
Appeal Decisions

Inquiry opened on 13 January 2015

Accompanied site visits made on 7 and 8 January and 17 and 18 February 2015

by K D Barton BSc(Hons) DipArch DipArb RIBA FCI Arb

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

Decision date: 21 May 2015

Appeal A: APP/P1560/A/2220032

Appeal B: APP/P1560/A/2220037

Appeal C: APP/P1560/A/2220042

Appeal D: APP/P1560/A/2220045

Appeal E: APP/P1560/A/2220047

Appeal F: APP/P1560/A/2220049

Appeal G: APP/P1560/E/2220051

The Priory, St Osyth, Clacton-on-Sea, Essex CO16 8NZ

- **Appeals A to F** are made under section 78 of the *Town and Country Planning Act 1990* against failures to give notices within the prescribed periods of decisions on applications for planning permission.
 - **Appeal G** is made under sections 20 and 74 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
 - The appeals are made by Messrs RA, TR, DR, and AI Sargeant against Tendring District Council.
 - The applications Refs 11/00328/FUL, 11/00329/FUL, 11/00330/FUL, 11/00331/FUL, 11/00332/FUL, 11/00334/FUL, and 11/00336/CON respectively, are all dated 16 March 2011.
 - The development proposed in **Appeal A** is the demolition of 1 dwelling to form access; erection of 23 dwellings; new access road; driveways; parking; landscaping and all ancillary works.
 - The development proposed in **Appeal B** is the demolition of 1 dwelling to form access; erection of 46 dwellings; new access road; driveways; parking; landscaping and all ancillary works.
 - The development proposed in **Appeal C** is the demolition of 1 dwelling to form access; erection of 33 dwellings; new access road; driveways; parking; landscaping and all ancillary works.
 - The development proposed in **Appeal D** is the demolition of 1 dwelling to form access; erection of 21 flats within a new 'maltings style building'; new access road; driveways; parking; landscaping and all ancillary works.
 - The development proposed in **Appeal E** is the 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 driveways; landscaping and all ancillary works.
 - The development proposed in **Appeal F** is the construction of a visitor centre/function room suite; part change of use and construction of an extension to Darcy House for use as a function room; internal and external alterations and all ancillary works.
 - The demolition proposed in **Appeal G** is of a detached dwelling at 7 Mill Street.
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Preliminary Matters

1. TDC granted planning permission (14/01008/FUL) and listed building consent (14/01009/LBC) for the 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, at the Priory, St Osyth on 9 January 2015. Consequently, the appellants withdrew **Appeal F** in writing on 13 January 2015, the opening day of the Inquiry.
2. A site, known as Wellwick, on the opposite side of Colchester Road to St Osyth Priory Park, has been the subject of an application for the erection of 190 dwellings. Tendring District Council (TDC) resolved to grant planning permission for that development, on 21 January 2014, subject to a Section 106 Obligation, which at the close of this Inquiry remained to be completed.
3. The Inquiry sat for 16 days between 13 January and 6 February 2015 when the evidence was heard, including an evening session on 15 January for the benefit of interested persons. On 6 February a programme was agreed for the submission of written closing submissions and costs applications. The final written closing submissions were received on 13 March 2015 and the Inquiry was closed in writing on 16 March 2015.
4. Accompanied site visits were made on 7 and 8 January 2015 to sites developed by City and Country Limited, a development company owned by the Appellants, to the St Osyth's Priory complex, and to the wider area, including footpath 17 on the opposite side of St Osyth creek to the west, and the Church of St Peter and St Paul in St Osyth. During the course of the Inquiry unaccompanied visits were made to St Osyth Primary School at the end of a school day, the location of caravan parks at St Osyth Beach and Point Clear, St Osyth Conservation Area outside the Priory complex and Park, and to Brightlingsea. In addition, on 17 and 18 February 2015, accompanied visits were made to Linley Farm, the Priory complex and Park, various properties on Mill Street, footpath 19 from Mill Street to Colchester Road, and to the Church Square Surgery.
5. Whilst reference is made in this decision to English Heritage (EH), from 1 April 2015 it became two organisations. English Heritage Trust is a charity caring for the National Heritage Collection of historic properties whilst EH's role as advisor to Government on heritage matters is now undertaken by Historic England (HE).
6. The parties gave evidence in the context of EH's guidance *The Setting of Heritage Assets* and an 11 July 2014 consultation draft *Good Practice Advice in Planning Note 3: The Setting of Heritage Assets*, amongst other guidance. However, on 25 and 27 March 2015 three new Historic Environment *Good Practice Advice Notes* were published by EH following consultation, including *Note 3: The Setting of Heritage Assets*. There is little relevant change between the July 2014 consultation draft and the March 2015 Note 3 and the parties have not therefore been asked to comment on the new *Advice Note*. In any event, although HE is the Government's advisor on the historic environment the Good Practice Advice Notes have not been endorsed by Government and are not part of Government Guidance.

Decisions

7. The appeals are dismissed.

Applications for costs

8. At the Inquiry applications for costs were made by Messrs RA, TR, DR, and AI Sargeant against Tendring District Council (TDC), English Heritage (EH), St Osyth Parish Council (PC) and Save Our St Osyth (SOS). These applications are the subject of separate Decisions.

The Site and Its Surroundings

9. The application site, which has a total area of roughly 200 hectares, includes the St Osyth Priory complex and Park, the West Field, and land to the north east of the Park on the opposite side of Colchester Road known as Wellwick.
10. The Priory buildings form a nationally important group, including numerous Grade I, Grade II* and Grade II buildings. When the applications were made the Priory complex comprised 22 designated heritage assets but subsequently these were revised by EH and grouped within 18 designations, although the overall extent and quantity of designated structure remains unaltered. In addition to the listed buildings, the Priory complex includes a designated Scheduled Ancient Monument and is set within a 95 hectare Grade II Registered Park and Garden and forms approximately 60% of the St Osyth Conservation Area. The majority of the 15 listed buildings/walls/garden structures are in the south-eastern part of the site around a large court close to the village.
11. The Gatehouse and its flanking ranges listed Grade I, and the Tithe Barn listed Grade II*, form the southern side of the court mostly fronting onto The Bury, a triangle of land in front of the Gatehouse. The Stable, Cart-shed, Brewhouse, and Drying House, all listed Grade II, and the West Barn and Bailiff's Cottage, listed Grade II*, are situated on the west side of the court. The Abbot's Lodging and South Wing, the Darcy Clock Tower and 18C House (formerly listed as the Convalescent Home) are now part of the same Grade I designation, and form the northern side of the court and the north section of the eastern side of the court. The ruined east ranges of the Darcy House, the Abbot's Tower and the Chapel, listed Grade I, are sited further to the east. The Priory boundary walls are listed Grade II* whilst other boundary, garden and kitchen walls, gates, steps and garden features are listed Grade II and are located in and around the complex.
12. The Park lies to the north of the Priory complex on a plateau and includes avenues of trees and various lakes. The eastern boundary of the Park adjoins Colchester Road to the east. Nun's Wood is a relatively large area towards the north of the Park that includes several monastic and 18C ponds. To the north of this is an area of around 18 hectares known as Lodge Piece where the topography has been affected by mineral extraction and not restored to its original levels. Broadly, the park slopes gently to the south and west towards a creek and marsh.
13. The settlement of St Osyth is based around a crossroads which divides it into four sectors. Colchester Road bisects the northern part of the village and runs north to the B127. The Priory and Park makes up the majority of the

north-west sector along with housing on Mill Street that leads west from the crossroads and The Bury towards the Mill Dam, quay and Flag creek and St Osyth creek. Beyond Mill Dam the road continues to Point Clear. The West Field part of the overall site lies to the west of the Priory complex adjoining the rear gardens of properties on the north side of Mill Street. The main residential and commercial areas of the village, including St Osyth Primary School, are in the north-east and south-east sectors, whilst a mix of residential, open space and St Osyth creek occupy the south-west sector. This sector also includes the Church of St Peter and St Paul and a Doctors' surgery in Church Square.

