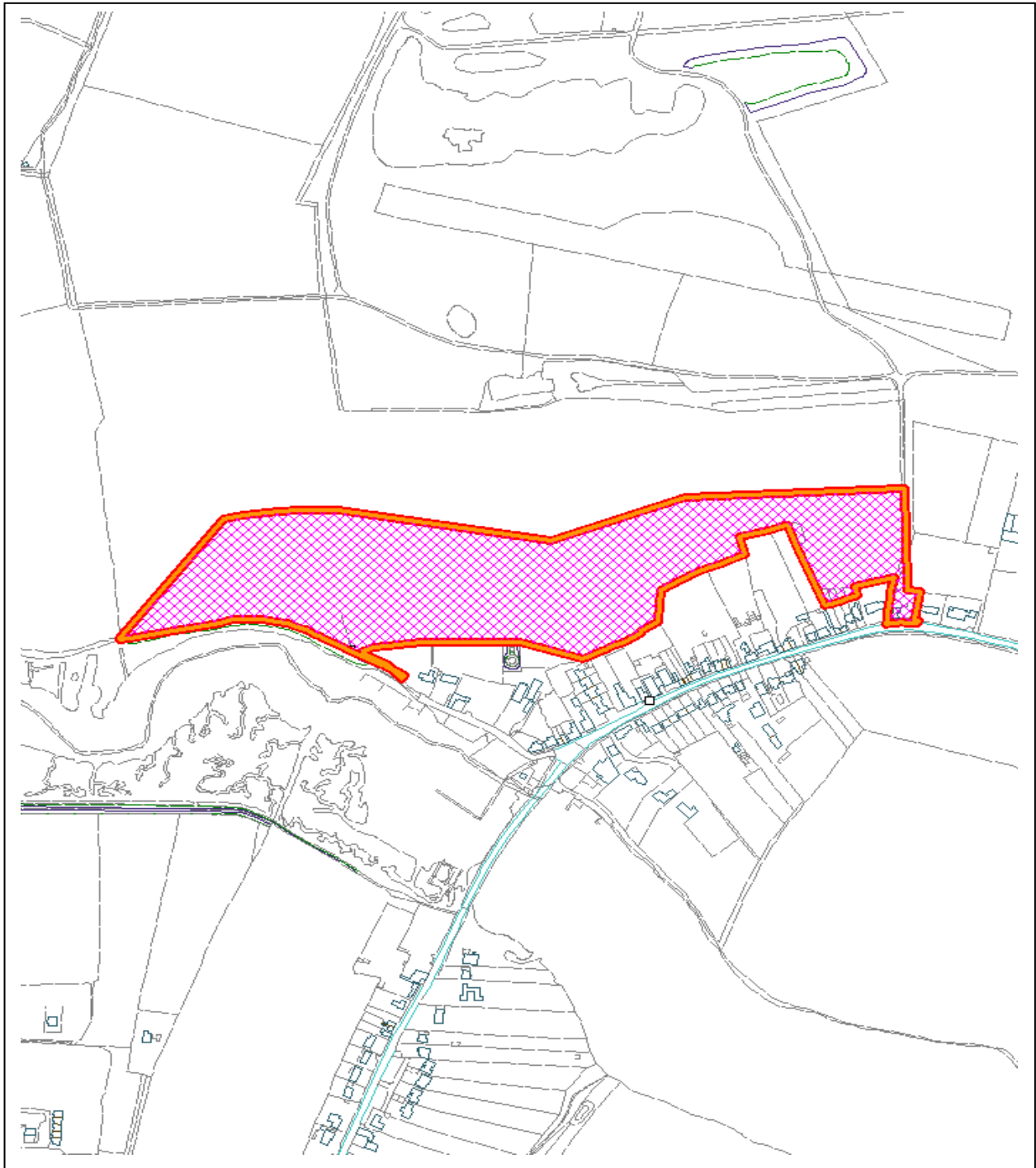


PLANNING COMMITTEE

18 OCTOBER 2016

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION – 16/00656/FUL – ST OSYTH PRIORY, THE BURY,
ST OSYTH, CLACTON-ON-SEA, ESSEX, CO16 8NZ**



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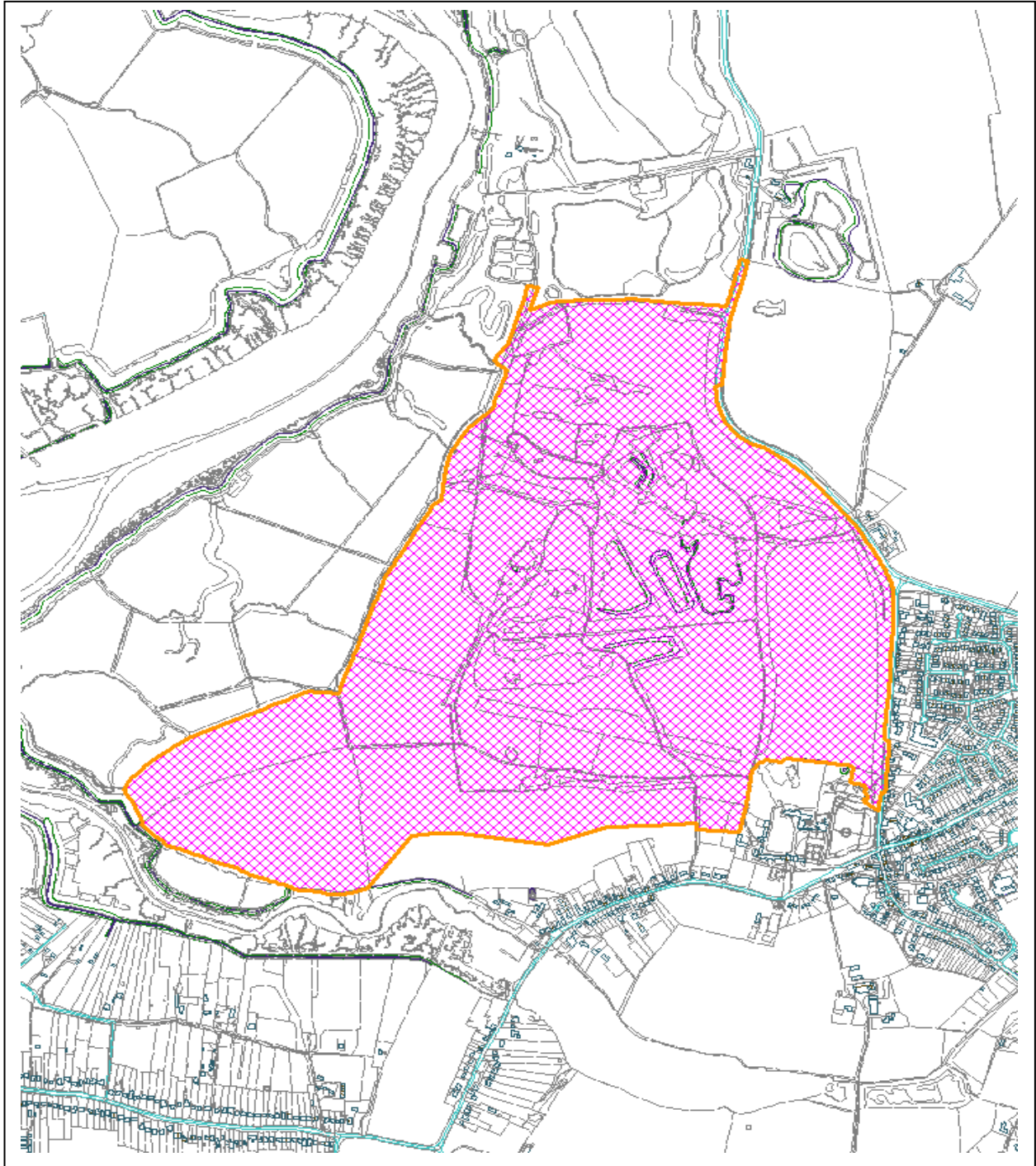
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PLANNING COMMITTEE

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A.1 PLANNING APPLICATION – 16/00671/FUL – ST OSYTH PRIORY, THE BURY, ST OSYTH, CLACTON-ON-SEA, ESSEX, CO16 8NZ



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Applications:	16/00656/FUL 16/00671/FUL	Town / Parish: St. Osyth
Applicant:	Mr R.A, T.R, D.R, A.I Sargeant	
Address:	St. Osyth Priory, The Bury, St. Osyth, Clacton on Sea, Essex CO16 8NZ	
Development:	<p>16/00656/FUL (West Field): Demolition of existing property at 7 Mill Street and the creation of 72 no. two, three and four bedroom houses, plus associated roads, car parking, garages and landscaping.</p> <p>16/00671/FUL (Parkland): Erection of 17 dwellings for use as residential and holiday accommodation (C3 use); restoration of park landscape; bunding; re-grading of 9 hectares of land; construction and alterations to access driveway; landscaping and all ancillary works.</p>	

1. Executive Summary

- 1.1 These are two planning applications are for 'enabling development' within and adjoining the grounds of St. Osyth Priory. One application comprises an estate of 72 dwellings on agricultural land to the west of the Priory (the 'West Field' development) and the other comprises 17 dwellings for either residential or holiday use located either individually or in groups, in different parts of the Priory's parkland, each of bespoke design (the 'Parkland' development). The purpose of enabling development is to generate funds to be utilised for the repair of a heritage asset (typically a Listed Building(s)). Enabling development, in planning terms, is development which contravenes normal planning policies. The National Planning Policy Framework (NPPF) makes an allowance for such developments where the public benefits of securing the future conservation of a heritage asset outweigh the 'disbenefits'. There is also guidance from Historic England about how it is to be assessed, although it pre-dates the NPPF and there is a limit to how much weight can be attached to it.
- 1.2 St. Osyth Priory is a heritage asset of national significance, much of it a scheduled monument, containing an impressive collection of listed buildings set within extensive grounds, which are themselves a registered park and garden. The Priory buildings, the registered parkland and the West Field in turn form an important part of the St. Osyth Conservation Area. Many of the Priory buildings are in a poor state of repair following decades of slow deterioration. There is a specific policy in the Council's adopted Local Plan that states that the Council is committed to the conservation, preservation and restoration of St. Osyth Priory and to that end, will work in conjunction with the landowner and Historic England to achieve that goal.
- 1.3 These planning applications were submitted on 27 April 2016 and were due for determination on 7 September 2016. The applicant has appealed to the Secretary of State against non-determination and the applications are now the subject of determination by the Planning Inspectorate. A Public Inquiry is scheduled for November 2016 which will consider both these applications and previous applications for enabling development for which the Inspectors decision to dismiss those applications was quashed.

- 1.4 Proposals for enabling development are complex. In weighing up the benefits of development against the disbenefits, the decision making body (i.e. the Council or the Planning Inspectorate) needs to have a clear understanding of the impacts of the development, the funds likely to be generated by the development and, in turn, the heritage benefits secured including the degree to which the future conservation of a heritage asset will be achieved. To this end, Officers have requested additional information from the applicants which, for the most part, has been provided, albeit too late in the process for the Council to have reasonably been able to determine the application within statutory timeframes. The information provided by the applicants on all matters relating to finance, in particular the contribution that enabling development would make and how it would be spent, is opaque and difficult to follow, making it difficult for Officers and their advisors to understand and evaluate the situation.
- 1.5 The 'conservation deficit' for a heritage asset is the gap between its value after it has been restored, and the cost of restoring it. The Historic England guidance say that the current value should be based on the optimum viable use, which is common sense otherwise an owner could simply choose a low value use in order to increase the conservation deficit and, therefore, justify more enabling development.
- 1.6 The owners have estimated the conservation deficit, to be about £40million. This takes into account buildings that are already being brought into economic use and the s106 contribution from the grant of outline planning permission for up to 190 dwellings on land at Wellwick Field, to the north of the Priory grounds (which has already helped to fund some repairs to the Priory). The applicants have however indicated that the deficit could be reduced to about £35million through a combination of vesting the Abbot's Tower and walled garden into a charitable trust which might obtain grants up to £3.2million from the Heritage Lottery Fund (HLF) and other sources, securing £800,000 from the Highway Authority to repair damage to the wall on Mill Street, and by converting two buildings to a functions business, as a commercial venture. Our advisors however suggest that a £3.2million HLF 'heritage grant' is optimistic. The applicants propose that the contribution made by the enabling development would reduce the conservation deficit below £35million.
- 1.7 The Council's advisors do not agree that the manner in which the conservation deficit is calculated by the owners is correct, mainly because it is not based on the optimum viable use. This is partly because it is based on a scheme which suits their objectives and does not consider options for how the heritage asset could be conserved in a more cost effective manner, partly because it includes cost assumptions that are either, in the opinion of our advisors, inappropriate or overstated, and partly because the strategy proposed for undertaking the development is not appropriate to the circumstances. The reasons for this are explained in more detail in the main body of this report.
- 1.8 The owners state that the new West Field and Parkland development proposals will together reduce the deficit by around £8million, about 23%. They only propose however that 47% of the financial gain (i.e. £3.76million) will actually be used to repair and make usable the heritage asset. That is partly a result of them deducting allowance for many historic costs and also development profit, calculated at 20% of costs, applied to both enabling development and works to the heritage asset. Our advisors say that a portion of that is justified, but that a large proportion of the value generated by the enabling development would be withdrawn from the site by the owners rather than invested in the asset. The

applicants do not explain how the remaining 77% of the conservation deficit they estimate would be dealt with.

- 1.9 Colliers International have assessed that the owners' proposal would actually result in repair and conversion of about 55% of the heritage asset (by cost or repair and conversion to a viable use), which is a more positive picture than the applicants' figures. It would still, however, leave a gap of £10million needed to fund repair and conversion of the remaining historic structures, and the remainder would be dominated by the structures that are not suited to commercial use and, therefore, are most difficult to deal with and most vulnerable. Opportunities for enabling development and major grants would have been exhausted.
- 1.10 The previous applications for enabling development from 2011 proposed 123 dwellings on West Field and 19 dwellings in the Parkland. When considered by the Planning Inspector in 2014, the contribution toward reducing the conservation deficit, as estimated by the owners, was around £4.8million. The new schemes produce almost as much return, with fewer houses, on less land and with less harm partly because of better market conditions and partly because the scheme is more efficient.
- 1.11 The Council's contention was that, for the 2011 scheme, the cumulative harm to the setting of the listed building, the character and appearance of the registered park and that of the wider Conservation Area was not outweighed by the benefit of reducing the conservation deficit by a potential £4.8 million – particularly in the absence of any comprehensive strategy or business plan for how the remainder of the deficit would be addressed in the longer term.
- 1.12 For the current proposals, the developments have been reduced in size and the applicants have omitted elements of both schemes that were considered by the Council, Historic England and the Inspector to be particularly harmful to the setting of the Priory and the character and appearance of the wider area. Even with a reduced number of dwellings, the improvement in housing market conditions in recent years means that the benefit of the new developments in reducing the conservation deficit is notably greater than would have considered to be the case two years ago. In addition, the Council's appointed consultants have undertaken more work to explore potential funding options which can inform a longer-term strategy for reducing the conservation deficit. This work advises that some enabling development is justified, as part of a wider strategy, to achieve this goal – but only if a more positive approach to utilising funds generated from the enabling development to secure repairs to the Priory is adopted.
- 1.13 Ecological and other environmental impacts have been assessed through the applicant's Environmental Impact Assessment and are considered to be acceptable subject to appropriate mitigation. Landscape and visual Impacts have been considered in the context of their impact upon the setting of the Priory and the character and appearance of the parkland and the wider Conservation Area and whilst the impact is considered to be adverse, appropriate landscaping can keep the impacts to a minimum but the harm would still need to be outweighed by public benefits. The impact on the highway capacity and safety has raised a number of local objections but the Highway Authority has raised no objections, subject to conditions. The impacts upon health and education services for this particular development are considered to be negative and whilst under normal circumstances financial contributions would be secured in order to mitigate such impacts,

for enabling developments priority has to be given to the funding for the conservation of the heritage asset and the NHS and Local Education Authority would need to fund additional capacity themselves.

- 1.14 Taking the above factors into account, Officers consider that whilst enabling development is justified and the balance of benefits against disbenefits for the current proposals is more favourable than was the case for the 2011 proposals, the Council's advisors remain unconvinced that the applicants' approach to calculating the conservation deficit and funding the restoration of the Priory strikes an acceptable balance. An alternative approach which would have calculated the deficit in a different way, maximised the funding for repairs to the listed buildings and scheduled structures and secured a strategy for the full conservation and economic use of the Priory would have achieved an Officer recommendation of approval since the Council's advisers are of the opinion that enabling development of the order/return proposed would be justified to do so. However, as it stands, Officers would have been minded, on balance, to recommend refusal of planning permission.
- 1.15 Because the application is now for determination by the Planning Inspectorate rather than the Council, the Planning Committee is now asked to decide whether or not it would have granted planning permission. If the answer is yes, the applicants have indicated that they would be willing to withdraw the appeal for both this development and the earlier 2011 version to enable the Council to recover and approve the latest application subject to the relevant agreements and conditions, with no claims of cost. If the answer is no (as recommended), the appeal will proceed and the Council's appointed legal, heritage and business planning experts will contest the appeal on the grounds that the benefits do not outweigh the disbenefits, along with any other concerns that the Committee may wish to draw to the Inspector's attention. In the meantime, if the Committee is in agreement with the recommendation, Officers will seek to negotiate with the applicants to see whether a more acceptable approach that would achieve a more favourable balance of benefits against disbenefits can be achieved.
- 1.16 The Committee should note that this proposal is very contentious with a long history of local objection to the concept of enabling development around the Priory. The current application has attracted around 170 objections but enabling development proposals have generated many hundreds of objections historically and there remains strong resistance locally.

Recommendation:

- (A) That the Planning Committee endorses the view that the application in its current form, based on the applicant's current approach and the latest information that has been provided, would have been REFUSED because the harm to the setting and significance of St. Osyth Priory, the registered parkland and the wider Conservation Area are not outweighed by the benefits of either proposal.**
- (B) That the Planning Committee also endorses the view that approval of planning permission would have been agreed if the applicants were willing, in line with the advice of the Council's heritage and business planning advisors, to commit to entering into a s106 legal agreement to secure the following:**

- 1) The preparation and subsequent approval by the Council of a medium-term (10-year) business strategy for the Priory, which should include a role for a charitable trust and appropriate public access;
 - 2) Completion of the repair and reuse of all of the principal buildings and structures within the Priory complex, in line with an agreed survey of condition and order of priority, in addition to the works already secured under the s106 agreement related to the Wellwick development, within 10 years namely:
 - i) Darcy House
 - ii) The Gatehouse (completion of works)
 - iii) Abbot's Tower, chapel and 'Rivers wall'
 - iv) Brewhouse
 - v) West Barn
 - vi) Tithe barn, cart shed and dairy
 - vii) Rose garden walls
 - viii) Northern section of wall (with gate and windows) on the west side of the Bury
- and
- 3) A regular review mechanism within the s106 agreement to allow flexibility to take into account changes in economic conditions, other potential sources of funding and other relevant changes in circumstances.

