 'other sites'. These are sites which have not yet reached the stage of having a planning permission or resolution to grant, but nonetheless are considered capable of contributing within 5 years. Most of these are the 'strategic sites' agreed by the Council in December 2012<sup>81</sup>. These include Thorney Bay, Scrub Lane, Hadleigh Town Centre, Brickfields, 396-408 London Road, Castle View School, Felstead Road/Catherine Road, and Kings Park.
89. The fact that several of the sites in this category do not yet have planning permission does not prevent them from being included within the 5-year supply, provided there is a realistic prospect of development within 5 years. The majority of these sites are previously developed land (PDL), and some were safeguarded for long-term development. All are all regarded as deliverable within 5 years. In some cases, this has been confirmed in letters from the landowners or their agents, or from prospective developers<sup>82</sup>. The reasoning behind the inclusion of each of these individual sites is contained in the October 2012 Cabinet report<sup>83</sup> and in the Council's inquiry evidence<sup>84</sup>.
90. The total 5-year supply is therefore 1,285 dwellings, comfortably exceeding the requirement of 1,200. The proposed sites provide for a good range of choice as to location and type of site. The appeal site is therefore not needed to ensure an adequate 5-year supply.

### Green Belt sites in the 5-year supply

91. Although some of the sites included in the 'strategic' category are in the Green Belt, these were preferred to the appeal site for sound planning reasons. The

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<sup>78</sup> Docs. CP-Tab 1-Appx 1 and CP-Tab 4-Appx 1 (superseded 5-year supply tables)

<sup>79</sup> Doc. FLP/CD28.1, p.7 (SHLAA Update May 2012)

<sup>80</sup> Doc. CP-ID2 (Council's revised 5-year supply table)

<sup>81</sup> Doc. CP-ID1 (Council resolution 5 Dec 2012)

<sup>82</sup> Docs CP-Tab 1, Appx 5; Cp-Tab 4, Appx 2; and CP-ID5 (developers' letters)

<sup>83</sup> Doc. CP-CD1.1 (Cabinet report 17 Oct 2012)

<sup>84</sup> Miss Raffaelli's main proof (Doc. CP-Tab 1), paras 4.19 – 4.36

sites at Brickfields, London Road, Castle View School, and Felstead Road/Catherine Road are all at least partly PDL, and three of these are also partly wooded. None are open, agricultural fields like the appeal site.

92. The Council has chosen these as the least damaging options in terms of the harm to the GB, reflecting local residents' views, including those expressed in the responses to the new LP Issues and Options consultation<sup>85</sup>.

#### Treatment of caravan parks in the 5-year supply

93. With regard to the Kings Park site, prior to 2004, this was primarily a holiday caravan site. Year-round occupation was prevented by planning conditions<sup>86</sup>. In March 2004, a Certificate of Lawful Use (CLU) was granted which allowed the units to be occupied all year round. Subsequently a large number of the older caravans have been replaced by modern static caravans or 'park homes'. These are of a standard suitable for permanent occupation, and have become used as permanent dwellings. They have been assessed as being liable for Council Tax, and the more recent ones have qualified for the New Homes Bonus. In all, around 500 new permanent dwellings have been created in this way since 2004<sup>87</sup>, and these have been included in the Council's calculations as part of the existing dwelling completions.
94. However, even if these completions were deducted, the 5-year requirement of 1,200 dwellings would not change, because the additional 20% for historic under-delivery has already been factored in; and, for the reasons given above, the Council does not agree that any further catch-up allowance should be added.
95. In the future, the Council understands that the owners of the Kings Park site intend to provide a further 78 new park homes on the site, over and above those already counted as completions. No further planning permission is required for these because installing a mobile home is not operational development. These 78 future units have been treated as part of the deliverable supply within the 5-year period, and are included in the revised table within the 'other sites' category.
96. Similarly at Thorney Bay Caravan Site, some of the existing caravans have become used as permanent dwellings over the last decade, and 415 of these have been assessed as liable for Council Tax as a result. This change has mostly occurred since 2001, and the Council could have counted these as additional dwelling completions. But the difference compared to Kings Park is that at Thorney Bay the standard of the caravans has not been upgraded, and they are not seen by the Council as adequate for permanent occupation. These have therefore been excluded from the completion figures.
97. The Thorney Bay site is now proposed to be redeveloped for permanent housing, with a capacity of 600 dwellings, of which 300 are seen as deliverable within the

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<sup>85</sup> Doc. CP-CD3 (LP consultation report).

<sup>86</sup> Doc. CP-ID6 (note and background information on caravan sites).

<sup>87</sup> Inspector's note: In Miss Raffaelli's original evidence this figure, for new 'park homes' at Kings Park, was said to be 494 units (Doc CP-Tab 1, para 4.39); in her additional information tabled during the inquiry, based on Census records, this was revised to 481 units (Doc. CP-ID6, p3). Mr Twigg asserts that the figure is 504; this latter figure was not disputed at the inquiry.

first 5 years. These first 300 proposed dwellings are included in the 5-year supply table amongst the 'other sites'. No deduction is required for the caravans which will be removed, because they were never counted as completions.

### **Affordable housing**

98. The Council has no objection to the amount of affordable housing proposed, at 35% of the proposed units, and is happy with the undertaking in that respect. However, the Council's concern is whether 35% affordable housing is realistic in the current economic climate. The appellants have argued that their affordable housing proposals are an important benefit of the scheme. But that benefit is negated if it cannot be delivered.
99. The 35% figure arises out of a policy requirement in the EEP policy, but that policy pre-dated the financial crisis of October 2008, and economic conditions have changed since then. Over the last few years, developers on other sites in the Borough have consistently sought to reduce their affordable housing percentage, for reasons of viability. The Council has often had to accept this argument. With the revocation of the EEP, there is no longer a policy basis for insisting on a particular figure across the board. Policy H7 of the LP leaves the percentage to be negotiated on a site-by-site basis. The Council is therefore not in a strong position in such negotiations, especially where renegotiation is sought by the developer after permission has been granted.
100. On most other sites in the Borough, the going rate for affordable housing is now around 20%, unless grant money is available. No grant is available here. The appeal site is in an area where house prices and values are below the Borough average<sup>88</sup>, and the site therefore seems unlikely to be able to support a higher level of affordable housing than other sites. The Council's Affordable Housing Viability report<sup>89</sup> suggests that, with provision at 35%, development on some sites will not be worthwhile for the landowner. The appellants have not provided any financial information to enable the Council to make any assessment, specific to this development. Little weight should therefore be attributed to the percentage of affordable housing proposed.
101. In any event, the provision of affordable housing on the appeal site cannot be a very special circumstance, because similar provision would be required on any other site.

### **Other matters**

102. The Council accepts that the proposed development would have some beneficial effects on the local economy, but these would be fairly small-scale, and mostly temporary in nature. None of these benefits is unique to the appeal site. The same applies with the New Homes Bonus. These considerations do not amount to very special circumstances, and do not outweigh the harm to the GB.

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<sup>88</sup> Doc. FLP/CD21 (SHLAA Update 2011, Appx B – 'Heat Map' of relative house prices)

<sup>89</sup> Doc. CP-CD2 (Affordable Housing Development Viability Study)

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## THE CASE FOR THE APPELLANTS

### Green Belt

#### Status of the Green Belt in Castle Point

103. Green Belts are created by policy and can only exist as long as the relevant policy remains in force. With the expiry of LP Policy GB1 in 2007, there is now no development plan policy in Castle Point that establishes the existence of a GB. Neither the Proposals Map nor the supporting text are saved<sup>90</sup>. The GBs that were provided for by the previous development plans and structure plans ceased to exist when those plans were superseded or expired. Without any policy basis, the GB cannot exist.
104. Policy SS7 of the EEP makes reference to Green Belts in the region, but makes no mention of any GB in Castle Point. In any event, that plan is now about to be revoked.
105. In the Yorkshire and Humberside Region, the Government's SEA prior to revocation of the RS found that full revocation would remove the statutory basis for the GB around York<sup>91</sup>. The situation here is analogous, albeit that the plan in question was the LP rather than the RS.
106. It is notable that no development plan policy is identified in RR1, effectively confirming that there is no development plan basis for that refusal reason.
107. It is accepted that neither the Council nor the SoS at any stage intended to abolish the GB in Castle Point, but that is irrelevant. The application of policy must be based on the relevant legal framework, not on subjective assumptions. Unwittingly or otherwise, the GB policy for the District has disappeared.

#### Effects on the Green Belt

108. The proposed development would not cause any significant sprawl or encroachment into open countryside, because the site is an enclosed parcel of land, between the built up area and the A130. The latter is now the most dominant built feature in the area, with several carriageways, slip roads, bridges, underpasses, embankments and lighting, all of which together are far more extensive than the site itself<sup>92</sup>. Consequently the appeal site has no physical or visual connection with the open countryside beyond, and appears more closely related to the urban area.
109. The development would not lead to any coalescence between settlements, because the Green Belt continues to the west of the A130<sup>93</sup>, and the main tract of countryside separating Thundersley from North Benfleet and Bowers Gifford lies in that direction. The road is a strong containing feature, and is the Borough boundary. It is very unlikely that development would ever spread beyond it from Castle Point. There is no evidence of any threat to that area from the Basildon side.

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<sup>90</sup> Doc. FLP/CD7 (Saving Direction)

<sup>91</sup> Doc. FLP-ID7, paragraph 17 (Mr Goatley's closing submissions)

<sup>92</sup> Docs GEN-ID6 and GEN-ID7 (Sadlers Farm highway works plans)

<sup>93</sup> Doc. FLP/1/A2, Appx 35 (Basildon District Plan – proposals map)

110. Development on the appeal site would also cause little harm to the GB's character or appearance, because the site has no visual quality, no distinctive features, and makes no significant contribution to the landscape. Its character is that of urban fringe land. In its existing use, the site does nothing to soften the harsh urban edge which is seen beyond it. There is no public access to the land itself, and it is not seen in any views from beyond the A130.
111. These views are supported by the Officer's assessment contained in the September 2011 Briefing Paper<sup>94</sup>, which agreed that the GB boundary could be realigned to follow the A130 without impacting on any GB functions, and that the road would provide a more robust boundary.

#### Very Special Circumstances

112. If very special circumstances are needed, then the following should be taken into account: the lack of a 5-year housing land supply; the urgent need for affordable housing; the severe constraints on development in Castle Point, and consequent need to release GB sites; the delay to the development plan process due to the abandonment of the emerging CS; the appeal site's suitability for housing; the lack of any more suitable alternatives; the benefits to the local economy; and the ecological benefits.

#### **Wildlife, ecology and biodiversity**

##### Local Wildlife Site status

113. It is acknowledged by the Council that Compartment A no longer meets the criteria for LWS designation. The Council's witness Mr Harvey has confirmed that he will recommend that EWT deletes it from the Register<sup>95</sup>. In the meantime, whilst the LWS remains on the Register, the designation can carry no weight now that there is no justification for it.
114. In any event, registration as an LWS by the EWT is not a statutory designation and nor is it part of the development plan process. The land owner had no opportunity to challenge the designation through any formal process of consultation, objection or independent examination. The designation carries less weight because of this.
115. The 2007 survey was not carried out in accordance with any recognised procedures. Even with binoculars, the site could not have been surveyed adequately in this way, from a single point outside the boundary. Effectively, the designation rests on the previous survey, carried out in 2002. That is more than 10 years ago. This further undermines the credibility of the designation process.

##### The site's present ecological value

116. Compartment A is now a cultivated field with no particular ecological value, except in the margins around its boundary hedgerows and ditches. There is no evidence of any kind that reptiles are present within the cultivated area, and no reason to think their presence there is likely. The cultivated areas and semi-improved grassland do not provide a good habitat for reptiles<sup>96</sup>.

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<sup>94</sup> Doc. FLP/CD41 (Briefing Paper, Sept 2011 – Appx 1, page numbered 'CD41 page 36')

<sup>95</sup> Agreed by Mr Harvey in cross-examination

<sup>96</sup> Miss Hollins' proof, paragraph 3.13 (Doc. FLP/5/P)



117. Although the FPCR reptile survey<sup>97</sup> in 2010 found evidence of Common Lizard, Slowworm and Adder, Mr Harvey agreed that the extent of the evidence available was not enough to justify the designation of any part of the site as a LWS now, and he had no intention of making any such recommendation.
118. Whilst reptiles had been found in all three of the site's field compartments, they were confined to the hedgerow margins. The submitted plans show how almost all of these areas can be retained and enhanced.
119. Although the three species in question are protected, in the appellants' view they are not particularly rare<sup>98</sup>.

#### Works carried out on the land

120. The scrub clearance, ploughing and cultivation of Compartment A during the last three or four years were bona fide agricultural operations, carried out for the purpose of producing a hay crop. The other field compartments within the site were already being used for that purpose.
121. No trees were removed during those works, except where self-seeded whips were growing within the field itself rather than in the hedgerows. This was part of the scrub encroachment noted in the LWS citation<sup>99</sup>; the Council did not dispute that this needed to be controlled.
122. Disc cultivation was used in order to rid the site of ragwort infestation. Ragwort is toxic to livestock, so cannot be allowed to grow amongst a hay crop. The need to take action against it is recognised in the Weeds Act. The Code of Practice is not mandatory. In any event, the treatment adopted in this case has proved effective.
123. There is no evidence that any animals were present, or were likely to be present, in any area where the ploughing, disc cultivation and other works were carried out. That being so, there is no basis for suggesting that the works were unlawful or were in breach of any statutory requirement. And in any event, there is no suggestion that any action could now be taken to force the owner to return Compartment A to its former condition. The condition of the land prior to 2008. is therefore not relevant to the present appeal.

#### Potential for regeneration of habitat

124. To restore the habitat value of Compartment A to that which it had prior to 2008, would require a change of management, effectively allowing the land to return to nature. This would negate the productive value that it now has. There is no commercial incentive for the owner, and no legal obligation, to take that course of action. There is therefore no reason to expect the land to be returned to the condition that justified its designation as a LWS. The site's theoretical potential is therefore irrelevant. Its ecological value should be assessed on the basis of what exists now.

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<sup>97</sup> Doc. FLP/CD1.8 - Appendix B (Reptile Survey)

<sup>98</sup> Doc. FLP/5/A, Appx 2 (Ecological Report – paragraph 4.33)

<sup>99</sup> Doc. CP-Tab 3, Appx 1 (LWS citation, 2007)

125. Even if the cultivated field in Compartment A were to return to its former state, the most valuable part of that area from a wildlife point of view would still always be the margins<sup>100</sup>.
126. There is no policy basis for the Council's approach, based on potential rather than actual ecological value. Neither is there any precedent. No other potential housing sites in Castle Point had been treated in the same way. The Council's witness accepted that it is not uncommon for sites to change their ecological status over the course of time, and to be de-designated as a result<sup>101</sup>.

#### The development's effects on wildlife

127. The development would be able to provide around 2.65 ha of green space and habitat, including the wet balancing areas, as shown on the submitted plans. The 1.74 ha of accessible natural green space sought by Natural England could be incorporated within this. Overall, this amount would be proportionate to the development, and would greatly exceed the area of useable habitat that exists now. Within these areas it would be possible to retain and enhance almost all the existing trees, hedges and other features of any habitat value. Overall therefore, there would be a substantial net gain in biodiversity compared to the existing situation.
128. The western boundary area would have an average width of around 20m, but in the northern part of the site, this would increase to around 60m. This area would also be contiguous with the highway landscaping, which would add a further 10-15m in width throughout. Overall, this would amount to a very substantial corridor of planting and wildlife habitat, linking at its northern end with the existing woodland at Glenwood School.
129. This area is already affected by the highway lighting on the A130, and any lighting that might be provided within this part of the development would be unlikely to make this any worse.
130. Although the green areas would also need to provide for public access, that would accord with the multi-use principle advocated by Natural England, in 'Nature Nearby'<sup>102</sup>, which encourages the combination of biodiversity with informal open space.
131. The management of the proposed habitat areas could be controlled through the approval of a management scheme, in accordance with the submitted undertaking and suggested planning condition. Such a scheme could achieve significant net gains over the existing situation. Similar gains are unlikely to be achieved by any other means than allied to some form of development.

#### Relationship to policies on biodiversity

132. The proposed scheme could contribute to the aims of paragraphs 9 and 109 of the NPPF, by securing a net biodiversity gain, and by establishing a coherent ecological network at the site that would be resilient to current and future pressures.

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<sup>100</sup> Miss Hollins' evidence in cross-examination

<sup>101</sup> Accepted by Mr Harvey in cross-examination

<sup>102</sup> Miss Hollins' proof, paragraph 5.10 (Doc. FLP/5/A)

133. Paragraph 118 only relates to situations where the harm would be significant. Here, the appeal site has little habitat value for wildlife, and thus any harm would not be significant.
134. LP Policy EC13 is inconsistent with the NPPF, in that it seeks to protect “all wildlife”, without regard to whether the site is important. But in any event, the proposed scheme would not be prejudicial to wildlife interests, or to the retention of important habitats, and therefore would not conflict with the policy.

## **Housing land supply**

### 5-year requirement figure

#### *Basis for the requirement figure*

135. Until the EEP was revoked, it provided a firm policy basis for housing provision through to 2021. The housing provisions within it were based on evidence and were tested through an Examination in Public (EiP) in 2005/06. The Panel considered that the final requirements of Policy H1 were robust and achievable<sup>103</sup>. In the appellants' view, no other credible source currently exists for determining housing requirements in Castle Point. The draft CS was effectively found to be unsound. The Council's proposed new LP has not yet reached the stage where it can carry any weight. In the circumstances, the revoked EEP figures are the best guide available.