Planning Policy

14. The starting point for any decision is section 38(6) of the *Planning and Compulsory Purchase Act 2004*, which requires that decisions be made in accordance with the policies of the development plan, unless material considerations indicate otherwise. The weight to be given to relevant development plan policies will depend on their conformity with policies in the *National Planning Policy Framework (Framework)* that is an important material consideration.
15. Each of the appeal proposals is within the setting of one or more listed buildings and within the St Osyth Conservation Area. The statutory duties set out in sections 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* therefore apply. The *Barnwell Manor Wind Energy Ltd v East Northants DC* [2014] EWCA 137 judgement indicates that considerable weight should be given to their provisions. Section 66(1) requires that special regard be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, whilst Section 72(1) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
16. The development plan includes the *Tendring Local Plan 2007* (LP), the policies of which TDC accepts are, in a number of respects, not consistent with the *Framework*. The housing policies, QL1 and HG6, are out of date due to the lack of a 5 year housing supply, and the wording of a number of policies does not reflect the permissive approach of the *Framework*. LP Policies EN17 and EN23 generally reflect the statutory duties. However, insofar as they include a list of criteria to be met, and do not allow for any public benefit to be weighed against any harm to a heritage asset, they are inconsistent with *Framework* paragraphs 132-134. This limits the weight that can be given to those policies.
17. Potentially, the most relevant policy in these cases is LP Policy EN27 – Enabling Development. However, it is also a criteria based policy, based on EH's guidance *Enabling Development and the Conservation of Significant Places (ED Guidance)*, culminating in a presumption against enabling development, unless it satisfies all of the criteria. TDC maintains that it does not expect that all criteria need to be met for proposals to be acceptable, as demonstrated by the Wellwick permission. However, the policy is inconsistent with paragraph 140 of the *Framework* and so should be afforded limited weight. Notwithstanding this, the Appellants accept that it provides 'a useful road map'. It is, therefore, a material consideration with some

criteria indicating the sorts of questions that ought to be asked of enabling development in a balancing exercise between benefits and harm.

18. LP Policy EN27a relates specifically to St Osyth Priory. The explanatory text refers to both the buildings and the Registered Park and Gardens and acknowledges the principle of enabling development. However, as the policy cross refers to the criteria in LP Policy EN27 the Appellants accept that it is also inconsistent with the *Framework* and attracts only limited weight.
19. There is no dispute that the proposals would comply with LP Policies relating to economic and rural regeneration, tourism and employment.
20. The *Tendring District Local Plan Proposed Submission Draft* was published in November 2012 but following the adoption of a higher housing target on 21 October 2014, a new draft is being prepared and will not be published until after the May 2015 election with a target of adoption by the end of 2016. Notwithstanding that draft policy PLG9, intended to replace LP Policy EN27, closely reflects the wording in *Framework* paragraph 140, little weight can be given to the emerging Local Plan due to it only being at an early stage.
21. There is general agreement between the parties on the *Framework* provisions that would be most relevant in these cases. Enabling development is addressed directly in *Framework* paragraph 140 which requires an assessment as to "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". It is accepted that bringing buildings back into their optimal viable use is the best means to secure their long term preservation and to avoid cyclical disrepair. To the extent that there is a difference between the parties 'heritage asset' is defined in the glossary to the *Framework* and the Priory consists of a number of such assets.
22. *Framework* paragraph 132 requires that great weight be given to the conservation of a designated asset. It also states that "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 1 and II* Registered Parks and Gardens, and World Heritage Sites, should be wholly exceptional".
23. Both TDC and EH consider that the harm due to the proposed developments individually would be less than substantial in each case. Consequently, paragraph 134 would be engaged and the harm should be weighed against the public benefits of each appeal proposal, including securing its optimum viable use. Whilst TDC considers that the cumulative harm would also be less than substantial, EH maintains that it would be substantial, based on its interpretation. In this scenario, paragraph 133 would be relevant. This indicates that consent should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or all of a number of criteria are met.

24. It is accepted that the Council does not have a 5 year housing land supply and that due to persistent under delivery a buffer of 20% should be applied. Indeed, the current housing land supply is 2.7 years. In these circumstances *Framework* paragraph 49 states that policies for the supply of housing should not be considered up-to-date and "Housing applications should be considered in the context of the presumption in favour of sustainable development". Paragraph 47 requires that local planning authorities should "Boost significantly the supply of housing". However, paragraph 14, which identifies the presumption in favour of sustainable development as a golden thread running through both plan making and decision taking, indicates that this presumption would not apply where specific policies indicate that development should be restricted. Footnote 9 indicates that policies relating to designated heritage assets are such a category.
25. *Framework* paragraph 55 indicates that new isolated homes in the countryside should be avoided unless there are special circumstances such as where, amongst other matters, such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of the heritage asset.

The Effect of the Proposals on the Significance, Character, and Setting of the St Osyth Priory complex and the Conservation Area

The Significance of the Heritage Assets and their Settings

26. There is no dispute about the history of the Priory which is set out in detail in EH's *St Osyth's Priory Historic Buildings Report 2011 (EH Report)* and *St Osyth Priory Essex Historic Landscape Survey 2003* by Dubois Landscape Survey Group (*Dubois Report*).
27. Notwithstanding the number of designations, it is the Priory and its associated buildings that are the principal focus of the site. These comprise:
- a) The Gatehouse and its flanking ranges;
 - b) The Abbot's Lodging and South Wing, Darcy Clock Tower and 18C House (formerly listed as the Convalescent Wing);
 - c) The ruined east ranges of the Darcy House including the Tower and Chapel;
 - d) The Tithe Barn adjoining the Gatehouse western range;
 - e) The West Barn and Bailiff's Cottage;
 - f) The Priory boundary walls.

The first three are listed Grade I whilst the other three are Grade II*, which indicates their value.

28. Similarly, there is little disagreement about the significance of the Priory buildings. The Appellant accepts the view in the *EH Report* that it is the disparate nature of surviving structures from so many different periods, alongside elements of merit that makes this site particularly important.

There are various inter-relationships between the settings of the Priory complex, the Park, the village, and the wider landscape.

29. The Priory complex shaped the village and the surrounding landscape but is most significant for its architectural interest. Some elements can be seen through the opening of the Gatehouse, arguably the most important building on the site. Although the full architectural significance is best appreciated from within the enclosing walls, the Abbot's Tower, the Clock Tower and the Gatehouse are perceived as landmarks in public views from The Bury, Mill Dam to the south from where the Priory is seen in conjunction with the Parish Church and the village, and from the footpath to the west of the Priory. This latter view is clearly of a settlement edge and the Abbot's Tower and various other roofs, including the roofs of buildings on the north side of Mill Street, can be distinguished amongst trees that extend towards the viewer.
30. The Priory has historic associations stretching back 900 years. *EH's Report* identifies the Gatehouse as representing the early Catholic monastic origins of the Priory, whilst the Abbot's and Clock Towers represent the conversion to Protestant domestic use in the 16th century. The ruins of the Darcy House result from its sacking during the Civil War whilst the remodelling of the Bishop's Lodging reflects the taste for Gothic Revival and is a display of the industrial and commercial wealth of the period. The 20th century is represented by the Priory's institutional use. The gardens and landscape contribute to the archaeological interest of the site and there are elements from all the periods, although the ability to appreciate them has been affected by later unsympathetic landscape works.
31. The *Dubois Report* does not refer to the West Field and there is no documented association of that land with the Registered Park and Garden. The house is situated in a corner of the parkland rather than centrally as was common in the 18th century landscape tradition. The *Dubois Report* refers to the degraded state of the Park, mainly due to gravel extraction. The loss of focal points, paths, and driveways has altered how the Park is understood but it still makes an important contribution to the significance of the Priory. Like the buildings, the associated landscape provides evidence of the evolution from a monastic estate. In terms of historic interest, the park reflects the changes of ownership and the evolution of the estate. It provides evidence of the way the land was used over time and aesthetically shows the association of spaces with important parts of the Priory complex. Key spaces are the Mowing Ground to the north of the complex and the avenue rides.
32. Turning to the Conservation Area, it was designated in 1969 and West Field was included within it in October 2010. The focus of the Conservation Area is the Priory and its Park and gardens with the historic settlement to the south and east. The *Conservation Area Appraisal* (CAA), which divides the Conservation Area into 5 sub areas, identifies the village as retaining a strong sense of evolution alongside the Priory. It includes numerous listed buildings, the majority located around the crossroads in the centre of the settlement, and the boundary walls of the Priory make a particular contribution to the Conservation Area.

33. The Conservation Area also includes a significant amount of green space, predominantly the Priory and its Park, and this also makes an important contribution to the significance of the Conservation Area. Sub area 4 is of particular relevance as it includes Mill Street, behind which is the West Field. The street connects the village to St Osyth's quay to the west. Notwithstanding the view of the Appellants' witness, I consider that the linear form on the north side of Mill Street is historic. Whilst once consisting of more sporadic development, possibly associated with the field plots to the rear, including the West Field, Mill Street still reflects linear development linking the Quay to the village. Notwithstanding the later infilling, the historic linear form has been retained.