Planning, Listed Building and Conservation Area Law

- 2.1 Conservation Areas are designated under the Planning (Listed Buildings and Conservation Areas) Act 1990 for their special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. The Planning (Listed Buildings and Conservation Areas) Act 1990 S. 66 imposes a general duty as respects listed buildings in the exercise of planning functions. In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Planning Policy

National Planning Policy Framework (NPPF)

- 2.2 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.3 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point

for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF’s ‘presumption in favour of sustainable development’. The NPPF defines ‘sustainable development’ as having three dimensions:

- an economic role;
- a social role; and
- an environmental role.

- 2.4 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.5 Section 6 of the NPPF deals specifically with ‘conserving and enhancing the historic environment’. Paragraph 140 in states *“Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.”*
- 2.6 Paragraph 132 states: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”*
- 2.7 Paragraph 133 provides that where a proposed development will lead to ‘substantial harm’ to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be justified by substantial public benefits. Where the harm is considered to be ‘less than substantial’ however, paragraph 134 provides that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Local Plan

- 2.8 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the ‘development plan’ unless material

considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

Tendring District Local Plan (Adopted November 2007) – as ‘saved’ through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL7: Rural Regeneration: Encourages appropriate regeneration in rural areas where they provide employment opportunities, maintains and/or improves access to rural communities, the countryside and coast and protects and/or enhances landscape character and biodiversity.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district’s towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

HG14: Side Isolation: Requires new residential developments to retain appropriate open space between each dwelling and the side boundaries of their plots.

COM2: Community Safety: Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space and for smaller developments to make a financial contribution towards off-site provision.

COM21: Light Pollution: Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution: States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities: Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal: Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character: Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness. The policy refers specifically to listed parks and gardens.

EN3: Coastal Protection Belt: Resists unnecessary development in the Coastal Protection Belt to safeguard the character of the undeveloped coast.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species including bats and badgers are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN11a: Protection of International Sites: Guards against development that would have an adverse impact on wildlife habitats of international importance which includes the Colne Estuary.

EN11b: Protection of National Sites: Guards against development that would have an adverse impact on wildlife habitats of national importance such as Sites of Scientific Interest (SSSI) and National Nature Reserves (NNR).

EN11c: Protection of Local Sites: Guards against development that would have an adverse impact on wildlife habitats of local importance including Local Wildlife Sites (LoWS).

EN12: Design and Access Statements: Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems: Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN17: Conservation Areas: States that development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area. The policy sets out the circumstances under which development will be refused.

EN23: Development within the Proximity of a Listed Building: Guards against developments that would have an adverse impact on the setting of Listed Buildings.

EN27: Enabling Development: Sets out criteria against which proposals for enabling development will be judged which reflect, broadly, what is contained within Historic England guidance.

EN27a: St. Osyth Priory: States that the Council is committed to the conservation, preservation and restoration of St. Osyth Priory and to that end, will work in conjunction with the landowner and English Heritage (now Historic England) and that any application for enabling development will be judged against the criteria set out in Policy EN27.

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

EN30: Historic Towns: States that any proposals for development within the Historic centres of Harwich, Manningtree or St. Osyth will require an appropriate level of archaeological mitigation prior to development.

TR1a: Development Affecting Highways: Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking: Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR5: Provision for Cycling: Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use: Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document (July 2016)

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies St. Osyth as a 'rural service centre' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design: Sets out the criteria against which the design of new development will be judged.

HP4: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

LP7: Self-Build and Custom-Built Homes: Provides for the consideration of self-build or custom-built homes on land outside of settlement development boundaries where they are located within 400 metres of the edge of the boundary of a rural service centre.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PP13: The Rural Economy: Supports growth in the rural economy and appropriate schemes for the conversion or re-use of rural buildings to employment, leisure or tourism use.

PPL2: Coastal Protection Belt: Resists unnecessary development in the Coastal Protection Belt to safeguard the character of the undeveloped coast.

PPL3: The Rural Landscape: Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage: Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

PPL8: Conservation Areas: Sets out the main considerations that will determine whether or not new development within a Conservation Area, or affecting its setting, will be permitted.

PPL9: Listed Buildings: States that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest and its character, appearance and fabric. Developments have to be explained and justified through an informed assessment of the significance of the heritage asset and its setting and need to be of a scale and design and use materials and finishes that respect the listed building and its setting.

PPL10: Enabling Development: Reflects the NPPF policy on enabling development and allows such development where it can be demonstrated that the benefits to securing the future conservation of a heritage asset outweigh the disbenefits of departing from other policies. The policy requires details of necessary conservation works and their costs along with an evaluation of other alternative funding options.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

Other Guidance includes

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

The Setting of Heritage Assets (Good Practice Advice Note 3, 2015)

Enabling Development and the Conservation of Significant Places (2008)

3. Relevant Planning History

3.1 The site has the following planning history (excluding many applications for works to trees):

TPC/96/13	Works to comply with highway requirements	Current	04.04.1996
97/00414/CM TR	(Land at St Osyth Quarry, Colchester Road, St Osyth) ESS/21/97/TEN(R) - Environment Act 1995 - Review of Mineral Planning Permissions - Application for Determination of Conditions		03.06.1997
00/00701/LBC	Re-ordering of interior and opening up of 3 No blocked up windows (East Gate House)	Withdrawn	04.05.2000
00/00702/LBC	Internal re-ordering and insertion of a short section of patent glazing in slope of existing roof (Darcy House West Wing)	Approved	21.08.2000
00/01337/LBC	Gate House - West Range. Re-ordering of interior, opening up of existing doorway, forming new doorway in existing window opening, forming new doorway in existing door and window opening, replacing window and forming new terrace	Approved	10.01.2001

00/01343/LBC	Gate House - East Range. Re-ordering of interior, opening up of 3 No. blocked up windows and forming new window in gable.	Approved	20.03.2001
00/01501/LBC	Demolition of part of the boundary wall to allow rebuilding in association with other structural repairs	Approved	01.03.2001
00/01623/LBC	Re-ordering of interior, lowering threshold of external doorway, raising ground floor, adding rooflight - Bailiffs Cottage	Approved	10.01.2001
00/01880/FUL	Alterations to former staff accommodation to form 4 No. self contained flats - Darcy House East Wing	Approved	25.04.2001
00/01881/LBC	Darcy House East Wing - Re-ordering of interior, stripping out of external metal stairs, minor revisions to openings in external walls	Approved	25.04.2001
01/00116/FUL	New build garages and metal park rail fences	Approved	29.03.2001
01/00117/LBC	New build garages and metal park rail fences	Approved	29.03.2001
01/00763/FUL	Conversion of The Abbot's Tower into a dwelling	Approved	25.02.2002
01/00780/LBC	The Abbot's Tower - external/internal alterations	Current	25.05.2001
01/01084/FUL	Repair to existing building fabric extension to lean-to to accommodate office/administration space. New staircase to first floor The Brewhouse.	Approved	23.08.2001
01/01710/FUL	Conversion of disused dairy into office accommodation with sanitary and rest facilities (The Dairy)	Approved	21.11.2001
01/01711/LBC	Conversion to office use with associated staff facilities. Internal and external works (The Dairy)	Approved	21.11.2001
01/01712/FUL	Re-location, repairs and minor alterations to existing barn (The Cart Shed)	Refused	21.11.2001
01/01713/LBC	Re-location, repairs and minor alterations (The Cart Shed)	Refused	21.11.2001
01/02078/FUL	Re-location, repairs and minor alterations to existing barn (The Cart Shed)	Refused	08.01.2002
01/02079/LBC	Re-location, repairs and minor alterations (The	Refused	08.01.2002

Cart Shed)

01/02112/FUL	Change of use from vacant to office (The West Barn)	Approved	27.03.2002
06/00589/FUL	Enclosure by 1200mm high park rail fence and formalisation of casual parking.	Refused	24.08.2006
06/01353/LBC	Gate House - West Range. Ground Floor - blocking of doorways, new and reused internal doors, re-ordering of interior with new partitions. First Floor - removal of existing walls to bedrooms 1 and 4 to form an ensuite and a bathroom.	Approved	06.11.2006
06/01355/LBC	Alterations including removal of existing soil vent pipes and rain water pipes and fitting of new soil vent pipe and boiler flue to inner roof slope. Fix external door shut to kitchen/utility. Renew floors to dining room and kitchen. New door to utility room. Remove original utility room cupboard from first floor bedroom and re-erect in utility room. Insert roof lights in lieu of existing hatches so as to improve roof access for maintenance. Relocate door in bedroom 2 east wall. Relocate curved first floor eastern stair and construct new floor over the stairs. New walls to form bedroom 4; repair of ceiling and redirection of internal rainwater via new internal rain water pipe. Fix shut door to adjacent range. New bathroom to first floor.	Approved	10.07.2007
06/02050/FUL	Change of use from office to residential.	Approved	30.03.2007
07/00486/FUL	Rationalisation of and improvements to existing car parking, formation of a new highway access with safe sight lines and erection of a park rail fence with both vehicular and pedestrian gates.	Refused	31.05.2007
07/00858/FUL	Use as a venue for marriage in accordance with Marriage Act, 1949 and/or Civil Partnership Act 2004.	Approved	14.12.2007
07/01205/FUL	Relocation of unsafe access.	Refused	29.10.2007
08/00718/FUL	Alterations and extension; change of use to a house.	Approved	03.04.2009
09/00507/ADV	5m x 10m banner with image of Abbots Tower and Company information to be displayed	Refused	25.06.2009

temporarily.

09/01139/FUL	Proposed new archery ground and relocation of existing site accommodation including club hut and storage container plus one additional container.	Refused	10.02.2010
11/00328/FUL	Erection of 23 dwellings; new access road; driveways; parking; landscaping and all ancillary works (following demolition of 1 dwelling to form access).	Subject of appeal	13.06.2014
11/00329/FUL	Erection of 46 dwellings; new access road; driveways; parking; landscaping and all ancillary works (following demolition of 1 dwelling to form access).	Subject of appeal	13.06.2014
11/00330/FUL	Erection of 33 dwellings; new access road; driveways; parking; landscaping and all ancillary works (following demolition of 1 dwelling to form access).	Subject of appeal	13.06.2014
11/00331/FUL	Erection of 21 flats within a new "Maltings" style building; new access road; driveways; parking; landscaping and all ancillary works (following demolition of 1 dwelling to form access).	Subject of appeal	13.06.2014
11/00332/FUL	Erection of 19 dwellings for use as residential and holiday accommodation (C3 use); restoration of park landscape; bunding; re-grading of 9 hectares of land; construction and alterations to access driveway; landscaping and all ancillary works.	Subject of appeal	13.06.2014
11/00333/OUT	Erection of 190 dwellings on 16.3 hectares of land; new junction and access roads; driveways; parking; footpaths; landscaping and all ancillary works; use of land as an archery range; construction of access drive and layout of parking area including siting of storage container for archery equipment. The proposals also include for a new footway to be built along a section of Colchester Road, south of the Wellwick.	Approved	18.03.2016
11/00334/FUL	Construction of a visitor centre/function room suite; part change of use and alteration to Darcy House for use as a function room; internal and external alterations and all ancillary works.		13.06.2014
11/00335/LBC	Alterations to Darcy House to extend window opening to ground level, insert quoins in stone and retain upper section of window as a fanlight, adapting transom to receive door and	Approved	18.09.2014

install oak frame and door to match west wing north door (but with a straight rather than arched head).

11/00336/CON	Demolition of detached dwelling at 7 Mill Street.	Subject of appeal.	13.06.2014
12/00184/FUL	Alterations and extension; change of use to a house. (Extension of time on previously approved 08/00718/FUL)	Approved	06.03.2013
12/01285/LBC	Re-ordering of interior with the opening up of windows and the forming of a new window in the gable.	Approved	08.10.2013
12/01312/FUL	New build garages, access and metal park rail fences.	Approved	26.07.2013
12/01316/FUL	Conversion of Abbots Tower into 1 no. 3 bedroom residential unit.	Approved	23.10.2013
14/30224/PRE APP	Enabling development (Westfield Site).		25.11.2015
14/30252/PRE APP	Change of use of Tithe Barn/Dairy as a wedding/conference venue and cart shed as a shop.		22.09.2014
14/00955/FUL	Restoration of historic park landscape; bunding; re-grading of approximately 9 hectares of land; construction and alterations to access driveway; landscaping and ancillary works.	Withdrawn	13.08.2014
14/00993/LBC	Taking down carefully and re-building of East Gatehouse & chimney.	Approved	15.09.2014
14/01008/FUL	Creation of a Visitor Centre in the Tithe barn, Cart Shed, Dairy and adjacent paddock including changes of use to A1, A3, B1, D2 and conference/functions/wedding reception use; construction of extensions; internal and external alterations and all ancillary works shown on the drawings.	Approved	09.01.2015
14/01009/LBC	Creation of a Visitor Centre in the Tithe barn, Cart Shed, Dairy and adjacent paddock including changes of use to A1, A3, B1, D2 and conference/functions/wedding reception use; construction of extensions; internal and external alterations and all ancillary works shown on the drawings.	Approved	09.01.2015
15/01060/FUL	Removal of section of boundary wall fronting Mill Street and rebuild on a new reinforced	Approved	09.09.2015

concrete foundation.

15/01061/LBC	The taking down of a failing section of the boundary wall fronting the road in Mill Street and rebuilding it on a new reinforced concrete foundation to match original appearance.		05.08.2015
16/00018/DIS CON	Discharge of condition 03 (Archaeology Report) of Listed Building Consent 14/000993/LBC.	Approved	19.02.2016
16/00019/DIS CON	Discharge of condition 04 (Archaeology Report) of Listed Building Consent (12/01285/LBC)	Approved	19.02.2016
16/00656/FUL	Demolition of existing property at 7 Mill Street and the creation of 72 no. two, three and four bedroom houses, plus associated roads, car parking, garages and landscaping.	Current	
16/00671/FUL	Erection of 17 dwellings for use as residential and holiday accommodation (C3 use); restoration of park landscape; bunding; re-grading of 9 hectares of land; construction and alterations to access driveway; landscaping and all ancillary works.	Current	
16/00712/DIS CON	Discharge of condition 6 (archaeological report) of the approved planning application 12/01312/FUL.		07.07.2016
16/00786/FUL	Proposed new build garages, access and metal park rail fences.	Approved	29.07.2016
16/01057/DIS CON	Discharge of condition 2 (Details of materials) of approved planning application 12/01285/LBC.	Approved	23.08.2016
16/01258/DIS CON	Discharge of condition 4 (materials) of Listed Building Consent 14/00993/LBC.	Current	
16/01309/DIS CON	Discharge of condition 3 (Archaeological Programme) of approved planning application 12/01316/FUL.		

3.2 Applications 11/00328/FUL, 11/00329/FUL, 11/00330/FUL and 11/00331/FUL are most directly relevant to the specific area of land now subject of this current proposal for the West Field. Those four applications together proposed 123 new dwellings over four sections or phases containing 23, 46, 33 and 21 dwellings respectively, all to be accessed through the demolition of 7 Mill Street, as is proposed in the current application. At the time of writing, these four earlier applications remain undetermined.

3.3 Application 11/00332/FUL is most directly relevant to the specific areas of land now subject of the current proposal for the Parkland. The earlier application proposed 19 dwellings for use as residential and holiday accommodation which, unlike the current application included

two substantial properties at the very west of the park ('West Lodge') and to the north west of the park ('Lodge Piece House'). The current application is identical to the 2011 proposal except for the omission of these two particular properties.

- 3.4 On 21st April 2014, the Council's Planning Committee resolved to refuse the above applications on the grounds that the proposed development would harm the character, setting and significance of the St Osyth Priory being a designated heritage asset; the proposed development would result in material harm to the St Osyth Conservation Area; and the benefits of the 'enabling development', and public access improvements, would not outweigh the disbenefits. Before the decisions to refuse were issued, the applicants appealed to the Secretary of State against non-determination and the application was, in part, the subject of a 16 day Public Inquiry that took place over January 2015.
- 3.5 Following the Public Inquiry, the Planning Inspector's decision of May 2015 was to dismiss the appeals, thus upholding the Council's reasons for refusing planning permission. However the decision was later quashed in December 2015 in response to a legal challenge. It was considered that the Inspector had failed to give adequate consideration to the implications for the future of the Priory of these enabling development proposals being rejected, and thus being unable to generate any contribution towards its repair and restoration. A second Public Inquiry with a new Planning Inspector is scheduled to take place in November 2016 to reconsider the 2011 applications as well as to determine the current proposals.

4. Consultations

TDC Building Control	For the Parkland proposals, how will fire tender access be provided to these buildings? No comments on the West Field proposal at this time.
TDC Environmental Health	<p>To minimise potential nuisance to nearby existing residents caused by construction works, a full method statement shall be submitted to and approved by the Council prior to the commencement of development. It should address the following:</p> <ol style="list-style-type: none">1) The use of barriers to mitigate the impact of noisy operations will be used where possible.2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.3) The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.6) If there is a requirement to work outside of the recommended hours the

applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

Emission Control

1) All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

2) No materials produced as a result of the site development or clearance shall be burned on site.

All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

3) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

TDC
Principal Tree &
Landscape
Officer

For the Parkland developments, the erection of dwellings within a park or garden included on the English Heritage Register of Parks or Garden of Special Historic Interest in England is not acceptable in principle because it would significantly and detrimentally affect the character and appearance of the listed garden. Many of the access roads shown are already in use and currently have loose fill sand or hogging type material as a surface. The formalisation of the roads to serve dwellings within the listed garden would in itself have an adverse impact on the character of the land. The proposed dwellings would collectively diminish the quality of the landscape and its value to wildlife. The noise and light pollution combined with the human and vehicular traffic as well general use of the gardens and adjoining land would both degrade the landscape and disturb wildlife.

The North Lodges may have a direct impact on individual trees that are important in terms of the contribution they make to the listed garden and to the character and The position of the proposed dwellings and access road close to an existing Public Right of Way would also affect the public's perception of being in the countryside when using the Public Right of Way. If consent were to be granted then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

The Nun's Hall may have a direct impact on individual trees (a single Lime and a group of Lime) that are important in terms of the contribution they make to the listed garden and to the character and appearance of the conservation area. The applicant would need to demonstrate that the development proposal could be implemented without causing harm to these trees. The applicant will also need to demonstrate that a satisfactory juxtaposition between the trees and the proposed dwelling can be achieved taking into account shading and falling debris and detritus. The layout for Nun's Hall shows estimated garden boundary this is not acceptable as it is not possible to quantify the impact or effect of the proposal which itself is not quantifiable. If consent were to be granted then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

In terms of the impact of the development proposal on the listed garden and the character and appearance of the conservation area the Slip Cottages relate reasonably well to the existing house and walled garden on the application site and to the existing built form along and to the east of Colchester Road. If consent were to be granted then new landscaping to both enhance and partially screen the new dwellings should be secure by condition.