#### *Backlog from previous period*

136. For Castle Point, the EEP requirement for the period 2001-21 was 4,000 dwellings. The Council claims to have delivered 1,623 of these dwellings up to April 2012<sup>104</sup>. That leaves a shortfall of at least 577 dwellings up to that date. This represents a backlog of unmet needs. Those needs cannot be assumed to have gone away. The backlog should therefore be carried forward and reflected in the future requirement. This was accepted by the planning officer who appeared on behalf of the Council at the CS examination<sup>105</sup>. The same principle was endorsed recently by the Inspector holding the Bath & NE Somerset CS Examination<sup>106</sup>.
137. In the appellants' view, the 20% buffer for past under-delivery is not a substitute for catching up with the backlog, but is required as well. This is because the buffer does not add to the total requirement for the plan period, but is simply a bringing forward of capacity from later years, to ensure flexibility.
138. If the shortfall were spread over the whole of the remaining period to 2021 (the residual method), there would be 2,377 dwellings to be delivered in 9 years, at a rate of 264.1 per year. For the first 5-years, the requirement would be 1,321. Adding the 20% buffer gives a minimum target of 1,585 dwellings<sup>107</sup>.

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<sup>103</sup> Doc. FLP/CD45, para 7.31 (EEP Panel Report)

<sup>104</sup> Inspector's note: Completions up to April 2010 are set out in the October 2010 version of the CS (Doc. FLP/CD11), at Table 21, p 133. In Mr Twigg's proof (Doc FLP/1/P) Table 1, p61, extends this sequence up to 2012; the source of the information for the two most recent years is not stated, but these figures were accepted by Miss Raffaelli.

<sup>105</sup> Accepted by Miss Raffaelli in cross-examination.

<sup>106</sup> Doc. FLP/ID4 (Bath & NE Somerset LP – Inspector's preliminary conclusions).

<sup>107</sup> Mr Twigg's proof, para 8.4.8 (Doc. FLP/1/P).

139. However, in the appellants' view the residual method does not fully reflect the urgency of the need to catch up with the backlog. Their preference would be to adopt the so-called 'Sedgefield' method, in which the catching-up is required to be completed in the first five years. This approach has been accepted in recent appeal decisions at Honeybourne (in Wychavon DC)<sup>108</sup> and Shottery (Stratford-on-Avon DC)<sup>109</sup>. The second of these was a SoS decision. Adopting the Sedgefield method, the requirement over 5 years would be 1,577, and with the extra 20%, that makes 1,892 dwellings<sup>110</sup>.

*Static caravans at Kings Park treated as completions*

140. In addition, the appellants argue that the Council's figure understate the size of the shortfall in the period 2001-12, because of the inclusion of up to 504<sup>111</sup> static caravans at Kings Park. These should not be counted as new dwelling completions. The purpose of the 5-year supply requirement is to promote the provision of high-quality new housing, not caravans. In any event, the new units at Kings Park have merely replaced structures which were already there. A comparison of the aerial photos from 1999 and 2010<sup>112</sup> shows that the number of units has not increased by anything like 500.

141. In so far as the CLU<sup>113</sup> is concerned, this was granted in 2004, and any change of use must have occurred 10 years before that date, and must therefore have been before the start of the relevant period. And anyway, the CLU appears to have applied only to part of the site. On most of the site, the planning conditions that restricted year-round occupancy were removed long before this, by the permission granted in 1989<sup>114</sup>. The census shows that 320 households were registered as having their main home at the site in the 2001 Census. However, neither Census nor Council Tax records are conclusive in proving whether or when any new dwellings were created.

142. The Council's treatment of Kings Park is also inconsistent with Thorney Bay, where at least 415 caravans are apparently used as permanent dwellings, an increase of 394 since 2001, but these have not been counted amongst the dwelling completions.

143. The 504 new static caravans at Kings Park should therefore not be counted as dwelling completions since 2001. This reduces the completions during the period 2001-12 to only 1,119 dwellings, against the EEP requirement of 2,200. The backlog is therefore 1,081 dwellings rather than 577. Adding this to the calculations above, and adjusting for the 20% buffer, the 5-year requirement

<sup>108</sup> Doc. FLP/1/A1, Appx 2 (Honeybourne appeal)

<sup>109</sup> Doc. FLP/1/A1, Appx 9 (Shottery appeal)

<sup>110</sup> Inspector's note: In Mr Twigg's proof (Doc FLP/1/P) at para 8.4.12, this appears as 1,777; but in Mr Twigg's revised Land Supply Table (FLP/ID5) this is corrected to 1,892 dwellings. It was explained at the inquiry that the error in the original figure was due to applying the 20% buffer only to the basic requirement of 5 x 200 per annum, and not to the backlog.

<sup>111</sup> Mr Twigg's figure – see Footnote 87 above (re Kings Park numbers)

<sup>112</sup> Doc. FLP/ID2 (Kings Park aerial photos); Inspector's note: see also Doc. FLP/6/P, Appx 7 (undated photo)

<sup>113</sup> Doc. FLP/1/A2, Appx 18 (Kings Park CLU)

<sup>114</sup> Planning permission CPT/1322/88 (Contained within the Council's supplementary bundle on Kings Park, at CP-ID6).

becomes 1,920 dwellings under the residual method; or 2,497 dwellings, using the Sedgfield approach<sup>115</sup>.

#### *Effect of the base date*

144. The calculations should be based on a single fixed date. In the Council's final table<sup>116</sup>, the base date is stated to be 1 April 2012. The Council acknowledges that the supply on 1 April did not meet the 5-year requirement on any basis.
145. However, in the Council's table, the supply side takes into account changes up to 31 October 2012. If this later information is to be taken into account, the requirement figure needs to be adjusted too, to reflect a further 7 months' worth of accumulated housing needs. Based on 200 dwellings per annum, plus a share of the backlog, this amounts to a further 220 units to be added to the requirement side<sup>117</sup>.
146. In the appellants' view, this is a basic error in methodology which shows that the Council has either failed to comprehend the scale of the shortfall, or has deliberately sought to conceal it.

#### *Demographic factors*

147. Before the new LP can be adopted, the Council's proposal to continue with 200 dwellings a year will have to be tested. Although that figure was accepted in the EEP, the demographic forecasts used in that plan dated from 2003. The examining Panel had some reservations as to whether the housing provisions would be adequate to meet demographic pressures in the medium to longer term<sup>118</sup>. Subsequent events have shown that the 2003-based data significantly under-estimated population growth in the region<sup>119</sup>.
148. Going forward, the most recent projections, including those prepared for the Essex authorities<sup>120</sup>, suggest a need for a housing provision somewhere in the range of 300 - 350 dwellings per year<sup>121</sup>. The Council itself acknowledges that its own proposals for 200 a year will not accommodate the full extent of the need or demand based on these projections. The 200 per year figure seeks to limit housing growth to that which is locally generated, without any inward migration. But the pressure for migration within the region will remain, and the Council is now under a duty to cooperate with neighbouring authorities. The LP will have to be shown to meet objectively-assessed needs, and migration cannot be excluded from that assessment.
149. Ultimately, it is unlikely that a requirement figure as low as 200 dwellings per year can be justified. The effects of increasing the requirement to 300 pa would

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<sup>115</sup> Inspector's note: In Mr Twigg's proof (Doc FLP/1/P) at paras 8.4.23 – 24, this appears as 2,281; but in Mr Twigg's revised Land Supply Table (FLP/ID5) this is corrected to 2,497 dwellings. The reason for the difference is the same as that given at Footnote 107 above.

<sup>116</sup> Doc. CP-ID2 (Council's revised 5-year supply table)

<sup>117</sup> Margin note on the Appellants' revised Land Supply table, Doc FLP/ID5.

<sup>118</sup> Doc. FLP/CD45, para 7.32 (EEP Panel Report)

<sup>119</sup> Mr Nichol's proof, paras 3.3 -3.4 (Doc FLP/2/P)

<sup>120</sup> Docs FLP/CD23 and 44 (Greater Essex Demographic Forecasts, March 2012/June 2012).

<sup>121</sup> Mr Nichol's proof, para 6.23 (Doc FLP/2/P)

be to increase the 5-year requirement to somewhere between 2,581 to 3,097 dwellings, as shown in the appellants' revised version of the Council's table<sup>122</sup>.

#### Sites included in the Council's claimed land supply

##### *Sites without planning permission*

150. The appellants contend that Footnote 11 to paragraph 47 of the NPPF makes it clear that sites without permission should not be included. In their view, this approach has been endorsed in a number of recent appeal decisions<sup>123</sup>.

151. In the Council's revised land supply table, the great majority of the claimed supply falls under the headings 'Awaiting S 106' or 'Other Sites'. None of these sites have planning permission. Together these categories account for 1,117 out of the 1,285 dwellings for which land is claimed to be available. This reduces the claimed supply to no more than 168 units.

##### *Lead times and build rates*

152. Even if all of the sites claimed by the Council were accepted as being available, it would still be necessary to make realistic assumptions about lead times and building rates. The appellants advocate adopting the assumptions used by Cheshire East Council, together with a maximum build rate on any single site of 25 units in the first year and 50 per year thereafter<sup>124</sup>. The Council has made unrealistic assumptions about some sites, which over-state the likely dwelling yield within the 5-year period.

##### *Green Belt sites*

153. Four of the sites which are included in the Council's 5-year supply are in the Green Belt: 396-408 London Road, Felstead Road/Catherine Road, Brickfields, and Castle View School. These are relied on for a total of 273 dwellings. None of these sites has planning permission, and none is allocated for development in an adopted or emerging development plan. There are no grounds for including such sites in a 5-year supply calculation.

##### *Thorney Bay*

154. At Thorney Bay Caravan Site, the Council envisages 300 dwellings within the 5-year period, out of an overall scheme for 600 units on the site. However, the scheme does not yet have planning permission, and the Committee resolution requires further work on a number of issues<sup>125</sup>. One of these is flood risk; given that the site is in a Zone 3 flood risk area, this is potentially a substantial issue. Another significant outstanding matter is highways. There is a need for a new second point of access, and this may give rise to a conflict with the highway authority's Roscommon Way Phase 2 road scheme<sup>126</sup>. According to the Minutes, the completion of that scheme is seen as essential to any development in the area. Other matters still to be resolved include affordable housing and developer

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<sup>122</sup> Doc. FLP/ID5 (Appellants' revised land supply table)

<sup>123</sup> Docs FLP/1/A2 – Appxs 19, 20 and 21 (appeal decisions at Wincanton, Chapel-en-le-Frith, and Thurnby)

<sup>124</sup> Mr Twigg's proof (Doc FLP/1/P), paras 8.3.2 - 3 and table on p 59.

<sup>125</sup> Doc. CP-Tab 1, Appx 4 (Thorney Bay – committee minutes, 4 Sept 2012)

<sup>126</sup> Doc. FLP/1/A2/27 (officers' report on Thorney Bay)

- contributions. All together, these issues seem likely to take some considerable time. As recently as June 2012, the SHLAA report<sup>127</sup> estimated 5-10 years.
155. In addition, the development would require at least 792 of the 1,092 existing caravans to be vacated. It is unlikely that any development could start until there is vacant possession. The Council admit that at least 415 of the caravans are already used as dwellings rather than holiday lettings<sup>128</sup>. But that number could be higher; previously, officers have said that the majority were used as residential accommodation<sup>129</sup>. Many of the occupiers are there because they cannot afford any other form of accommodation<sup>130</sup>. The problems of re-housing these existing occupiers will take a good deal of time to resolve.
156. Even if all these matters could be sorted out within two years, which the appellants see as unlikely, the maximum dwelling yield within the 5-year period, based on the appellants' suggested building rates, would only be around 125 units. This is well below the Council's estimate of 300. However, the letter from the land owners' agent<sup>131</sup> suggests that it may take more like 4 years to start any development. On that basis, the figure should be even lower. The appellants' estimate is therefore not in any way unduly pessimistic.
157. Development will only take place if it is financially viable. Canvey Island is known to be an area where the market for new housing is poor, and the viability of many sites is marginal<sup>132</sup>. At Thorney Bay, the surroundings are poor, due to the nearby sewage works, hazardous oil and gas sites, and the sea defence wall<sup>133</sup>. This may limit the marketability of new houses. Whereas, the existing use is apparently profitable. The advertised rents start from £125 per week for residential use, and more for holiday lettings. On this basis, the site could produce an annual income running to well over £7m. Some of the units are owner-occupied, and in these cases there are likely to be issues regarding compensation. The site was safeguarded for long term housing development in the 1998 LP but was never taken up. There is no sign of a developer being involved in the scheme. Overall therefore, there is no certainty that redevelopment will be viable, especially at present.
158. In any event, to be consistent with the way the Council have treated Kings Park, the loss of existing residential caravans should be treated as demolitions. Even if only 415 are counted as existing dwellings, the appellants' estimate of 125 new completions would still mean a net loss of 290 dwellings in the 5-year period, rather than any gain. And the loss could be greater than this, depending on the true number that are currently used as dwellings.

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<sup>127</sup> Doc. FLP/CD28.2, p5 (SHLAA, 2012)

<sup>128</sup> Miss Raffaelli's proof (Doc CP-Tab 1), para 4.40.

<sup>129</sup> Docs FLP/1/A2/27 – p.14 (officers' report on Thorney Bay application – 4 Sept 2012); and FLP/6/P, Appx 8 (consultation memo from Miss Raffaelli, 20 August 2012)

<sup>130</sup> Doc. CP-CD18, p 51 (LP Sustainability and SEA Scoping report); and Doc. FLP/CD18, p.13 (LP issues and options)

<sup>131</sup> CP-Tab 4, Appx 2.2 (letter from Ian Butterworth)

<sup>132</sup> Doc. FLP/CD21 (SHLAA Oct 2011, Appx B, P 11); and Doc. FLP/CD28.1 (SHLAA Update May 2012, p 20)

<sup>133</sup> Seen in Docs FLP/6/P, Appx 9 and CP-ID7 (Thorney Bay aerial photos)

*Kings Park – the additional 78 units*

159. The Council's supply figures include a further 78 'park homes' which are supposedly still to be provided at Kings Park. But there is no evidence that these are planned at all. There is no planning permission, other than those granted for the use of the site as a holiday park, many years ago. The most recent aerial photographs<sup>134</sup> do not appear to show any space within the site for any extra units, and the Council do not know where they would be located. There will be no way of knowing when they have been installed, and no way of checking. These 78 supposed new dwellings should therefore not be included in the supply figures.

*Other disputed sites*

160. The site at Felstead Road and Catherine Road is relied on by the Council for 160 dwellings. However, as well as being in the GB, this is an area of inter-war plotland development, and is made up of a multitude of small parcels in separate ownerships, including numerous residential occupiers. Assembling a workable site will be a tortuous exercise. Although a developer claims to have options on part of the land, there is no evidence as to how much of the site is included. No application or proposals have been submitted. Any scheme will also have to deal with complex issues in relation to trees, ecology and visual impact, amongst others<sup>135</sup>. There is therefore no certainty of the outcome, irrespective of the GB issue. In view of all the issues and potential problems, it seems unlikely that the site will make any contribution within the 5-year period. The 2012 SHLAA report<sup>136</sup> considered this site to be developable only in 5-10 years rather than less.

161. The Council expects the Brickfields and London Road sites to produce a total of 63 units. But both of these sites have had recent refusals of planning permission<sup>137</sup>. Although these refusals were partly on GB grounds, there were other reasons too, and it cannot be assumed that all of these can be overcome. In the Brickfields case, one reason was the isolated location. That will not change in any future application. Both of these sites also have previous appeal decisions against them<sup>138</sup>.

162. The Point Road industrial estate is relied on for 97 dwellings. However, the site was allocated for housing in the 1998 LP. The allocation has not been taken up in the last 15 years, and this suggests either that the owners are in no hurry to develop, or there are serious technical problems, or both. The existing uses need to be relocated, and this will take time and reduce the scheme's viability<sup>139</sup>. The site is in a Zone 3 flood risk area, and is subject to the viability constraints identified in relation to Canvey Island. Although the site now benefits from a resolution to grant permission, the resolution also seeks a legal obligation in

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<sup>134</sup> FLP/6/P, Appx 7 and FLP-ID5 (Kings Park aerial photos)

<sup>135</sup> See Mr Rech's Appendix 3, Fig. 1 (Doc. FLP/4/P) – aerial photo of Felstead Road site

<sup>136</sup> Doc. FLP/CD28.2, p1 (SHLAA, 2012)

<sup>137</sup> Doc FLP/6/P Appxs 2 and 4 (Brickfields and London Road officer reports)

<sup>138</sup> The London Road appeal decision is at Doc. FLP/6/P Appx 5; details of the Brickfields appeal are given at p 71 of the officers' report (FLP/6/P Appx 2)

<sup>139</sup> Doc. FLP/1/A2 Appx 25 (Point Road officers' report, 3 October 2012)



respect of contributions totalling in excess of £400,000<sup>140</sup>. There is no certainty that the development will be able to stand these additional costs. Overall therefore, there are grounds for serious doubts as to whether the development can be expected to go ahead within the next 5 years. The 2012 SHLAA<sup>141</sup> put the site in the 10-15 year category.

163. The Kiln Road and Scrub Lane sites account for 186 units in the Council's calculations. Both of these sites were safeguarded by the LP for long-term development. Since 2001, when the LP period expired, these sites have potentially been available for development, without apparently attracting any interest until recently. In the case of Scrub Lane, that remains the position now, and there is nothing to suggest that anything will change in the next 5 years. Although Kiln Road now has a resolution to grant permission<sup>142</sup>, it is several months since July 2012 when that resolution was passed, and there does not yet appear to be a Section 106 agreement. There is therefore still some uncertainty about whether permission will eventually be granted on the terms sought by the Council. If not, then there is no certainty that the scheme will proceed at all.
164. The three sites referred to by the Council as Hadleigh Town Centre, accounting for 120 units in total, have existing buildings and land uses, and relocation sites may be needed. There is no evidence that redevelopment will be viable. No proposals have yet been brought forward. The 2012 SHLAA<sup>143</sup> sees these as developable only in 5-10 years. The Castle View School site is in the GB and in a flood risk zone 3 area, and any disposal needs consent from the SoS for Education.
165. Most of the remaining sites in the Council's 'other sites' supply are only one or two units each. In most of these cases, there has not yet been any planning application or other expression of any actual interest in development.