The Contribution of Settings to Significance

34. *EH's Report* states "The relationship between the Priory and its setting is integral to its significance. The monastery faced the adjacent village emphatically, its highly ornamental 15th century Gatehouse overlooking the Bury, a triangular green, and its extensive precinct walls separating the monastic foundation from the settlement at its gate. The transformation of the abbey into a great house saw both the construction of a prospect tower commanding the landscape and the grant to its new owners of a park corresponding to the present Park. These indicate both a functional relationship between the Priory and the Park and a visual one between it and the extensive landscape. The creation of an elaborate designed landscape in the 18th century further enriched the relationship between the Priory and its setting. Whether viewing the Priory from the Bury, the park, the creek or the wider landscape around it, or viewing it from within its own precincts and enclosures, or whether looking from the Bishop's Lodging, the upper rooms of the gatehouse or from the platform of the Abbot's Tower itself, the relationship between the Priory and its setting is fundamental to its appreciation".
35. The Appellants' heritage witness disagrees with much of this assessment, and I agree that it overstates the 'commanding' nature of the Abbot's Tower. In terms of the Priory and its Park, West Field, and the topography of the area, contribute to the setting of the Park. Although a relatively small element of the wider rural setting, West Field contributes to the openness that allows views from public vantage points to the west towards the Priory. There is no intervisibility between West Field and the Priory complex at ground level and whilst the wider landscape can be appreciated in panoramic views from the upper parts of the Abbot's Tower, from much of the wider area the Tower can only be seen with other roofs amongst trees. Whilst this might signal the location of something special, it falls short of being 'commanding'.
36. The Park and garden setting contributes to the significance of the Priory as an example of the way monastic sites were adapted to secular use following the Dissolution. However, the contribution of the Park to the setting is to some extent compromised by damage from gravel extraction. The *Dubois Report* notes that the marked erosion of character is not so substantial as to prevent an appreciation of the earlier layout and its location, at the far end of the Park to the Priory complex, would greatly reduce the impact on the parkland setting of the complex.

37. West Field, although part of the Conservation Area, also contributes to the setting of the development on the north side of Mill Street. Importantly, although there has been considerable sub-division of plots, it provides an open landscape setting that helps define the settlement edge visually. The form and character of Mill Street maintains its relationship to the Priory complex.
38. The Priory complex and Park form a discrete sub area 5 of the Conservation Area, and from the south and east are generally self contained behind high boundary walls. The Priory and the village have a complementary relationship. The number of listed buildings in the village from the 15th and 16th centuries reflects the prosperity of the Priory in those periods. Although the Gatehouse opening allows views into the Priory complex from The Bury, the boundary walls preclude any extensive visual relationship between the Priory and the village that might be affected by the proposals. In terms of wider landscape setting, Mill Dam Lake is a landmark to the south beyond which fields slope down to the coast. To the west is the estuary and associated marshland which is visible from the Abbot's Tower. The main historic approach was from the south to the Gatehouse but wind turbines at Earl's Farm now intrude into views of the Priory from this direction.

Effect of the Proposals on Significance

39. West Field is open land in arable use and has lost its historic hedgerows. It comprises the southern part of Landscape Character Area (LCA) 3C, St Osyth Coastal Slopes, which transitions from LCA 7B, St Osyth/Great Bentley Heaths that contains the Park. The proposed development has been divided into four and each proposal would include the demolition of 7 Mill Street to allow connection to the highway and the full length of road necessary to access each proposal. Any combination of Appeals A-D could, therefore, be considered. Together they would provide 123 dwellings extending west from an old orchard beside the Priory precinct wall almost to the Quay.
40. The location of the development proposed in Appeals A to D would not affect views of the Priory and village from the south, unlike the Earl's Farm wind turbines, although these would not justify other harmful development. There would be no intervisibility between The Bury and appeal sites A to D. There would be views of the sites from the top of the Abbot's Tower and from footpaths to the west which the Appellants' Design and Access Statement (DAS) and Environmental Statement (ES) identify as being of particular sensitivity. The developments would be wholly within the Conservation Area, although the landscaping in Appeal D would extend further west. The proposal would make use of an existing secondary access that leads to outbuildings, albeit many of them of heritage interest.
41. Considering **Appeal F**, 7 Mill Street is identified in the CAA as making a neutral contribution to the Conservation Area. Consequently, its demolition would have no material impact on the character or appearance of the Conservation Area, provided that there was an acceptable scheme for replacement.
42. Turning to **Appeal A**, this would include a new lodge building adjacent to an amended access road within the existing linear development on the north

side of Mill Street. To the east of the access an historic orchard would be replanted and provide screening of the Priory outbuildings. A historic plot boundary not visible from the Abbot's Tower would become visible from the access drive. Behind the existing linear development, 22 other new dwellings would be provided in a courtyard format, designed to resemble model housing for the estate. They would sit against the back gardens of the Mill Street properties and have been designed to be visible. Landscape screening would be provided on the north side and the topography itself would, to some extent, help to mitigate the impact of the proposal. There would be little loss of landscape fabric but tree planting to provide screening would erode the open setting.

43. EH accepts that although the Appeal A proposals would be closest to the Priory complex, they might be the least harmful of the West Field developments as the dwellings would be relatively contained. However, the proposal would erode the landscape setting of the Priory complex, as seen from the Abbot's Tower, and the linear development characteristic of Mill Street. The proposals would suburbanise the surrounding Conservation Area to the detriment of its linear character and erode the open setting of the Park. This harm would be 'less than substantial' but within that 'category' the Appeal A proposals would have an impact on the lower side of moderate.
44. In addition to improved access arrangements, the **Appeal B** proposals would provide 46 dwellings arranged along an irregular lane with housing courts off its south side. An attenuation feature would be provided at the western end of the proposed development with a tree belt to provide screening on the north side of the access road. Hedging and landscaping would frame and filter views from the west to some extent, a factor in Appeals B-D. Landscaping, and lighting, noted as a concern by some, could be controlled by condition.
45. The Appellants accept that this proposal would have an adverse impact on views of the Priory from the west, although this would, in time, be mitigated to some extent by landscape screening. The development is stated to "interpose between the line of houses (some of which are historic) and open fields and that change in character causes a degree of harm". The CAA identifies that views through gaps along Mill Street contribute to the character of the Conservation Area. These views, whilst intermittent and mitigated to some extent by distance and landscaping, would detract from the linear nature of the development linking the settlement with the Quay and contribute significantly to suburbanisation of the character of the area. The distance between the proposed development and the Park is significant but its open setting, and its significance would be eroded. Despite the landscaping designed to provide screening I consider the harm, whilst 'less than substantial', would be on the high side of moderate.
46. The proposal in **Appeal C** would provide 33 dwellings on the north side of the access road which, together with the Appeal B houses, would complete the street. The relationship of the blocks would be looser in Appeal C than in Appeal B with larger gaps and dwellings set amongst trees. There would be a large imitation mill structure at the northwest end of the street.
47. The impact of the Appeal C proposals would be similar to that of Appeal B, although the degree of encroachment on framed views from the west would

be greater due to its location further north. Whilst there is no criticism of the detailed design of the proposals, the bulk and massing of the 'mill' would give it an increased presence in views from the west notwithstanding the topography rising behind it and the provision of landscaping. It is accepted that this encroachment into the landscape view of the Priory and along the back of the Mill Street houses in the Conservation Area causes harm to their settings and significance. Although the harm would be 'less than substantial' I consider that it would have a greater impact than that assessed by the Appellants' witness and would seriously harm the significance of the Conservation Area and the landscape setting of the Park.