The South Lodge is situated outside the listed garden but would still have a significantly adverse impact on its character and appearance. The development proposal would result in the removal of a short section of Countryside Hedgerow. Before a decision is made an assessment of the hedgerow should be carried out to determine whether or not it meets the criteria in the Hedgerows Regulations 1997 whereby it is considered important and therefore must be retained. If consent were to be granted then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

The southern Lake House will not have an impact on any trees that make a positive contribution to the character or appearance of the conservation area. If consent were to be granted then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

The construction of the northern Lake House would result in the removal of several trees however these are mainly young self-sown Sycamores and their removal, alone, would not significantly affect the appearance of the land. If consent were to be granted then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

If consent were to be granted for the Pigeon House, then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

The proposed position of the Deer House is close to several large and important mature oaks. The access road serving the proposed dwelling is situated within the Root Protection Area of 2 trees. Prior to the determination of the application the applicant should provide information to demonstrate that the development could be implemented without harm being caused to these trees. If consent were to be granted then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

The remains of the Shell House make it clear that this structure was a type of Folly situated within the garden and it is unlikely that it would have been used to live in, with any degree of permanence. The principle of using the existence of this type of structure as justification for the construction of dwellings within the listed garden is not soundly based. The proposed position of the dwelling is close to several important mature trees. Prior to the determination of the application the applicant should provide information to demonstrate that the development could be implemented without harm being caused to these trees. If consent were to be granted then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

The remains of the Grotto Grove Kitchen give little indication of its former

use but it is likely that this structure was a type of Folly situated within the garden and it is unlikely that it would have been used to live in, with any degree of permanence. The principle of using the existence of this type of structure as justification for the construction of dwellings within the listed garden is not soundly based. The proposed position of the dwelling is close to several important mature trees and the proposed access road runs through the Root Protection Areas of several trees. Prior to the determination of the application the applicant should provide information to demonstrate that the development could be implemented without harm being caused to these trees. If consent were to be granted then new landscaping to both enhance and partially screen the new dwelling should be secure by condition.

In terms of the impact of the development proposals contained in this application on trees situated on the land it is considered that any harm caused could relatively easily be mitigated by new planting. The best trees, especially those in the avenues are not affected. If new planting proposals are secured by condition then it should be possible to retain all of the important trees on the land and to secure a net gain in the tree population. The application should however be refused firstly because of the impact of the dwellings on the garden included on the English Heritage Register of Parks or Gardens of Special Historic Interest in England and secondly because of the impact of the dwellings on the character and appearance of the conservation area.

The management proposals for the wood are not integral to the development proposal. The granting of any consent should specifically exclude the contents of this report unless the proposals included in the scheme relate directly to the development proposals and have been assessed and approved by The Garden History Society. Even so this would be best dealt with as a separate process. The Deer Park and Listed Garden are now included in a Higher Level Stewardship (HLS) Scheme administered by Natural England. Therefore the maintenance and development of the park and garden should follow the recommendations in the Management Plan associated within this scheme and not be effectively contaminated with the proposals set out in the planning application.

The Conservation Management Plan identifies the removal of certain trees and states that these must not be removed under the development proposals. Any works to trees within the conservation area should only be carried out under a Management Plan that has been approved by The Garden History Society. This should be addressed through the HLS Scheme .When necessary the local planning authority must be notified under section 211 of the Town and Country Planning Act 1990 and a felling licence must be obtained from the Forestry Commission.

The proposal to regrade part of the land (Lodge Piece) to re-establish the ground contour levels that existed prior to the mineral extraction would affect part of the application site that is currently pleasantly contoured and would not be improved by a lengthy period of importing material to re-create previous levels. Over the years parts of the garden have changed considerably for a number of different reasons - the most significant being mineral extraction. This has resulted in the extensive lakes that exist following remediation of such mineral extraction works and the area of low land in question.

In terms of the impact of previous works that have been carried out regardless of the impact they may have had on the character of the garden a judgement call has to be made on whether or not to try to recreate a feature that existing at an earlier point in time, to modify or to accept the changes because they are not significantly detrimental, because they can be seen as a positive improvement or because they form part of the history of the garden.

The apparent justification for the regrading is to improve the quality of the agricultural land although the future use of the land does not appear to be primarily related to agriculture. In this case there appears to be little justification for the remediation of the land if the benefits associated with the remediation are unlikely to be materialised. It is considered that the sunken field known as Lodge Piece is not significantly detrimental to the character or appearance of the garden and that it currently shows an element of the extent and nature of historical works that have been carried out within the park. There appears to be no substantive justification for the re-contouring and the proposed regrading would not result in an improvement to the protected landscape.

The park has historically been stocked with deer and methods of containment are an integral part of the garden. Therefore in simple landscape terms the re-creation of a deer bank and a Ha-Ha are not considered unreasonable, however it will be vital to ensure that the existing visible remnants of features of the garden and their archaeological value is not compromised by the development proposals.

For the West Field proposal, the demolition of 7 Mill Street would result in the removal of a several mature shrubs and small trees however these do not have a significant positive impact on the appearance of the St Osyth Conservation Area and the contribution that they make to the amenity of the locality could be relatively easily replicated by new planting. The alterations to the access to the land at this point, will not, in itself, have an adverse impact on the character or appearance of the area.

The part of development proposal situated to the rear of Nos 9 to 23 Mill Street (plots 50 - 71) is relatively self-contained and compact and would be effectively tucked away behind the existing dwellings in Mill Street. The existing and proposed landscaping would help to screen the development from view from both the public realm and from other locations within the park. It would however in essence alter the style of the built form and consequently the character of the area.

The construction of the proposed development so close to The Priory and associated buildings will degrade the landscape within which they are set and consequently have a detrimental impact on their setting. In addition to the adverse impact on the heritage assets the development will have a negative impact on the character of the historical development pattern within the conservation area. This part of the conservation area shows historical ribbon development and the proposal for a courtyard development is inappropriate and incongruous. In essence the proposal is unacceptable in landscape terms because its layout and density is not in keeping with the existing character of the area and because it would have a negative impact on the character and appearance of the conservation area.

With regard to the development proposal for the remainder of the application site (plots 1-49) the layout is also relatively compact. It would be effectively screened from view from Mill Street by the existing dwellings and vegetation situated within their gardens. As the proposed landscaping belt on the northern boundary matures the development would be well screened from some sections of the open countryside. However, taking into account the lie of the land with the application site sloping gradually down towards St Osyth and Flag Creeks the application site can be clearly seen from as far away as Brightlingsea. The introduction of the built form in this location will have a significant detrimental impact on the character and appearance of the conservation area and the local landscape quality. This will also degrade the quality of landscape within which the heritage assets are set and consequently have a detrimental impact on their setting. This part of the development proposal will also adversely affect the character of the historical development pattern within the conservation area. In essence the proposal unacceptable in landscape terms because its layout and density is not in keeping with the existing character of the area and because it would have a negative impact on the character and appearance of the conservation area.

The tree report and survey that has been submitted with the application has been carried in accordance with the recommendations contained in BS5837 2005: Trees in Relation to Construction and accurately describes the health and condition of the trees on the site. NB it should be noted that the tree report covers trees that are not on the application site.

The Hawthorn hedge adjacent to the existing access is an important feature and should be retained. The application describes the removal of a short section of hedge. It is considered that the hedgerow falls within the scope of The Hedgerow Regulations 1997 and is likely to be important under criterion 4 of the regulations which state that the hedgerow is important if:

- a) it marks the boundary of a pre-1400 estate or manor recorded at the relevant date in a Sites and Monuments Record or in a document held at that date at a Record Office; or
- b) is visibly associated to any building or feature of such a manor or estate. In itself the renovation of the orchard is a desirable element of the development proposal so long as the trees in reasonable condition are retained.

Should consent be granted it will be essential to attach a landscaping condition to secure the indicative landscaping set out in the Landscape Proposals document.

TDC Housing

There are currently 82 households on the housing register seeking a 2 bedroom property, 45 seeking a 3 bedroom property and 18 seeking a 4 bedroom property or larger. The housing department would prefer that affordable housing is delivered on site. Policy LP5 in the emerging Local Plan states on sites of 11 dwellings or more, 30% of the properties should be delivered as affordable housing. This equates to 21 properties on the West Field site. The department would prefer that another registered housing provider is sought to take on the affordable rented homes on the site, but in the event that one cannot be found, the Council would be willing

to consider other delivery options e.g. gifted properties or a financial contribution. For the Parkland developments, the department would prefer a financial contribution in lieu of on-site affordable housing on this application.

TDC Open
Space and Play

There is currently a deficit of 6.44 hectares of equipped play and formal open space in St. Osyth and Point Clear. There are three play areas in the parish, the nearest of which to the development site is located at Cowley Park on Mill Street. This play area is classified as a Local Equipped Area for Play but is limited in size. To ensure the current deficit does not increase, and to account for additional development in the village, the Parish Council has a management plan in place covering all three play areas. Due to the significant lack of open space and play facilities in the area, a contribution in line with the schedule set out in the emerging local Plan is justified and relevant to the planning applications and this money would be spent at the closest play area being Cowley Park.

ECC Highways

From a highway and transportation perspective the impact of the West Field proposal is acceptable to Highway Authority subject to conditions in respect of the following:

- A construction management plan including details of wheel cleaning facilities;
- Revisions to the plans to include a minimum 5.5 metre carriageway and 2 metre footways;
- Shared surface roads to be a minimum of 6 metres wide;
- Minimum distance of 0.5metres between the structures and the highway;
- Dimensions for the Mill Street junction and associated dropped kerb footways;
- Provision of dropped kerb/tactile pedestrian crossing points in Mill Street;
- Upgrading and relation of bus stops; and
- Residential Travel Information Packs.

The impact of the Parkland proposals are acceptable to Highway Authority subject to conditions in respect of the following:

- A construction management plan including details of wheel cleaning facilities;
- Retention of the lay-by on the western side of the B1027 south of the proposed site entrance (North Lodges);
- A 2 metre wide footway between the proposal site access and the lay-by mentioned above;
- A 2 metre wide footway between the proposal site entrance and the pedestrian central island at the northern end of the proposed right turn lane;
- Removal of the existing access and lay-by;
- Creation of a priority junction off the B1027 to specific dimensions with a right-turn lane and 2 pedestrian central islands;
- Creation of a bell mouth access off Colchester Road (Slip Cottages) to specific dimensions;
- Two new bus stops provided on the B1027 and/or upgrading the two nearest bus stops in Colchester Road; and
- Residential Travel Information Packs.

ECC Flood
Authority

Having reviewed the revised drainage statement and the associated documents which accompanied the planning application for West Field [which follows revisions made in response to an earlier holding objection], we consider that a surface water drainage scheme has been proposed which demonstrates that surface water management is achievable in principle, without causing flooding on site or elsewhere. If planning permission is granted, we request planning conditions relating to the following:

- a detailed surface water drainage scheme;
- a scheme for minimising offsite flooding during construction works;
- a maintenance plan for the surface water drainage scheme; and
- keeping an on-going log of maintenance.

We would like to place a holding objection to the granting of planning permission for the Parkland developments because the Flood Risk Assessment and Drainage Strategy, as submitted, is inadequate.

ECC Minerals
and Waste

The proposed development for the Parkland is located within a Mineral Safeguarding Area as identified in the Essex Minerals Local Plan but the mineral has been worked and the site has been restored. The County Council therefore has no objection to the proposed development on the grounds of mineral sterilisation.

ECC
Archaeology

Archaeological evaluation within the areas of the proposed developments have demonstrated important archaeological deposits related to post medieval and earlier settlement and it is likely that further archaeological remains survive and will be disturbed or destroyed by the proposed development.

The developments will also have an impact on the setting of the Scheduled Monument of St. Osyth Priory and for this reason Historic England should be consulted on the implications of this proposal. The implications of the impact of the developments on the historic landscape of St. Osyth Park, the adjacent Conservation Area and wider landscape of St. Osyth Creek should also be taken into consideration when determining these applications.

If the overall principle of the development is determined to be acceptable, then the following planning condition is recommended: *“No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority”*.

A professional team of archaeologists should undertake the archaeological work. This will comprise open area excavation and detailed monitoring and recording. A brief outlining the level of archaeological investigation will be issued from this office on request. The Council should inform the applicant of the recommendation and its financial implications.

Anglian Water

Assets affected: Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Wastewater treatment: The foul drainage from this development is in the catchment of St. Osyth that will have available capacity for these flows.

Foul Sewerage Network: Development may lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. We request a condition requiring the drainage strategy covering the issue(s) to be agreed.

Surface Water Disposal: The proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Council should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

Condition: Anglian Water recommends the following planning condition if the Council is minded to grant planning permission: *“No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.”*

Natural England

The applications are in close proximity to the Colne Estuary Special Protection Area (SPA) and Essex Estuaries Special Area of Conservation (SAC) which are European Designated Sites. The Appropriate Assessment undertaken for the 2011 planning application is still relevant to this application and whilst the Environmental Statement has been resubmitted and not updated, we do not think it likely that there have been any changes since the last application that would warrant a change in our advice. Therefore we have no objection to the proposed developments providing the mitigation as set out in the Environmental Impact Assessment, and our previous advice in response to the applications and Appropriate Assessment are taken into account.

The applications are in close proximity to the Colne Estuary Site of Scientific Interest (SSSI). St. Osyth's Gravel Pit SSSI and Riddles Wood SSSI. However we are satisfied that if the proposed developments will not damage or destroy the interest features for which these sites have been notified.

We have not assessed the applications and associated documents for impacts on protected species but note that the surveys have not been updated since the original application and we therefore recommend a walkover survey to assess whether there are any changes since our previous comments.

Historic England The proposed developments would harm the significance of St. Osyth Priory, its park and the village of St. Osyth. Although the harm would be 'less than substantial' in terms of the NPPF, this harm would be a very considerable disbenefit. We do not believe that clear and convincing justification has been advanced for this harm and we believe that the 'heritage balance' (the balance in respect of the designated heritage assets, excluding other considerations) weighs against the applications.

The proposed development on the West Field would harm the significance of the Priory, the village conservation area and, to a lesser extent, the park. The development would encroach on the immediate setting of the Priory. The estate courtyard would face the Priory orchard, and the openness of the landscape around the Priory, and between it and St. Osyth Creek, would be reduced. The proposed development would be visible from the Darcy Tower, further eroding its landscape setting.

The development would also erode the character of the landscape in which the Priory is set from a broader perspective. There are important views across the surrounding landscape to the Priory from both the south and from the west. The development, while much less conspicuous than the 2011 schemes for the West Field, would erode the openness of the landscape looking towards the Priory – and the church – to the detriment of the Priory's setting.

The harm caused by the development to the significance of the Priory would itself also be harmful to that of the village conservation area. It would also harm the character of other elements of the village which contribute to the conservation area's significance. The development would compromise one of the sides of the village which largely retains its historic relationship to the surrounding landscape, obtruding into the unfolding views of the village from the creek.

The proposed parkland developments would alter the balance between landscape and buildings to the detriment of the park's historic character. While it is true that the historic north lodges stood until the 1960s, and that remnants of the grotto and Nun's Hall survive, what is proposed would introduce many more buildings than there have been within the park for a very long time. The paucity of evidence for the buildings which are alleged to provide precedent for the proposed Pigeon House and Deer House suggests that any buildings on these sites historically was fugitive. As noted above, neither the Slip Cottages nor the lake houses nor the south lodge have any historic precedent.

Were all these buildings to be constructed, the historic landscape would be articulated by their presence to a degree beyond any precedent. Given that the park is a place intended to be experienced historically by riding, driving (in carriages) or walking within it, an experience which would be cumulative rather than episodic, the impact of the presence of these buildings would be greater than the impact of each considered in isolation. That impact would derive not only from the buildings themselves, but from the pattern of their use as houses or holiday accommodation, from the associated servicing and use of vehicles and from any associated landscaping. The repair and recreation of the grotto, and the introduction of the new north lodges of sympathetic design, could in themselves enhance the park's character, and the large setting of the Priory. To build these structures together with all the other structures proposed with them

would do the reverse.

As the proposed development would harm the character and significance of the park they would also harm the setting and significance of the Priory. The park is by definition a fundamental part of the Priory's historic setting, being in origin the medieval park of the abbey subsequently reshaped to provide a landscape setting for the great house into which the abbey was transformed. It provides a landscape of use and recreation subordinate to the Priory. The integrity of the Priory's designed landscape setting would be impaired, and the predominance of the Priory within it would be diminished. The relation between the Priory and its park makes an important contribution to its significance, and harm to the significance of the park therefore harms that of the Priory.

While the Slip Cottages might be at least partially screened by planting, any additional development here visible from the north would detract from the pre-eminence of the Darcy House and its associated buildings. Whilst the lakes are a more recent addition to the park and a more contemporary form of development in this location might be a reasonable suggestion, it does not follow that the lakes and their surroundings should in some sense be subtracted from the park. Nor should it be considered that any houses built in these areas will have no impact on the character of the park.

Alongside relevant planning law and national planning policy, aspects of planning policy guidance, advice published by Historic England and Local Plan policies are also relevant to the consideration of these applications. The Historic England documents relevant to this proposal include "The Setting of Heritage Assets" (Good Practice Advice Note 3, 2015) and "Enabling Development and the Conservation of Significant Places" (2008) although the latter was published prior to the NPPF and must be read in light of the NPPF's relevant policies. The document nonetheless sets out in a clear and logical manner a series of considerations pertinent to the analysis of enabling development proposals like this.

The development within the West Field would be particularly damaging to the significance of the village conservation area and to that of the Priory. The harm caused would be moderate in degree. This development would also harm the setting, and thereby the significance, of the park; the degree of harm would be modest. The development within the park would firstly be damaging to the significance of the park itself. The harm caused would be moderate in degree. It would also harm the setting and significance of the Priory. Again, the harm caused would be moderate in degree. As the park and Priory form important elements of the Conservation Area, the proposed development would also harm its significance; the degree of harm would be modest.

The NPPF states that any harm to designated heritage assets or their significance requires clear and convincing justification. At the heart of this proposal's justification is that it is enabling development to raise funds for the repair of the Priory, or parts of it. The original supporting statement stated the sums of money would be raised to put towards repair but did not explain how these funds would be used or the extent of the repairs they would enable. Updated information provided in August 2016 identifies, although not without ambiguity, the extent of repairs, which would be more extensive than the original submissions in support of the applications had suggested. The exact nature and scope of the suggested repairs however

remains ambiguous and unclear.

The Parkland and West Field developments would only offset around 25% of the conservation deficit, but nowhere is it explained how the remainder of the deficit will be addressed. Alternative means of addressing the deficit have not been properly explored and therefore the clear and convincing justification for development that would harm the heritage asset and its significance has not been provided. No coherent strategy setting out how the Priory's future could be secured and how the proposed development would relate to the broader approach as been provided.