#### Appellants' conclusions on land supply

##### *Number of years' supply available*

166. The appellants' final position, taking account of the evidence given during the inquiry, is shown in their revised Table<sup>144</sup>.
167. When the backlog of under-provision prior to 2012 is taken into account, the absolute minimum 5-year requirement is 1,892 units. On that basis, even on the Council's supply figure of 1,285, the maximum supply is only 3.4 years. From the Council's point of view, that is the best case figure that can be argued for. Once the requirement is adjusted to exclude the 504 bogus completions at Kings Park, the supply on the same basis drops to 2.6 years.
168. Neither of these figures represents what the appellants believe to be the true position, because they still allow for making up the historic shortfall over nine years rather than five; and because they take no account of the strong demographic case for increasing the basic requirement to around 300 units a

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<sup>140</sup> Doc. CP-Tab1, Appx 3 (Point Road – committee minutes)

<sup>141</sup> Doc. FLP/CD28.2, p4 (SHLAA, 2012)

<sup>142</sup> Doc. CP-Tab1, Appx 2 (Kiln Road – committee minutes)

<sup>143</sup> Doc. FLP/CD 28.2, p 12 (SHLAA, 2012)

<sup>144</sup> Doc. FLP-ID5 (Appellants' revised 5-year supply table)

year. Nevertheless, they show clearly that, even on the most favourable basis from the Council's point of view, the land supply is well short of 5 years.

169. Furthermore, the above calculations are based on accepting every site, and every unit, in the Council's claimed supply. In reality the Council's supply figures include numerous sites which should not be there, and make over-optimistic assumptions about the numbers of units that can be achieved within 5 years. When all the sites without planning permission are excluded, the supply drops to a maximum of 168 units. If those which are waiting only for S.106 agreements are added back in, that actually worsens the overall position, because the development at Thorney Bay will produce a substantial net loss of dwellings. Depending on the other variables discussed above, this reduces the supply to somewhere between 0.2 to 0.4 years.

#### *The need for Green Belt sites*

170. It is clear from the above that if an adequate land supply is to be achieved, it is inevitable that some GB sites must be released. That fact has been acknowledged by the Council for some time.

171. This was implicit in the safeguarding of land in the 1998 LP for development beyond the plan period, when that period only had two-and-a-half years left to run. It was also expressly acknowledged in both the 2009 and 2010 versions of the draft CS<sup>145</sup>, both of which sought to allocate GB sites for development, and in the respective Sustainability Appraisal reports<sup>146</sup>. These make it clear that the loss of GB is outweighed by the need to provide sufficient housing, and by the adverse consequences of failing to do so. The need to develop in the GB was not questioned by the Inspector in setting out the plan's other shortcomings<sup>147</sup>.

172. The briefing paper for the September 2011 members' conference<sup>148</sup> made clear that GB sites would be needed. Immediately after that conference, the officers' report to Cabinet, also in September 2011<sup>149</sup>, recommended the release of GB sites for 1,380 dwellings, including 550 for development within the first five years. Most recently, the report to the 17 October 2012 Cabinet<sup>150</sup> made the position clear once again that a sufficient housing land supply could not be provided without GB sites, and recommended the release of sites for 273 units in the GB. That recommendation was accepted by the Council. That remains the Council's position at this inquiry.

173. The need to develop on GB land in Castle Point is therefore not in doubt, and the question is about which sites rather than the principle of developing GB land.

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<sup>145</sup> Docs FLP/CD 9 and 11 (Draft CS, 2009 and 2010)

<sup>146</sup> Docs FLP/CD 12, paras 4.6 and 9.25 -9.26; and FLP/CD13, paras 4.5 and 9.28 (CS Sustainability Appraisals)

<sup>147</sup> Docs FLP/CD 34 and 36 (Inspector's correspondence and guidance re the CS)

<sup>148</sup> Doc. FLP/CD 41 (briefing paper for the September 2011 members' conference)

<sup>149</sup> Doc. CP-CD 6 (September 2011 Cabinet)

<sup>150</sup> Doc. CP-CD 1.1 (October 2012 Cabinet)

## Site suitability

### The appeal site

174. Thundersley is a substantial urban area with a good range of services and facilities, including schools, shops and public transport. Local schools have capacity. Although one local doctors' practice is said to be closed to new patients, there are others available within the area<sup>151</sup>. These facilities are within easy walking or cycling distance from the appeal site.
175. The site is well contained by development and roads. It would form a natural extension to the existing built up area.
176. The site is available now, and apart from the need for planning permission, there are no impediments to development.

### Assessments of the appeal site by the Council

#### *Flood Risk Sequential and Exception Test Reports, Sept 2009 and Sept 2010*

177. Sequential and Exception Tests were carried out by the Council in 2009 and 2010 to support the CS proposals<sup>152</sup>. The present appeal site (referred to as 'West of Glebelands') is not in a flood risk area, but was included as a comparator for the proposed allocation sites, which included other sites with a known flood risk.
178. The appeal site was scored 'red' for GB function and sustainability. However, in both of these criteria the effect on wildlife was a key factor. Since then, that assessment has been shown to be simplistic. In the appellants' view, the evidence for the present appeal has shown that the site's ecological value has changed, and that any residual effects on wildlife can be managed, and that the site's habitat value can be enhanced through development.
179. The issue of GB functions was looked at in more detail in the GB Functions Study (below).

#### *Green Belt Landscape Assessment report, Sept 2010*

180. In the GB Landscape Assessment<sup>153</sup>, the appeal site was included within an area spanning both north and south of the A13 (Area 10). This area is rated medium/high for overall sensitivity. However, the report makes it clear that this rating is mainly due to the land to the south of the A13, where the terrain is more undulating, more elevated and more visible, and where the impact of development would be more difficult to mitigate.
181. In terms of 'landscape' sensitivity, Area 10 is rated as only medium, which is the lowest category of any of the sites now under consideration for development. By way of comparison, the London Road, Brickfields and Felstead Road/Catherine Road sites are all in areas of high landscape sensitivity, and Castle View School is medium high.

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<sup>151</sup> Doc. FLP/CD41, p 36 (Briefing Paper for Members' conference, Sept 2011)

<sup>152</sup> Docs FLP/CD 14 and FLP/CD15 (Flood Risk Sequential Tests, 2009 and 2010)

<sup>153</sup> Doc. FLP/CD 19 (GB Landscape Assessment), pp49-52 and Figs 4.1, 4.2

182. In terms of 'visual' sensitivity, Area 10 is rated medium high. Again, this is lower than most of the present competitor sites, including London Road, Felstead Road/Catherine Road and Castle View School, which are all rated high.

*Green Belt Functions Assessment report, Sept 2010*

183. In the GB Functions Assessment<sup>154</sup>, the appeal site was considered to contribute to three of the GB's functions - the prevention of urban sprawl and encroachment on the countryside, and the merging of settlements. However, the first two of these were common to the whole of the GB in Castle Point, and therefore affected all of the sites equally.

184. The appeal site was not found to contribute to urban regeneration objectives, whereas this was identified as relevant to the London Road, Brickfields, and Felstead Road/Catherine Road sites.

185. In addition to the five GB functions defined by national policy, the report identified four additional local functions specific to Castle Point. These were the 'Daws Heath Ring', the 'central corridor', the 'lateral strip' between Canvey Island and the remainder of Castle Point, and the Canvey Island belt. The appeal site was found to contribute to none of these. Whereas, the London Road, Brickfields and Felstead Road/Catherine Road sites all formed part of the central corridor, and Castle View School was within both the lateral strip and the Canvey Island belt.

186. In any event, the appellants contend that the conclusions of this study need to be seen in the context of the September 2011 Briefing Paper, where officers came to a different conclusion regarding the appeal site's GB function (see below).

*GB Sites Sustainability Assessment report, August 2011*

187. In the GB Sites Sustainability Report<sup>155</sup>, the appeal site was identified as one of the sites with the best accessibility to local services. None of the other sites now under consideration was rated so highly on this criterion.

188. The appeal site was one of only a very few sites where landscape sensitivity was not a constraint on development. This was consistent with the earlier GB Landscape Report. The site was also one of those with the least impact on the built environment, being outside the archaeology consultation zone and having no potential effects on historic buildings or monuments.

189. The only criterion on which the appeal site was scored as 'red' was relating to biodiversity. However, as explained elsewhere, the appellants submit that this conclusion is out of date in the light of the evidence produced for the present inquiry.

190. Although the site was identified as having problems with regard to air quality, nevertheless it was rated only 'amber' on this criterion, indicating that this was not seen as a bar to development. The London Road and Kiln Road sites also had issues in this respect. In any event, this issue has not been raised in the present appeal.

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<sup>154</sup> Doc. FLP/CD 20 (GB Functions report), pp25-26

<sup>155</sup> Doc. FLP/CD 18A (GB Sites Sustainability Assessment), pp 21-34; and Appx 2, pp 29-31

*Members' Conference Briefing Paper, September 2011*

191. The September 2011 Briefing Paper<sup>156</sup> drew on the previous studies and summarised key issues for each of the potential Green Belt sites. In the case of the appeal site, the paper acknowledged the issues relating to separation from settlements to the west, but concluded that the GB boundary at the appeal site could be realigned to follow the A130 without any impact on GB functions, and that the A130 would provide a more robust boundary.
192. Issues relating to ecology, air quality and noise were recognised, but these were presented as matters for mitigation rather than as objections.

*Cabinet report, September 2011*

193. In the report to the Cabinet meeting in September 2011<sup>157</sup>, recommendations were made with regard to the various site options for the CS, in the light of the discussions at the Members' Conference. In the case of the appeal site, one of the conference groups had apparently supported the site. Another had seen it as 'developable but not preferable', without giving any reasons. The third group raised issues relating to highways, although these were not supported by the Highway Authority. No other reasons were given for rejecting the appeal site. In the appellants' view therefore, the decision was not based on any technical or other planning grounds.

*SHLAA Reports, October 2011 and May 2012*

194. The October 2011 SHLAA report<sup>158</sup> raised some issues including noise, pollution and access. However, the appellants contend that these contradict previous assessments, and in any event they can be overcome for the reasons already given.
195. In contrast, the May 2012 Update<sup>159</sup>, the site is assessed as being close to public transport and amenities, and residential development would be compatible with the surroundings. Noise and ecology are presented as issues that can be overcome. There is said to be a need to consider archaeology (although this contradicts the August 2011 Sustainability Report), but this again is seen as a matter that can be overcome. Nothing in this latest SHLAA suggests any obstacle or objection to development.

*Local Plan Sustainability Assessment and SEA, October 2012*

196. The Sustainability Assessment and SEA<sup>160</sup> carried out for the new LP included a further assessment of alternative sites against the LP objectives. The appeal site was scored red for effects on biodiversity. However, the reasons given for this are firstly because the site had already deteriorated, and secondly because the amount of replacement habitat proposed was insufficient. The appellants argue that for the purposes of the LP, these were not relevant considerations, and in any event, they are now addressed elsewhere in the evidence. Other issues

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<sup>156</sup> Doc. FLP/CD 41 (members' conference briefing paper, Sept 2011), esp. pp36-37

<sup>157</sup> Doc. CP-CD6 (Cabinet report, Sept 2011), p5

<sup>158</sup> Doc FLP/CD 21 (SHLAA report Oct 2011)

<sup>159</sup> Doc. FLP/CD 28.2 (SHLAA report May 2012)

<sup>160</sup> Doc. CP-CD 1.2 (LP Sustainability Assessment/SEA), pp47-49

assessed as amber or yellow are capable of being overcome, or else would apply equally to most other sites.

### Competing sites

#### *Flood risk*

197. The Strategic Flood Risk Assessment (SFRA) for Castle Point, November 2010<sup>161</sup>, reports that almost the whole of Canvey Island is at risk of tidal flooding, and is classified as a Zone 3a flood risk area. Some parts are also at risk from river or sewer flooding. The island is at or below mean high tide level. Severe flooding occurred on two occasions in the 1950s and 60s, causing loss of life. Since then, sea defences and barriers have been put in place, protecting the area to a level somewhere between the 200-year and 1,000-year flood levels. But with the rising sea level, due to climate change, the protection afforded by these existing defences is decreasing, and is likely to fall below current target levels within the lifetime of any new developments.
198. Consequently, although the risk is currently small, there is nevertheless a residual risk that during an extreme weather event the sea defences could be overtopped. Allowing for the predicted climate change effects up to the year 2110, a 1-in-200 year event would cause flooding across one third of the island, to a depth of up to 0.5m, and in a 1-in-1,000 year event the depth would be 3m - 5m. If this were to occur, flooding would be very rapid, with the island being inundated within 1-4 hours of a breach at any location. Evacuation to the mainland by road would be impossible once flooding had commenced.
199. The SFRA recommends that planning policies should take account of this residual risk, and that action be taken to prevent any worsening of the existing level of risk due to new development.
200. Over-reliance on sites subject to possible flood risk was identified by the Inspector as a significant concern in relation to the CS. The issue is acknowledged in the Scoping Report for the LP Sustainability Appraisal and SEA<sup>162</sup>.
201. The sites at Thorney Bay, Kings Park, Point Road and Castle View School are all located on Canvey Island, and are thus subject to potential flood risk. The appeal site is free from any such risk.

#### *Other issues relating to competing sites*

202. The Felstead Road/Catherine Road site (also referred to in some sources as Bowers Road), as well as being in the GB, is noted in the various assessments as a highly visible and sensitive site, where development would be likely to threaten the area's wooded rural character and wildlife. The site is seen as having relatively poor public transport and accessibility to local facilities. Highways and surface water issues are suggested. The multiplicity of ownerships may inhibit a comprehensive development.

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<sup>161</sup> Doc. FLP/CD24 (Strategic Flood Risk Assessment)

<sup>162</sup> Doc. CP-CD18, pp 36-42 (Scoping Report for LP Sustainability Appraisal/SEA)

203. The Brickfields site is seen as remote and isolated from local facilities and public transport. The GB Sustainability Assessment describes it as being poor in terms of community cohesion. Development would cause intrusion into the landscape, loss of rural character and impact on wildlife. The Briefing Paper suggests possible highways issues.
204. The London Road site is seen as especially important in GB terms because of its prominence and consequent role in separating the settlements. It also forms part of a landscape of high sensitivity. According to the Briefing Paper, there is a potential highways objection to creating a new access to the A13.
205. The Kiln Road site is described as part of a highly sensitive, partly wooded rural landscape. A large part of the site is covered by a LWS. Accessibility to local facilities and public transport are seen as poor.
206. Thorney Bay is described in the 2012 SHLAA as heavily constrained, due to flood risk, the HSE consultation zone, an adjoining LWS, and archaeological interest. Although the site forms part of the built up area, it is not close to local services and is poorly served by public transport.
207. The Point Road site is considered in the 2012 SHLAA to raise issues of possible contamination, and the loss of existing employment. The LP Sustainability Appraisal and SEA notes that the site adjoins the coastal marshes which is an area of sensitive landscape.
208. The Scrub Lane site is seen by the Sustainability Appraisal/SEA report as unlikely to deliver any affordable housing, as the proceeds are to be used for other purposes.

#### Appellants' conclusions on site suitability

209. Out of all the technical and other studies carried out by the Council, none shows any compelling reason why the appeal site should not be developed, or why it should not be amongst the preferred sites for development. The site is therefore a suitable and sustainable location for development.
210. Although there are some issues to be addressed, these are no worse than those on any of the other sites currently preferred by the Council. Indeed the issues on some of the Council's preferred sites are of far greater significance, especially those with flood risk issues. There is therefore no reason why the appeal site should be held back to give precedence to any other sites.

### **Affordable housing**

#### Affordable housing need

211. Castle Point has one of the lowest levels of affordable housing in the country, at only 3% of the existing housing stock. In 2010 there were 871 households on the housing waiting list. The Strategic Housing Market Assessment (SHMA)<sup>163</sup> estimates that out of 350 newly-forming households in the District each year, around 66% are unable to buy or rent at market prices, and will therefore add to the affordable housing need.

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<sup>163</sup> Doc. FLP/CD22 (SHMA, May 2010), Table 5.1, pp49-50

212. Over the period 2001-11, only 71 units of affordable housing were built, at an average of 7 dwellings a year. In the appellants' view, this is an exceptionally low number by any standards. The reasons are partly due to the under-delivery of new housing in the District generally, and also difficulties in recent years with viability and the lack of availability of grants. This level of new building is nowhere near enough to keep pace with the District's needs.
213. The SHMA calculates a need for around 311 additional affordable dwellings per year to keep pace with newly arising housing needs and to make up the backlog of needs resulting from past under-provision. This requirement exceeds the Council's planned annual rate of provision for all housing, by more than 150%. The gap between need and supply is therefore likely to widen.
214. The district therefore has an acute affordable housing shortage, and the situation is worsening. If the Thorney Bay site is redeveloped, the shortage will become even more acute, because many existing low-income households on the site will be displaced.
215. The effects of this shortage are seen in the appellants' analysis of lettings during 2011-12<sup>164</sup>, which shows that only those applicants in the most urgent need (Band A) have any real chance of succeeding. Applicants in Bands B, C and D have little chance, even though most of these meet the definition of housing need. Bands B and C include persons at risk of homelessness, or severely overcrowded.
216. In the light of this urgent and substantial need, the appellants submit that the provision for 35% affordable housing at the appeal site, or up to 58 units, should carry significant weight. Attention is drawn to the SOS's decision on a called-in application at Stanford-le-Hope, in Thurrock Borough, in which the provision of 35% affordable housing in the current economic situation, and in the light of a past shortfall, was considered a substantial and beneficial material consideration<sup>165</sup>.