48. A block at the west end of the street, designed to resemble a Maltings and providing 21 flats, forms the **Appeal D** proposal. It is designed to have 'striking form' and be part of a 'dialect of towers'. Like the Appeal B and C schemes it would be visible in framed views from the west, not least due to its scale and bulk, similar to the 'mill' building. Its unusual location away from the quay would also appear slightly odd. Despite its location in relation to the B and C schemes, the impact on setting, and consequently significance, would be serious in my view.
49. EH, alone amongst the parties, maintains that the cumulative harm due to the Appeal A to D proposals would be substantial. Substantial harm is not defined in the *Framework* but the *Guidance* includes advice on how to assess it. It states "Whether a proposal causes substantial harm will be a judgement for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of development that is to be assessed. The harm may arise from works to the asset or from development within its setting".
50. Reference has also been made to *Bedford Borough Council v SSCLG* [2013] EWHC 2847. EH notes that this case predates the *Guidance* and does not preclude reaching a decision based on the *Framework* and *Guidance*. Reference was also made to Wymondham (APP/L2630/A/13/2196884) and New Barnfield (APP/M1900/V/13/2192045). The latter has been quashed, albeit not on grounds relating to conclusions on heritage impacts. In the former the Inspector concluded that substantial harm would not be caused in part due to evidence that the Grade I status of the building would not be called into question.
51. In *Bedford* it was held that for substantial harm "One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced". That is consistent with the advice in the *Guidance*. In this case the proposals have been assessed individually as causing less than substantial harm. In my view, any cumulative adverse impact would not be so serious that its significance would be very much reduced or vitiated. Nor would it be so substantial such as to seriously affect key elements of the buildings' special architectural or historic interest. The cumulative harm

would be less than substantial but that is not to say that any impact could not still be very significant.

52. Turning to **Appeal E**, in addition to restoration of the parkland the proposals include 19 dwellings in the Park. These are:

- a) North Lodges (2 dwellings),
- b) Lodge Piece House,
- c) Nun's Hall,
- d) Shell House and Kitchen,
- e) Lake House North,
- f) Lake House South,
- g) West Lodge,
- h) South Lodge,
- i) Slip Cottages (8 dwellings),
- j) Deer House, and
- k) Pigeon House

Neither TDC nor EH have an in principle objection to some development in the Park but whilst the Appellants maintain that any combination of the proposed dwellings could be considered, the inter-relationships are so complex that it would be very difficult to separate out any individual dwelling or 'pick and mix' from the proposal as a whole.

53. The two **North Lodges** would replace lodges demolished in the 1960s or 70s and sit either side of an extended north-south drive. Neither TDC nor EH object to the lodges in themselves. They would reflect historic precedent and would not generate additional traffic movements through the Park. However they would contribute to increased development, particularly light, domestic paraphernalia, and activity, and be appreciated by people moving through the Park. There would, therefore, be some impact, albeit small.
54. **Lodge Piece House** would be a large classical dwelling with a semi-basement, two storeys, garrets in the roof and a prospect room above, all designed to appear as a Dower House. There would also be a large detached garage building. There is no historic precedent for this house which would be perceived as a secondary house within the estate dominating the north-west part of the Park. The DAS states that "the building has been designed to command Lodge Piece" and it would have "an observatory to see and be seen from across the estuary". The building would vie with views of the Priory complex from the west detracting from the setting of the complex. The proposal would also generate traffic movements across the historic Park. Although harm would be less than substantial, the impact would be on the high side of moderate.
55. Lodge Piece is surrounded by woods with Nun's wood to the south and west and a more recent woodland to the north and east which surrounds a wet

area and which would be retained for ecological reasons. The damage caused by mineral extraction would be repaired by the regrading of Lodge Piece which all parties accept would generate a financial benefit.

56. **Nun's Hall** would be a small house, intended as a holiday let, incorporating the south gable of an 18th century folly or Park building. Whilst the historic structure might only have had one façade intended to be seen, the incorporation of the unlisted surviving gable as a minor element of the proposal would detract from its character, and that of the surrounding landscape in which it would be seen, notwithstanding that EH does not object to the proposed development. Whilst no parking would be allowed it is likely that there would be some traffic movements across the Park as a result of the proposal. The harm, whilst less than substantial, would be low to moderate in my view.
57. The **Shell Grotto** survives as a substantial ruin lined with shells and is a remnant of an 18th century garden building partly destroyed in the late 20th century. It therefore has historic precedent. The Grotto would be restored as a thatched living room whilst the Kitchen would be demolished and rebuilt to provide a kitchen, shower room and sleeping loft as a holiday let. The residential use of the structure would preclude the historic use as an amenity building in the Park but the holiday let nature of the proposal would mitigate against any domestic clutter that might otherwise have detracted from the proposal. Any impact would therefore be neutral.
58. **Lake House North** and **Lake House South** would be substantial modern buildings that would dominate the surrounding Park areas. However, they 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. There would be some traffic movements generated but the impact would be slight.
59. **West Lodge** would be a substantial Gothic house spanning a drive. The DAS sets out the aim of providing "a new public monument" which would rival the scale of the historic main Gatehouse. However, it would stand outside the Registered Park at the edge of a plateau on a drive leading to the Marshes. In views from the west it would be seen against trees but the Appellants' heritage and landscape witnesses accepted it would cause a degree of harm to the sensitive open landscape. Notwithstanding that historic maps identify some sort of structure in this location this would never have been a significant access and the large dwelling would be on a route to, and from, nowhere in particular. It would stand in a prominent position with views to, and from, the west and would be a dominant feature both in long views and from close quarters on footpath 19. In my view, it would challenge the hierarchy of the Priory complex and Parkland. Although less than substantial, the consequent harm would be significant.
60. **Slip Cottages** would be a development of 8 two storey houses arranged in two opposing terraces facing a communal garden to the north of the historic walled garden. They would have the appearance of workers' dwellings built on agricultural estates in the 19th century. Historic maps show the area as part of the Park in 1775 but by 1874 it was within the Priory gardens. Whilst relatively unobtrusive on the north side of the walled garden close to Colchester Road, the location of the cottages would add significantly to the

quantity of development in the garden area. Following the withdrawal of the visitor centre application, which proposed car parking relatively close to Slip Cottages, additional landscaping could be provided to screen the cottages from the north but this would contribute to further sub dividing the Slip from its garden setting. Again the harm would be less than substantial but towards the lower end of that category.

61. The **Deer House** would be timber framed with a thatched roof designed as an ornament to the Park and set into an old gravel pit. Its location would reduce the impact of any domestic clutter and any harm would be insignificant. In contrast, the **Pigeon House** 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. Whilst the holiday nature of any occupation would reduce the amount of domestic clutter it would be difficult to preclude all impact on the setting of the Priory complex and the Park. Whilst the harm would be less than substantial it would be moderate.
62. Finally, **South Lodge**, like the North Lodges, would accord with expectation at the entrance to the Park and Priory complex but would not generate additional traffic movements across the Park. Neither EH nor TDC raise any objection to it. However, as with the North Lodges, it would contribute to increased development alongside the West Field schemes, particularly light, domestic paraphernalia, and activity. There would, therefore, be a slight impact.
63. Notwithstanding landscape and topographical screening, the significant dwellings, Lodge Piece, West Lodge and the two Lake Houses would dominate their immediately surrounding landscape such that they would become akin to small parks within the Park detracting from its significance. Whilst inter-visibility of the proposed Park structures might be limited, the Park is experienced by people passing through it either on their way to a particular building or meandering taking in the view.
64. Providing buildings that go beyond the repair or replacement of lost structures, even if done in a manner reflecting the spirit of 18th century garden buildings, would not enhance the significance of the Park. The presence of a significant number of buildings in, or adjacent to, the Park would significantly detract from its character. From many vantage points when moving around the Park, buildings would be visible together with the consequences of their use such as drives, cars and lighting. The Appellants' ES acknowledges that "Lodge Piece House and West Lodge will have an impact on the setting of the Conservation Area allowing the Park to be seen for the first time. Previously the only buildings to rise above the walls were the Abbot's Tower and the Clock Tower and only the former has a prospect". This impact would be significantly detrimental to the significance of the Park.
65. A note from the Appellants' Landscape expert indicates that much of the landscape proposal would be funded through the Higher Level Stewardship (HLS) Scheme. Those elements not funded through the HLS scheme include the reinstatement of the deer bank adjacent to Colchester Road, provision of a new viewing mound, reinstatement of the northern approach through the

Park, works associated with the Lake Houses, creation of habitats and returning the silt area to grassland and woodland. These benefits might be significant if implemented but it is accepted that priority should be given to the buildings and a significant amount of repair would still be required to complete all those works. A major element of the landscaping proposals is the regrading of Lodge Piece. BNP's June 2013 report indicates that the importation of inert fill to achieve the regrading would generate funds. This element of the proposals, therefore, would not only have a beneficial impact but would contribute to reducing the conservation deficit.