The ability of the enabling developments to fund repairs to parts of the Priory are important public benefits, but they fall far short of securing the future of the Priory as an ensemble. Historic England does not consider that these benefits outweigh the considerable harm that the development would cause. Firstly, no clear and convincing justification for the harm has been provided, and secondly no means has been provided by which the projected benefits would be secured. Historic England believes that the 'heritage balance' weighs against the parkland and West Field applications.

Further comments received on 30th September following the submission of new information from the applicants.

The additional information does not cause us to modify our original advice on the impact of the proposed development on the significance of the Priory, park and village conservation area.

The feasibility study by Savills does not constitute a strategy for the Priory. We would advise you to seek specialist advice to assess both the feasibility study itself and the question of whether it, coupled with the proposals for development, can be considered to provide a coherent strategy for securing the Priory's future.

In the absence of a s106 agreement, there is no indication of how the heritage benefits, which the applicants state would be generated by the proposed developments, would be secured.

Environment
Agency

The West Field site is located predominantly with Flood Zone 1 (low probability of flooding) but a small part of the site to the west lies within Flood Zone 3 (high risk). However all of the proposed development would be located well into Flood Zone 1. A permit may be required for any proposed works or structures in, under, over or within 16 metres of the bank of St. Osyth Brook. The development should take opportunities to contribute towards tackling climate change including the consideration of sustainability, resource efficiency, net gains for nature and sustainable energy use.

The Parkland is also located predominantly with Flood Zone 1 (low probability of flooding) but a small part of the site bordering St. Osyth Brook lies within Flood Zone 3 (high risk). However all of the proposed dwellings would be located well into Flood Zone 1. A permit may be required for any proposed works or structures in, under, over or within 16 metres of the bank of St. Osyth Brook.

It is stated that foul water will be disposed of via package treatment plant/septic tank. The government's National Planning Practice Guidance sets out a hierarchy of drainage options with a preference for a connection to the public sewer, followed by package sewage treatment plant and then finally septic tank. Foul drainage should be connected to the main sewer, but where this is not possible, any discharge of sewage or trade effluent made to either surface water or groundwater will require separate permits and consents from the Environment Agency.

The development should take opportunities to contribute towards tackling climate change including the consideration of sustainability, resource efficiency, net gains for nature and sustainable energy use.

Essex Wildlife
Trust

Alongside the building development applications has been the ongoing parkland restoration, financially aided by a ten year Higher Level Stewardship commencing in 2011, under the auspices of Natural England. This work should be treated as an unrelated, separate matter.

The St. Osyth Priory Concept Masterplan for parkland development resurrecting, in some cases, past structures is concerning. The number with attendant infrastructure and increased human activity, though now in this latest application reduced by two, would detract from the park's character and be detrimental to the park's significance, certainly from an ecological point of view. It should be noted that the previous Planning Inspector expressed concern regarding development within the parkland.

The Nun's Wood/Dolphin Pond area is of particular significance with a 140 year old heronry – the only one in Tendring District, recently augmented by related breeding smaller white Little Egrets. A large rookery and mixed rook/jackdaw winter roost, often numbered in thousands, again the only regular one in the district is also centred on Nun's Wood, reflecting on its undisturbed, secluded aspect. The building of North Lake House and 'reinstatement' of Nun's Hall so nearby would surely put the continuance of these bird colonies in jeopardy.

With regards to the filling of Lodge Piece, we do not think true weight has been given to concerns regarding the potential to introduce toxic or contaminated material. While we accept that this may indeed be illegal there are countless precedents of similar schemes where the law has been flouted, possibly inadvertently but nonetheless harmfully in this regard. The potential for contamination of the water flowing into Howlands waterways is a real concern. The removal of the existing topsoil again, the huge amount of imported spoil and traffic movement coupled with the inherent risk of polluting the ground-water cannot be justified purely to raise soil levels to supposed previous height. There is no justification, other than a commercial one, for undertaking this element of the proposal.

We wish only to make a general comment on the scaled-down West Field housing development. Like the already agreed larger Wellwick development, it lies at the other entrance of public footpath access to our Howlands nature reserve. So the increased footfall, even from Wellwick housing will inevitably change the secluded, relatively undisturbed quality essential for wildlife, that is the essence of Howlands Marsh nature reserve, adjacent Nun's Wood, parkland and tidal creeks.

Clacton and St. Osyth
Birdwatching
and Protection
Society

Our concerns remain as to the probable effects of the Parkland developments detrimental to wildlife, habitat etc.

Department for
Communities
and Local
Government

No comment.

5. **Representations**

5.1 86 letters of objection have been received for the West Field application and 81 for the Parkland application, reinforcing the strong local resistance to these proposals (the 2011 applications together attracted 600 objections and two petitions signed by 1,600 people). The main comments on the current applications, summarised below:

West Field

- Increase in population and housing.
- Extra population will put strain on infrastructure – medical provision, schools, utilities, emergency services, sewerage etc.
- Increased traffic, parking problems and congestion.
- Will not generate the money required to renovate St Osyth Priory.
- Detrimental impact on landscape and views.
- Key Rural Service Centre intended for smaller scale growth.
- Not enabling development.
- No need for housing demonstrated.
- Highway safety issues.
- Detrimental impact on setting of listed buildings, character of The Priory and the environment.
- Plan/document inaccuracies and lack of supporting detail.
- Parkland development out of character – not historic restoration.
- Adverse effect on wildlife and habitat.
- Banks and hedge at Colchester Road unsightly and cause loss of light.
- No benefit to community.
- Against national and local interest.
- The Priory is an ongoing eyesore.
- Should fulfil commitment to preserve The Priory before building works take place.
- Detrimental impact on appearance and amenity of village.
- No consideration for points raised in previous application.
- Private home left to disrepair.
- Other sources of funding available.
- No affordable housing.
- Negative visual impact.
- Applicant developments outside village for personal profit.
- Applications closely resemble earlier submissions.
- Fewer houses proposed means less income.
- Concerns over construction traffic.
- Compulsory purchase order should be made.
- Not sympathetic to historic site/village.

- Impact on conservation area and medieval quay.
- Where will new residents find jobs?
- Extra pollution and noise generated by development.
- No evidence of long term protection for the Priory's future.
- Will cause detrimental fragmentation of the estate.
- Unauthorised preparation works started.
- Alternative solutions should be explored.
- Will cause irreversible harm to heritage value of Priory and parkland.
- Parkland dwellings – poor design, dimension and lack of clearly defined garden perimeters.
- No enabling development achieved to date by Wellwick site (190 dwelling approval).
- A Trust should be set up for the restoration – enabling development not the answer.
- Enough holiday homes already in the area.
- Inappropriate way to save The Priory.
- Inspector rejected previous appeals as “harm outweighs the benefits”.
- Profit making exercise.
- Vehicle movements through the parkland will change and destroy setting.
- Land filling should require approval from ECC (mineral extraction/deposits).
- Landscaping precluded from enabling development.
- Conservation deficit and cost/income figures are inaccurate.
- Westfield development is poor design.
- Object to demolition of No. 7 Mill Street due to resulting increased traffic at cross roads, no objection to access onto B1027.
- Proposal sites outside development boundary.
- Specialists in restoration should have known likely costs of upkeep and renovation.
- If unable to afford upkeep put it back on the market.
- 7 Mill Street is an important, historic feature in Conservation Area.
- Money spent on applications and inquiry could fund renovation.
- Cumulative impact of applications.
- Village is overdeveloped already – from a village to a town.

Parkland

- Infilling will affect drainage.
- Detrimental impact on landscape and views.
- Parkland development out of character – not historic restoration.
- Adverse effect on wildlife and habitat.
- Will not generate the money required to renovate St Osyth Priory.
- Will cause detrimental fragmentation of the estate.
- Extra population will put strain on infrastructure – medical provision, schools, utilities, emergency services, sewerage etc.
- Increased traffic, parking problems and congestion.
- Key Rural Service Centre intended for smaller scale growth.
- Not enabling development.
- No affordable housing.
- Plan/document inaccuracies and lack of supporting detail.
- Banks and hedge at Colchester Road unsightly and cause loss of light.
- Concerns over construction traffic.
- Alternative solutions should be explored.
- Detrimental impact on appearance and amenity of village.
- Detrimental impact on setting of listed buildings, character of The Priory and the environment.
- No need for housing demonstrated.
- No benefit to community.

- Enough holiday homes already in the area.
- Highway safety issues.
- Impact on conservation area and medieval quay.
- Where will new residents find jobs?
- No evidence of long term protection for the Priory's future.
- Extra pollution and noise generated by development.
- Specialists in restoration should have known likely costs of upkeep and renovation.
- Compulsory purchase order should be made.
- Applications closely resemble earlier submissions.
- Will cause irreversible harm to heritage value of Priory and parkland.
- Landscaping precluded from enabling development.
- Against national and local interest.
- A Trust should be set up for the restoration – enabling development not the answer.
- Inappropriate way to save The Priory.
- Profit making exercise.
- Vehicle movements through the parkland will change and destroy setting.
- Inspector rejected previous appeals as “harm outweighs the benefits”.
- The Priory is an ongoing eyesore.
- Land filling should require approval from ECC (mineral extraction/deposits).
- Conservation deficit and cost/income figures are inaccurate.
- Parkland dwellings – poor design, dimension and lack of clearly defined garden perimeters.
- Archaeology and contamination research should take place in parkland.
- Not sympathetic to historic site/village.
- Object to demolition of No. 7 Mill Street due to resulting increased traffic at cross roads, no objection to access onto B1027.
- If unable to afford upkeep put it back on the market.
- No consideration for points raised in previous application.
- Increase in population and housing.
- Applicant developments outside village for personal profit.
- Money spent on applications and inquiry could fund renovation.
- Cumulative impact of applications.
- 7 Mill Street is an important, historic feature in Conservation Area.
- Village is overdeveloped already – from a village to a town.
- Negative visual impact.
- Private home left to disrepair.
- Other sources of funding available.
- Westfield development is poor design.
- Should fulfil commitment to preserve The Priory before building works take place.
- Fewer houses proposed means less income.
- Unauthorised preparation works started.
- No enabling development achieved to date by Wellwick site (190 dwelling approval).
- Proposal sites outside development boundary.

5.2 1 letter of support for each application has been received and is summarised below:

- Positive restoration works to land will encourage wildlife.
- Improve employment in the area.
- Will bring revenue and people to the village.
- Buildings will become derelict if nothing changes.
- Revenue needed to continue preservation work of The Priory.
- Positive for future and prosperity of village.
- Fears in objection letters are unfounded.

5.3 St. Osyth Parish Council supports the community in its concerns and has submitted a comprehensive and well-articulated objection to the enabling development proposals, the executive summary of which is replicated below:

- a) The applications do not meet the criteria as laid out in Historic England's Policy, 'Enabling Development and the Conservation of Significant Places' – particularly criteria c, f and g. They will not fund the full cost of the restoration of the Priory, nor is evidence produced by the applicants to address this shortfall. There is therefore no justification for an enabling development as the buildings will remain at risk.
- b) The conservation deficit which stood at £39,886,190 at the Inquiry in January 2015, is now deemed to be £34,847,491. The applicants have removed 'a number of elements' with little justification or evidence to substantiate their removal. There remains a huge unaddressed shortfall in the conservation deficit.
- c) There remains no coherent strategy of how the applicants propose to secure the future of the Priory in its entirety. Nor how they intend to maintain it to a high standard in perpetuity or the timescale in which they are proposing to restore the buildings.
- d) The proposed buildings in the Priory Park would by their very presence have a profoundly damaging effect on its historic character. As would the inevitable intrusion of lighting, roads and sewerage/waste disposal. The proposed houses if built would be to the detriment of both the Priory and its historic setting.
- e) In 2010, an appraisal of the Conservation Area in St. Osyth was commissioned and paid for by St. Osyth Parish Council and Tendring District Council. By including Westfield in the Conservation Area, Essex County Council recognised its importance in providing a unique setting for the Priory. This would be totally lost if the proposed 72 dwellings were built.
- f) The impact on educational and medical provision is a major concern to residents as is the road congestion, both at the present time and with the possible proposed developments in the future. For the community of St. Osyth the 'public benefit' does not decisively outweigh the disbenefits. The harm we believe would be significant as unlike normal developments, no financial compensation is forthcoming. Therefore these benefits remain unmitigated.

Finally, there is an alternative solution than that of the applicants, which would be less harmful to the Priory and to the village in which it stands. It would ensure its future in perpetuity and have the full support of the community. Local residents are enthusiastic about the potential for an independent Trust. The strategy for the restoration as put forward by David Geddes (of Colliers International) in his report commissioned by Tendring District Council offers real hope that it could become a reality.

5.4 Local campaign group 'Save our St. Osyth' (SOS) has also objected to the proposal, again supporting many the views expressed by local residents in their individual representations. In addition to their principal concerns about the developments, SOS also raise concern about:

- the late submission of information from the applicants and the transparency of that information;
- the robustness of the financial information provided;
- the continued lack of a credible business plan;
- the limited repairs that are proposed to be achieved as a result of enabling development;
- whether or not increases in house prices mean that the approved Wellwick scheme could make a greater contribution towards repairs than is currently secured; and
- continued lack of serious consideration of alternative schemes for the Priory, including placing the whole property into an independent trust.

5.4 Brightlingsea Town Council makes no comments on the applications.

6. Assessment

The Sites

- 6.1 Application 16/00656/FUL relates to 7.45 hectares of undeveloped agricultural land set to the west of the Priory on part of the land known as 'West Field' or 'Flag Creek Field', of which around 3.25 hectares are proposed to be developed. The land lies immediately north of existing properties in Mill Street. The site is generally open in nature except for hedgerows and trees that are found on the field boundaries.
- 6.2 Application 16/00671/FUL relates to the Priory Park, which is a Grade II Listed Historic Registered Park and Garden extending to the north of St. Osyth Priory. The Park is made up of a number of character areas including Nuns Wood in the centre of the Park and various lakes and ponds. The Park is monastic in origin but was greatly re-shaped in the 18th and 19th centuries.
- 6.3 The Priory itself contains an extraordinary collection of historic buildings that are arranged around a large courtyard beyond the gatehouse and the park. The most notable of the Priory's buildings are the gatehouse, Darcy House and the Abbots Tower. The gatehouse dates from the 15th century, incorporates 13th century work and is a commanding structure, with a fine flushwork frontage to the Bury. Darcy House, the principal house, incorporates monastic fabric dating from the 13th to 16th century, but owes its present form to the recasting of the monastic buildings in the mid-16th century, the addition of a new range in the 18th century and further reconstruction and enlargement in the 19th century. The 16th century Abbots Tower rises above the Priory, boldly faced with chequer work of Caen stone and septaria. Other important buildings within the Priory complex include the West Barn, Tithe Barn and the Bailiff's Cottage.

The Proposal

West Field

- 6.4 The West Field application is a full application for the demolition of No. 7 Mill Street and the creation of 72 no. two, three and four bedroom houses with associated roads, car parking,

garages and landscaping. The overall dwelling mix comprises 5 x 2-bed, 42 x 3-bed and 25 x 4-bed properties of which the majority will be 2-storey.

- 6.5 Two distinct areas of development are proposed. The eastern section of the development (plots 50-72) contains 23 dwellings and its design and layout is essentially identical to that previously submitted under application 11/00328/FUL. Its arrangement is predominantly that of properties around a central courtyard. It contains two blocks of east-facing terraced properties which include 6 x 3-bed houses and 2 x 2-bed houses of between 1.5 and 2-storeys with a direct frontage onto the new access road and car-ports or designated parking spaces accessed via the courtyard area to the rear. To the southern part of this section of development will be one block of five north-facing terraced properties which include 4 x 3-bed and 1 x 2-bed houses all of 2-storeys overlooking a central area of landscaped open space served by garages (for two plots) and designated parking spaces. There is then one block of nine east facing terraced properties including 8 x 3-bed and 1 x 2-bed houses all of 2-storeys which front onto the central open space and are served by designated car parking spaces. The replacement for No. 7 Mill Street (plot 72) will be a cottage dwelling employing Tudor-gothic features and including a small turret inspired by some of the architecture at the Priory itself and designed and positioned to highlight its role as an entrance marker to the development.
- 6.6 The western section of the development (plots 1-49) will be served off the end of the new access road and comprises a mixture of detached, semi-detached and terraced properties set around a central block-paved surfaced road with some served by more secluded private-style access roads. There will be an almost unbroken row of dwellings along the southern edge of the site backing on to the substantial rear gardens of properties in Mill Street that will contain 3 and 4-bed 2-storey houses only, some served by car ports and/or garages. Immediately rear of the closed White Hart pub would be an area of undeveloped open space with some visitor car parking spaces and a pedestrian connection through to the pub and potential linkage through to Mill Street. In the northern part of the development, away from the existing properties, there is a mixture of dwelling sizes including some substantial detached and semi-detached properties, all of 2-storey.
- 6.7 The proposed elevational designs show properties of traditional style with attractive detailing around doors and windows and employing a mixture of materials including red brick, blend brick, weatherboarding, cream render, brown plain tiles, natural red plain tiles and graphite slate with white UPVC windows, fascias and soffits, and black UPVC rainwater goods.
- 6.8 The very western part of the application site is not proposed to be developed, but the proposal does include the provision of a landscaped drainage pond.

Parkland

- 6.9 The Parkland application seeks the detailed approval for the erection of 17 dwellings for use as permanent residential dwellings or holiday accommodation within Priory Park. The 17 dwellings are each of bespoke design and some, but not all, seek to recreate, restore or otherwise take inspiration from structures that were historically located within the park. Each of the proposed properties or structural changes to the park are described below.