#### Affordable housing viability

217. The appellants submit that there is no requirement to prove the viability of the affordable housing level proposed. Viability may be an issue in cases where a developer is seeking to justify a lower level than is required by policy, but that is not the case here. The development of the appeal site would involve no abnormal costs, and the site has no existing use value other than for agriculture. The Council's own Viability Study<sup>166</sup> shows that the landowner's return would be sufficient to allow the development to proceed. The scheme would thus be capable of delivering 35% affordable housing as proposed.

#### **Economic effects**

218. Partly because of its low levels of housing growth over the last decade, Castle Point already suffers from a static, ageing population. Even with development at 200 dwellings a year, that will not be enough to halt the trend towards an

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<sup>164</sup> Mr Venning's proof (FLP/3/P) , paras 6.1 – 6.8

<sup>165</sup> Doc. FLP/1/A, Appx 31 (Stanford-le-Hope decision), para 18

<sup>166</sup> Doc. CP-CD2 (Affordable Housing Viability Study, March 2009)



unbalanced age structure, a declining workforce, reduced local earnings and spending power, and consequent adverse effects on local town centres and the built environment<sup>167</sup>. There will also be increasing demands on services for the elderly, without any corresponding income to meet the costs. These symptoms are typical of an area in a spiral of decline. The only way to reverse that situation is through a sufficient injection of new development.

219. The development now proposed would have a direct development cost of around £16m. A substantial proportion of that sum would go into the Castle Point economy, in wages and materials. That amount could generate around 105 full-time construction jobs for 3 years, plus up to a further 170 indirect jobs from the multiplier effect. The household spending from 165 new households could be in the region of £3.5m per annum, which could support a further 30 or so jobs in local services. In addition, there would be likely to be chain moves within the local housing market, with each move estimated to generate around £9,000 of spending. The New Homes Bonus would be worth around a further £1.5m to the area<sup>168</sup>. Much of this would find its way into local businesses and would help to support regeneration of the area's physical and social fabric. The Framework, at paragraph 19, gives significant weight to the need to support economic growth.

### **Failure of the development plan process in Castle Point**

220. The 1998 LP made provision for less than three years after its date of adoption. The plan became out of date in 2001 and since then Castle Point has never had an adopted local plan or DPD. Although the LP attempted to make provision for longer term housing, through the safeguarded sites, none has been developed, because the sites chosen were evidently not adequately tested for availability or deliverability. The plan therefore failed.

221. The CS took a further 9 years to reach examination, and a further year to reach a conclusion, only to be found inadequate. Again, not enough consideration was given to proper planning considerations, or to practical matters. The District therefore remains without an adopted planning framework, nearly 12 years on from the expiry of the last LP, which itself was only a short-term stop-gap.

222. This amounts to a substantial failure on the Council's part to plan properly for the needs of the area, and is a large part of the reason why housing provision, for both general needs and the affordable market, has been so poor.

223. Although the Council has started on its new LP, the signs are not encouraging. The 'issues and option' consultation document fails to address any of the issues relating to housing need. Whilst the Council said in 2011 that much of the initial work was already done, it is now more than a year on, and no actual proposals have yet been put out for consultation. The decisions that were taken in October 2012 with regard to housing sites were made in isolation from any other issues, and without any idea of how those proposals will form part of a coherent overall plan. And the reasons for the choice of sites bear little relation to proper planning considerations.

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<sup>167</sup> Mr Venning's proof (FLP/3/P), sections 5 and 7

<sup>168</sup> Under S 143 of the Localism Act 2011, local financial considerations may be treated as material in the consideration of a planning application.

224. The Council's programme to achieve an adopted Local Plan by February 2014 already looks impossibly optimistic. And there is a danger of history repeating itself, because the present housing proposals have not been properly justified. Realistically, it may yet still be several years before adequate provision for housing in Castle Point is made through the development plan system.

## **THE SUBMISSIONS BY OTHER PARTIES**

### Oral submissions at the inquiry

*Mrs Rebecca Harris MP*

225. The proposed development is opposed by a large number of residents. The appeal site forms part of the Green Belt which is treasured by local residents. The site forms part of the essential separation between Thundersley and North Benfleet, which is in Basildon Borough. If this site is developed, the continued separation will be totally in the hands of Basildon Council. But Basildon has recently been considering development proposals in North Benfleet. There is a fear that they will allow building up to the District boundaries.
226. Children used to play on the site, and the public had access to it, but now the appellants have prevented that use. An amenity has been lost, because of their plans to develop it.
227. Mrs Harris is aware of the local housing shortage. However, in Castle Point the Council is in the process of drawing up a new Local Plan, and should be given time to complete that task. The previous plan was constrained by the previous Government's planning regime. In the end, it was abandoned because it did not have local support.
228. In the past, sites were allocated for development, but these were not developed because other developers on other sites jumped the queue. The developer in the present appeal is seeking to do the same, by exploiting a temporary and unavoidable hiatus between planning policies.
229. Development should take place where it has the support of the local community. The Council is doing a good job in bringing forward sites for regeneration in the town centres, through an orderly plan-making process. Now that regional strategies are being revoked, the Council has the freedom to concentrate on providing housing for local needs only. That does not require building on this part of the Green Belt. Local democracy will be undermined if the Council is not allowed to make that decision.

### *Other objectors*

230. Councillor Mrs Jackie Govier represents St George's ward, in which the site is located. She stated that the most important function of the Green Belt in this area is separating Castle Point from Basildon. The appeal site is seen as key to that aim. Castle Point residents have no control over what happens beyond the District boundary, and if it were left to the neighbouring Council, this part of the GB might disappear entirely. In addition, local roads such as Rushbottom Lane are narrow, and the extra traffic generated would cause danger. Both local doctors' practices were at breaking point. These and other local services would be unable to meet the demand. Water pressure in the area is already poor, and

- would get worse. Flooding of drains occurs during heavy rain. Rare flora and fauna have been cleared from the site, and are missed by local people.
231. Councillor Clive Walter also represents St George's. The Council has put a lot of time and effort into trying to bring forward a plan for the area. The Council is one of the best in the country, but through no fault of its own, found itself temporarily without any up-to-date policies. The appellants were trying to exploit that situation. In Castle Point there is already an imbalance between housing and employment, and more housing will only make that worse. Any jobs generated in construction will only go to people from outside the area. Housing should go to other Districts where it is needed more. The Borough also suffers from traffic passing through to Southend and Rochford, where major developments have occurred. This is causing worsening problems of air quality and noise. Living conditions at the appeal site would be poor because of these. The clearance of the site was vandalism, and caused a loss of valuable wildlife.
232. Mr Steve Guest, on behalf of 'Residents for a Safe and Green Glebelands and Sadlers', stated that the site's Green Belt status is long established. The protection of GBs is an important aspect of Government policy. Glebelands is a cul-de-sac, and is heavily used already. It was not designed for the amount of traffic that would be caused. Dr Patel's local GP practice is already over-subscribed. The proposed contribution to healthcare would not pay for an additional doctor. Noise has increased since the Sadlers Farm junction works, and occupiers at the appeal site would be badly affected. The existing drainage infrastructure is poor, and nearby gardens often flood. This would be exacerbated by development on the appeal site.
233. The Reverend Anthony Rose stated that the site used to be known locally as 'the snake field' because of its wildlife. Children used to be able to play there, but then it was fenced off. Traffic is seen as a major issue. Traffic in the area has grown rapidly in recent years. Other new developments have all had a cumulative impact, and local roads are over-used, especially Rushbottom Lane. Works have been carried out to try to improve the Tarpots cross-roads, but the lights are not correctly phased, and there is often gridlock. Although there are some local shops at Tarpots, they will not be enough to serve a development of this size, and the new residents will travel to Tesco, adding more traffic to the roads. Parking is also a big issue, as there is not enough anywhere in the area, especially at the doctor's.
234. Mr A W Pratt, a local resident, echoed the concerns about pressure on local roads, and on services such as the local doctors, who are felt to be over-subscribed. In his view, New Thundersley is already over-populated. The proposed development could bring 600 more residents to the area, which is too much.
235. Ms Sharon Knight agreed that the whole of the Southeast was overcrowded, and was under threat from developers. Although there is a long waiting list for housing, she understands that there are also a large number of empty properties that could be used.
236. Mr Peter Gunn feared that the appeal scheme would create a precedent for further development in the GB. Providing affordable housing was irrelevant, as that could not compensate for the loss of open countryside.

237. Mr Ray Hilton was concerned that traffic and noise in the area are already going to get even worse, due to the development of a new container port at Corringham.

#### Written Representations

238. During the inquiry, a letter was received from Dr Hiscock and partners, of Rushbottom Lane, saying that the practice is already over capacity, and is under strain to meet existing local demands<sup>169</sup>.

239. All of the above points are re-emphasised and supported in the remaining letters from local residents, at both the application and appeal stages (62 letters plus a petition, and 71 letters respectively). Many residents highlight that they moved to the area because of its rural qualities and environment. In their view, these have been steadily eroded over many years, and would be further destroyed by the present appeal scheme. The population density in Castle Point is said by one objector to be 1,978 persons per sq km, which is nearly five times the Essex average.

240. Traffic, flooding of gardens, and pressures on local services are widely seen as causes for major concern. Some residents also argue that housing should be built only on brownfield land, and that there are many unsold properties on new developments.

### **INSPECTOR'S REASONING AND CONCLUSIONS**

Numbers in square brackets [ ] refer to paragraph numbers in this report.

#### **The status of the Green Belt in Castle Point [26-28, 63-68, 103-107]**

241. The Appellants' argument regarding the status of the Green Belt in Castle Point starts from the premise that a GB cannot exist without some basis in extant development plan policy [103]. Whilst I am not a lawyer, and the SoS may take a different view, I agree with that proposition. In the present case, the relevant policies of the former County Development Plans, SPs and the EEP have all now expired, or been superseded or revoked. Although the NPPF states that GBs should have permanence, that does not change the fact that when a plan is no longer in force, it ceases to have effect. If the continuation of the GB in Castle Point depended on any of these historic plans, it would clearly now have ceased to exist.

242. The question of the Green Belt's current status therefore hangs on that part of the LP that remains in force as a result of the SoS' Saving Direction in 2007. I accept that, up to that time, the principal policy in this respect was Policy GB1, and that policy has now gone. However, development plans should be read as a whole. Policies GB2 - GB7 remain in force, and are intended to control various types of development in the GB. Those policies therefore depend upon the GB's continued existence. Without it, Policies GB2 – GB7 would serve no purpose, and would have no effect. It therefore seems reasonable to conclude that the intention embodied in the Direction was that the GB in Castle Point would be retained. This is not disputed by the appellants [107].

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<sup>169</sup> Doc. IP-ID1 (letter from Dr Hiscock)

243. The question which then arises is whether, despite that evident intention, the Green Belt was nevertheless lost, albeit inadvertently, as a result of allowing Policy GB1 to expire. In this respect, the appellants argue that the GB was in effect created, or kept in existence, by Policy GB1, and thus was dependant upon that policy. But, having regard to the actual policy wording, it seems to me that GB1 does no more in this respect than any of the other relevant policies, GB2 – GB7. Like those policies, the purpose of GB1 is to control certain types of development. It takes the GB's existence as already established. GB1 differs from GB2 - GB7 in that it makes reference to the Proposals Map. But this seems to me merely to acknowledge that it is that Map that is instrumental in defining the GB's extent, rather than any policy [63].
244. It is true that the Saving Direction does not expressly refer to the Proposals Map as a saved document. But where the interpretation or application of saved policies depends on reference to the Map, as it does with Policies GB2 – GB7, it would surely be perverse if such reference were no longer permissible. And although none of Policies GB2 – GB7 refers directly to the Proposals Map, there can be no doubt that the GB to which they refer is the one defined on that Map. It follows, in my view, that the boundaries shown on the Proposals Map must continue to have effect.
245. I acknowledge that the situation would have been more clear-cut if there were a saved policy which stated in terms that there was to be a Green Belt in Castle Point. However, the LP never did contain such a policy. Since the expiry of the relevant SP policies, the existence of the GB was always a matter to be inferred, not just from Policy GB1, but from all the other GB policies of the LP, and their supporting text, and from the Proposals Map. The expiry of GB1 has not changed the position in that respect. For the same reasons that I have already explained, it seems to me that the combination of relevant saved policies and a Proposals Map, to which reference may still be made where necessary, is sufficient to make it clear that a GB still exists.
246. It is true that, in the absence of Policy GB1, there is now nothing in the LP that sets out any general policy for the control of development within the GB, other than those types of development to which GB2 –GB7 apply. But that is a separate matter from whether the GB itself still exists. Again, I agree that it might have been more satisfactory if GB1 had remained for that purpose, but the lack of such a policy in the development plan does not prevent the application of relevant national policies, such as those at paragraphs 87-89 of the NPPF.
247. The situation in Castle Point differs from that referred to by the appellants in Yorkshire and Humberside [105], because in that case, what was proposed was the full revocation of the RS, whereas here some policies relating to the GB have been saved. In my view, the saving of those policies is a decisive factor in the status of the GB in Castle Point.
248. I also note the appellants' reference to the judgement of the Supreme Court in the Dundee case<sup>170</sup>, in which it was held that planning policies should be interpreted according to what is actually written rather than what may have been intended. However, in the present case, the existence of the GB is sufficiently

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<sup>170</sup> Tesco Stores v Dundee City Council, 21 March 2012 (Appended to Mr Goatley's closing submissions, Doc. FLP/ID7)

clear from the written content of policies GB2 - GB7, together with the Proposals Map. The situation is therefore clearly distinguishable from that which gave rise to the judgement referred to.

249. In all the circumstances, it seems to me that the most reasonable interpretation of the saved LP policies is that the GB remains, because its continued existence is necessary for the purposes of Policies GB2 – GB7. The saving of those policies has therefore had the effect of preserving the existence of the GB in Castle Point.

### **Main planning issues**

250. It is not disputed that, if the site is in the Green Belt, the development now proposed would constitute inappropriate development in terms of GB policy.

251. In the light of the above conclusion regarding the GB's status, and having regard to all the other evidence before me, the remaining main issues seem to me to be as follows:

- The effects of the proposed development on the Green Belt's openness, purposes, or character and appearance;
- The development's effects on wildlife and biodiversity;
- The effects on traffic, local services, flooding and other issues raised by local residents;
- Whether Castle Point Borough has an adequate supply of land for housing;
- The development's ability to provide affordable housing; and the effects on the need for affordable housing in the District;
- Whether the harm to the GB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to constitute the very special circumstances needed to justify development in the GB.

### **Effects on the Green Belt [54-62, 108-111]**

#### Openness

252. Openness is one of the essential characteristics of GBs. From the evidence of the Council and other objectors, it is also one of the features of the GB that is particularly valued by Castle Point residents.

253. At present, the appeal site is completely undeveloped, with no buildings on it of any kind. The development now proposed, as illustrated in the submitted framework and master plans, would involve building on about two thirds of the land. The majority of the site would thus become urbanised and would lose its openness completely, contrary to the aims of NPPF paragraph 79.

#### Urban sprawl

254. The prevention of urban sprawl is one of the GB's main purposes. In the present case, development at the appeal site would extend the built up area of Thundersley beyond its existing boundaries.

255. However, the appeal site comprises a relatively narrow strip of land, between the existing built-up area and the dual-carriageway A130 which runs close to the

urban edge. The latter, with its expanse of new slip roads, embankments, bridges, signs, lighting and associated works, has effectively urbanised the wide swathe of land that it occupies, so that the appeal site is cut off from the larger area of countryside beyond. The Glenwood School site to the north, although largely open, is essentially an urban land use, and thus adds to the strong sense of containment.

256. In this context, the appeal site appears as a relatively small, isolated pocket of undeveloped land, surrounded by urban structures and uses. It does not project outwards, but hugs the edge of the urban area. In these circumstances, it seems to me that the proposed development would appear as a natural and logical extension to the settlement, or the filling of a gap. It would therefore not constitute urban sprawl of the kind that Green Belt policy is intended to prevent.

#### Encroachment on the countryside

257. The prevention of encroachment into the countryside is another of the main purposes of GBs. In policy terms, the appeal site lies within the countryside, and to that extent, its loss to development would be an encroachment upon that area.

258. However, for the reasons given above, the reality as seen on the ground is different. Whether viewed from the adjoining residential area, or from the A130, the site does not appear as an integral part of the countryside. Instead it appears primarily as a separate small pocket of under-used urban fringe land, severed by a visually dominant major highway. As such, it contributes little to the countryside, and its loss would have little effect.

259. Consequently, although the proposed development would involve encroachment, the resultant harm to the countryside, and to the purposes of the Green Belt, would be limited.

#### Merging of neighbouring settlements

260. The prevention of merging or coalescence is an important Green Belt function. In the present case, the site forms part of a relatively narrow section of the GB, between Thundersley and Bowers Gifford/North Benfleet. Development on the appeal site would narrow that gap further.

261. However, the greater part of the GB separating these settlements lies to the west of the A130. That area would not be affected by the development proposed in this appeal. The appeal site contributes little to the separation, because of its small size and its severance by the major road. If the site were developed, the impression as seen on the ground would therefore be little different from that which exists now.