Conservation Deficit

66. There is no dispute that the Priory buildings are in a state of disrepair. Likewise there is no dispute as to either the extent of that disrepair, or to the order of priority of the works necessary to address it. It is also accepted that the Park and gardens are in need of restoration but that the buildings should be the priority. Given the importance of all the heritage assets, any contribution towards their repair should be given significant weight. Securing the works identified in either Appendix 1 or 2 of the draft S106 Agreement would be a significant benefit.
67. Following the submission of the applications in March 2011, TDC and EH jointly instructed CBRE to advise on the financial information provided. The RNJ Partnership was also instructed by TDC and EH to review the cost plans prepared by McBains Cooper, the Appellants' Quantity Surveyor. The Appellants disagreed with CBRE's conclusions and BNP Paribas was jointly appointed by TDC and the Appellants in May 2013 to further assess the conservation deficit and the value of the proposed enabling development. This culminated in a BNP report dated June 2013. The 2013 advice was updated by BNP, on behalf of the Appellants, in the only expert evidence presented at the Inquiry on the conservation deficit and residual valuation. No figure was put forward by EH whilst on behalf of TDC only a 'rough calculation' was given by its heritage expert. Whilst there is disagreement on other figures, such as those provided by Mrs Moore, the only expert advice given at the Inquiry was again from the Appellants. Whilst Mrs Moore is not a qualified valuer, she has a track record with City and Country Limited of pricing schemes that have exceeded prevailing market values.
68. Based on the BNP June 2013 report, prepared jointly for TDC and the Appellants, the conservation deficit was identified as £40,791,110. A joint expert for the Inquiry was suggested by the Appellants, but rejected by TDC and EH, despite them not accepting the BNP deficit figure. A review of pricing in Mr Lee's proof of evidence for the Appellants has since reduced the conservation deficit to £39,886,190.
69. A residual value of £5,240,713, rounded in evidence to £5.3 million, is stated for the combined appeal schemes. Of this 47% would be applied to actual restoration works as opposed to contingencies, profit, VAT etc. The residual land values for each West Field application and each Park element are set out in the draft S106 Obligation v5 dated 6 February 2015. Appeal A would contribute a residual value of £690,368, Appeal B £1,802,229, Appeal C £1,030,983, and Appeal D £250,993.

70. Turning to Appeal E, the overall residual land value would be £1,466,141 (the Park infill would contribute £349,845, and the Park buildings £1,116,296). The residual land values for the various buildings would be: North Lodges £78,352, Lodge Piece House £190,579, Nun's Hall £40,407, Pigeon House £55,530, Deer House £64,544, Lake House North £98,925, Lake House South £227,402, Shell House and Kitchen £38,775, West Lodge £74,080, South Lodge £39,176, and Slip Cottages £208,526.
71. Whether £5.3 million is achieved is to some extent irrelevant as a S106 Obligation identifies works that assume that figure. Whatever the outturn costs, the sum of £5,240,713 would be guaranteed by the S106 Obligation of which £2,463,135 (47%) would fund actual works. The Council states it does not accept that approach, although in the Wellwick case a ratio of 41% was proposed as a basis for the S106 Agreement.
72. EH's concerns about the efficiency of enabling development is recognised in EH's *ED Guidance* which sets out the heads of costs that can properly be attributed to the conservation deficit, including professional fees, irrecoverable VAT and profit on costs. Whilst there is some disagreement as to what can legitimately be included, the Appellants obtained an Opinion from Dr Charles Mynors relating to matters that were properly included in the conservation deficit calculation having regard to EH advice. The ratio of 47% of the residual land value in this case that would be applied to actual works would be more than is usually achieved as the *ED Guidance* refers to enabling development "with a value three to four times the conservation deficit of the historic asset to break even". That would be a ratio of only 25-33%.
73. Reference has been made as to whether enabling development should be allowed to fund the costs of a family home. However, *the ED Guidance* appears to suggest, such as at paragraph 4.9.11, that enabling development is not limited to commercial schemes. In any event, the family members intend to vacate the existing buildings and move into buildings in the Park to allow commercial use of the Priory buildings. Holding costs were also raised but are costs that would have been incurred regardless of occupier. Costs attributable to the Appellants' occupation, such as heating and lighting, are not included.
74. The proportion of the repair and conversion costs to conservation deficit is now 44.5% but the Appellants propose a higher ratio of 47% to ensure that certain elements of work can be concluded within the overall package set out in the S106 Obligation. The tests in Community Infrastructure Levy (CIL) Regulation 122 would be met as the proposed S106 offer would be necessary to make the proposal acceptable in planning terms; directly related to the proposal; and fairly and reasonably related in scale and kind to the proposal. An increase in ratio to 47% to ensure that a package of works could be completed would be entirely fair and reasonable. The costs have been clearly set out and the greater percentage would be funded by the Appellants taking a slightly reduced profit.
75. The complaint that the repair costs are too high could have been avoided by the appointment of a joint expert as suggested by the Appellants. In any event the costs were prepared by a reputable Quantity Surveyor and not challenged by any professional witness appearing at the Inquiry. Indeed,

they were reviewed by BNP jointly appointed by TDC and the Appellants. In the absence of any other evidence tested at the Inquiry I have reached my conclusions based on the Appellants' figures.

76. Another objection to the figures is that sums not relating to works of repair and conversion were attributed to external works and landscaping. However, the figure is stated to include an element of double counting. A figure of £9.231 million was questioned by EH in 2013 and reduced to £7.5 million whereas evidence now uses £7,846,400. If the figures are wrong the residual value would be reduced but a residual value of £5.3 million was accepted by TDC's witness. Insofar as some items might fall outside works of historic repair or conversion, a reduction of 15% has already been applied. Even if the costs are reduced by £2 million there is only a very marginal impact on the ratio to be applied from 47% to 46.9%.
77. TDC originally maintained that a number of buildings in the Park would make a negative return and so increase the conservation deficit rather than contribute to reducing it. Following amendments, the allegation was applied to only Nun's Hall and Shell Grotto. A negative return is not agreed as the Council's calculation was a rough exercise compared to BNP's evidence. In any event TDC has accepted a residual value figure of £5.3 million.
78. EH's *EB Guidance* advises "Enabling development should therefore be primarily directed towards meeting the conservation deficit arising from repair and conservation work that is essential to secure the long-term future of the place, including making it fit for purpose and marketable, or that is essential to sustain an historic entity". In these cases, except for parts of the Gatehouse, no historic building would be restored to a condition capable of use. Consequently, the long term future of those buildings would not be fully secured and other means of funding repair and conversion would be needed.

Building Preservation Trusts

79. Both the Appellants and the PC have proposed the formation of a Building Preservation Trust and there seems to be general agreement that some form of Trust would be necessary to help bridge the conservation deficit. Local residents appear reluctant to support the Appellants' Trust, which is the furthest advanced, with only 5 local organisations, out of 37 invited, attending a stakeholder meeting organised by the Princes Regeneration Trust. In this proposal, a 30 year lease would be granted for some of the Priory buildings. The experts representing TDC and EH both consider that a longer lease would be necessary to secure any meaningful grant funding, with 99 to 125 years being suggested on behalf of the Council. I agree with that view as grant funding is likely to require a significant interest in the heritage assets for which funding is sought.
80. The PC's Trust is less advanced as it has no leasehold or freehold interest in the Priory and has not made any bid. The Trust differs from the Appellants in that it claims that the enabling development proposed alongside it would be less harmful. The PC has signed memoranda of understanding with a number of landowners who have each agreed to give land on the outskirts of St Osyth to the Trust. The intention would be to develop plots of around an acre with four dwellings each. A local firm of surveyors/estate agents have

indicated that this enabling development could generate in the region of £4 million, although the figures are disputed by the Appellants. Even with the most optimistic sum that might be generated, after obtaining a meaningful interest in the Priory the remaining monies would have little impact on addressing the overall conservation deficit. However, it might prove easier for this funding vehicle, with a longer interest in the site, to obtain grant aid and start a rolling programme of repairs.

81. Whilst a Building Preservation Trust seems to be one way of helping address the significant conservation deficit, neither of the Trusts proposed have progressed to a stage where any reliance could be put on them to significantly help address the problems at the Priory. Notwithstanding this, the Appellants' CIL Regulation Compliance Note indicates that no work would be carried out to the Abbot's Tower, for which EH has already offered a grant that has not yet been taken up, as this would be dealt with by the BPT. Little weight can therefore be given to either BPT proposal.