- 6.10 Lake House North: Set within the embankment to the park's northern lake, this substantial 5-bed property with a boat hold and concealed garages will be of contemporary design. It would be a completely new building within the park for which there is no historic precedent.
- 6.11 Lake House South: This time set within the embankment of the park's southern lake, this uniquely designed circular 5-bed property will be of contemporary appearance and will include a central courtyard and a 4-bay garage and three terraces overlooking the lake. Again this would be a completely new introduction to the park for which there is no historic precedent.
- 6.12 South Lodge: Similar in design to the North Lodge proposal, but a single 2-bed dwelling positioned at the very southern end of the parkland, accessed via the Mill Street entrance and to the north-west of the proposed 'West Field' development. The development includes a metal railed gate into the entrance to the park.
- 6.13 North Lodges: Two dwellings are proposed to be located at the very northern end of Priory Park either side of a new gateway entrance into the park from the north via the B1027. The new lodges are designed in the Tudor Gothic style and are proposed as replacements for original lodges that were demolished in the 1960s. A metal railing gate will extend between the two properties to form the new gate into the north of the park. They do not replicate the exact design of the original lodges, nor are they located exactly on the original footprint, but they seek to reflect the architecture of the Priory, including turret-style roof-terrace features. The properties will be accompanied by a 4-space garage block.
- 6.14 Slip Cottages: Located at the eastern edge of the park to the north of the walled garden, and with access from Colchester Road, the proposed slip cottages comprise two terraces of four 2-storey, 3-bed properties set around a communal garden with designated parking spaces.
- 6.15 Grotto Grove/Shell House and Kitchen: The Grotto is on the west side of the Park to the west of the North Lake. Remains of the original Shell House are still present today and will be incorporated into the reconstruction of this building. This development will be based on the original floor plans and will consist of two separate buildings located opposite each other. The Kitchen will include cooking facilities and a washing room on the ground floor and sleeping accommodation in part of the roof. The Shell House will have a ground floor providing further living accommodation to complement the Kitchen.
- 6.16 Nun's Hall: This part of the site is on the northern edge of Nun's Wood and the stone façade of the historic building still stands today. The building is said to date back to the late 16th century, although it is more likely 18th century. The remaining wall will be incorporated into the new build. The property will be single storey with sleeping accommodation in the roof.
- 6.17 Deer House: The building is designed to replace an original house shown in this location on historic maps. It would be timber framed with a thatched roof designed as an ornament to the park and set into an old gravel pit.
- 6.18 Pigeon House: This building would be an octagonal building intended to be visible from Darcy House located in the approximate position of an 18th Century pigeon house of

unknown form, apart from its octagonal plan. It would be two and a half storeys high topped with a cupola set into the landscape on the bank of a small valley intended as a holiday let.

- 6.19 Filling of Lodge Piece: This would involve the filling, re-levelling and landscaping of an area of land that was historically a site of mineral extraction and which would potentially generate further funding towards Priory repairs.

Architectural Drawings

West Field

- OC002-01-01 Rev. A Location Plan
- CC0175/MS-7-1 Location/Site Plan No. 7 Mill Street
- CMP Figure 20 – Indicative Master Plan

- OC002-03-01 Rev. G Proposed Development Layout
- OC002-03-10 Rev. A Proposed Development Layout overlay with previous applications
- OC002-03-02 Rev. A Proposed Detailed Development Layout
- OC002-03-05 Rev. A proposed Development Layout with Drainage Pond
- OC002-03-03 Rev. A Proposed Materials Layout

- CC002-50-01 Rev. A Mill Street Cottage Floor Plan and Elevations
- CC002-50-02 Rev. A Type C Floor Plan and Elevations
- CC002-50-03 Rev. A Type D Floor Plan and Elevations
- CC002-50-04 Rev. A Type E Floor Plan and Elevations
- CC002-50-05 Rev. A Type F Floor Plan and Elevations
- CC002-50-06 Rev. A Type G Floor Plan and Elevations
- CC002-50-07 Rev. A Type H Floor Plan and Elevations
- CC002-50-08 Rev. A Type J Floor Plan and Elevations
- CC002-50-09 Rev. A Type K Floor Plan and Elevations

- CC002-50-17a Rev. B Proposed Rear and End Elevations for plots 58-50
- CC002-50-17 Rev. A Proposed Plans and Front Elevations for plots 58-50
- CC002-50-16 Rev. B Proposed Plans and Front Elevations for Plots 63-59
- CC002-50-16a Rev. B Proposed Rear and End Elevations for Plots 63-59
- CC002-50-15 Rev. B Proposed Plans and Front Elevations for Plots 68-71; 64-67 (mirrored)
- CC002-50-15a Rev. A Proposed Rear and End Elevations for Plots 68-71; 64-67 (mirrored)

- CC002-ST-01 Rev. A Proposed Street Scene Elevations Plots 1-7, 43-48
- CC002-ST-03 Rev. A Proposed Street Scene Elevations Plots 16-23, 33-36
- CC002-ST-02 Rev. D Proposed Street Scene Elevations Plots 58-50, 64-71

- CC002-60-01 Rev. 00 Single Garages SG1 & SG2 Floor plans & elevations
- CC002-60-02 Rev. A Pairs of Single Garages SG3 & SG4 Floor plans & elevations
- CC002-60-03 Rev. 00 Carport Floor Plan & Elevations
- CC002-60-04 Rev. A Carport Floor Plan & Elevations

Parkland

- CC-0175-ABP012 Application Boundary Plan
- CMP Figure 20 Indicative Master Plan

- CC-0175-LKN1 Rev. A Site G2.3: Lake House North – Site Plan & Elevation
- CC-0175-LKN2 Rev. B Site G2.3: Lake House North –Plans & Elevation
- CC-0175-LKS1 Rev. A Site G3.2: Lake House South – Site Plan & Elevation
- CC-0175-LKS2 Rev. A Site G3.2: Lake House South – Upper & Lower Ground Floor Plans
- CC-0175-LKS3 Rev. A Site G3.2: Lake House South – Elevations
- CC-0175-SL1 Site K12 South Lodge – Site Plan & South Elevation
- CC-0175-SL2 Rev. B South Lodge – Floor Plans, Elevations & Details
- CC-0175-NL1 Rev. C Site B: North Lodges – Site Plan & North Elevation
- CC-0175-NL2 Rev. D Site B: North Lodges – Floor Plans & Elevations
- CC-0175-NL3 Site B: North Lodges – Details and Garages
- CC-0175-NL4 North Lodges – Elevation
- CC-0175-S1 Rev. C Site J: Slip Cottages – Site Plan & North Elevation
- CC-0175-S2 Rev. C Site J: Slip Cottages – Floor Plans & Elevations
- CC-0175-GG1 Rev. B Site G1: Grotto Grove – Kitchen – Site Plan, Plans & Elevations
- CC-0175-GG2 Rev. B Site G1: Grotto Grove – Shell House – Site Plan, Plans & Elevations
- CC-0175-PH1 Rev. B Site F: Pigeon House – Site Plan, Plans & Elevations
- CC-0175-DH1 Rev. B Site H: Deer House – Site Plan, Plans & Elevations
- CC-0175-AH1 Rev. B Site C: Nun’s Hall – Site Plan, Plans & Elevations

- 730A4 09 Rev. B Lodge Piece Proposed Planting
- 730A2 122 Rev. C Lodge Piece Sections at time of planting (showing proposed traffic mitigation measures)
- 730A2/222F Estate Access and Circulation Strategy
- 730A4/05C Deer Bank Alignment Colchester Road
- 730A4/08 Rev. B Proposed Traffic Mitigation Measures: Colchester Road (Sheet 1 of 2)
- 730A4/10 Rev. A Proposed Traffic Mitigation Measures: Colchester Road (Sheet 2 of 2)
- 730A2/17 Rev. F Proposed Contours - Lodge Piece (Sheet 1 of 2)
- 730A2 22 Rev. F Proposed Contours - Lodge Piece (Sheet 2 of 2)
- CC-175-NA Drawing No. 30 The Wellwick, North Entrance Access and Footway Proposals

Reports and Technical Information

- Planning, Design and Access Statement
- Transport Assessment
- Statement of Community Involvement
- Environmental Statement which covers:
 - Nature Conservation and Ecology
 - Landscape and Visual Impact
 - Superficial and Solid Geology
 - Cultural Heritage; Historic Buildings and Setting
 - Archaeology
 - Highways and Transportation
 - Noise and Vibration
 - Air Quality
 - Water Resources: including Flood Risk Assessments, Drainage and Hydrology
 - Social Economics

- Cumulative Effects
- Heritage Assessment

Main Planning Considerations

6.20 The main planning considerations are:

- Principle of development;
- Harm to the setting and significance of heritage assets;
- The 'Conservation Deficit';
- The Financial Contribution of Enabling Development;
- Potential Repairs to the Priory;
- Alternative Options – Strategy and Business Plan;
- The Heritage Balance;
- Performance against heritage and enabling development policies/guidance
- Highways, transport and accessibility;
- Coastal Protection Belt;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Archaeology;
- Education, health and Open Space provision;
- Council Housing/Affordable Housing;
- Layout and Design; and
- Overall planning balance.

Principle of development

- 6.21 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.22 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

- 6.23 The West Field application site is not allocated for housing or any other form of development in either the adopted or emerging Local Plan and is located outside of the settlement development boundary for St. Osyth. The site is within the St. Osyth Conservation Area and the Coastal Protection Belt. The Parkland is also not allocated for housing or any other form of development either adopted or emerging Local Plan and all of the Parkland proposals are located outside of the settlement development boundary for St. Osyth. The sites in question are all within the St. Osyth Conservation Area and, with the exception of the proposed South Lodge, are all within the registered park and garden. The land is also within the Coastal Protection Belt and the northern part of the park is a designated Local Wildlife Site.
- 6.24 Because the sites lie outside of the settlement development boundary and are affected by other protective designations in the adopted Local Plan, development on West Field and in the Parkland would be contrary to local policy, both adopted and emerging. However, paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.25 For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21st January 2015. At the time of writing, and despite the publication of the new draft Local Plan, the Council is still only able to identify an approximate 4.5 year supply and thus a shortfall still remains. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.26 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted. Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries. The application must therefore be judged on its merits against the NPPF.
- 6.27 Critically the NPPF gives examples of policies which indicate the development should be restricted and this extends to development which would result in harm to heritage assets.
- 6.28 Paragraph 140 in the NPPF says local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies (as this proposal does) but which would secure the future

conservation of a heritage asset, outweigh the disbenefits of departing from those policies. Notwithstanding this proposal's conflict with numerous local planning policies, this is the key test that should determine whether or not planning permission is granted.

- 6.29 Both Historic England and the Council's own appointed heritage advisor have judged the harm of the proposed developments to be 'less than substantial' in NPPF terms. The significance of this is clear from paragraphs 133 and 134 of the NPPF. Paragraph 132 of the NPPF advises that any harm to a heritage asset requires clear and convincing justification. Paragraph 133 provides that development that would lead to 'substantial harm' should be refused and only allowed in very exceptional circumstances. Where the harm is considered to be 'less than substantial' (as here) however, paragraph 134 requires the harm to be weighed against the public benefits of the proposal, including securing its optimum viable use, albeit that very considerable importance and weight must be attached to any residual harm which the development would cause to designated heritage assets.

Harm to the setting and significance of heritage assets

- 6.30 The 'heritage benefit' of the enabling development proposals need to be weighed against the harm caused to the significance and setting of the Priory, the registered parkland and the Conservation Area to determine whether or not permission should be approved. The harm caused by the West Field and Parkland developments was the subject of considerable examination and debate at the January 2015 Public Inquiry and there was general consensus amongst the parties involved that some of the development proposals were more harmful to the heritage assets than others.

West Field

- 6.31 The current application for 72 dwellings on West Field contains notable differences from the earlier 2011 proposal which included 123 dwellings across four phases (West Field 1, 2, 3 and 4). The current proposal omits development originally proposed for the very west of the site ('West Field 4') for 21 flats within a new 'maltings style' building. The Council's heritage advisor (namely Mr. Paul Drury of the Drury McPherson partnership) raised concern about the suburbanisation of the north bank of the Creek and that the development would be particularly harmful to the Conservation Area, raising concern about the effect on the integrity of the area with the proposed 'faux malt house' set improbably far from the quayside. The Planning Inspector, in dismissing the proposal, accepted the Council's view that there would be 'serious harm' to the significance of the Conservation Area and the landscape setting of the priory. The applicants have abandoned this element of the development in the latest scheme.
- 6.32 Phase 3 or 'West Field 3' again at the western end of the 2011 proposal also raised strong objection from the Council's heritage advisor. The development of this area included a proposed 'faux converted mill building' that was judged to compound harm to the integrity of the area. Again, the Inspector concurred with the Council's position in dismissing the proposal, concluding that the development would cause serious harm to the significance of the Conservation Area and the landscape setting of the Priory. The phase 3 of development has been reined back considerably in the latest proposal and there is no faux converted mill building, just houses.

- 6.33 Phase 2 ('West Field 2') of the 2011 development which contained houses rather than any flatted development, drew less specific criticism from the Council's heritage advisor but it was still considered that the development, particularly when read in combination the with others would suburbanise a substantial part of the Conservation Area and would obscure the historic development pattern whose survival makes a major contribution to the Conservation Area's special architectural and historic interest and character. It would also (in combination with West Field 3 and 4) narrow and dominate views from the west, especially along St. Osyth Creek, of the Priory buildings on the skyline. The Planning Inspector concluded that development would cause higher moderate long term harm to both the Conservation Area and the setting of the park. In the current proposal, this area is still proposed, in part, for development.
- 6.34 Phase 1 or West Field 1 at the very eastern end of the site, closest to the Priory has been retained, unchanged in layout, within the current development proposal. The Council's heritage advisor considered that the development would cause 'particular harm the to the setting of the Conservation Area resulting from the introduction of an *alien pattern of development* - referring to the construction of a suburban road and the replacement of 7 Mill Street with an "*over-detailed gothic lodge*" as being of particular concern. He also advised that the development in this location would have the greatest effect on the setting of the grade I listed and scheduled core of the Priory. The Inspector concluded that the development at West Field 1 would cause lower moderate harm on the significance of the Conservation Area and the open setting of the park.
- 6.35 For the current West Field application, which does not extend so far to the west and excludes any uncharacteristic flatted development, Historic England have suggested that development would still harm the significance of the Priory, the village conservation area and, to a lesser extent, the park. The development would also encroach on the immediate setting of the Priory. The estate courtyard would face the Priory orchard, and the openness of the landscape around the Priory, and between it and St. Osyth Creek, would be reduced. The proposed development would be visible from the Abbot's Tower, further eroding its landscape setting. Historic England also suggest the development would also erode the character of the landscape in which the Priory is set from a broader perspective because there are important views across the surrounding landscape to the Priory from both the south (unaffected by the proposals) and from the west. While much less conspicuous than the 2011 schemes for the West Field, the development would erode the openness of the landscape looking towards the Priory – and the church – to the detriment of the Priory's setting. The harm, in Historic England's view would be less than substantial, but moderate.
- 6.36 The current proposal is clearly less harmful to the heritage assets than the four phases of development proposed as part of the 2011 applications, but there would still be 'less than substantial' harm which, based on the advice provided by Historic England and the Council's own advisors would be 'moderate'.

Parkland

- 6.37 The current application for 17 dwellings notably omits two properties that in the 2011 scheme were generally considered to be amongst the most harmful – the 'West Lodge' out on an open field to the west of the main Priory complex and 'Lodge Piece House' a

substantial property in a prominent location with no historic precedent. For those two elements, the Inspector concluded that the West Lodge would challenge the hierarchy of the Priory complexes and parkland and cause significant, albeit less than substantial harm. For Lodge Piece House, he concluded that the impact would be on the high side of moderate.

- 6.38 The position and design of the remaining 17 properties has not changed from the 2011 scheme and whilst the Planning Inspector's decision has been quashed, his conclusions on the relative harm caused by each proposal provides a sensible starting point from which to assess the revised proposal. The Inspectors conclusion are summarised below, along with commentary on the professional views that were expressed by heritage experts representing the appellants, the Council and Historic England.
- 6.39 Lake Houses – The Council's heritage advisor, in his evidence to the Public Inquiry, concluded that the both of the Lake House proposals were set in and were responded to the 20th century landscape created by the lakes and would not be prominent in views into the park. In themselves, they would not add to the harm caused historically by the gravel digging and they would be modern interventions that would not confuse the surviving historic character of the park, with limited effects on views within, from, or of the historic landscape.
- 6.40 In Historic England's evidence to the Public Inquiry, it was suggested that whilst being concealed, the Lake Houses would have a strong presence within their parcels of the park with the northern house would be placed in a prominent position on the lakeside, while the southern house, although sunk in the slope to the east of the lake, would enjoy long views westward – and would therefore be visible from the west.
- 6.41 The Council's Principal Tree and Landscape Officer has commented that, whilst he disagrees with development in the parkland on a matter of principle, the developments would, in the case of the southern Lake House, not have any impact on any notable trees and, in the case of the northern Lake house, would result in mainly young self-sown Sycamores that would not significantly affect the appearance of the land. Suitable landscaping should mitigate any adverse impacts.
- 6.42 The Planning Inspector's conclusion following the 2015 Public Inquiry was that the Lake Houses would be substantial modern buildings that would dominate the surrounding Park areas, but would be screened to some extent by being set into the banks of gravel pits in the centre of the park. This would reduce the effect on views within, from or of the historic parkland landscape and although there would be some traffic movements generated, the impact would be slight.
- 6.43 From Officers assessment of the Lake House proposals, in light of the expert advice and comments from Historic England, the Tree Officer and the last Planning Inspector, there would be no adverse impact or harm to the significance and setting of the park, the Priory and the wider Conservation Area.
- 6.44 North and South Lodges – The Council's heritage advisor commented that the north and south lodges would fit well in terms of historic expectation and precedent and would not add to traffic moving through the park. Subject to quality of details and materials, he concluded

that they would not harm the significance of the park. Historic England commented that the construction of new north lodges to replace those which had been lost would help to reinforce the boundary of the park and would supply a substitute incident in views northwards.

- 6.45 The Council's Principal Tree and Landscape Officer has commented that the north lodges might have a direct impact on individual trees that are important in terms of the contribution they make to the listed garden and to the character and the position of the proposed dwellings and access road close to an existing Public Right of Way would also affect the public's perception of being in the countryside when using the Public Right of Way. However, if consent were to be granted then new landscaping could be used to mitigate adverse impacts. The south lodge would result in the removal of a short section of Countryside Hedgerow which would require proper assessment.
- 6.46 The Planning Inspector commented that the north and south lodges would reflect a historic precedent, but would contribute to increased development, particularly light, domestic paraphernalia, and activity, and be appreciated by people moving through the park. For the north lodges he concluded some impact, albeit small; and for the south lodge he concluded that there would be a slight impact.
- 6.47 From Officers' assessment of the north and south lodge proposals, in light of the expert advice and comments from Historic England, the Tree Officer and the last Planning Inspector, there would be a small adverse impact on the significance and setting of the park, the Priory and the wider Conservation Area.
- 6.48 Slip Cottages – The Council's heritage advisor felt that the eight slip cottages did not belong at the interface of the productive garden and the park and would therefore not fit with the history or traditions of the place. He concluded that with the associated parking areas, they would suburbanise a significant corner of the historic park, and the setting of the specifically-listed walled garden, effectively isolating it from the historic park to the north. These particular dwellings would therefore cause serious (although less than substantial) harm to the character, integrity and hierarchy of the designed landscape.
- 6.49 In contrast, Historic England's view was less critical and suggested that the slip cottages would be relatively unobtrusively set, close to the kitchen garden – a view shared by the Council's Principal Tree and Landscape Officer who has commented that the proposed dwellings relate reasonably well to the existing house and walled garden on the application site and to the existing built form along and to the east of Colchester Road. The Planning Inspector concluded that whilst relatively unobtrusive, the location of the cottages would add significantly to the quantity of development in the garden area. The associated landscaping would be designed to screen the cottages to the north would contribute to further subdividing the slip from its garden setting and he concluded that the harm would be less than substantial but towards the lower end of that category.
- 6.50 From Officers' assessment of the slip cottages proposal, in light of the expert advice and comments from Historic England, the Tree Officer and the last Planning Inspector, there would be a serious, but less than substantial impact on the significance and setting of the park, the Priory and the wider Conservation Area.