262. Although concerns have been expressed by some regarding the possibility of development to the west of the A130, in Basildon District [56, 225], no evidence has been produced to suggest that such development is likely. Basildon Council's consultation response<sup>171</sup> contains no indication of any likelihood of development in this area. All of the relevant land on that side of the A130 appears to be

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<sup>171</sup> Doc. FLP/CD/4.10 (Basildon Council's email dated 9 Feb 2012)

covered by the GB<sup>172</sup>, and in terms of national policies, the protection given to GB land in Basildon is identical to that in Castle Point. I see no reason to suppose that the adjoining authority would wish to see the settlements in this area merge. I can understand the view that any development on the present appeal site might be seen as a precedent, but in reality the circumstances to the west of the A130 are quite different, because the width of undeveloped land is greater, and the nearest settlements are smaller.

263. Furthermore, on my tour of the District and its surroundings, I was able to observe that narrow gaps between settlements are not unusual in this part of South Essex, where many of the other small towns and villages have grown close together. In the context of this prevailing development pattern, I do not consider that developing the appeal site would make the remaining countryside to the west of Thundersley any more vulnerable than many other similar gaps between settlements in the area.
264. Maintaining the separation that now exists between the edge of Thundersley and the Borough boundary [56] is not a recognised GB purpose.
265. The development now proposed would therefore not directly bring about any physical or visual coalescence between settlements, and nor would it be likely to materially increase the risk of such an occurrence in the future.

#### Effects on the Green Belt's character and appearance

266. Although the protection of the GB's character and appearance is not one of the purposes of GBs listed in the NPPF, part of the Council's case is that harm would be caused in this respect, particularly to the views seen from the A130 [58-59].
267. However, for the reasons that I have given earlier, in my opinion the appeal site's character cannot properly be described as rural, but rather as urban fringe. In the views obtained from the A130, either at ground level or from the elevated north-bound slip road, the site is always seen against a continuous backdrop of houses. Consequently, the impression already gained by passers-by is of a road skirting the urban area.
268. From the residential area, the backdrop is formed by the road and associated infrastructure. There are no views of any significance from longer distances. Whatever may have been allowed in the past, it appears that there are now no rights of public access to or across the land, and thus there are no public views gained from within the site itself. And in any event, the site is unremarkable in appearance, being largely flat and open, with little intrinsic visual interest or distinctiveness.
269. The proposed development would therefore not cause any significant loss of rural character, or any unacceptable harm to the visual appearance of this part of the GB.

#### General comments regarding the effects on the Green Belt

270. For the reasons already explained, the appeal site's functional and visual value to the GB is heavily compromised by its location adjacent to the A130. I fully

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<sup>172</sup> Doc. FLP/1/A, Appx 35 (Basildon Borough Local Plan – proposals map)



agree that the existence of a by-pass or other road outside the urban area does not automatically justify development. But here, the road in question is such a dominant feature, and so extensive in its land-take, and also so close to the built-up area, that the appeal site appears insignificant alongside it. For that reason, the site makes little real contribution to any of the GB's purposes.

271. My conclusion on these matters is different from those reached in the Sutton Coldfield, St Albans and Chester cases referred to by the Council. However, I have little information about those sites. I have formed my view on the basis of the particular characteristics of the present appeal site and its surroundings. I note that a similar view was expressed by Council officers in the Briefing Paper prepared for the Members' conference in September 2011 [191].

#### Conclusion on GB impact

272. I conclude that no significant harm would be caused to the GB's functions in terms of preventing urban sprawl or preventing the merging of settlements, and only limited harm would occur by way of encroachment into the countryside. Nor would there be any significant harm in terms of the effects on the GB's character and appearance.

273. Nevertheless, the Framework requires substantial weight to be given to any harm to Green Belts. This seems to me to include cases where the harm is only limited. Accordingly, I give substantial weight in this case to the harm by reason of inappropriateness, and to the harm by way of loss of openness, and also to the limited harm due to the conflict with the GB's purpose in preventing encroachment on the countryside.

#### **Effects on wildlife and biodiversity [44-47, 69-80, 113-134]**

274. Although Compartment A remains designated as an LWS in the Register maintained by EWT, it is common ground between the appellants and the Council that neither this field as a whole, nor any other part of the appeal site, now justifies that status [71, 113, 116, 117].

275. The appellants' survey shows that there is still some valuable habitat in some of the field margins, particularly those where long-established and potentially important hedgerows remain, and there is evidence of reptiles in these areas [73, 74, 118]. There is no dispute that these more limited areas are worthy of retention and protection within any development, where possible. However, the Council appears to accept that the evidence available is not sufficient to justify giving them any formal designation [117].

276. Although the cultivation works and vegetation clearance that have been carried out on Compartment A since around 2008 may have reduced that area's habitat value, there is no evidence that those works were unlawful or open to challenge. And as far as I was able to ascertain at the inquiry, neither the Council nor EWT is considering any such action [72]. Nor is there any evidence that the works in question were designed to subvert the planning process; as far as I can tell, they appear to have been consistent with the agricultural use that is now taking place [120-123]. And in any event, given the evident shortcomings of EWT's 2007 survey [45, 70, 115], there is no clear evidence as to whether the LWS status was still justified, even before the works took place. In the

circumstances, I can see little merit in the Council's desire to refer back to the site's former condition and wildlife value at some time in the past.

277. I am equally doubtful as to the value of speculating on the site's potential to recover its former value if it were left to regenerate [71]. Now that it has been made suitable for hay production, there is no obvious reason why the owner should allow it to return to its former unmanaged state, and the Council admits that it cannot force that to happen. There seems to be no basis for this approach in any local or national policy [124-126]. Consequently, the most relevant consideration in my view is the condition and habitat value of the site as it exists now.
278. Since the parts of the site with any present habitat value are limited, there seems no reason why most of these could not be retained and protected in any development. The submitted master plan and framework plan demonstrate that the site could be laid out to take these into account, and to retain and enhance almost all the existing trees, hedges and other features of any habitat value [13, 127]. On this basis, I am satisfied that the proposed development would not conflict with the aims of LP Policy EC13.
279. The submitted plans also show that around 2.65 ha of multi-use accessible natural greenspace could be provided, including the suggested wet balancing areas [12, 127]. Although this would be less than the 3.7 ha that is designated as a LWS, that is no longer a relevant comparison, for the reasons explained above. Consequently, it seems to me that the provision of 2.65 ha of green space as suggested would amount to a significant net gain in biodiversity, as sought by paragraphs 9 and 109 of the NPPF. I also see no reason to disagree with the appellants that this amount of greenspace would be proportionate to the development, in terms of the recreational and amenity needs of future occupiers, as well as any requirement for offsetting in relation to the SPA.
280. The provision of open space and habitat management areas is already secured by the undertaking<sup>173</sup>. The quantity and disposition of those areas could be controlled by conditions. I accept that combining habitat with recreational and amenity uses may involve some challenges in terms of design and management, but these matters would remain within the Council's control [130-131].
281. In the light of all these considerations, I conclude that the proposed development would be capable of making adequate provision for the protection and enhancement of wildlife and biodiversity, in accordance with the relevant planning policies that I have identified.

### **Effects on traffic, local services, flooding and related issues [225-240]**

#### Traffic, congestion and highway safety

282. I appreciate the concerns of local residents regarding traffic [230-234, 237, 240]. Some local roads are heavily used, and I have no doubts as to the problems that this must cause for those who live and work in the area. However, there is no evidence that traffic conditions in Thundersley are any worse than elsewhere in Castle Point. The appellants' Transport Assessment report<sup>174</sup>, which

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<sup>173</sup> Doc. FLP/ID6 (the Undertaking)

<sup>174</sup> Doc. FLP/CD 1.7 (Transport Assessment)

accompanied the original application, tests the development's effects on the Tarpots cross-roads, and on the Glebelands/ Rushbottom lane junction, and concludes that both of these would be able to operate well within their design capacity.

283. I also understand the particular concerns of existing residents of Glebelands, which would provide the main access to the site [232, 240]. This is a relatively quiet cul-de-sac, and the additional traffic generated by the development would represent a significant increase over the present situation here. However, it appears that the existing carriageway and footways are of a standard that is capable of accommodating some increase. Consequently, out of the options available for a main access, Glebelands is clearly the most suitable. Although this would impose some additional traffic on existing residents in that road, there is no evidence that the impact of that traffic would be so great as to warrant the refusal of permission on these grounds.
284. The need for a secondary access can be met by the existing field access from the cul-de-sac section of London Road, and since this is proposed to be for emergency and pedestrian/cycle use only, the development is unlikely to impose any unacceptable burden on that road. The Transport Assessment confirms that both of the proposed accesses are adequate for these purposes.
285. The above conclusions are reflected in the 'Highways Statement of Common Ground'<sup>175</sup> agreed between the appellants and ECC as Highway Authority. I also note that ECC does not object to the proposed development, either in terms of road capacity or safety<sup>176</sup>, subject to appropriate conditions and the relevant obligations contained in the undertaking. There is no other technical evidence before me with regard to highway matters.
286. In the circumstances, I find no reason to doubt that the development can be accommodated without harm to highway safety, and without unduly exacerbating the inconvenience or hazards suffered by local residents due to existing traffic levels.

#### Local services

287. I accept that the range of shops and services available within Thundersley is limited, and residents would need to make trips to other nearby towns for weekly shopping [230, 233, 240]. But that not unusual, and the distances to such larger centres are by no means excessive. The more important consideration in my view is that most day-to-day convenience shops, schools, healthcare services and various other local services are available within easy walking distance of the appeal site, so that they can be easily accessed when required without generating an unnecessary number of longer trips.
288. From the evidence at the inquiry, it appears that at least one, and possibly both of the local doctors' practices at Rushbottom Lane Surgery have very full patient lists at present [230, 232, 234, 238]. However, this comes as little surprise at a time when it is well known that many NHS services nationally are under similar pressure. If it is correct that places are in short supply at both local practices, then I accept that residents of the proposed development might have

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<sup>175</sup> Doc. GEN-SCG2 (Highways Statement of Common Ground)

<sup>176</sup> Doc. FLP/CD 4.14 (ECC Highways letter)

to look further afield for a GP with more spare capacity, at least in the short term. However, over the course of time, it is likely that such problems would reduce, as places become available due to natural change and other patients moving in and out of the catchment area. I appreciate that the underlying concern is that as services become more stretched, that will start to affect existing residents too. But that is a matter for those charged with running the service. At the date of the application, that was the NHS South Essex, and their consultation responses<sup>177</sup> do not suggest any overriding problem with providing GP services in the Thundersley area.

289. None of these matters justifies refusing planning permission for the proposed development.

#### Drainage and flooding

290. I have no reason to doubt local residents' evidence that localised flooding occurs in nearby gardens during heavy rain [230, 232, 240]. However, the submitted Drainage Report and Flood Risk Assessment<sup>178</sup>, proposes that surface water run-off from the development would be attenuated through a system of wet ponds, which would be enable the discharge to the existing drainage network to be controlled so as not to exceed the greenfield rate. I also note that the site is within a Zone 1 flood risk area, this being the lowest level of flood risk.

291. The consultation responses from Anglian Water<sup>179</sup> and the Environment Agency<sup>180</sup> raise no objections to the scheme, subject to appropriate conditions. In the light of these matters, I am satisfied that the development would not be likely to materially exacerbate any existing flooding problems, and thus does not give rise to any justifiable planning objection in this respect.

#### Other matters

292. Although the site is exposed to traffic noise from the A130 and A13 [231, 232, 237], the submitted Noise Report<sup>181</sup> shows that internal noise within the new dwellings could be reduced to acceptable levels by the use of appropriate double glazing systems. Externally, the environment towards the western side of the site would be relatively noisy, but in rear gardens the level could be significantly mitigated by the careful positioning of buildings. The Council raises no issue. In my view, the noise climate is not ideal, but having given careful consideration to this issue during the time that I spent on the site, I consider that the noise levels are not so severe as to warrant refusal of permission.

293. The submitted Air Quality report concludes that the predicted pollutant levels at locations within the site meet the recognised air quality objectives, without the need for any special air quality management measures [231].

294. Any existing problems with regard to water supply or water pressure [230] are matters for the relevant provider. There is no technical evidence before me to suggest that the development would affect this issue.

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<sup>177</sup> Docs. FLP/CD4.11 and 4.12 (NHS S. Essex emails, 13 and 15 Feb 2012)

<sup>178</sup> Doc. FLP/CD1.11 (Drainage report)

<sup>179</sup> Doc. FLP/CD4.5 (Anglian water email, 27 Jan 2012)

<sup>180</sup> Doc. FLP/CD4.7 (Environment Agency letter, 1 Feb 2012)

<sup>181</sup> Doc. FLP/CD13 (Noise Report)

295. Any impacts on neighbouring properties due to the positioning or heights of any new buildings would need to be considered at the reserved matters stage.

296. Again, on the evidence before me, none of these issues justify a refusal of permission.

### **Housing Land Supply [81-97, 135-173]**

**[See Annex 6 for tabulation of Inspector's calculations discussed in this section]**

#### Base date for calculations

297. In the Council's figures<sup>182</sup>, the base date for the requirement figure is taken to be 1 April 2012, but the supply figure is updated to 31 October. I agree with the appellants that mixing the base dates in this way is unsatisfactory and confusing [144-146]. A single base date should therefore be used throughout

298. Since it appears that the information for 31 October exists, albeit not in any published or audited form, it would be unfair to the Council not to allow that information to be used. I have therefore adopted this as the common base date, for the purposes of presenting my conclusions on this issue.

#### Past performance, 2001-12

##### *2001-12 requirement*

299. It is agreed that in the EEP, Castle Point's housing requirement was 200 per annum. For the 11 complete years to the end of March 2012, that amounts to 2,200 dwellings.

300. If the base date is moved to 31 October, the period is lengthened by seven months. Seven months at 200 per annum is approximately 117 units. The overall requirement for 1 April 2001 – 31 October 2012 is therefore increased to 2,317.

##### *Completions claimed by the Council*

301. The figure accepted by the Council for completions up to March 2012 is 1,623 dwellings [136 and Footnote 104]. Completions for April – October 2012 are shown as 48 dwellings [87]. For the period as a whole therefore, the total number of completions claimed by the Council is 1,671 dwellings.

##### *The Kings Park caravans*

302. The Council's completions figures include around 504 notional new dwellings at Kings Park Caravan Site [93, 140]. This reflects the replacement of older caravans with newer ones and the trend towards permanent occupancy. However, it is questionable whether counting these as housing completions is within the spirit of what the NPPF seeks to achieve in terms of national housing policies.

303. I appreciate that the changes that have occurred at that site might have taken up some of the District's housing need. But that does not necessarily mean that

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<sup>182</sup> Doc. CP-ID2 (Council's revised land supply table)

the households now occupying caravans<sup>183</sup> would have chosen that type of accommodation, in preference to bricks-and-mortar; there is certainly no evidence to that effect. Neither does any effort seem to have been made to see whether the gain at Kings Park has been offset by any other changes in the use of the District's housing stock, such as the possible loss of permanent dwellings to holiday homes.

304. There also seems to be considerable uncertainty as to the numbers of units involved, and their timing. The existence of the CLU suggests that the change of some units to year-round occupation must go back long before 2001, and therefore occurred before the start of the relevant period [93, 141]. If that is so, it is difficult to justify including these in the post-2001 completions.

305. The main purpose of assessing the 5-year supply is, as stated in the NPPF's paragraph 47, to boost the supply of new housing. At Kings Park, no houses have been built at all. I would agree that the issues raised might well be relevant in the context of a local plan examination, where the target is still to be decided. But in my view, they have no place in the present appeal.

306. I therefore conclude that the 504 caravans at Kings Park should be deleted from the Council's completions figures, reducing the total actual completions to 1,167 dwellings.

#### *Shortfall during 2001-12*

307. Comparing the 1,167 completions against the requirement of 2,317, it appears that the true shortfall during 2001-12 was in the order of 1,150 dwellings (just under 50% of the requirement).

#### 5-year requirement for 2012-17

##### *Basic requirement*

308. The Council and appellants both agree that the housing requirement for the purposes of the calculations should be based on a starting point of 200 dwellings per annum [41, 81, 135]. I see no reason to disagree.

309. In adopting that figure, I do not in any way endorse it as a basis for the proposed new local plan, nor do I mean to anticipate the outcome of that process. I simply acknowledge that in the case of Castle Point, this is the only figure to have been adopted in any statutory development plan at any time within the last decade, albeit that the plan in question, the EEP, has now been revoked.

310. The starting figure for calculating the requirement is therefore 200 x 5, or 1,000 dwellings.

##### *The 20% buffer*

311. In addition, there is no dispute between the parties that the additional 20% buffer, for persistent under-delivery, should be applied in accordance with paragraph 47 of the Framework [84]. Again, I agree. Even if the shortfall up to

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<sup>183</sup> Although the Council argue that these are modern 'park homes', which offer an acceptable standard of accommodation for permanent occupation, they must nevertheless meet the definition of a 'caravan' to accord with the site's lawful use as a caravan park.

2012 were only 577 units, as the Council suggest, that would justify the application of the buffer. The reality, as outlined above, is that the shortfall is almost twice that much.

312. Adding 20% to the initial 1,000 raises the requirement to 1,200 dwellings.

*Making up the backlog*

313. The shortfall from 2001-12 represents the number of houses that needed to be built to meet the needs arising during that time, but were not delivered. That number therefore represents the backlog of households whose needs were not met.

314. There is no evidence that those needs have gone away, or been met elsewhere. It is difficult therefore not to agree with the appellants, that this is likely to mean more households either becoming homeless, or living in overcrowded or unsuitable accommodation [136]. In Castle Point, that may include households moving into caravans. Even if these problems have not yet manifested themselves in Castle Point (although there is no evidence that they have not), it seems likely that they must occur somewhere, even if that is in surrounding Districts or elsewhere in the region.