Marketing Campaign

82. EH's *Enabling Development and the Conservation of Significant Places* indicates that normally marketing should be undertaken for a minimum of 6 months. The *Framework* has no such requirement. Nevertheless, in this case marketing took place for a period of two and a half years. The PC clarified that its concerns relate to the initial marketing in 2010 and whether real and active measures were made to find a buyer. Changes were made to the sales particulars and communicated to interested parties in a letter dated 2 March 2011 and the property remained on the market for a further 18 months after that date.
83. The first concern raised was that the sales brochure stated price on application but that no price was forthcoming when requested. Whilst it is claimed that this would make it difficult, if not impossible, to price a bid, it did not prevent people, including one of the PC's witnesses, from doing so. In addition, the PC's Building Preservation Trust was invited to make a bid and was prepared to bid £1.5 million but did not provide information on how it intended to fund the purchase and restoration.
84. Another concern is that whilst it is accepted that breaking up the estate is undesirable, and that ownership and management by a single entity offers the best opportunity to secure its future and its optimum viable use, that is not how the Priory was offered for sale initially. In 2010 the Priory was to be sold without the Parkland, which has been an integral part of the Priory for many years, farmland that includes the West Field effectively removing any opportunity of enabling development, or The Bury onto which the Gatehouse faces and which provides the main access to the Priory complex. Whilst this would have reduced the attractiveness of the Priory, these areas were included in the sale particulars and prospective purchasers informed in March 2011 and marketing continued for a considerable time thereafter.
85. There is also criticism that only the Appellants' figures for repair were available but neither TDC nor EH have calculated a conservation deficit and it took EH's consultant over two years to provide its costings. In any event, it is difficult to see why this would deter any purchaser as they would undoubtedly have obtained their own costings prior to making a bid.

Indeed, one of the PC's witnesses made a bid and declined to revisit it after receiving EH's costings due to concerns that costs might turn out to be higher than EH's figures.

86. Marketing was commenced prior to any endorsement by TDC or EH despite the documentation stating it had been prepared with EH's agreement. However, the details were based on an example that EH had prepared for Apethorpe Hall. Details were sent to EH, comments were taken on board and it was used for 5 months with the knowledge of EH. Finally, the PC raised concerns about the information requested from prospective purchasers and suggested that this had been excessive. It referred to the National Trust's (NT) Regional Director experiencing obstructive behaviour. However, correspondence between the Regional Director and the Appellant's Agents indicate that confidentiality requirements were waived and the Priory viewed by NT demonstrating a flexible approach. The NT concluded that the property did not meet its acquisition criteria as "much of the property has been compromised".
87. TDC confirmed that marketing was not part of its case, whilst EH stated that any concerns it had about marketing would not justify refusing the appeals. Notwithstanding the PC's reservations, the Priory was marketed for more than the required period even if only the period following changes is considered. I therefore agree with the TDC and EH that any concerns about marketing would not justify dismissing the appeals.

Deliberate Neglect

88. Paragraph 130 of the *Framework* states that "Where there is evidence of deliberate neglect of, or damage to, a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision".
89. The PC maintains that during the period the Appellants have owned the Priory, parts of the estate have been deliberately neglected. This view is based to a large extent on the observations of local residents since 1999, together with reference to a survey by The Morton Partnership which in 1998 described the Priory as being in 'reasonable condition'. The Appellants accept that the Priory appears in a worse state now than when it was purchased. This is due to some extent to the provision of scaffolding to provide cover and structural support.
90. It is generally accepted that when there is a finite amount of money available, and not enough to fund all necessary repairs, it is necessary to prioritise. Similarly, it is accepted that buildings should receive priority over landscaping in any restoration. The reason for this is set out in EH's guidance *Enabling Development and the Conservation of Significant Places* which states "Unlike buildings or structures, planted landscapes tend to deteriorate slowly and can be recovered after a longer interval of neglect". Although the PC alleges that works to the Parkland have been prioritised over works to the buildings, and the Appellants accept that some of their own monies have been spent on the Parkland, significantly more money has been spent on buildings. Of the money spent by the Appellants, some 70% has been on buildings. This does not include further monies spent on consultants' fees, reports and surveys and the costs of these appeals. Indeed, much of the funding for landscaping has come from Natural

England's Higher Level Stewardship (HLS) grants. It would be unreasonable to expect all expenditure to be on buildings, and as the majority of money has been spent on the buildings, the Parkland could not be described as having been prioritised nor the buildings deliberately neglected.

91. The Appellants accept that a strategy was adopted of not effecting repairs where replacement or renewal would eventually be necessary. Again this indicates a desire to make the best use of limited funds by directing funds to where they are most needed. Some repairs have been necessary for some time now but this is not solely a matter of the Appellants delaying matters. The applications subject of these appeals were submitted in 2011 and the appeals are against non determination by the Council.
92. The PC's witness, for whom a 1998 Morton Partnership report was prepared, could not recall the purpose of the survey. However, the inspection was a walkover survey with no opening up or investigative work and was limited to the buildings between the east wing of the Gatehouse to the Bailiff's Cottage. It does not cover the towers, Darcy House or garden walls. The walkover nature of the report is emphasised by the fact that the cost estimates given have proved to be significantly inaccurate. The estimate for repairs to all the boundary walls was £10,000 whereas the repair of the section of wall along Colchester Road alone was in the region of £200,000-250,000. The Morton report cannot, therefore, be considered as a detailed report that accurately characterises the state of the Priory in 1998.
93. Four specific examples of alleged neglect were raised, although the PC's witness was invited to identify any other areas of concern. Firstly, it was stated that capping stones on the battlements of the Gatehouse were not in place and the stonework was crumbling. However, the capping stones are in place and are also shown in photographs. Secondly, it was maintained that windows in the Abbot's Tower had been left open allowing the accumulation of pigeon mess and rain water penetration. Small windows have been opened for ventilation but there is little sign of water ingress or accumulation of pigeon droppings.
94. The third example of alleged neglect is that of the Bailiff's Cottage, which it is claimed was water tight and habitable in 1999, but which in 2011 is described as having a rough canvas slung over a large hole in the roof allowing rain penetration. The Morton report of 1998 identified a number of defects for the Bailiff's Cottage including water penetration. The building has been adapted many times, including the insertion of dormer windows which has led to rafters being cut weakening the roof structure. Eventually the building broke its back leading to the removal of the tiles to reduce the weight on the structure. The provision of scaffolding with sheeting to provide weather protection was agreed with EH.
95. Finally, it was stated that the PC's witness had been told in 2011 that a large painting called "The running of the bulls" in a room over the arch of the Gatehouse had been severely rain damaged. There is some evidence of water penetration but this is limited to an area where a downpipe discharges into a hopper that on occasion has been blocked by birds leading to damp penetration. This hopper is now regularly checked and cleaned and internal coverings have been removed to allow the relatively small area of wall to dry out. The painting has some slight water damage but this is minimal and

took place between the dates of exchange and completion before the Appellants occupied the Priory.

96. The Appellants' have spent a significant amount of money on the Priory to date, although there is much more work needed. Far from neglecting the listed buildings and structures, the evidence indicates the prioritisation of work to reflect the limited funds available. Whilst the PC has concerns, it is telling that neither of the heritage expert witnesses representing TDC and EH allege deliberate neglect. Indeed, the Council's witness indicates that the Appellants had contained the deterioration. I conclude that there has not been any deliberate neglect of the structures.

The Effect of the Proposals on Educational Infrastructure

97. St Osyth has a Church of England Primary School with a capacity of 315 pupils. In May 2010 the School had 298 pupils which increased to 301 by May 2013 and 305 in January 2015. As TDC's *Strategic Housing Land Availability Assessment* (SHLAA) notes "Based on latest evidence, the existing primary school is currently operating at close to capacity". It is unclear whether a forecast of new pupils due to housing growth assumes 60 or 112 new dwellings. However, in either case, the proposals would generate a need for just over 30 additional primary school places. Together with the Wellwick development this would push the school over capacity.
98. However, there are 46 surplus spaces at Raven's Academy three miles from St Osyth. Although the PC maintains that it would not be in the best educational interests of pupils to be bussed to other schools, the catchment area of St Osyth's school itself extends to around 28 square miles and it is therefore likely that a number of pupils already travel to the school by bus or car. Whilst this might not be ideal, it is not unusual in a rural area.
99. The Appellants' ES concluded, at a time when the forecast was for 26 surplus school spaces at St Osyth's School, that "without mitigation [the applications are] likely to have a major long term adverse impact upon primary education services at the local level". This is reflected in the consultation response of the local education authority which indicated that a contribution towards the provision of education facilities should be sought, or the applications be refused due to the lack of provision.
100. There would be no contribution towards education provision in these appeals, due to the enabling nature of the proposals. However, there is a duty on the local education authority to provide sufficient school places to meet local demand. Mitigation would, therefore, be provided albeit at public expense rather than by the developer. The proposals, if built, would be phased over a number of years and there would be time for mitigation arrangements to reduce the impact. However, despite the fact that no pupil would be left without a school place, it is generally the case that development provides mitigation of its own impacts. That would not be the case here and the adverse impact of the proposals on the finances of the local education authority, calculated to be £861,350 at 2010 figures, is a consideration to be weighed in the planning balance.