- 6.51 Deer House – The Council’s heritage advisor suggested that the Deer House as a new, picturesque house could fit into the landscape, its location in a hollow meant that domestic clutter need not be obvious and would cause little harm. Historic England also felt that the Deer House would not be dominating in character, sunk within an old quarry. The Principal Tree and Landscape Officer notes that the dwelling would be located within the root protection area of two trees and further information would be required to understand any impacts, although visual impacts could be mitigated through landscaping. The Planning Inspector concluded that the harm would be insignificant. Officers therefore take the view that the Deer House proposal would cause negligible harm to the significance and setting of the park, the Priory and the wider Conservation Area.
- 6.52 Pigeon House – In contrast to his advice about the Deer House, the Council’s heritage advisor felt that the Pigeon House would be particularly exposed, management to avoid domestic clutter would be difficult to achieve in practice and the harm would therefore be moderate to serious. Historic England had less of a concern, stating that the house would not be dominating in character and is intended to be conspicuous. The Principal Tree and Landscape Officer has no specific comments other than to achieve suitable landscaping. The Planning Inspector agreed with the Council’s heritage advisor’s concern over domestic clutter and felt that the harm would be less than substantial, but moderate. Officers concur with this assessment.
- 6.53 Nunn’s Hall – The Council’s heritage advisor was concerned that by building a new house onto the surviving stone gable of what was (from archaeological evidence) otherwise a lightly-constructed park building, its significance would be trivialised. He also felt the development would completely transform the character of the surrounding landscape and would cause moderate harm to the character of the park. Historic England were less concerned, noting that the dwelling would be built onto the surviving wall of a lost structure. The Principal Tree and Landscape Officer is however concerned about the impact of the development on important trees. The Planning Inspector concluded less than substantial harm in the range of low to moderate. Officers concur with our heritage advisor that the harm would be moderate.
- 6.54 The cumulative harm of the Parkland proposals is judged to be ‘less than substantial’ in NPPF terms and ‘moderate’ within that classification. In contrast, the 2011 proposals for the parkland were considered, by the Inspector, to be moderate to high.
- 6.55 Taking the full package of enabling development proposed for West Field and the Parkland, it is considered that the collective harm would be ‘less than substantial’ and moderate within that classification. It must be re-emphasised here that any harm to the significance or setting of a heritage asset, even less than substantial harm, requires clear and convincing justification and must be outweighed by public benefits. The suggestion that the current proposals are less harmful than their 2011 equivalents does not mean that they are now acceptable. The balancing exercise of harm against benefits still needs to be reassessed.

The 'Conservation Deficit'

- 6.56 The 'conservation deficit' is an important consideration in the determination of applications for enabling development and is calculated from the difference between the market value of the asset (once restored) and the cost of restoration.
- 6.57 At the 2014 Public Inquiry, the Planning Inspector was presented with evidence that suggested the conservation deficit was £39.9 million. The owners have again estimated the conservation deficit, to be about £40million. This takes into account buildings that are already being brought into economic use and the s106 contribution from the grant of outline planning permission for up to 190 dwellings on land at Wellwick Field, to the north of the Priory grounds (which has already helped to fund some repairs to the Priory). The applicants have however indicated that the deficit could be reduced to about £35million through a combination of vesting the Abbot's Tower and walled garden into a charitable trust which might obtain grants up to £3.2million from the Heritage Lottery Fund (HLF) and other sources, securing £800,000 from the Highway Authority to repair damage to the wall on Mill Street, and by converting two buildings to a functions business, as a commercial venture. Our advisors however suggest that a £3.2million HLF 'heritage grant' is optimistic. The applicants propose that the contribution made by the enabling development would reduce the conservation deficit below £35million.
- 6.58 Also, the Council's advisors (namely Mr. David Geddes of Colliers International) do not agree that the manner in which the conservation deficit is calculated by the owners is appropriate. The main reason is because it is not based on the optimum viable use. It is calculated based on a scheme that reflects the personal objectives of the owners rather than what would be most effective in restoring the heritage asset. This is partly a matter of the actual uses which are proposed for the historic buildings, and partly because of the way in which the owners have chosen to go about the project.
- 6.59 The owners' stated intention is to treat the estate like an ongoing business. This would normally involve investing all of the proceeds from enabling development into the heritage asset, and not charging any development profit on work that is done, on the basis that all the investment will increase the value of the property and, therefore, eventually benefit the owners. The owners instead propose to withdraw developers profit, calculated at 20% of costs, charged on all works. Our advisors say that this is the same as, for example, someone building a house for themselves and charging themselves a development profit. This, plus the insistence of the owners on including costs dating for the full period of their ownership, is the main reason why the figure they claim for the conservation deficit is so high.
- 6.60 The owners justify their approach by referring to the Historic England guidelines, but our advisors say that those guidelines are intended to apply to a situation where an entity buys a property with the intention of restoring it and selling it on rather than one where a company or individual(s) purchase it with the intention of living it and operating it as a business. Our advisors argue that alternative owners taking a conventional long term approach would allow all of the proceeds from enabling development to be used to restore the heritage asset.

- 6.61 The owners have not produced an analysis to show that their proposals represent the optimum viable use. The Council, in the absence of that, commissioned Colliers International to do an assessment of what the optimum viable use is. They have done a detailed analysis of options and have produced a business plan for a scheme (see relevant section below). It has similarity to the ideas of the owners (as contained within a report prepared by Savills), but achieves the full restoration of the heritage asset.
- 6.62 The overall result of this is that, according to the figures submitted by the owners, the enabling development would only cover 24% of the conservation deficit. It would be less if they are unable to obtain the £5 million, largely from Heritage Lottery Fund, mentioned above. They have provided no plan or strategy for how the balance could be achieved.
- 6.63 Our advisors have said that the real situation is actually a little more positive than this. They estimate that the total cost of repairing and converting the historic buildings could be achieved at a cost of about £23.5million. The owners' proposals, including the S106 contribution from the Wellwick development, would take about £8 million of the property at risk off the list. The buildings which the owners say they would convert to commercial use would take a further £3million off the list. Grants from HLF and others could, realistically, take £2million off the list. Our advisors estimate, in other words, that the owner's plans would result in about 55% of the work needed.
- 6.64 That still leaves £10.5 million of works, 45% of the total, that are unaccounted for. These works are dominated by historic features – like walls and monuments – that have no income generating potential. There is no obvious way of funding this gap. The entire opportunity for enabling development will have been exhausted, there is no grant funding available of that scale, and the business that the owners propose will not be able to generate enough surplus to pay for that work.
- 6.65 Our advisors say, therefore, that the owners have not produced a strategy that solves the problem of how to repair and provide a sustainable use for the priory as a whole. Their proposals do not come close to doing so and there is severe medium and long term danger to the heritage asset as a result. Our advisors point out that, whatever argument the owners make in terms of calculating the conservation deficit, the end result is indisputable. Their plans to do not provide a solution to the problem of how to repair the priory and provide it with a sustainable new use. Our advisors do agree however, that there is a large conservation deficit and that at least some enabling development is justified. The Colliers plan assumes that.
- 6.66 The owners state that the new West Field and Parkland development proposals will together reduce their estimate of the deficit by around £8 million. They only propose, however, that 47% of that financial gain (i.e. £3.76 million) will actually be allocated to the repair of the heritage asset.
- 6.67 That proportion has a fundamental impact on the situation, obviously. Its provenance is opaque. There is no explanation or rationale for it provided in the documentation that accompanies the application. Our advisors believe that it derives from evidence provided by Mr. Lee of BNP Paribas to the 2015 Public Inquiry. It represents his estimate of the cost of repairing the heritage asset as a percentage of his estimate of the conservation deficit. It

was adopted in agreeing the formula for the s106 contribution from the Wellwick development. The owners have simply said that it should apply again.

- 6.68 The 53%/47% formula is, in effect, the mechanism by which the owners would take out the development profit which they propose to charge on all works, plus professional fees and a proportion of the historic costs. It also provides for VAT on works to the historic buildings that could not be recovered. The VAT was estimated by Mr. Lee to be 20% of costs. That may be true if all the buildings concerned that have been residential use, but not for buildings that are converted from a non-residential use to residential and for buildings converted to commercial purposes. The Colliers report highlights the importance of considering the impact of VAT and is one of the reasons why an evaluation of what the optimum viable use is needed.
- 6.69 Cost consultants that have estimated the costs of the works on behalf of the Council and Historic England have estimated that the cost of the works that the owners have said would be paid for from the enabling development is about £5.2million, £6.2million if unrecoverable VAT at 20% has to be paid on the full works. From an alternative perspective, therefore, £8million of enabling development is estimated to produce about £6million of improvements to the heritage asset. That work would result in the Gatehouse (East and West Sides), Darcy House West Wing and West Barn being fully refurbished and fitted. They would be valuable properties on completion and considerable importance and weight should be attached to this benefit in the overall heritage balance.
- 6.70 The Historic England guidelines say that the current value should be based on the optimal viable use, which is common sense since, otherwise, an owner could simply choose a low value use in order to increase the conservation deficit and, therefore, justify more enabling development. Based on the advice of Mr. Geddes of Colliers International, Officers consider that the conservation deficit, as calculated by the owners, has been over inflated and the proposal to utilise only a portion of funds raised through enabling development for repairs to the Priory does not represent the most efficient approach of securing the future conservation of the heritage asset.

The Financial Contribution of Enabling Development

- 6.71 The extent to which enabling development will reduce the size of the conservation deficit and bring about necessary repairs to a heritage asset is commonly estimated by calculating the 'residual land value' i.e. the increase in the value of the land brought about as the result of a planning permission for development. The residual land value is essentially the difference between the expected sales value of the property or properties being built and the cost of building them – which can include the cost of materials and construction, the cost of borrowing money (i.e. finance), relevant administrative and professional fees and a reasonable level of 'developer profit' i.e. the profit margin for the company actually undertaking and bearing the risks of the development. For the proposed developments, the applicant estimates that the increase in the residual land value would be around £8million.
- 6.72 For the 2014 Public Inquiry, evidence was presented to the Inspector that suggested that the earlier West Field and Parkland schemes including 123 and 19 dwellings respectively would generate a residual land value of only £3.7million. The reason why the new schemes

of 72 and 17 dwellings in 2016 can, by the applicants' figures, generate a residual land value of £8million but a larger scheme of 123 and 19 dwellings could only achieve £3.7million in 2014 is explained by changes in the economic climate and the strength of the housing market over the last few years. House prices have seen increases of between 15% and 20% whereas build costs have only increased by around 5%. For completeness, at 2016 values the applicants estimate that the 2011 schemes including 123 and 19 dwellings could now generate a residual land value of nearer £10million (index linked).

- 6.73 Calculating the residual land value that would be achieved from a housing estate, as proposed for West Field, is simpler than for a scheme like the Parkland developments where the properties are of bespoke design, are located separately and would not benefit from the economies of scale that can be achieved when building an estate. The applicants were therefore asked to provide a breakdown of residual land value for each component of the Parkland development so Officers could consider the relative contribution that each proposal would make towards reducing the conservation deficit. The information that was provided in September 2016 is summarised in the table below:

Component	Sales Value	Development Cost	Residual Land Value
Lake House South	£2,529,054	£2,016,222	£512,832
Slip Cottages (x8)	£2,501,730	£2,013,433	£488,297
Lake House North	£1,198,890	£964,886	£234,004
North Lodges (x2)	£930,510	£748,890	£181,620
Deer House	£698,610	£555,203	£143,407
South Lodge	£465,255	£374,445	£90,810
Nunn's Hall	£461,267	£367,093	£94,174
Pigeon House	£432,432	£326,277	£106,155
Shell House & Kitchen	£199,928	£135,885	£64,043
Total	£9,417,676	£7,502,334	£1,915,342

- 6.74 The filling of Lodge Piece is anticipated to generate a further £350,000 of income.
- 6.75 Mr Geddes has pointed out, however, that the above information is apt to mislead. It has been calculated by taking an average of all properties for both the sales value and the development cost, and then dividing it between each property according to their size. This means that it is not possible to determine the contribution which each house makes.
- 6.76 Cost consultants RNJ have undertaken an independent assessment of the development costs for the Parkland properties which provides their estimated costs for the individual buildings excluding the cost of providing the infrastructure (roads, utilities, pathways etc) to serve the developments and providing that as a separate figure. Colliers have assessed them and advised that there would be a wide variation between contributions made by the different houses, with some making a deficit.
- 6.77 Colliers advise, therefore, that it is unlikely that this arrangement of houses would produce as much development value as an arrangement that was orientated towards maximising value within the constraint of minimising harm to the heritage environment. The

arrangement is the result of the priorities of the family, which is not the same as the arrangement that would produce the most value to the benefit of repairing the priory.

- 6.78 It is understood that the new buildings in the park would be family homes and holiday lets that would be part of the family business. The owners have, nevertheless, deducted a development profit of 20% of costs in calculating the contribution they would make. They are choosing to withdraw a substantial part of the value of the development in this way.
- 6.79 Mr Geddes has advised that owners that took a conventional approach, on the basis that funds are being used to enhance of the value of an asset they own, would invest all of the proceeds from enabling development in the heritage asset and would not take development profit on works to the heritage asset.
- 6.80 It is concluded, therefore, that the owners have not shown that the buildings in the park are optimised to make the biggest contribution to restoring the heritage asset that they could without harming their historic environment, and have not provided enough information to enable Officers and Members to perform the requisite balance on a house by house basis. However, taking a broader view, Officers recognise that other factors have been taken into account in developing the proposals for buildings in the park, and that they might in whole or part be justified if they contribute to facilitating a comprehensive, deliverable strategy for securing the future of the Priory as a whole, including a commercial approach to uses in the historic core

Potential Repairs to the Priory

- 6.81 For enabling development to achieve its purpose, the increase in residual land value has to be tied through a s106 legal agreement to specific repairs to the heritage asset in question. For the Priory, where the overall conservation deficit is estimated by the applicants to be around £35 million at best, £8 million generated by the new West Field and Parkland developments would only secure a proportion of the repairs that are needed. The scope and nature of those repairs is critical to determining whether or not the benefits would outweigh the disbenefits.
- 6.82 Following the concerns raised by Historic England about the ambiguity surrounding what repairs will actually be achieved as a result of the enabling development, the applicants in September 2016 submitted a list of repairs that would be secured. The repairs equate, in cost, to 47% of the £8million or so expected to be generated by the enabling proposals. This assumes, however, that the cost estimates are accurate. Arguments were made at the previous Public Inquiry by cost consultants appointed by Historic England and by Mr. Lee of BNP Paribas that the estimates initially produced by the applicants were too high.
- 6.83 The suggested repairs are summarised in very broad terms below:
- Gatehouse – completion of all remaining works to central, west and east ranges (costed by the applicants at £1.5 million);
 - Gatehouse – completion of all improvements and new works to central, west and east ranges (£400k);
 - Darcy House West Wing works and internal fit out/improvements (£1.3million);

- West Barn works and internal fit/out improvements (£700k).
- 6.84 Other works that could be prioritised, as an alternative to the above, could include works to the southern wing roof of Darcy House, works to the Darcy House clock tower and works to the east wing roof of Darcy House.
- 6.85 Cost estimates made on behalf of the Council and Historic England by RNJ Partnership quantity surveyors calculate the total cost of repairing the heritage asset to be about £14.5 million, including professional charges, and the cost of conversion works to create a mixed use business plus infrastructure to be about £9 million. That is circa £23.5 million in total.
- 6.86 The owners have proposed that the enabling development from Wellwick (already agreed), Westfield and the new houses in the park¹ will result in repair and conversion to beneficial use of the Bailiff's Cottage, the Gatehouse (West and East Range), Darcy House West Wing and West Barn. That represents about £8million of the costs on RNJ's list, about a third of what is required. Part of this is already secured under a s106 attached to Wellwick, the remainder could be via a S106 agreement on the current proposals.
- 6.87 The owners state that they will operate the Tithe Barn and Cart Shed as an operating functions business and will pay for that as a business investment. That represents about £3 million of the costs on RNJ's list, bringing the total to about £11 million, just under half, although this is not secured via S106. If the owners secured £2 million from HLF and Historic England towards repair of the Abbot's Tower, Chapel and gardens via a trust (an amount which Mr Geddes advises is realistic, but far from certain), £13 million of the costs identified by RNJ would have been covered, c. 55% of the total needed. This is a more positive picture than the owners', but still leaves 45% of the repairs and conversion that is needed not dealt with, representing about £10 million.
- 6.88 The owners have not advanced a strategy for how the remaining 45% would be dealt with. That remaining 45% is dominated by the historic structures that have no capacity to generate income in their own right; the most vulnerable, in other words.
- 6.89 Mr Geddes states that he is unable to see any obvious solution, under the appellants' scenario, to the 45% gap. The opportunities for enabling development and large scale grant funding would have been exhausted, and the revenue from the functions business and holiday cottages would not be enough to deal with it over time. He advises that this would be a dangerous situation for the heritage asset because the opportunities to find a solution would have been used in a sub-optimal manner. Weighing the harms to the heritage assets against the benefits which the applicants are presently offering by way of repairs, Officers are not presently satisfied that the benefits outweigh the harms. Whilst some of the assets would be repaired, others appear to be condemned to an uncertain future.
- 6.90 Officers have been advised that a much greater schedule of repairs needs to be tied into a s106 legal agreement than is currently being suggested by the applicants. They have been advised that enabling development of the scale proposed should be accompanied by a legal agreement attached to conservation of the heritage asset in full. The buildings to be secured (as advised by Mr. Drury) would be as follows:

¹ Based on the August 2016 proposals.

- Darcy House;
- The Gatehouse (completion of works);
- Abbot's Tower and chapel;
- Brewhouse;
- West Barn;
- Tithe barn, cart shed and dairy;
- Rose garden walls; and
- Northern section of wall (with gate and windows) on the west side of the Bury.

6.91 Officers conclude that the proposals presented would not “secure the future conservation of the heritage asset”, as required by Paragraph 140 of the National Planning Policy Framework. They would harm the prospects of securing the future of the heritage asset by exhausting the means to do so in a sub-optimal manner. The benefits in terms of work to the heritage asset are inadequate in relation to the scale of enabling development proposed and do not compensate for the harm to the heritage environment and, more especially, the harm to the prospects of a full repair of the heritage asset and an ongoing sustainable use of it.