315. It therefore seems to me that to leave the backlog untouched would be simply storing up more problems for the future, and contributing to a worsening of the serious housing shortage that is well-known to exist at national level, as well as locally. It follows that, for the purposes of the present appeal, the requirement side of the calculation should be adjusted, to take account of the under-provision in the previous period.

316. I accept that the NPPF is silent on this point. But national policy cannot cover every eventuality. Nothing in the NPPF precludes taking account of past shortfalls where that approach is appropriate in the circumstances. The 20% buffer does not serve the same purpose, because the buffer is not an addition to the overall housing requirement, but is simply brought forward from later in the plan period.

317. In some circumstances it might be appropriate to allow the process of catching-up with the backlog to be spread over the whole of the remaining plan period [138]. But in Castle Point, since the EEP is now revoked, there is no remaining plan period, and nor will there be until a new LP is in place. And in any event, the backlog represents needs which are already urgent, having been unmet during the period when they arose, and will become more so as time goes on. I can therefore see no proper reason why the whole of the backlog should not be added to the 5-year requirement, following the so-called 'Sedgefield' method [139].

318. I accept that it is unnecessary to add a further 20% buffer to the backlog, as well as to the basic requirement. But even without that further adjustment, the addition of the backlog of 1,150 dwellings increases the requirement from 1,200 to 2,350 units.

*Overall 5-year requirement figure*

319. Although this figure of 2,350 does not coincide exactly with any of the various alternatives put forward by either the appellants or the Council, that is not unduly surprising, given the number of variables involved. It is within the range

of those aired at the inquiry, and some way below the appellants' highest figure of 3,097 [149].

320. I appreciate that the Council feels strongly that in Castle Point the constraints on further development are so severe that there is no point in increasing the requirement beyond 1,200 [82-83]. But that is another argument that can only be properly tested at a local plan examination. For the purposes of the present appeal, the correct approach in my view is to carry out the assessment fully and objectively, without prejudging the outcome.

321. I also understand the Council's view that with the advent of localism, authorities expect to have greater freedom to set their own housing targets [85]. But the NPPF still requires local plans to meet in full their objectively assessed housing needs.

322. I note the appellants' submissions with regard to the current demographic forecasts, and what these might mean for future housing requirements [147-149]. But that again is more properly a matter for the new local plan.

323. For the reasons already outlined, and in the light of all the above matters, I conclude that the requirement figure for the purposes of assessing the 5-year forward supply should be 2,350 dwellings.

#### The forward supply

324. The Council claims a land supply of 1,285 dwellings [90]. However, 48 of these were already completed before 31 October, and it is now more appropriate to include these in the completions figure [301]. Without these, the remaining sites in the Council's land supply table come to 1,237 units.

325. Even if all of these were accepted, the maximum that this would amount to against a requirement for 2,350 dwellings would be 2.6 years' supply. However, the Council's true position is in my view a good deal worse than this.

326. The four sites at Felstead Road/Catherine Road, London Road, Brickfields and Castle View School [88, 91-92, 153, 160-161] are all in the Green Belt. Together, these account for 273 dwellings out of the Council's forward supply figure. None of these sites has planning permission, and none are allocated for development in an adopted, or even a draft development plan. The Council's resolution to include these sites as allocations in the forthcoming local plan, carries very little weight, because as yet no draft plan has appeared, and no consultation has taken place regarding these sites. I appreciate that some of the sites in this group are partly previously developed, but even so, it seems to me that there is a long way to go before any of these four sites can be regarded as deliverable. These sites should therefore all be deleted, reducing the Council's supply figure by 273 units.

327. The proposed development at Thorney Bay Caravan Site [96-97, 154-158] also has no planning permission. Although the site has previously been safeguarded for long-term development, there are evidently still a number of issues to be overcome, including flood risk, access, possible off-site highway works, the relocation of existing occupiers, and the scheme's overall viability, to name but a few. These appear to be substantial issues, and there is no evidence that they are likely to be overcome quickly enough to contribute to the 5-year land supply.



The site therefore cannot be regarded as deliverable. This deletes another 300 dwellings from the Council's supply.

328. The three sites referred to collectively as Hadleigh Town Centre **[88, 164]** are shown in the SHLAA<sup>184</sup> as having a timescale of 5-10 years, and the Point Road Industrial Estate is shown as 10-15 years. The SHLAA is less than a year old, and carries significant weight. No evidence has been produced to suggest that these forecast timescales are wrong. Although the Point Road site now has a resolution to grant permission, it is reasonable to surmise that there may be viability issues on a site with an existing commercial use such as this. None of these sites has planning permission, and none has been shown to be likely to be deliverable. In total, this removes a further 217 units from the supply.
329. With regard to the additional 78 units at Kings Park **[95, 159]**, this figure again relates to some additional static caravans, which are said to be proposed by the site operator, within the existing site area. Many of the considerations regarding caravans discussed above apply equally to these proposed units. Even though some caravans may end up filling the role of permanent dwellings, nothing in the NPPF suggests that this is the kind of outcome that national policies seek to promote. In any event, no evidence has been produced to substantiate the claim that these units are proposed at all. And since it appears that no planning permission is required for them, there will be no sure way of verifying whether they are in fact provided. These 78 units should therefore be excluded from the supply figures.
330. With regard to the land at Scrub Lane **[88, 163]**, as a relatively small site, with no evidence of any problematic issues, it may well be that this site could come forward and be developed within the 5 years. That being so, I agree that the lack of an existing planning permission on this site does not necessarily mean that the site could not be included in the land supply, provided that there was a reasonable prospect of development. However, the site has been identified as a potential development site since 1998, and has not come forward in that time. Even now, no planning application appears to have been made, and so there is no real evidence of any intention to develop, or any firm interest in doing so. In the circumstances, there is not sufficient evidence of deliverability. I therefore discount this site too, with the loss of a further 36 units from the Council's supply.
331. In addition, the Council's claimed supply on 'other sites'<sup>185</sup> includes a number of smaller sites, including several single dwelling plots, again all without planning permission, and some without any application having been made, or any other indication of intent or interest on the part of the owner. There is no proper evidence to justify the inclusion of these sites. However, given their small individual sizes, it is not unrealistic to think that some of them could come forward within 5 years. In any event, the contribution from this source is small, totalling about 38 units, and for the purposes of the present exercise, I propose to allow these to stand. I also propose to accept the sites at Kiln Road **[87, 163]** and Park Chase, which are both said to have resolutions to grant, subject to legal

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<sup>184</sup> Doc. FLP/CD28.2 (SHLAA, 2012)

<sup>185</sup> Doc. CP-ID2 (Council's land supply table)

agreements, and therefore could have a reasonable prospect of delivery; these latter two total 175 units.

332. In total, the sites that should be deleted from the supply, for the reasons set out above, amount to 904 dwellings. Out of the claimed supply of 1,237, this leaves only 333 units as the realistic, deliverable supply.

#### Number of years' supply

333. Even against the Council's suggested target of 1,200 dwellings, 333 units would represent no more than 1.4 years' supply. Measured against what I believe to be the more robust requirement figure of 2,350 dwellings, 333 units equates to only 0.7 years' worth.

334. These years' supply figures are a little higher than those suggested by the appellants, and therefore very slightly more favourable to the Council. But they still represent a very significant shortfall against the NPPF's requirement for a 5-year forward supply.

#### Overall conclusions on land supply and housing delivery

335. In the 11 years up to 2012, actual housing delivery in Castle Point reached barely half of the EEP requirement. Although the EEP has now been revoked, this under-delivery occurred while that document was part of the statutory development plan. It was also a period in which PPG3 strongly encouraged house building, and the 5-year supply requirement was introduced. Up to about 2008, there was also a strong housing market nationally. Despite these factors, housing delivery in Castle Point was very low.

336. There is no evidence that the shortfall during this period was in any way due to developers failing to implement on sites where planning permission was in place. If that were the case, it is likely that there would still be a long list of sites with unimplemented or lapsed permissions. In fact, the Council's land supply table shows that, as of 31 October 2012, sites with existing permissions amounted to only 33 units. This suggests that the problems have been due much more to a lack of sites coming through the planning system.

337. It is difficult to escape the conclusion that this must be related to the lack of any up-to-date or adopted local plans, or relevant DPDs, since 2001. The lack of housing delivery in 2001-12 therefore seems to reflect a failure in terms of planning, rather than any failure of the housing market.

338. Looking ahead, the existing supply of deliverable sites falls a long way short of 5 years. Even if permissions are granted soon on some of the larger sites that have been identified by the Council, which is by no means certain, many of those sites will still have other constraints to overcome. And even if all of those sites were to be developed, they would not come close to meeting the District's current needs, once the backlog is taken into account.

339. Although the Council has made a start on its new LP, the current programme for adoption looks somewhat optimistic, especially in the light of the Council's experience with the now aborted CS. It is therefore likely to be some years before any sites are allocated in an adopted LP. Given the current lack of forward supply, there seems a high risk that the under-delivery that occurred throughout 2001-12 will be repeated throughout the next five years and beyond.

340. The Council's choices for any new allocations are heavily restricted by the Borough's settlement pattern, the relative lack of suitable undeveloped land, and the flood risk issues on Canvey Island. The Council accepts that some land will have to be released from the GB, and this is acknowledged in the Council's resolution in December 2012. Apart from its GB status, the present appeal site has no overriding constraints, and is one where development could start quickly in order to fill what appears to be a very large gap in the land supply before other sites start to be ready.

### **Affordable housing [98-101, 211-217]**

#### Viability of 35% affordable housing

341. The Council's concern is essentially that, in offering 35% affordable housing, the appellants may be taking an over-optimistic view of what the development can support financially, and as a result, the balance of the scheme's pros and cons may be distorted.
342. However, there is little evidence to support the Council's doubts. The Council refer to discussions with other developers about other schemes [99], but are unable to reveal any details for reasons of confidentiality. I have no doubts at all that the need for confidentiality in such matters is genuine. However, in the absence of any hard information at all, the Council's evidence on these discussions adds up to very little.
343. The Council also refer to the Viability Report<sup>186</sup>, which studied the residual land values generated by developments in a range of different housing market scenarios [100, 217]. I agree that this report gives some grounds for concern about the general effect of affordable housing on development viability. However, the appeal site is a greenfield site, where development costs are likely to be amongst the lowest. In any event, the Viability Report is dated March 2009 and is therefore now nearly 4 years out of date, during a period in which the property market has undergone considerable turbulence. This significantly reduces the weight that can be given to it.
344. In the appeal scheme, the 35% affordable provision is secured by the undertaking [18]. If the appellants or their successors wished to alter that figure, after permission had been granted, it would be necessary to seek release from the obligation, or a variation to it. Any application in that respect would be made in the first instance to the Council. There is an appeal procedure, but the Council would be a party to any such appeal. The developer would therefore not be in a position to reduce the 35% requirement unilaterally.
345. Furthermore, the figure of 35% is evidently derived from the policy requirement specified in the EEP [99], up until its recent revocation. That link to planning policy, albeit one no longer in force, gives the 35% figure added legitimacy.
346. In all the circumstances, I can see no particular reason to doubt that 35% affordable housing can be delivered.

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<sup>186</sup> Doc. CP-CD2 (Affordable Housing Viability Report)

### Affordable housing - the scheme's effects

347. The appellants' evidence regarding the very low level of affordable housing in Castle Point, and the relative lack of new provision over the last decade, is substantially unchallenged [211-216]. From this evidence, I am satisfied that Castle Point has an acute shortage of affordable housing, and that this must have serious adverse consequences for persons in housing need. There is therefore an urgent need for additional affordable housing in the Borough.
348. In the present economic climate, it seems likely that the main potential source of new affordable housing is through S106 obligations on private sector led developments. However, the evidence on deliverable land supply suggests that over the next 5 years the overall amount of housing development is likely to remain low, and thus opportunities for increasing the affordable stock will be limited. This analysis gives little confidence that the situation will improve.
349. In the appeal scheme, 35% affordable provision would equate to about 58 dwellings. In the context of the low levels of existing and planned provision in the District, it seems to me that an injection of new affordable units on this scale would represent a substantial benefit, and would contribute to meeting the aims of saved LP Policy H7.

### **The Planning and GB balance**

#### GB status and the GB test

350. For the reasons stated above, I take the view that there is still a Green Belt in castle Point, and the appeal site is in it [241-249]. That being so, I must consider whether the acknowledged harm to the GB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to constitute the very special circumstances needed to justify development in the GB.

#### Harm

351. As well as constituting inappropriate development, the proposed development would cause harm to the GB's openness [252-253], and also some harm, albeit limited, to the GB's purpose of preventing encroachment on the countryside [257-259]. All of these considerations attract substantial weight.

#### Neutral effects

352. There would be no significant harm to the GB's purposes in respect of controlling sprawl [254-256] or separating settlements [260-265], nor to its character and appearance [266-269]. In these respects, the scheme's effects on the GB would be neutral.
353. No significant harm would be caused to the interests of ecology, wildlife or biodiversity [274-278]. The scheme would also have the potential for a modest gain by providing new habitat management areas in accordance with the undertaking [278-281]. Overall, the impact on these matters would be broadly neutral.
354. And, subject to appropriate conditions where necessary, and adequate control of reserved matters, no significant harm need be caused with regard to highway safety, traffic congestion, or flooding, or to local infrastructure or services, nor to

the living conditions of existing or future residents [282-296]. In all these respects, the scheme's effects would again be broadly neutral.

#### Beneficial effects

355. The appeal scheme would provide 165 new dwellings, in a District where the delivery of new housing over more than a decade has been grossly inadequate, and where there is an urgent need to make up for past failings in this respect [307, 335-337]. I give this consideration substantial weight.
356. The 165 dwellings would also include 58 units of affordable housing, in an area where there has been a particularly poor delivery of this kind of housing over the same period, and where there is evidence of unmet housing needs [347-348]. Again, this consideration merits substantial weight.
357. It is not disputed that the development would have some beneficial effects on the local economy, in terms of investment, increased spending, and the New Homes Bonus [218-219]. These carry some weight, albeit more limited.

#### Other considerations

358. The Borough's housing land supply of 0.7 years is exceptionally low [333]. When the few developments currently under construction are completed, the number of sites with planning permission and ready to start will be negligible [336]. There is a need for some additional permissions to ensure that the forward supply does not dry up completely.
359. In Castle Point, there have clearly been difficulties for many years in planning for sufficient housing. The LP failed to plan far enough ahead. The long-term reserve sites all turned out to be poor choices, because none came forward to fill the gap [29-30]. The CS took too long to prepare, and in the end failed because the housing provisions were inadequate [35]. In the light of this history, it cannot be assumed that the task of preparing a new local plan will be accomplished easily or quickly. Although it is right that planning decisions should be plan-led where possible, the Council's own action in announcing a list of preferred housing sites, in advance of having any kind of draft plan [41-42], seems to acknowledge that some decisions will not be able to wait for the new plan to be in place.
360. It is common ground amongst all those involved in the appeal that the task of finding suitable land for housing in Castle Point is not an easy one. The Borough has severe constraints, including the already high density of development, the close spacing of existing settlements, the widespread flood risk, the SPA, and the relative scarcity of suitable land. In the light of these constraints, the Council has acknowledged that there is a need to take land from the Green Belt, even for the lower level of housing provision that they currently propose.
361. Other than GB considerations, development at the appeal site would not cause demonstrable harm. There appear to be no particular constraints on delivery, and the site could thus make a valuable contribution to the District's housing needs in the short term.
362. The development would not conflict with any development plan policies. Nor would it conflict with any policy in the NPPF, apart from the loss of GB. The protection of GBs is one of the Framework's core principles, but it is not the only

one, and may be outweighed in very special circumstances. Boosting the supply of housing and delivering sustainable development are similarly important. In all respects other than the loss of GB, the present scheme would represent sustainable development.

### Overall balance

363. On the one hand is the harm to the Green Belt. On the other, there is the severe lack of a forward housing land supply; the acute shortage of affordable housing; the Council's very poor track record in delivering all forms of housing in the past; the past failures of the development plan process in the area, and consequent delays in the release of land through that route; the acknowledged need to release GB land; and the suitability and availability of the appeal site.
364. In the light of all the evidence, I find that these latter considerations together clearly outweigh the harm to the GB, thus constituting very special circumstances of the kind needed to justify development in the Green Belt.

### **The Undertaking [15-18]**

#### Open space, play area, and habitat management

365. The undertaking's provisions with regard to open space, a children's play area, and habitat management areas require land to be made available for these purposes, in accordance with details to be approved pursuant to requirements to be set out in conditions of the relevant planning permission. These provisions also require the implementation of schemes of management and maintenance, in accordance with further details which again are to be approved subsequently, pursuant to planning conditions. I am satisfied that if planning permission is granted, the necessary conditions can be imposed in order to give effect to these provisions. I am also satisfied that, with the addition of such conditions, the obligations in question would be effective and achieve their respective purposes.
366. The provision of the open space, play area and habitat management areas is necessary to provide for the needs of future residents of the development, and to protect wildlife. The obligations in respect of these facilities are directly related to the development, and are fairly and reasonably related in scale and kind, thus meeting the requirements of Regulation 122(2) of the CIL Regulations 2010.

#### Affordable housing

367. The provisions relating to affordable housing specify that 35% of the dwellings would be affordable, and that the locations, tenures<sup>187</sup>, sizes and types of these units are to be approved pursuant to conditions to be included in the relevant planning permission. I am satisfied that an appropriate condition can be imposed to give effect to this part of the undertaking. With such a condition in place, the obligations in respect to affordable housing seem to me to be effective and capable of achieving their purpose.
368. These provisions are necessary to ensure that the development addresses the District's particular housing needs, in accordance with the aims of saved LP Policy

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<sup>187</sup> In the case of tenure, the undertaking also provides that the affordable housing is to be split so that 50% is affordable rented or social rented, and 50% intermediate affordable.