The Effect of the Proposals on Medical Infrastructure

101. Turning to medical provision, a large proportion of St Osyth's population are elderly and require more medical time and attention than younger patients. Access to medical provision is, therefore, important to the local community. There are two surgeries in the village and fifteen in the wider area although many of these may not be readily accessible to elderly patients.
102. The St James Surgery in Clacton has a part time branch at Church Square in St Osyth. Dr Arora, a GP at the St James/Church Square practice, expects many of the occupiers of the proposed dwellings to register with one of the surgeries in St Osyth due to the geographical proximity. The PC maintains that existing facilities would be unable to cope and so would close leaving patients to travel into Clacton, which could put their health at risk. It is claimed that the problems would be exacerbated by being in a deprived area. If the local surgery is closed it would lead to more home visits to elderly patients unable to travel putting an extra strain on Doctors' existing heavy workloads. A shortage of doctors is a national trend that is being addressed by NHS England rather than a problem due solely to the proposed developments.
103. The Church Square surgery has three consulting rooms and is open three full days a week. On the other two days it is only open in the morning or afternoon. There is no Saturday surgery. The practice has 14,054 registered patients and 6.7 full time equivalent (FTE) doctors which equates to a patient:doctor ratio of 2,098:1 compared to a generally accepted capacity of 1,750:1. Notwithstanding this, the practice continues to accept patients because NHS England has refused a request to close its patient list, despite other local surgeries having spare capacity, although St Osyth's other surgery, the Old Road Medical Practice, is understood to be similarly overcapacity.
104. Notwithstanding any shortcomings with the existing building, it could be utilised more intensively if additional doctors could be found. I note that even though the Appellant's ES considered there was capacity in St Osyth, it concluded that there would be a minor permanent adverse impact on community and health facilities. Mitigation would not be provided in the usual way through a contribution given the enabling nature of the proposed development and I therefore agree with the ES's conclusion that health facilities would suffer a minor permanent adverse impact

The Effect of the Proposals on Highway Safety

105. The Parish Council's concerns about the impact of the proposed enabling development on the highway infrastructure relate to the crossroads in the centre of the village and to impacts on roads around the primary school. Both are the subject of Statements of Common Ground (SOCG) between the Highway Authority and the Appellants' highway consultants.
106. The concerns of residents about highway safety are a material consideration. When approaching the crossroads from the north the road passes through the village and continues towards the caravan parks and the coast at St Osyth's Beach. Similarly, a right turn at the crossroads leads to Mill Street

and on to more caravan parks at Point Clear. A left turn at the crossroads leads towards Clacton. In this case, the Parish Council has safety concerns about the substandard visibility splay for drivers turning left into Spring Road, and particular concerns about accidents involving pedestrians negotiating the narrow or non-existent pavements. It also disagrees that junction capacities should be tested during neutral traffic conditions rather than during the peak summer holiday period.

107. Contrary to the first Statement of Common Ground (SOCG) between the appellant and the Highway Authority, the Parish Council maintains that an X-distance of 2.4 metres would be more appropriate than 2 metres and the Y-distance should be measured to the near side of Spring Road rather than the centre line. As a consequence the parties differ over how substandard the junction is. Notwithstanding this, and the acceptance by both parties that generally there could be four unreported accidents and a number of near misses to each reported accident, accident data for the crossroads in the Transport Assessment for 2004-2008 indicates 5 reported slight accidents. This includes the periods of peak holiday traffic. More recent data for 2009-2014 records 2 slight accidents and one serious which involved a pedestrian being hit by a wing mirror whilst standing on the edge of the footway on Clacton Road. The only expert evidence, in the SOCG, is that contrary to the perceptions of local residents, the data does not give rise to undue concerns about road safety.
108. Both the PC and SOS give figures for the number of dwellings, caravans and chalets served by Mill Street, although they differ. However, the proposed 123 new dwellings would represent roughly 5% of the total number of dwellings served, which would not be significant. The Transport Assessment also included a comparison of seasonal flows based on Automatic Traffic Counts (ATC) provided by Essex County Council. These show that the weekday peak hour flows vary little between normal and holiday periods. Saturday flows were higher, although the PC refutes that this is due to changeovers. Whatever the reason, there would be queuing on Mill Street as traffic has to give way to traffic on Colchester Road and Spring Road. Again the 123 additional dwellings would not add significantly to the traffic flows, which are predicted to increase on Mill Street approaching the crossroads by 12% in the am peak and 13% in the pm peak.
109. It is alleged that local residents are familiar with the junction and drive courteously, which is not necessarily the case with visitors, but there is no evidence that visitors would be any less courteous than local residents.
110. Reference was made to the recent permission for a visitor centre in the Tithe Barn as the traffic generated by it, which is considered in the Transport Assessment, would now need to pass through the crossroads rather than access the site from Colchester Road. Flows due to that proposal would be relatively small with 50-100 trips and the peak period traffic for holidaymakers and visitors to the wedding venue would not coincide with peak traffic from the West Field development.
111. Historic resistance to large applications west of the crossroads was also mentioned. However, the examples pre-dated the *Framework* and there is no indication that they were supported by Transport Assessments. One was not a formal response to a planning application, another was for an

unspecified number of houses and a third relates to a decision not to allocate a site for more than 800 dwellings in the Local Plan for reasons that are not specified. These would not set a precedent that would justify dismissing these appeals which have been considered on their own merits.

112. The PC criticises the use of trip rates from an estate at Longfields. However, the appellant's rebuttal proof clearly sets out that Longfields ATC were not used. Instead trip rates were based on TRICS with higher trip rates, as suggested by the Highway Authority's consultant, also used as a sensitivity exercise. The ratio of flow to capacity, at 0.691 during the am peak and 0.477 during the evening peak, were comfortably below the design threshold of 0.85.
113. Turning to conditions at the school, a number of children are dropped off and picked up. In the afternoon in particular, when waiting to pick up, drivers park along Norman Close, Johnson Road (main section and loop), Rochford Road, between the garages accessed off Johnson Road, and in the Village Hall car park. Whilst no data has been submitted to underpin the second SOCG between the appellants and the Highway Authority, demand for parking is heavy. However, it is generally restricted to roughly a half hour period during which traffic speeds are slow given the nature of the roads and the parked vehicles. Some children might undertake the 20 minutes walk from the proposed West Field development but many would arrive by car. Notwithstanding this, the traffic observed is not unusual for schools generally and the additional traffic movements that would be generated by the proposed enabling development, over and above the Wellwick development already granted planning permission, would not be such that it would justify dismissing the appeals.

The Effect of the Proposals on Ecology

114. Whilst Andrew May was originally to give evidence on behalf of the PC, a Rule 6 party, he eventually produced a written statement on ecology as a third party on behalf of Essex Wildlife Trust. Other individuals, including Professor Underwood, Messrs Marsden and Baines and Mr Seago, also made written representations on ecology and these were all addressed in writing on behalf of the Appellants.
115. The ES submitted with the applications has considered a study area of 2 kilometres radius. Part of the Colne Estuary and adjacent areas are covered by the Colne Estuary Ramsar site and Special Protection Area (SPA), and the Essex Estuaries Special Area of Conservation (SAC). In the vicinity of St Osyth, the Ramsar and SPA boundaries are the same but the SAC boundary differs. The former includes Flag Creek, St Osyth Creek, Howlands Marsh and other areas of grazing marsh within the sea wall north of St Osyth, whilst the latter includes the main river channels and saltmarsh areas but excludes Howland's Marsh and other grazing marsh areas. The citations for these international designated sites are included in the ES.
116. Two small areas of reedbed and scrub in the St Osyth Priory Park are within the designated boundary of the Ramsar and SPA, although separated from the main expanse of Howland's Marsh by a haul road to the Martin's farm minerals operating site. St Osyth's Creek at its nearest point is around 25 metres from the western boundary of the West Field. Freshwater input into

Howland's Marsh comes from various points on the boundary of St Osyth Priory Park.