Alternative Options – Strategy and Business Plan

6.92 Since the quashing of the Inspector's decision to dismiss the appeals, the Council has appointed a business planning expert with substantial experience of heritage sites to undertake an appraisal of development options and this exercise was completed in September 2016. The work by Colliers International, supported by RNJ Partnership on costs, has explored 5 potential options for achieving the future conservation of the Priory, which are summarised as follows:

- Uses Strategy 1: an Exclusive Collection of Houses – the site would be akin to a cathedral close, with a relatively small number of houses, and, possibly, apartments set in a beautiful environment. This could include a small number of new houses of exceptional quality in the park. The site is likely to have particular appeal to affluent retirees moving out of London.
- Uses Strategy 2: A Collection of Houses plus Heritage Attraction – This is the same as Strategy 1 except that the Abbot's Tower and the formal gardens would be open to the public. They would be served by a car park off Colchester Road. Abbot's Tower could include a coffee shop and exhibition telling the story of the site. This strategy would provide the opportunity to seek a grant from the Heritage Lottery Fund to reduce the need for enabling development.
- Uses Strategy 3: A Collection of Houses, Heritage Attraction and Rural Business Centre – This would be as Strategy 2, except that the Tithe Barn, Cart Shed, Dairy and West Barn would be let to small businesses, probably on a combination of medium term (e.g. 5-10 year) leases and easy-in easy-out licenses. This would be a good candidate for grant funding from Heritage Lottery Fund's Heritage Enterprise

scheme and also for grants from other non-heritage programmes that are orientated towards job creation.

- Uses Strategy 4: A Collection of Houses, Heritage Attraction, Rural Business Centre and Functions Centre – This would be as Strategy 3, except that the west wing of Darcy House would be used for functions and a waiter service tea room during holiday periods. This would make the most attractive spaces on the site accessible to the public and would further increase the attractiveness for a grant from the Heritage Lottery Fund.
- Uses Strategy 5: A Collection of Houses, Heritage Attraction, Rural Business Centre and Visitor Accommodation – This would be as for Strategy 4, except that the east and south wings of Darcy House and the Bailiff's Cottage would be used as visitor accommodation in support of the functions centre in Darcy House.

- 6.93 For all of the options summarised above, Colliers conclude that optimum way for the strategy to be delivered would be for the development to be led by a building preservation trust or an alternative non-profit organisation, and for the site to be managed by that organisation. That would maximise the opportunities for grant funding and support from volunteers. They state, however, that this trust could also work alongside private owners if that is the desired approach. It is not essential for a trust to own the site.
- 6.94 Colliers outline a comprehensive plan for restoration of the heritage asset following a plan based on Strategy 5 above. This would be: Darcy House converted to a functions centre with visitor accommodation, an artisan village using the Tithe Barn and associated buildings, a heritage attraction based on the Abbot's Tower, Chapel and formal garden; and leisure activities in the parkland. They estimate that this could be achieved with a contribution from enabling development (in addition to that which has already been agreed) of about £8million. It would be delivered by and managed by a non-profit making organisation, but that could have a lease from private owners.
- 6.95 The owners have submitted a plan by Savills for operation of Darcy House and the Tithe Barn as a functions centre and for extensive recreational activities in the park. There is much in common between the plans of Colliers and Savills.
- 6.96 Critically, Colliers also conclude that it is likely that there would be a need, under any of the scenarios, for a certain amount of enabling development. The financial analysis suggests it would be possible to restore the buildings as an operating business within the scale of enabling development that has been applied for in 2016 (rather than in 2011) supported by reasonable expectations of grant aid particularly from the Heritage Lottery Fund. This could be achieved by the owners/applicants if they were prepared to write down sunk costs and not expect a development profit on all of their costs. This advice suggests that some enabling development is now justified albeit tied to the funding of more extensive repairs to the heritage assets than has to date been accepted by the applicants delivered as part of a wider strategy as indicated above, could reasonably be supported by the Council so long as the benefits do outweigh the harm.

The Heritage Balance

- 6.97 From exploring the scale of the conservation deficit, the level of funds expected to be generated from the parkland dwellings, the repairs to the Priory that would be secured through a s106 legal agreement, the harm to the significance of the heritage assets, the performance of the proposals against local policies and the consideration of options for a long-term business strategy, Officers have needed to consider the balance of benefits against disbenefits in pure heritage terms i.e. the 'heritage balance'. The question of heritage balance is effectively 'would the benefit of development in terms of funding the repairs to the Priory outweigh the harm of the development to its significance and that of the Conservation Area and registered park?' This is different to the overall planning balance, considered at the end of this report, which takes other factors such as highways, ecology and infrastructure impacts into account.
- 6.98 In considering the heritage balance, the starting point is the harm to the significance and setting of the relevant heritage assets – harm which requires clear and convincing justification in line with paragraph 132 of the NPPF. The harm caused by the current Parkland and West Field proposals is considered to be 'less than substantial' in NPPF terms but 'moderate' within that classification. This compares to the less than substantial but 'moderate to high' impact for the 2011 Parkland proposals and 'serious' impact for the 2011 West Field proposals as judged by the last Planning Inspector. The current proposals are clearly less harmful than the 2011 proposals, but any less than substantial harm still needs to be weighed against the public benefits – including securing the heritage assets' optimum viable use.
- 6.99 The current proposals for enabling development have the potential, based on the applicants' calculations, to reduce the conservation deficit by around £8million. By the applicants' calculation of the conservation deficit and the proportion of the funds (47%) that would be directed to repairs, only a proportion of the necessary repairs would actually be achieved – still leaving a significant funding gap. However, in taking an alternative approach as advocated by Colliers, it is feasible that a greater level, if not all, of the necessary repair can be secured off the back of the enabling development – thus, as part of a comprehensive business strategy, achieving the heritage assets' optimum viable use.
- 6.100 The harm caused to the heritage assets needs to be weighed against the repair works to the specified buildings which the development would secure. Each side of the balance is entitled to considerable importance and weight. Whilst the repair works secured would be a significant benefit, they do not in fact secure the future of all of those buildings, they do nothing for number of the other heritage assets but exhaust the only identified and realistic opportunities for enabling development. In that context the harm which the proposals would cause is not clearly and convincingly outweighed by the benefits.

Performance against heritage and enabling development policies/guidance

- 6.101 The Council's adopted and emerging Local Plans both contain specific planning policies that relate to developments affecting heritage assets and proposals for enabling development. There is also guidance produced by Historic England for use in the consideration of enabling development proposals. The performance of the current planning

application against these policies and guidance, taking into account the relative weight that be afforded to them following the publication of the NPPF is considered below.

Policy EN27a: St. Osyth Priory

- 6.102 Policy EN27a states: *“The Council is committed to the conservation, preservation and restoration of St. Osyth Priory and to that end, will work in conjunction with the landowner and English Heritage (now Historic England). Any application for enabling development will be judged against the criteria set out in Policy EN27”*. This clearly requires the Council to work positively with relevant parties to bring about the conservation, preservation and restoration of the Priory with an acceptance that appropriate enabling development might form part of the solution.

Policy EN27: Enabling Development

- 6.103 Policy EN27 of the adopted Local Plan relates specifically to enabling development proposals. It requires proposals for enabling development to satisfy all of the criteria set out in that policy, or else the proposal will not be permitted. The criteria which have to be met reflect, very closely, those set out in Historic England’s guidance on enabling development. Both Policy EN27 and the Historic England guidance however pre-date the publication of the NPPF which, generally advocates a more positive approach to development than the government planning policy that preceded it. Paragraph 215 in the NPPF says that due weight should be given to relevant policies in existing plans (such as the Council’s adopted Local Plan), according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).
- 6.104 Paragraph 140 of the NPPF states: *“Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits from departing from those policies”*. There is no suggestion in current national policy that enabling development proposals should be subjected to a prescriptive set of criteria, but that a balance between benefits and disbenefits needs to be met which will require the decision maker (i.e. the Council or the Planning Inspector) to exercise judgement. This change in approach is reflected in the Council’s emerging Local Plan where Policy PPL10 no longer carries forward prescriptive criteria that must be met, but instead requires applicants to provide sufficient evidence for the Council to make an informed judgement as to the benefits and disbenefits.
- 6.105 With the above in mind, the criteria in Policy EN27 need to be applied pragmatically and whilst any suggestion that all criteria must be met to avoid the refusal of planning permission is now inconsistent with the thrust of national policy, the criteria still provide a practical checklist of issues that need to be given proper consideration. During the last Public Inquiry, the criteria within Policy EN27 were described as a useful tool to guide the striking of the balance indicated by paragraph 140 of the NPPF and that the less a development complies with the criteria of the policy, the less likely it is that the balance in any given case will come out in favour of permitting enabling development.
- 6.106 Criterion a) in part 1 of Policy EN27 requires that *“enabling development will not materially detract from the archaeological, historic and landscape interest of the heritage asset, or*

materially harm its setting". This requirement now has to be considered alongside paragraphs 133 and 134 in the NPPF which do allow for some harm so long as it is outweighed by wider public benefits. Based on advice from both the Council's heritage advisor and Historic England, Officers have concluded that the harm to the heritage asset would be 'less than substantial' and that it is therefore paragraph 134 of the NPPF that applies.

- 6.107 Criterion b) in part 1 of Policy EN27 requires that *"it has been clearly demonstrated that all alternative options have been fully evaluated"*. It was both the Council and Historic England's contention at the last Public Inquiry that alternative options had not been fully evaluated and that the case for enabling development had therefore not been properly made. The need to exhaust all alternative options before enabling development can be even be considered is not a specific requirement of the NPPF, but if harm to the setting and significance of a heritage asset can be avoided or minimised, and benefit maximised through an alternative approach, it is perfectly logical and reasonable to expect all options to be evaluated. The consideration of alternative options is set out elsewhere in this report.
- 6.108 Criterion c) in part 1 of Policy EN27 requires that *"the proposal avoids detrimental fragmentation of management of the heritage asset"*. It was the Council's case at the last Public Inquiry that this requirement could be met subject to there being a credible, viable future for the estate and where its long term management is underpinned through the use of appropriate Section 106 agreements. Officers only consider that the proposal will meet criterion c) if delivered as part of a comprehensive strategy.
- 6.109 Criterion d) in part 1 of Policy EN27 requires that *"the enabling development will secure the long term future of the heritage asset, and where applicable, its continued use for a purpose that reflects the character of the asset"*. This was another area of contention for the Council and Historic England at the last Public Inquiry where there was concern that whilst the enabling development might succeed in reducing the conservation deficit, there would remain a substantial funding gap for which there was no business plan or long-term strategy. The Council's advisors have now suggested that in taking an alternative approach to the calculation of the conservation deficit and attributing more funds to repairs to the Priory, there is greater potential for securing the long term future of the heritage asset than is currently being proposed by the applicants. With a more effective use of the returns of the enabling development and a comprehensive strategy in place for eliminating the conservation deficit in full, the proposals could meet this criterion, but based on the applicants' suggested approach, they currently do not.
- 6.110 Criterion e) in part 1 of Policy EN27 requires that *"the need for enabling development arises from the inherent need of the heritage asset, rather than the circumstances of the present owner, or the purchase price paid"*. The Council's advisors suggest that the way in which the applicants have calculated the conservation deficit favours the circumstances of the owner and does not provide the most optimum basis for securing the future conservation of the Priory. If the applicants were able to maximise the amount of funding secured through enabling development to be directed to repairs, as part of a comprehensive strategy, the proposals could meet this criterion – whereas currently they do not.
- 6.111 Criterion f) in part 1 of Policy EN27 requires that *"financial assistance is not available from any other source consistent with the preservation or enhancement of the heritage asset"*. It

was the Council's case at the last Public Inquiry that such alternative funding options had not been fully explored and the proposals were therefore in conflict with this requirement. Efforts to explore the alternatives have since progressed and these are explained elsewhere in this report. Our advisors have identified at least one source of substantial grant funding that appears to have considerable promise and which the applicant has not pursued which is the Heritage Lottery Fund's Heritage Enterprise Fund.

- 6.112 Criterion g) in part 1 of Policy EN27 requires that *"it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the heritage asset"*. Because the enabling development will only succeed in eliminating a proportion of the conservation deficit, by the applicants' calculations, the proposals cannot meet this requirement. Consideration has to be given to whether a more effective use of the funds secured through enabling development, as suggested by Colliers, as part of a comprehensive strategy might do so. If it can, the development would fulfil this criterion.
- 6.113 Criterion h) in part 1 of Policy EN27 requires that *"the value, or benefit, of the survival or enhancement of the heritage asset outweighs any harm to the asset by providing the enabling development"*. This requirement is, in effect, the 'balancing exercise' advocated through paragraph 140 in the NPPF where the benefits have to be weighed against the disbenefits. The Officers' recommendation of refusal is explained at the end of this report.
- 6.114 In conclusion, the current application does not meet the requirements of Policy EN27 in the adopted Local Plan or the Historic England guidance from which they are drawn. However, because the policy pre-dates the more positive and balanced approach to considering enabling development proposals as set out in the NPPF, they can only be used as a practical tool for considering the proposals and determining where the heritage balance lies. However, they do help to highlight and emphasise our advisors' concerns about the current proposals not securing the optimum benefit from enabling development as part of a comprehensive strategy. There is potential for the proposal to meet more of the EN27 criteria (particularly c), d), e), f) and g)), if the applicants are willing to explore an alternative approach in line with the Colliers work.

Policy EN17 – Conservation Areas

- 6.115 Policy EN17 is another policy that requires development proposals to meet with certain criteria otherwise planning permission will be refused. It states that development within a Conservation Area must preserve or enhance the character or appearance of that Conservation Area and then includes circumstances a) to e) under which any infringement will lead to a refusal.
- 6.116 Criterion a) states that development will be refused where *"it would harm the character or appearance of the Conservation Area, including historic plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain, or significant natural or heritage features"*. It was the Council's case at the last Public Inquiry that the development on West Field and in the Parkland would harm the character and appearance of the Conservation Area and that remains the view of the Council's heritage advisor and that of Historic England in respect of the current applications. However, paragraph 134 of the NPPF allows for less than substantial harm to the significance of a heritage asset (which would include the character and appearance of a Conservation Area) where it is

outweighed by public benefits. The Council would therefore not be justified in refusing the application simply because it contravenes criterion a) of Policy EN17 without considering the public benefits.

- 6.117 Criterion b) states that development will be refused where *“the height, siting, form, massing, proportions, elevation, design, or materials would not preserve or enhance the character of an area”*. Based on the heritage advice from the Council’s heritage advisor and that of Historic England, some of the Parkland proposals are more harmful than others - particularly in terms of their visibility and potential to detract from the significance of the Priory itself. Even so, the NPPF allows for a level of less than substantial harm where that harm is outweighed by public benefits and refusal against criterion b) of Policy EN17, on its own, would not be justified without considering balance of harm against benefits. It is noted that the elements of the 2011 West Field proposals that infringed this element of the policy the most (i.e. the faux maltings and mill buildings) no longer form part of the current proposal.
- 6.118 Criterion d) states that development will be refused where *“the proposed land use would not preserve or enhance the function and character of a Conservation Area”*. Again, because of the publication of the NPPF, refusal against this criterion would only be justified if the public benefits were judged to outweigh the less than substantial harm.
- 6.119 Criterion c) applies to development located outside a Conservation Area and criterion d) relates to proposals for the demolition of buildings or structures within a Conservation Area and are therefore not relevant to this application, with the exception of the demolition of No. 7 Mill Street – which is not, in itself, considered to be of particular architectural or historic significance.

Policy EN23 – Development within the Proximity of a Listed Building

- 6.120 Policy EN23 states “proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted. Again, the NPPF now requires that harm must be weighed up against the benefits.

Highways, transport and accessibility

- 6.121 A number of local residents have raised concerns about the impact of the developments on traffic and pedestrian safety. Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe and suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be

prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.122 The traffic implications of the 72 dwellings on West Field are not expected to be severe in the context of the significant number of vehicles that already use the junction to access Point Clear and St. Osyth's many holiday parks. The development will be accessed via Mill Street through the demolition of property No. 7 which is not considered to be a property of any historic or architectural significance. The Highway Authority has no objection to the proposal subject to certain conditions, mainly relating to the dimension of the junctions that would serve the developments. Also, whilst it is a matter of great local concern for residents, highway matters were not part of the Council's case in fighting the previous appeal, for a much larger development.
- 6.123 The traffic implications of these 17 dwellings in the Parkland are also not expected to be severe. They will be accessed via the North Lodges onto the B1027 to the north, via the Slip Cottages from Colchester Road to the east and via the South Lodge from Mill Street to the south. The Highway Authority has no objection to the proposal subject to certain conditions, mainly relating to the dimensions of the junctions that would serve the developments.
- 6.124 St. Osyth is categorised in the emerging Local Plan as a 'rural service centre' and a sustainable location for a proportionate level of residential development owing to its reasonable range of local services and facilities.

Coastal Protection Belt

- 6.125 Both the West Field and the Parkland sites fall within the Coastal Protection Belt as shown in the adopted Local Plan. The purpose of the Coastal Protection Belt, as set out in paragraph 6.14 in support of Policy EN3 in the adopted Local Plan, is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. It goes on to say that open coastal areas are particularly vulnerable to visual intrusion due to the high visibility of any development on the foreshore, on the skyline and affecting vistas along the stretches of undeveloped coast.
- 6.126 The Coastal Protection Belt was originally drawn in 1984 and was a key strategic policy in Essex County Council's 2001 Replacement Structure Plan which was superseded by the East of England Plan in 2008 and subsequently abolished in 2012 with the introduction of the NPPF. The NPPF does however state, in paragraph 114 that local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.
- 6.127 Policy EN3 states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. It requires applicants to demonstrate such a need by showing that by reason of its critical operational requirements of the development cannot be located outside of the designated area. Then, even if the compelling need is demonstrated, the policy requires that significant harm to the landscape character and quality of the undeveloped coastline should be avoided.

- 6.128 However, in the emerging Local Plan, following the abolition of the Coastal Protection Belt Policy at county and regional level, the Council decided that the designation should be kept but that the boundary be rationalised to ensure it relates only to areas that are genuinely coastal and where development is likely to have a genuine impact on the character and appearance of the coastline.
- 6.129 The status to be given to local 'countryside protection' policies such as Coastal Protection Belt and Local Green Gaps has been clarified recently by a decision of the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that such countryside protection policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.
- 6.130 Whilst the emerging Local Plan only carries limited weight, the abolition of the Coastal Protection Belt policy at county, regional or national level also limits the amount of weight that can be applied to the adopted policy. Officers accept that the developments will cause a degree of harm, albeit 'less than substantial' harm in the context of the setting of the Priory, the park and the wider Conservation Area which form important parts of the landscape in general which is covered by Coastal Protection policy. On the basis that the harm has to be weighed against the potential benefits of enabling development, Officers have applied limited weight to the Coastal Protection Belt policy and consider that refusing planning permission against this policy would be difficult to defend on appeal – particularly as this was not part of the Council's case at the last appeal and the elements that would have caused most impact on views from the coast have been removed in the current proposal.