H7 and the NPPF. In this respect, the obligations contained in the undertaking are directly related to the development and are fairly and reasonably related in scale and kind, thus meeting the relevant Regulation.

### Financial contributions

369. The justification for the proposed contributions to bus stop improvements, highway improvements, and travel information packs is contained in the Highway Authority's letter dated 20 February 2012<sup>188</sup>. From this, it appears that the bus stop contribution is needed to improve existing bus stop facilities in the vicinity of the site, and the travel pack contribution would enable relevant information to be distributed to new occupiers in accordance with an established County Council scheme. I agree that these contributions are necessary, to help overcome potential obstacles to encouraging the use of public transport. These obligations would also be directly related to the scheme, and reasonable in scale and kind.
370. In the case of the proposed highways contribution however, although it is said that the money would be spent on capacity improvements at the Tarpots junction, there is very little information as to the nature of those works. Nor does the letter explain why such works are considered necessary. The submitted Transport Assessment<sup>189</sup> does not appear to show such a need. At the inquiry, it was confirmed that no other information or justification had been offered by the Highway Authority, and that CPBC had nothing of its own to add.
371. With regard to healthcare, the request for a contribution arose from the two consultation responses from the NHS South Essex<sup>190</sup>. The first of these, dated 13 February 2012, discusses the amount but not the reasons for it. The second, dated 15 February, states that the first letter "*does not constitute an objection, but a request for S106 funding*". Again, the Council confirmed at the inquiry that it had nothing to add. Whilst evidence was given by local residents as to perceived deficiencies in existing GP services, this is not conclusive, especially in the light of the NHS letter.
372. In the circumstances, I find no evidence that either of the highways or healthcare contributions are necessary to make the development acceptable in planning terms. These elements of the undertaking therefore fail to comply with the CIL Regulations, and in coming to my decision on the appeal, I give them no weight.

### **Conditions**

373. The Council's revised list of 47 suggested conditions<sup>191</sup> was discussed at the inquiry. My conclusions on those suggested conditions are summarised at Annex 3 to this report.
374. In summary, I find 18 of those conditions to be unnecessary, or to fail the tests in Circular 11/95 for some other reason. For the most part, this is because the suggested conditions relate to matters that can be adequately controlled at the reserved matters stage.

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<sup>188</sup> Doc. FLP/CD4.14 (ECC Highways letter)

<sup>189</sup> Doc. FLP/CD1.7 (Transport report)

<sup>190</sup> Docs FLP/CD4.11 and 4.12 (NHS S Essex)

<sup>191</sup> Doc. GEN-ID8 (Council's suggested conditions)

375. I have condensed the remaining matters into 15 recommended conditions, which are set out in full at Annex 4. In most cases, I have edited the suggested wording in the interests of clarity and enforceability.

376. My recommended condition RC15 relates to noise. This was not included in the Council's list, but was discussed at the inquiry, at my suggestion. In the light of the evidence in the submitted Noise Report<sup>192</sup>, I am satisfied that an acceptable noise environment can be provided within the development, but a condition is necessary to ensure that adequate measures are taken.

### **Overall conclusion**

377. The proposed development would go some way towards meeting an urgent need for more housing and affordable housing in Castle Point. For the reasons set out above, I conclude that the harm to the Green Belt is clearly outweighed by the benefits to the supply of housing, and the combined weight of all the other material considerations.

### **Recommendation**

378. I recommend that the appeal is allowed and planning permission granted subject to the conditions in Annex 4.

*John Felgate*

INSPECTOR

Richborough Estates

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<sup>192</sup> Doc. FLP/CD1.13 (Noise report)



## ANNEX 1: APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Alun Alesbury, of Counsel	(instructed by Ms Fiona Wilson, Head of Law, Castle Point Borough Council)
He called:	
Mr Keith Zammit, BSc(Hons) DipTP MRTPI	Planning Officer
Miss Amanda Raffaelli, BSC(Hons) MSC MA DipPEM	Senior Planning Officer
Mr Neil Harvey, BSc MIEEM	Ecological Consultant and Manager of Essex Ecology Services

### FOR THE APPELLANT:

Mr Peter Goatley, of Counsel	(instructed by Mr Martyn Twigg)
He called:	
Mr Carl Rech, BAPhil CMLI	FPCR Environment & Design
Mr George Venning, MA(Cantab)	Lewvel Ltd
Mr Stephen Nicol, BA MA	Regeneris Consulting
Ms Kate Hollins, BA MSc MIEEM CEnv	FPCR Environment & Design
Mr Martyn Twigg, BSc(Hons) MRTPI	Fox Land and Property Ltd

### INTERESTED PERSONS:

Mrs Rebecca Harris MP	Member of Parliament for Castle Point
Cllr Jackie Govier	District Council member for St George's Ward
Cllr Clive Walter	District Council member for St George's Ward
Mr Steve Guest	'Residents for a Safe and Green Glebelands and Sadlers'
Rev. Anthony Rose	St George's Church, New Thundersley Parish
Mr A W Pratt	Local resident
Mr Peter Gunn	Local resident
Mr Ray Hilton	Local resident
Ms Sharon Knight	Local resident

**ANNEX 2: PLANS SUBMITTED WITH THE APPLICATION**

3349-P-01 (rev. C)	Application Boundary
3349-P-02 (rev. F)	Development Framework
3349-P-03 (rev. G)	Illustrative Masterplan

Richborough Estates

### **ANNEX 3: INSPECTOR'S COMMENTS ON CONDITIONS SUGGESTED BY THE COUNCIL**

[Note: Conditions C1 – 47 are those suggested by the Council<sup>193</sup>; Nos RC1 – 15 are the Inspector's recommended conditions as set out at Annex 4.]

- C1 (Cross-referencing the Undertaking): At the inquiry it was agreed that this was unnecessary, because the undertaking binds the permission in any event.
- C2 (Reserved matters and time limits): Standard conditions, incorporated into RCs Nos 2-5.
- C3 (Contents of landscape scheme): Not necessary at outline stage, because controllable under reserved matters.
- C4 (Landscaping - implementation): Necessary to ensure implementation of mitigating works; incorporated into RC 6.
- C5 (Phasing scheme): Necessary to enable the provision of open space and other necessary infrastructure to be co-ordinated with the provision of the new housing, having regard to the relevant provisions of the undertaking. Incorporated into RC7.
- C6 (Materials): Unnecessary, can be required as part of reserved matters.
- C7 (Open Space): Condition necessary to give effect to relevant provisions in the Undertaking. Incorporated into RC 8; edited to avoid duplication with Undertaking.
- C8 (Open space – implementation): Incorporated into RC 8.
- C9 (Play Area): Condition necessary to give effect to relevant provisions in the Undertaking. Combined with Open Space and incorporated into RC 8, edited as necessary to avoid duplication.
- C10 (Play Area – implementation): Incorporated into RC 8.
- C11 (Affordable housing): Condition necessary to give effect to relevant provisions in the Undertaking. Incorporated into RC 9; edited to avoid duplication with Undertaking.
- C12 (Affordable housing – implementation): Incorporated into RC 9.
- C13 (Materials – implementation): Not necessary, as covered by reserved matters and general implementation clause in RC 2.
- C14 (Boundary treatments): Condition necessary, to ensure details are brought within the scope of reserved matters, and to ensure a satisfactory appearance. Included as RC 5.

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<sup>193</sup> Doc. GEN-ID8 (Council's suggested conditions)

- C15. (Boundary treatments – implementation): Separate condition unnecessary, as RC 5 brings within the scope of reserved matters; implementation secured by RC 2.
- C16 (Habitat Management Areas): Condition necessary to give effect to relevant provisions in the Undertaking; but not necessary to require additional surveys, in the light of the evidence already available. Incorporated into RC8; edited to avoid duplication with Undertaking.
- C17 (Habitat Management Areas – implementation): Incorporated into RC 8.
- C18 (Development to accord with Arboricultural report): Unacceptable in form proposed due to lack of precision, but aims incorporated into RC 10.
- C19 (Tree retention): Agreed necessary, to protect existing landscape features of amenity value. Incorporated into RC 10, and edited to include hedgerows, in light of discussions at inquiry.
- C20 (Tree replacement): Agreed necessary, to ensure effective landscaping; incorporated into RC 6.
- C21-24(Dimensions of parking spaces and garages): Unnecessary at outline stage; controllable under reserved matters.
- C25. (Retention of parking spaces): Inappropriate at outline stage; justification for condition depends on layout, which is not yet for determination.
- C26. (Parking courts access width): Unnecessary at outline stage; it is not yet known whether any parking courts will be proposed. Controllable under reserved matters.
- C27 (Splays on internal accesses): Unnecessary at outline stage; controllable under reserved matters.
- C28 (Construction parking and loading areas): Agreed a condition is reasonable, to minimise impacts on neighbours and highway safety; incorporated into RC 11.
- C29. (Construction parking etc – implementation): Incorporated into RC 11.
- C30 (Construction traffic management plan): A condition is justified, to minimise impacts on neighbours and highway safety; but controls on routing of vehicles on public highway unenforceable. Amended and combined with C28 and C32 into RC11.
- C31 (Construction traffic management plan –implementation): Incorporated into RC 11.
- C32. (Wheel washing): Agreed a condition is reasonable, to minimise impacts on neighbours and highway safety; incorporated into RC 11.
- C33 (Estate roads): A condition requiring the provision of roads and footpaths to serve new dwellings is reasonable, in the interests of safety, and to ensure a high standard of development. Incorporated into RC12, edited to be less prescriptive.
- C34 (Highway trees): Unnecessary at outline stage, controllable under reserved matters.

- C35 (Travel information packs): Duplicates and conflicts with the undertaking; unnecessary.
- C36 (Storage of materials): Control of activity on the highway unenforceable; but storage of materials addressed in RC 11.
- C37 (Unbound surfacing materials): Unnecessary at outline stage, controllable under reserved matters.
- C38 (Essex Design Guide): Unduly prescriptive, other forms of layout may be equally acceptable; therefore unreasonable. Also unnecessary at outline stage, because layout controllable under reserved matters.
- C39 (Traffic calming details): Unnecessary at outline stage; controllable under reserved matters.
- C40 (Surface water drainage): Condition necessary to control run-off and minimise flood risk; incorporated into RC13.
- C41 (Surface water – implementation): Incorporated in RC13.
- C42 (Foul drainage): Condition necessary to ensure that discharges are properly controlled, and to ensure an acceptable standard of development; combined with C42 into RC13.
- C43 (Foul drainage – implementation): Incorporated in RC13.
- C44 (Contamination): No contamination or likely contamination was revealed by the appellants' Phase 1 ground investigations report<sup>194</sup>, and at the inquiry, it was agreed that there is no reason to suspect any contamination; the condition is therefore unreasonable and unnecessary.
- C45 (Archaeology): A condition is justified because the site is in an area identified as having some archaeological potential. The suggested condition is included as RC14.
- C46 (Site waste management): Agreed at the inquiry that this was covered by other powers, and is therefore unnecessary.
- C47 (Site waste – implementation): Unnecessary for the same reasons as C46.

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<sup>194</sup> Doc. FLP/CD1.10 (Ground Investigation report)

#### **ANNEX 4: INSPECTOR'S RECOMMENDED CONDITIONS**

- RC1 The development hereby permitted shall begin not later than three years from the date of this decision.
- RC2 Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out in accordance with these approved details.
- RC3 Application for approval of the reserved matters specified in Condition 2 shall be made to the local planning authority not later than three years from the date of this permission.
- RC4 The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- RC5 The landscaping details to be submitted under Condition 2 shall include details of all boundary treatments.
- RC6 The landscaping works approved under Condition 2 shall be carried out in accordance with a programme to be submitted to and approved in writing by the local planning authority. Any tree or plant forming part of that landscaping scheme which dies, or becomes seriously damaged or diseased, or is removed for any reason, within a period of 5 years after planting, shall be replaced during the next planting season with others of similar size and species.
- RC7 No development shall be commenced until a phasing scheme has been submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the phasing thus approved.
- RC8 No development shall take place until a detailed scheme has been submitted to the local planning authority and approved in writing, showing how 2.65 ha of open space and habitat management areas would be provided (inclusive of a children's play area of 0.04 ha, and any balancing areas and ponds), generally in accordance with the submitted Development Framework (Plan No 3349-P-02, rev. F) and Master Plan (Plan No 3349-P-03, rev. G), and the submitted undertaking. The said scheme shall include full details of the design, layout and use of the proposed areas, a programme for their implementation, and details of the arrangements for their long term management and maintenance. The open space and habitat management areas shall thereafter be laid out, maintained and managed in accordance with the details thus approved.
- RC9 No development shall begin until a scheme has been submitted to the local planning authority and approved in writing for the provision of a proportion of the proposed dwellings as affordable housing, in accordance with the submitted undertaking. The scheme shall contain details of the affordable dwellings' location, tenure, size, and type. The affordable housing shall be

provided in accordance with the approved scheme and the relevant provisions of the undertaking.

RC10 No development shall take place until a tree and hedgerow protection scheme has been submitted to the local planning authority and approved in writing. The scheme should show all existing trees and hedgerows on or adjacent to the site, and should where any are to be removed, pruned, thinned, trimmed or reduced. The scheme should also contain details of measures for the protection of the remaining trees and hedges before and during the course of development. These measures shall include protective fencing, and such fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought on to the site, and shall remain in place until the latter have been removed from the site and the development has been completed. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No tree or hedgerow identified for retention shall be cut down, uprooted or destroyed, nor be topped, lopped or pruned other than in accordance with the approved details. Any works which may be thus approved shall be carried out in accordance with the relevant British Standards. If any retained tree is removed, uprooted or destroyed or dies, replacement planting shall be carried out, within the first available planting season, in accordance with details to be approved in writing by the local planning authority.

RC11 No development shall take place until a Construction Management Plan (CMP) has been submitted to the local planning authority and approved in writing. The CMP shall include:

- (i) Details of areas to be provided within the site for the loading and unloading, parking and turning of vehicles during construction;
- (ii) Details of areas to be provided within the site for the storage of construction materials, plant and equipment during construction;
- (iii) Details of the arrangements for the delivery of materials, plant and equipment to the site, including the times of day within which such activities shall be carried out; and
- (iv) Details of the arrangements for wheel-washing of all vehicles leaving the site.

These measures shall be implemented as approved, prior to the start of construction, and the terms of the CMP shall be adhered to throughout the construction period.

RC12 No new dwelling shall be occupied until the necessary roads, footways, highway drainage and lighting to serve that dwelling have been provided, in accordance with further details to be submitted to and approved in writing by the local planning authority.

RC13 No development shall take place until a scheme of foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The scheme shall include details of how the proposed foul and surface water drainage systems will be managed and maintained throughout the lifetime of the development. No new dwelling shall be occupied until the foul and surface water drainage works relating to that dwelling have been

completed in accordance with the details thus approved. The foul and surface water drainage systems shall thereafter be managed and maintained in accordance with the approved arrangements.

RC14 No development or preliminary ground works shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to the local planning authority and approved in writing.

RC15 No development shall take place until a noise insulation scheme has been submitted to the local planning authority and approved in writing. The scheme shall contain details of measures to ensure that the internal noise level within any new dwelling will not exceed 35 dB ( $L_{Aeq,8hr}$ ) during the hours of 23.00 – 07.00 (in bedrooms), or 40 dB ( $L_{Aeq,16hr}$ ) at other times (in any habitable rooms). No dwelling shall be occupied until the measures relevant to that dwelling have been installed as approved.