Landscape, visual impact and trees

- 6.131 The consideration of landscape, visual impacts and trees in line with Policy EN1 of the adopted Local Plan is intrinsically linked to the consideration of the impacts in heritage terms. The Priory, the parkland and the wider Conservation Area are all important elements of the landscape and Officers accept that there will be harm that can be mitigated, to certain extent, through landscaping but not eliminated altogether. Through its Environmental Impact Assessment and subsequent work to inform the appeals and the latest applications, the applicants have undertaken a detailed Landscape and Visual Impact Assessment, with a particular emphasis on the heritage significance of the location.

- 6.132 At the last Public Inquiry, there was considerable debate and analysis over the impact of development on the West Field on views both to and from the Priory with particular concerns about views from public footpaths to the west and south and from the Creek. The earlier West Field 3 and West Field 4 developments at the very western end of the site which are excluded in part from the current proposal were the greatest cause of concern.
- 6.133 The Council's Principal Trees and Landscapes Officer has commented on the proposal to say that the development would alter the style of built form and the character of the area but parts of the development are relatively self-contained and could be tucked away behind existing properties in Mill Street. He has however raised concern about the proximity of the West Field development to Priory itself and the form of development which will not be in keeping with the historic ribbon development, with a courtyard development being inappropriate and incongruous. The objection here is mainly to the element of the development formerly known as West Field 1. The Tree Officer also urges the retention of the hedge adjacent to the existing access.
- 6.134 It is also noted that the Council's Principal Trees and Landscapes Officer objects to the Parkland proposals on a matter of principle and that this is a view that has been supported by the Garden History Society (now the Gardens Trust). The Tree Officer also raises concerns about the impact of some of the developments on some trees and hedges – although it is accepted that appropriate planting and landscaping could mitigate these concerns if the Council had been minded to approve and such measures would have been secured through planning conditions.

Flood risk and drainage

- 6.135 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the application sites are in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PPL1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.136 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' on the West Field proposal and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now has no objection to the grant of planning permission on West Field subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.137 For the Parkland proposals, whilst the parkland extends across a significant area of land, the development proposals themselves are spread across different parts of the parkland and the concerns that might readily apply to a large housing estate, where surface water run-off could increase substantially, are not so relevant for this proposal where significant

areas of parkland would be retained between the building plots. In any event, a condition would apply requiring the details of drainage to be submitted and approved before development could commence.

- 6.138 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the schemes should comply with the NPPF and Policies QL3 and PPL1 of the adopted and emerging Local Plans (respectively) and would therefore address the flood risk element of the environmental dimension of sustainable development. It is noted that part of the West Field site is to accommodate a significant drainage point which will act as a sustainable drainage feature.

Ecology

- 6.139 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PLA4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.140 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application sites are not, themselves, designated as sites of international, national or local importance to nature conservation but the parkland is in close proximity to the Colne Estuary Site of Scientific Interest (SSSI). St. Osyth's Gravel Pit SSSI and Riddles Wood SSSI. The northern part of the Parkland is also notified as a Local Wildlife Site. However Natural England has considered the proposals along with the content of the Environmental Impact Assessment and Appropriate Assessment undertaken for the previous schemes and are satisfied that the proposed developments will not damage or destroy the interest features for which these sites have been notified.
- 6.141 Turning to ecological impacts on West Field itself, being an agricultural field with limited landscape features the ecological value of the site was always expected to be relatively low. Ecological Surveys were undertaken as part of the Environmental Impact Assessment for the 2011 applications and are being updated where necessary for the purposes of the forthcoming Public Inquiry. The assessment notes that there is a narrow margin to some of the field, and partial hedgerows along the boundary but the plant species are few and typical of the margins of intensive cultivation. The old orchard has recently been utilised as a horse paddock and it is not considered that UK BAP priority habitats are present.
- 6.142 For birds, West Field is considered to be of generally low quality; skylark were not recorded as nesting on these fields and the (partial) boundary hedgerows are unlikely to support many species or individuals. The nearby field adjacent to Howlands Marsh did include two pairs of nesting lapwing, although these are considered unlikely to nest on West Field given

the absence of extensive marginal, uncropped areas. It is considered that few, if any, birds of note are regularly associated with West Field.

- 6.143 Badger setts are not present on West Field and the trees and scrub on the perimeter of the site are considered to have negligible potential for roosting bats. The perimeter of the site, along the rear gardens, is considered to be of low significance as a foraging habitat but the main arable field is of negligible significance. Number 7 Mill Street has also been inspected for evidence of roosting bats and none were found. The site is also considered to be of low value for species of reptiles, fish, dormice or water vole.
- 6.144 The only mammals of conservation value likely to be present are brown hare and possibly hedgehog, in low numbers only, but there are no direct records to confirm their presence. The West Field area was also assessed as not having a significant invertebrate interest. Overall, the West Field is considered to be of negligible ecological value and if permission were to be granted, a standard condition requiring re-survey and a mitigation plan would be imposed. It is noted that the proposed drainage pond has the potential to bring about the creation of a significant wildlife habitat, introducing a net gain for biodiversity.
- 6.145 Turning to ecological impacts on the Parkland, Ecological Surveys were undertaken as part of the Environmental Impact Assessment for the 2011 applications and are being updated where necessary for the purposes of the forthcoming Public Inquiry. The St Osyth Priory Park is noted as being divided into seven areas within a submitted habitat zoning plan. These are:
- Area 1 – Lodge Piece
 - Area 2 – Nun’s Wood
 - Area 3 – The Mowing Ground
 - Area 4 – South Park
 - Area 5 – The Cemex Lakes
 - Area 6 - Deer House Park
 - Area 7 – The Priory Gardens
- 6.146 The studies identify that protected species are potentially present including the common lizard, slow worm, water vole, adder, grass snake, dormouse, great crested newt and common pipistrelle bat. The Parkland is also used regularly by a wide suite of bird species of conservation concern, both for breeding, wintering and other times. The breeding bird survey reveals a recorded 21 species that are variously BAP priority species, Essex BAP species, Red List and/or Amber list species. Badgers are also widespread through the Park. In terms of bats, parts of the Park are deemed as being of high quality providing excellent feeding habitat and good roosting sites.
- 6.147 The Council did not contest the last appeal over any concerns relating to ecology subject to appropriate conditions to mitigate any impacts and to bring about enhancement. It is considered that Natural England’s previous advice still stands.
- 6.148 The Parkland is the subject of a 10 year ‘Higher Level Stewardship’ scheme overseen by Natural England to restore the parkland. This will bring substantial enhancement to the habitats present within the area and although not linked directly to the enabling development proposals, an overall enhancement is expected. The HLS includes restoring the remaining historic features such as the wood pasture, woodlands, the traditional

orchard, the historic tree belts and ancient trees. Any development will need to compliment this programme.

- 6.149 Natural England has accepted the conclusion that the small numbers of houses proposed are unlikely to represent a significant risk alone, they will increase the cumulative risk to a degree and, inevitably if more than one of the enabling development applications are approved, the cumulative risk will increase further. Various mitigation measures set out in the Environmental Impact Assessment and Natural England's previous advice would have been secured through conditions or s106 agreements if the Council had been minded to approve.

Archaeology

- 6.150 The applicants have also considered the archaeological value of the sites and there is evidence that some archaeological remains of historical significance could potentially be beneath the soil. In line with the recommendation within the applicants' assessment and the general approach advocated by Essex County Council's Archaeologist, a condition would be applied if the Council was minded to approve, to ensure trial trenching and recording is undertaken prior to any development to ascertain, in more detail, what archaeological remains might be present.

Education, Health and Open Space provision

- 6.151 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. A large number of local residents have expressed concern that local schools will not be able to cope with the expected increase in population arising from the developments.
- 6.152 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy HP1 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision. Policy COM6 in the adopted Local Plan and Policy HP4 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision.
- 6.153 Essex County Council as the Local Education Authority would normally require financial contributions towards education provision for a development the size of the West Field proposal, particularly for early years and childcare provision and primary provision. NHS England has requested a financial contribution of just over £21,000 for health provision. Under normal circumstances, these contributions would be secured through a s106 legal agreement but because this is an enabling development, Officers would have been minded to set such requirements aside to ensure that the maximum amount of funds generated by the development is directed to the restoration of the Priory and reducing the conservation deficit. The impacts on education and health provision arising from the developments would

then have needed to be met through Essex County Council's and the NHS's own budgets. This would count as a significant 'disbenefit' in the overall planning balance, but a necessary one in the heritage balance.

- 6.154 The Council's open spaces team has requested a contribution towards play facilities at Cowley Park, but again, this contribution would eat into the funds required to conserve the Priory and Officers would not be seeking to secure such a contribution from this particular development – particularly on West Field as some incidental open space would have been provided on site.
- 6.155 For the Parkland proposals, neither Essex County Council as the Local Education Authority nor NHS England has requested any financial contributions as the number of dwellings falls below the standard thresholds by which contributions are normally sought. Even if contributions had been requested, Officers would have been minded to set such requirements aside in the interest of maximising the funding available for the conservation of the Priory.

Council Housing/Affordable Housing

- 6.156 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available to the Council or a nominated partner to acquire at a discounted value for use as Council Housing.
- 6.157 The Council's Housing Needs team has commented on both applications and advised that there is a significant need for affordable housing in the St. Osyth area based on evidence from the local housing register. It has been suggested that 21 properties from the West Field development should be secured for use as affordable housing in line with the emerging Local Plan Policy. For the Parkland developments it is suggested that, as an alternative to transferring 30% of properties to the Council at a discounted value, the Council would be prepared to accept an equivalent financial contribution towards provision off-site.
- 6.158 However, because this is enabling development with the primary objective of funding repairs to the Priory, it will be important to maximise the residual land value of those properties and minimise the need for development, therefore it would not be sensible to secure such a contribution from this particular development. This would be a 'disbenefit' in the overall planning balance.

Layout and Design

- 6.159 Officers have no objection to the design of the proposed West Field properties which are generally traditional in nature and contain predominantly two-storey houses with good quality decorative features. The dwellings are laid out in tradition perimeter block form with sufficient front to front and back to back distances to avoid any concerns about overlooking

or residential amenity. The properties are also located an acceptable distance from those in Mill Street. It is acknowledged that the form of development would not be in direct keeping with the eclectic mix of historic and modern properties in Mill Street and there will be a less than substantial adverse impact on the setting of the Priory and on the character of the area – but this harm that needs to be weighed against the public benefits. There is no suggestion that any of the proposals be redesigned to address such concerns, but a good quality landscaping scheme would be necessary to minimise adverse impacts.

- 6.160 It should be noted that as part of the last Public Inquiry, the Council raised no objection to the design of the West Field properties themselves – only that their impact on the heritage assets would be unacceptable. The latest proposal omits the most offensive of the previous properties and Officers are satisfied that this is a significant improvement.
- 6.161 Officers also have no objection to the individual layout designs of the proposed Parkland properties and acknowledge that great efforts have gone into understanding the history of the parkland and coming up with proposals that reflect, where possible, that history and the kind of architecture that might be appropriate in different locations. The Council did not contest the detailed designs as part of the last Public Inquiry, but did suggest that permitted development rights be removed from some of the properties, if the Inspector had been minded to allow the appeal, to guard against unwanted domestic clutter that might further detract from the character and appearance of the park.
- 6.162 Officers greatest issue is with the impacts of the properties, both individually and cumulatively, on the setting and significance of the Priory, the parkland and the wider Conservation Area – harm that needs to be weighed against the public benefits. There is no suggestion however that any of the Parkland proposals be redesigned to address such concerns.

Overall Planning Balance

- 6.163 In undertaking the overall planning balance and coming to a recommendation, Officers have needed to give particular regard to the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This says that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. It therefore follows that a high level of weight needs to be given to the ‘heritage balance’ i.e. the harm that the developments would cause to the significance and setting of the Priory, the registered park and the wider Conservation Area weighed up alongside the potential benefit of securing the future conservation of the Priory, a nationally significant heritage asset which needs restoration. Other planning considerations will also form part of the overall balance, but the heritage balance needs to be given special attention.
- 6.164 Under normal circumstances, these developments would be refused for being contrary to the Local Plan as they propose development within a registered park and garden, within the Coastal Protection Belt and outside of settlement development boundaries. However, given the importance of preserving listed buildings in accordance with the 1990 Act, the NPPF in paragraph 140 allows Councils to consider proposals for enabling development contrary to

normal policies where the benefits in securing the future conservation of a heritage asset outweigh the disbenefits of departing from those policies.

- 6.165 In this case, the developments will cause 'less than substantial' moderate but permanent harm to the significance and setting of the Priory, the registered parkland and the wider Conservation Area for which, in line with paragraph 132 of the NPPF, clear and convincing justification is required. Following the recommendations of our consultants Colliers, Officers accept that some enabling development is justified as part of a wider comprehensive strategy to secure the future conservation of the Priory.
- 6.166 Turning to the wider planning considerations, Officers have considered the economic, social and environmental dimensions of sustainable development as set out in the NPPF.
- 6.167 Economic: The dwellings themselves would have a positive economic impact through the provision of temporary construction jobs and the increase in expenditure in the local economy arising from additional residents and visitors. The benefit of bringing the Priory into economic use, potentially in line with one of the options identified in the report prepared by Colliers could be considerable, but the current proposal, taking the applicants' suggested approach to calculating the conservation deficit, would only secure a proportion of the repairs that are needed. In conclusion the economic impact of the development itself would be positive but the indirect benefit of restoring the Priory could be considerable if the development was able to fund a greater level of repair than currently proposed.
- 6.168 Social: The provision of the dwellings themselves would have a significant social benefit in increasing the housing stock at a time when the Council is unable to identify a 5 year supply of housing sites to meet objectively assessed needs. The benefits are however tempered by the fact that to maximise the funds being directed to the restoration of the Priory, no affordable housing will be secured and no contributions towards open space, health or education will be made. Therefore the dwellings themselves will only benefit those capable of affording such high value property and the impacts upon social infrastructure, particularly health and education will not be mitigated – leaving the education authority and the NHS to fund provision through their own budgets. In conclusion, the social benefit would be positive, albeit of limited benefit in light of the unmitigated impacts on infrastructure.
- 6.169 Environmental: The environmental impacts of the proposal are negative in terms of the effect on the setting and significance of the Priory, the parkland and the wider Conservation Area. The harm is judged to be 'less than substantial' in NPPF terms and can only be justified if the harm is outweighed by wider public benefits. The potential for the Priory to be restored and to be brought into economic use is however a significant potential environmental benefit for which enabling development would play a part in generating funds – although the Council's advisors believe that the benefit of what the applicants are suggesting in terms of repairs is not as extensive as could be achieved if they took an alternative approach to calculating the conservation deficit. Ecological impacts are considered to be acceptable if mitigated in the way recommended by Natural England and landscape and visual impacts, whilst negative, are justified so long as the overriding goal of conserving the future of the Priory can be secured. The current proposal does not secure the future of the Priory, but if the applicants were able to maximise the amount of funding to be directed to the repairs and sign up to a comprehensive strategy for the Priory, its future could be secured and the benefits of the enabling development would outweigh the harm.

Benefits

- 6.170 In the overall planning balance, the principal benefits of the development, in order of importance are considered to be:
1. restoring parts of the Priory (environmental).
 2. bringing parts of the Priory into economic use (economic).
 3. adding 99 new homes to the local housing stock which would count towards meeting objectively assessed needs for market (but not affordable) housing (social).
 4. generating expenditure in the local economy (economic).
 5. creating temporary construction work (economic).
 6. Securing ecological enhancements in West Field (environmental).

Disbenefits

- 6.171 The principal disbenefits of the development, again in order of importance are considered to be:
1. less than substantial moderate but permanent harm to the significance and setting of the Priory, the parkland and the wider Conservation Area (environmental).
 2. visual impact of development on the undeveloped landscape (environmental).
 3. unmitigated impact on local health and education provision (social).
 4. increased traffic – albeit not severe (environmental/social).
 5. permanent loss of agricultural land (environmental/social).
- 6.172 It is Officers' view that the partial restoration of the Priory would be the most significant economic and environmental benefit arising from the development and the creation of 99 homes would bring additional social and economic side benefits (albeit benefits that would arise equally as a result of 99 dwellings being built in another location). However, the permanent harm that would be caused to the significance and setting of the Priory, the parkland and the wider Conservation Area is a significant disbenefit for which clear and convincing justification is required and for which any harm must be outweighed by public benefits in order to be accepted as enabling development. The associated disbenefits of unmitigated impacts on health and on education provision also require exceptional justification as, under normal circumstances a major residential development would be required to provide financial contributions. Increased traffic and permanent loss of agricultural land are lesser issues that would generally result from most major residential developments, particularly given the limited supply of previously brownfield land in the Tendring district.
- 6.173 Paragraph 140 in the NPPF allows for enabling development where it will secure the future conservation of the heritage asset. However, taking the applicants' approach to calculating the conservation deficit, only a proportion of the funds raised through enabling development (47%) would be utilised for repairs to the Priory resulting in only a partial conservation of the Priory, with serious question remaining over where the remaining funds will come from. The Council's heritage advisors suggest that the enabling development could help fund the full repair of the Priory as part of a wider comprehensive business strategy if the applicants were willing to take a more positive, less development-led approach. In such

circumstances, the full conservation of the Priory would represent a very significant public benefit that would outweigh all of the identified disbenefits.

- 6.174 Taking the applicants' current approach, Officers are not satisfied that the benefits of proposal outweigh the harms it would give rise to.
- 6.175 Taking the above factors into account, Officers consider that whilst enabling development is justified and the balance of benefits against disbenefits for the current proposals is more favourable than was the case for the 2011 proposals, the Council's advisors remain unconvinced that the applicants' approach to calculating the conservation deficit and funding the restoration of the Priory represents the most effective way of securing its future conservation. An alternative approach which would have approached the deficit in a different way, maximised the funding for repairs to the listed buildings and secured a strategy for the full conservation and economic use of the Priory would have achieved an Officer recommendation of approval since the Council's advisers are of the opinion that enabling development of the order/return proposed would be justified to do so. However, as it stands, Officers would have been minded, on balance, to recommend refusal of planning permission.
- 6.176 Because the application is now for determination by the Planning Inspectorate rather than the Council, the Planning Committee is now asked to decide whether or not it would have granted planning permission. If the answer is yes, the applicants have indicated that they would be willing to withdraw the appeal for both this development and the earlier 2011 version to enable the Council to recover and approve the latest application subject to the relevant agreements and conditions, with no claims of cost. If the answer is no (as recommended), the appeal will proceed and the Council's appointed legal, heritage and business planning experts will contest the appeal on the grounds that the benefits do not outweigh the disbenefits, along with any other concerns that the Committee may wish to draw to the Inspector's attention. In the meantime, if the Committee is in agreement with the recommendation, Officers will seek to negotiate with the applicants to see whether a more acceptable approach that would achieve a more favourable balance of benefits against disbenefits can be achieved.