Richborough Estates



**ANNEX 4: DOCUMENTS****GENERAL DOCUMENTS*****Received prior to the inquiry (blue folder No. 1)***

GEN-SCG1	Statement of Common Ground – final agreed version, 3 December 2012
GEN-SCG2	Highways Statement of Common Ground with Essex County Council, 16 July 2012
-	Appeal questionnaire and attached bundle of documents received from CPBC

***Tabled during the inquiry (blue folder No. 2)***

GEN-ID1	List of persons attending the inquiry
GEN-ID2	Ministerial statement re the revocation of the East of England regional Strategy; and accompanying letter from DCLG dated 11 December 2012
GEN-ID3	News item from Planning Resource re revocation of the RS
GEN-ID4	Press release from Gov.UK re revocation of the RS
GEN-ID5	Revocation of the East of England RS: SEA Post-adoption statement, December 2012
GEN-ID6	Set of A3 plans for Sadlers Farm junction improvements and landscaping works
GEN-ID7	Large-size plan of Sadlers Farm junction improvements and landscaping works
GEN-ID8	Amended list of Council's suggested conditions
GEN-ID9	Tour itinerary map
GEN-ID10	Developer Contributions Guidance SPD - complete copy
GEN-ID11	Castle Point Local Plan November 1998 – complete copy (separate black binder)
GEN-ID12	East of England Plan May 2008 – complete copy

**FOX LAND AND PROPERTY*****FLP Proofs of Evidence***

FLP/1/P	<u>Mr Twigg's proof (Planning Policy)</u>
	Mr Twigg's appendices (2 white 'arch' binders):
FLP/1/A1	VOLUME 1:
	Appx 1 PINS Briefing paper to Lincolnshire policy officers, June 2012
	Appx 2 Appeal decision – land at Honeybourne, Worcs (APP/H1840/A/12/2171339)
	Appx 3 Yorks & Humber RSS - extracts
	Appx 4 Note: Chronology of CPBC Core Strategy
	Appx 5 Cabinet meeting 17 October 2012, re 5-year land supply and new local plan (with sustainability assessment and SEA) – report and minutes
	Appx 6 Appeal decision and Inspector's report re Homelands and Deans Farm, Tewkesbury (APP/G1630/A/11/2146206 etc)

- Appx 7 Appeal decision and Inspector's report re Burgess Farm, Worsley (APP/U4230/A/11/2157433)
- Appx 8 Appeal decision and Inspector's report re Queensway, Fylde (APP/M2325/A/09/2103453)
- Appx 9 Appeal decision and Inspector's report re land west of Shottery, Stratford-Upon-Avon (APP/J3720/A/11/2163206)
- Appx 10 Sustainability matrix
- Appx 11 Appeal decision re land at Clitheroe (APP/T2350/A/11/2161186)
- Appx 12 Plans of Sadlers Farm junction improvement scheme
- Appx 13 Sustainability comparison of alternative sites
- Appx 14 Sustainability comparison of alternative sites – adjusted scoring
- Appx 15 Table: FLP's analysis of CPBC's comparative site scores
- Appx 16 Appeal decision – land at Riviera Way, Torquay (APP/X1165/A/11/2165846)

FLP/1/A2

VOLUME 2:

- Appx 17 (blank)
- Appx 18 Kings Park caravan site - certificate of lawful use
- Appx 19 Appeal decision – land at Wincanton (APP/R3325/A/12/2170082)
- Appx 20 Appeal decision – land at Chapel-en-le-Frith (APP/H1033/A/11/2159038)
- Appx 21 Appeal decision – land at Bushby/Thurnby, Leics (APP/F2415/A/12/2167768)
- Appx 22 Table: deliverable housing land supply
- Appx 23 Table: 5-year housing land supply
- Appx 24 Land at Kiln Road – officers' report to DC Committee 31 July 2012, recommending permission
- Appx 25 101 Point Road - officers' report to DC Committee 3 October 2012, recommending permission
- Appx 26 FLP letter of objection to 101 Point Road application, 14 Sept 2012
- Appx 27 Thorney Bay Caravan Park - officers' report to DC Committee 4 Sept 2012, recommending 'minded to approve'
- Appx 28 FLP letter of objection to Thorney Bay Caravan Park application, 3 Sept 2012
- Appx 29 Developer Contributions Guidance SPD, October 2008 - extracts
- Appx 30 Affordable housing – letter from Savills re viability, dated 30 Oct 2012
- Appx 31 Call-in decision and Inspector's report re land at Stanford-le-Hope, Essex (APP/M9565/V/11/2154021)
- Appx 32 Appeal decision – land at Hawkwell, Essex (APP/B1550/A/12/2170837)
- Appx 33 Land at 34 Crescent Rd, Benfleet – planning permission for 2 dwellings, officers' report and minutes
- Appx 34 Land adj Sadlers Farm roundabout - call-in decision and Inspector's report re proposed motel, public house, restaurant and function suite (APP/M1520/V/04/1171644)
- Appx 35 Basildon Borough Local Plan – proposals map (extract)
- Appx 36 Letters from Barratt Homes and Crest Nicholson, expressing interest in developing the appeal site
- Appx 37 Appeal decision – land at Sapcote, Leics (APP/T2405/A/11/2164413)
- Appx 38 Appeal decision – land at Hardwicke, Glos (APP/C1625/A/11/2165865)

FLP/2/P	<u>Mr Nichol's proof (Housing Needs and Economic Impact)</u>
FLP/2/A	Mr Nichol's Appendices:
	Appx A Review of the Policy Context for Castle Point
	Appx B Method Note on Measuring Economic Effects from Housing
FLP/3/P	<u>Mr Venning's proof (Affordable Housing)</u>
FLP/4/P	<u>Mr Rech's proof and appendices (Master Planning and Landscape)</u>
	Appx 1 Personal CV
	Appx 2 Photograph – A130 overbridge
	Appx 3 Alternative sites – landscape and Green Belt review, and photographs
FLP/5/P	<u>Miss Hollins' proof (Ecology)</u>
	Fig. 1: Phase 1 Habitat plan
	Fig. 2: Habitat Creation and Retention Areas
FLP/5/A	Miss Hollins' appendices:
	Appx 1 Local Wildlife Site citations, 2002 and 2007
	Appx 2 Ecological Appraisal report by FPCR, Nov 2011 [ <i>note: duplicates FLP/CD1- 1.8</i> ]
	Appx 3 Hedgerow survey methodology
	Appx 4 Essex Wildlife Trust letter 29 Nov 2010 – re 2007 survey
	Appx 5 LWS selection criteria, January 2010
	Appx 6 Essex Biodiversity Project (extract)
FLP/6/P	<u>Mr Twigg's supplementary proof and appendices</u>
	Appx 1 Natural England pre-application consultation response, 19 Nov 2010
	Appx 2 Brickfields site – report to DC Committee on 4 Sept 2012, recommending refusal of pp
	Appx 3 Brickfields site – proposed layout
	Appx 4 Land at 396-408 London Rd – report to DC Committee on 4 Sept 2012, recommending refusal of pp
	Appx 5 398-406 London Rd – appeal decision APP/M1520/A/06/2024242
	Appx 6 Chronology of officers' engagement; correspondence from FLP to CPBC
	Appx 7 Kings Park Caravan Site – aerial photograph
	Appx 8 Thorney Bay Caravan Park – Policy Team consultation response 20 August 2012; 'Bridging the Gap' – CBI report on construction sector
	Appx 9 Thorney Bay Caravan Park – aerial photograph

***FLP Core Documents (series of white binders labelled Folders 1-5)***

'FOLDER 1'

FLP/CD1

*Application documents:*

- 1.1 Application forms and covering letter
- 1.2 Location/ red line plan
- 1.3 Development Framework plan
- 1.4 Illustrative Master Plan
- 1.5 Design & Access Statement
- 1.6 Landscape and Visual Assessment report
- 1.7 Transport Assessment report
- 1.8 Ecological Report [*note: also at FLP/5/A, Appx 2*]
- 1.9 Arboricultural Report
- 1.10 Geo-environmental Phase 1 Site Investigation Report
- 1.11 Flood Risk and Drainage report
- 1.12 Air Quality Assessment report

'FOLDER 2'

FLP/CD1  
(cont.)

*Application docs (cont.):*

- 1.13 Noise Report
- 1.14 Archaeology Report
- 1.15 Agricultural Land Quality report
- 1.16 Utilities and Infrastructure Report
- 1.17 Renewable Energy report
- 1.18 Draft s.106 agreement
- 1.19 Statement of community Involvement
- 1.20 Affordable Housing Statement
- 1.21 Planning Statement

FLP/CD2

Correspondence with the Council (individually numbered items 2.1 – 2.21)

FLP/CD3

The Refusal Notice

'FOLDER 3'

FLP/CD4

*Consultation responses:*

- 4.1 Essex Wildlife Trust
- 4.2 Essex Police
- 4.3 National Grid
- 4.4 London Green Belt Council
- 4.5 Anglian Water
- 4.6 Waste Management Officer
- 4.7 Environment Agency
- 4.8 Natural England
- 4.9 ECC Education Officer
- 4.10 Basildon Borough Council
- 4.11/12 NHS South Essex
- 4.13 CPBC Planning Policy Team
- 4.14 ECC Highways Department
- 4.15 ECC Historic Environment Officer

FLP/CD5	(blank)
FLP/CD6	Castle Point Local Plan, November 1998 (extracts)
FLP/CD7	Saved Policies Direction, September 2007
FLP/CD8	East of England Plan, May 2008 - extracts [see Doc. GEN-ID12 for complete version]
FLP/CD9	Castle Point Core Strategy – submission draft, Sept 2009
FLP/CD10	Core Strategy schedule of amendments, February 2010
FLP/CD11	Core Strategy October 2010
FLP/CD12	Core Strategy – sustainability appraisal, Oct 2009
FLP/CD13	Core Strategy sustainability appraisal – updated, Oct 2010
FLP/CD14	Core Strategy – Flood Risk Sequential Test, Sept 2009
FLP/CD15	Core Strategy Flood Risk Sequential Test – updated, Sept 2010
‘FOLDER 4’	
FLP/CD16	Core Strategy – sustainability appraisal, Oct 2009 [note: duplicate of CD12]
FLP/CD17	Core Strategy – Habitat Regulations Assessment, review and update - Sept 2010
FLP/CD18	New Local Plan – issues discussion paper, January 2012
FLP/CD18A	Castle Point Green Belt sites - sustainability assessment report, August 2011
FLP/CD19	Castle Point Green Belt - landscape assessment report, September 2010
FLP/CD20	Castle Point Green Belt - functions assessment report, September 2010
FLP/CD21	SHLAA update report for Castle Point, October 2011
FLP/CD22	SHMA update report for Thames Gateway S. Essex, May 2010
FLP/CD23	Demographic Forecasts for Greater Essex, March 2012
‘FOLDER 5’	
FLP/CD24	Strategic Flood Risk Assessment for Castle Point, November 2010
FLP/CD25	(blank)
FLP/CD26	Canvey Island Regeneration report – Urban Initiatives, June 2006
FLP/CD27	Canvey Town Centre Masterplan report, Feb 2010
FLP/CD28	SHLAA update for Castle Point, May 2012: 28.1 report 28.2 schedules 28.3 plans
FLP/CD29	Inspector’s letter re CS Examination, 6 July 2011
FLP/CD30	CPBC letter to Inspector re CS Examination, 24 June 2011
FLP/CD31	Inspector’s letter re CS Examination, 7 June 2011
FLP/CD32	CPBC letter to Inspector re CS Examination, 31 May 2011
FLP/CD33	Cabinet report 25 May 2011 – re Core Strategy
FLP/CD34	Inspector’s letter re CS Examination, 11 May 2011
FLP/CD35	Inspector’s note re suspension of CS Examination, July 2010
FLP/CD36	Inspector’s guidance on work to be carried out during suspension of examination, 7 July 2010
FLP/CD37	Inspector’s letter suspending CS Examination, 6 July 2010
FLP/CD38	CPBC letter withdrawing the CS, 28 Sept 2011
FLP/CD39	CPBC letter to Mr Bob Neill MP – re CS withdrawal, 3 October 2011
FLP/CD40	Letter from Mr Bob Neill MP – re CS withdrawal, 7 November 2011
FLP/CD41	Briefing Paper for members’ conference on Core Strategy, 12/13 Sept 2011
FLP/CD42	Annual Monitoring Report 2010/11

FLP/CD43	Castle Point Regeneration Framework - Phase 1 delivery programme
FLP/CD44	Demographic Forecasts – Phase 3 report: Further Scenario Development, June 2012
FLP/CD45	East of England Plan EIP panel Report, June 2006
FLP/CD46	Employment and Retail Needs Assessment for Castle Point, August 2012
FLP/CD47	Officers' report on the appeal application, DC Committee 3 April 2012
FLP/CD48	Addendum to officers' report 3 April 2012

***FLP Additional Documents tabled at the Inquiry (blue folder No. 3)***

FLP-ID1	Opening submissions by Mr Goatley
FLP-ID2	Kings Park Caravan Site aerial photograph, 1999
FLP-ID3	Kings Park Caravan Site aerial photograph, 1999
FLP-ID4	Bath & NE Somerset CS Examination – Inspector's preliminary conclusions
FLP-ID5	5-Year Housing Land Supply (adjusted from CP-ID2)
FLP-ID6	Unilateral legal undertaking – executed 18 December 2012
FLP-ID7	Closing submissions by Mr Goatley

**CASTLE POINT BOROUGH COUNCIL**

***CPBC Proofs of Evidence (black ring binder)***

CP-Tab 1	<u>Miss Raffaelli's main proof and appendices (Planning Policy)</u>
Appx 1	5-Year Land Supply at 31 October 2012
Appx 2	Land off Kiln Rd – resolution to grant pp (Minutes of DC Committee, 31 July 2012)
Appx 3	101 Point Road – resolution to grant pp (Minutes of DC Committee, 2 October 2012)
Appx 4	Thorney Bay – 'minded to approve' resolution (Minutes of DC Committee, 4 September 2012)
Appx 5	Land at Felstead Rd – letter from Redrow Homes, re intention to submit application
Appx 6	Thames Gateway/South Essex SHMA Update 2010 (extracts re affordable housing needs)
Appx 7	Email from Mr Twigg, 4 September 2012
CP-Tab 2	<u>Mr Zammit's proof and appendix (General Planning)</u>
Appx 1	Schedule of suggested conditions
CP-Tab 3	<u>Mr Harvey's proof and appendices (Ecology)</u>
Appx 1	Local Wildlife Site description, 2007
Appx 2	Google Earth images
Appx 3	LWS selection criteria
CP-Tab 4	<u>Miss Raffaelli's supplementary proof and appendices</u>
Appx 1	Updated table of strategic sites in 5-year land supply
Appx 2	2.1 Brickfields site – letter from Bidwells, re development intentions 2.2 Thorney Bay site – letter from Ian Butterworth re development intentions

- 2.3 Felstead Rd site – letter from Redrow re development intentions
- Appx 3 Cabinet report 21 September 2011, re Core Strategy [see also item CP-CD6]
- Appx 4 TE2100 Action Plan Consultation Document, April 2009 (extracts)
- Appx 5 Thames Gateway/South Essex SHMA 2008 (Section 2 - 'Defining Sub Regional Housing Markets')

***CPBC Core Documents (black arch file)***

- CP-CD1 1.1 Cabinet report 17 October 2012, re new Local Plan and proposed housing supply sites  
1.2 New Local Plan - sustainability assessment and SEA, October 2012  
1.3 New Local Plan – equality impact assessment, Sept 2012
- CP-CD2 Affordable Housing Development Viability Study (Adams Integra for CPBC), March 2009; plus Appendices I - IX
- CP-CD3 New Local Plan – Issues Consultation report, May 2012
- CP-CD4 Local Development Scheme, January 2012
- CP-CD5 SEA of the revocation of the East of England RS, July 2012
- CP-CD6 Cabinet report 21 September 2011, including Appendices 1 and 2; re Core Strategy
- CP-CD7 Cabinet Minutes 21 September 2011, re Core Strategy
- CP-CD8 Full Council 27 September 2011, agenda
- CP-CD9 Full Council 27 September 2011, agenda item re Core Strategy
- CP-CD10 Full Council 27 September 2011, minutes re Core Strategy
- CP-CD11 Appeal decision re land at Walmley, Sutton Coldfield (APP/5104/A/82/1312)
- CP-CD12 Appeal decision re land at Bricket Wood, Herts (APP/B1930/A/87/76174 etc)
- CP-CD13 Appeal decision re land at Kelsall, Chester (APP/X0605/A/89/116512)
- CP-CD14 Notification letter to residents re public inquiry
- CP-CD15 Site notice re public inquiry
- CP-CD16 Press notice re public inquiry
- CP-CD17 Inspector's report on called in applications at York (APP/2741/V/05/ 1189897 etc)
- CP-CD18 New Local Plan – scoping report for sustainability assessment and SEA, April 2012

***CPBC Additional Documents tabled at the Inquiry (blue folder No. 4)***

- CP-ID1 Letter from David Marchant, Chief Executive of CPBC, re decisions taken at Council meeting on 5 December 2012 – re housing targets and supply
- CP-ID2 5-Year Land Supply (reworked in response to Inspector's request) tabled by Miss Raffaelli
- CP-ID3 Plan of sites referred to in 5-year land supply table
- CP-ID4 Larger scale plan of the Hadleigh town centre regeneration sites
- CP-ID5 Land at 396-408 London Road – letter from Argent Developers re intentions
- CP-ID6 Bundle of documents containing further information on housing provision at Kings Park and Thorney Bay caravan sites, tabled by Miss Raffaelli
- CP-ID7 Aerial photograph of Thorney Bay caravan site
- CP-ID8 Site licence for Kings Park caravan site

CP-ID9 Site licence for Thorney Bay caravan site  
CP-ID10 Note re Ragwort, tabled by Mr Harvey  
CP-ID11 Closing submissions by Mr Alesbury

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**OTHER INTERESTED PERSONS**

***Objection letters sent to CPBC at the application stage (red binder)***

- 62 individual objection letters, plus petition containing around 1500 signatures

***Pre-inquiry objection letters at the appeal stage (red folder)***

- Letter from Rebecca Harris MP  
- 70 letters from 85 individuals, plus one on behalf of 'Residents for a Green and Safe Glebelands and Sadlers'

***Submissions received during the inquiry (front of red folder)***

IP-ID1 Letter from Dr Hiscock and Partners, Rushbottom Lane Surgery

Richborough Estates



**ANNEX 6: INSPECTOR'S HOUSING LAND SUPPLY CALCULATIONS**The 2001-12 shortfall

EEP requirement, 1 April 2001 – 31 March 2012:	2,200
Requirement for 1 April – 31 October 2012:	<u>117</u>
Overall requirement up to base date	2,317

Completions claimed 1 April 2001 – 31 March 2012:	1,623
Completions 1 April – 31 October 2012:	<u>48</u>
	1,671
Less caravans at Kings Park	<u>504</u>
Total actual completions to base date	<u>1,167</u>

Shortfall to 31 October 2012	1,150
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5-Year Requirement, 2012-17

Basic requirement 5 x 200	1,000
20% buffer	<u>200</u>
	1,200
Backlog from 2001-12	<u>1,150</u>
Total requirement	2,350

5-Year forward supply as at 31 Oct 2012

Supply claimed by Council	1,285
Less completions April- Oct 2012 (already counted)	<u>48</u>
	1,237

(continued)

Council's adjusted supply (as above)	1,237
Less: Felstead R/Catherine Rd	160
London Road	50
Brickfields	13
Castle View School	50
Thorney Bay	300
Hadleigh Town Centre (3 sites)	120
Point Rd Ind Estate	97
Kings Park proposed additional caravans	78
Scrub Lane	36
Total deletions	<u>904</u>
Remaining supply	333

Years' Supply

5-year requirement 2,350

5-year supply 333

Years' supply = 0.7 years



## Department for Communities and Local Government

### RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.