117. In addition to the international sites, there are a number of nationally designated sites, including the Colne Estuary SSSI, St Osyth Gravel Pit SSSI situated adjacent to the north east boundary of the Priory site on the opposite side of the road to the Wellwick site, and the Riddles Wood SSSI some 0.75 kilometres to the north-east of the Wellwick site. There are also a number of Local Wildlife Sites (LWS) within 2 kilometres of the Priory, including the St Osyth Priory LWS (Te57) which has an area of around 91 hectares and is described as a "Mosaic of marshy and semi-improved neutral and acid grassland, woodland, parkland, scrub and ponds".
118. Ecological concerns raised by third parties include:-
 - i) the baseline survey data;
 - ii) evaluation methods;
 - iii) ecological impacts; and
 - iv) mitigation and monitoring.
119. In terms of baseline data, this is commonly considered to be valid for around three years. Due to delays in dealing with the applications, the ES data is now 4 years old and it is suggested that more up-to-date data should be presented. However, TDC, NE and RSPB have expressed satisfaction with the content of the ES and the surveys carried out. A number of visits have been made to the site on 12 June, 17 July and 8 December 2014 and a report states that during those visits "No significant changes were noted to any of the habitat zones, in terms of their gross layout, structure and ecological condition". A further visit was made on 13 January 2015. In terms of the ES information there has been no substantive changes to the ecology of the site.
120. Criticism of the extent of the study area has been aired but the 2 kilometre search area is consistent with technical guidance from the Chartered Institute of Ecology and Environmental Management which states that "Records for notable and/or protected species within 1-2 kilometres are usually considered to be of relevance within most studies". As the critical sites for potential impact, such as the Colne Estuary, are immediately adjacent to St Osyth a wider study area is unnecessary.
121. Notwithstanding a number of points raised by Mr May, there is recognition in the ES of the ecological value and importance of veteran trees. Of the documents mentioned, 'The Natural Choice' white paper and the RSPB's 'State of Nature' report are not referenced in the ES as they were not published until after the applications had been submitted, although the Lawton Review Making Space for Nature was available in 2010. However, it is maintained that none of these provides a framework or information that would have altered the methods or conclusions in the ES.
122. Although Mr May suggests that the ES does not represent the true value of the St Osyth LWS, or address the impacts on it as a whole, it is stated as being of 'Medium' value placing it below the 'High' value of nationally

designated sites and above the 'Lower' undesignated sites of local interest. The ES states "the overall habitat loss is considered to be a Minor Negative effect with an overall impact of Slight Adverse. This evaluation is for all the buildings in combination....". The presence of the habitat mosaic is referred to in a number of places and the impact on the LWS as a whole clearly stated.

123. It is accepted that the CIEEM 2006 guidance on the evaluation of ecological value is a number of years old but it is referred to in BS42020: Biodiversity – Code of Practice for Planning and Development, published in August 2013, as an 'indispensible' key document. It is also referred to and recommended by NE and many Wildlife Trusts in scoping opinions. Criticism is also made of the use of the Transport Assessment Guidance which has largely been superseded by CIEEMs 2006 document. However, it applies a standard matrix for determining impact significance similar to that used in many disciplines including the landscape, cultural heritage and archaeology chapters of the St Osyth ES.
124. Turning to impacts, the ES recognises that the mosaic of habitats leads to interesting and valuable transitions between vegetation types. The ES states "Nun's Wood is a complex area grading from willow carr reedbed at its northern end through dense blackthorn scrub into tall woodland". The ES also refers to "a transition between the seepage zone and the associated ditches at the base of the gravels and the grazing marsh of the Colne Estuary.
125. A concern of a number of individuals is that the proposed roads and services would lead to fragmentation of habitats and possible loss of species. However, the site already has a network of access tracks. Whilst there would be a level of change, the roads would not be public but private driveways serving a relatively small number of dwellings. Consequently the potential for fragmentation would be negligible. The proposed deer bank adjacent to Colchester Road would be outside the boundary tree belt and designed to avoid the removal of important trees. Its location would also have to be agreed with NE under the HLS scheme.
126. In relation to the restoration of Lodge Piece land contours, this would involve the importation of inert materials, which by definition would not contaminate groundwater. The dumping of polluted materials would be an offence. The water resources chapter of the ES and a hydrological report conclude that the restoration would not have a significant impact on water flows and that existing baseline conditions would be maintained. Indeed, the proposed landscape restoration of Lodge Piece has been welcomed by NE.
127. A number of third parties raise the potential for recreation and land restoration to disturb birds. This has been assessed in an Appropriate Assessment for the scheme. NE and RSPB are satisfied that any such potential can be addressed through agreed mitigation and monitoring. A particular concern is the heron and egret populations that use Nun's Wood but the heronry has survived through periods of gravel extraction and agricultural operations. The short-term restoration works and the introduction of a small number of houses close to the wood would be unlikely to match the noise and light associated with the earlier operations. A draft Conservation Management Plan indicates that the timing of potential

disturbance events would be restricted to minimise disturbance, and post-construction it is expected that bird species and diversity would increase.

128. Considering mitigation and monitoring, an HLS scheme has been entered into with NE with the intention of restoring the landscape character of the parkland and enhancing and maintaining its nature conservation value. The HLS scheme is being revised and renamed by DEFRA but it is expected that it will 'roll over'. However, in case it doesn't roll over an equivalent habitat management could be secured by condition as recommended by NE and RSPB. Although it would take a number of years to develop, landscaping, including tree planting, would provide valuable habitat alongside the more mature habitat types present and which would be retained on the site.
129. Whilst the ES proposes a covenant to prevent the residents of the Lake Houses from owning cats and dogs it is suggested that this might not be effective in mitigating predation and disturbance of birds nests and that an alternative of providing habitat features such as dense vegetation might be more effective. Mitigation and enhancement measures are set out in the draft Conservation Management plan and could be secured by condition. Indeed, NE and RSPB have requested that a condition be attached to any permission to secure ongoing ecological monitoring that would feed into the Conservation Management Plan.
130. Notwithstanding the concerns raised by the third parties, these are not shared by NE and RSPB neither of which raised any objections, subject to conditions to ensure that the identified mitigation measures would be put into place. With these safeguards I conclude that the ES is valid in terms of its ecological baseline, evaluation, and impact assessment and agree with its conclusion that there would not be a significant effect on the integrity of the Colne Estuary Ramsar/SPA.

Other Matters

131. SOS raised concerns about the impact of the West Field 1-4 developments, for which it maintains there is no historical precedent, on the living conditions of the occupiers of properties in Mill Street that would back onto the proposed development. The effect on the character and appearance of the Conservation Area has been considered above and consideration here is limited to the effect on amenity. Many of the Mill Street dwellings have large rear gardens. Although the view to the rear would change from one of open fields to that of new development, the separation distances would be sufficient to prevent any unacceptable adverse impacts on outlook or privacy. Whilst I understand concerns about the impact of the proposals on property prices, and the loss of views across agricultural land, raised by some local residents, these are not generally planning considerations.
132. It is accepted that TDC does not have a 5 year housing land supply and in this context paragraph 49 of the *Framework* indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 7 sets out the three dimensions of sustainable development, economic, social and environmental. New housing development would provide benefits under all three headings by contributing to meeting housing needs whilst the holiday lets in the Park would contribute to tourism and the local economy. However, due to the enabling purpose of

the proposals they would not provide any affordable housing as they would otherwise have done. This would reduce the weight that could be accorded to the housing benefits of the proposals.

133. TDC accepts that there would be short and long term employment benefits from construction jobs, New Homes Bonus, and increased custom for local shops and services. The creation of holiday accommodation in the Park would also generate employment and support local services. There would also be benefits from increased public access. Any benefits would not extend to those flowing from a restored Priory as there is no certain fundable strategy to deliver such benefits.
134. SOS claims that there has been a lack of community engagement and maintains that a newsletter sent out as part of a community consultation exercise in 2010 had not been sent to all residents in Mill Street. However, the list of addresses indicates that the newsletter was sent to all residents of Mill Street including a copy delivered by hand to the Chairperson of SOS who lives there. In terms of the appeals, the Inquiry was publicised and an evening session was held for the benefit of those who are unable to attend the normal daytime sessions. Many local residents spoke at the Inquiry and many others made written submissions all of which have been taken into account. There has been engagement and no one has been disadvantaged.

Whether any Benefits of Enabling Development Outweigh any Disbenefits

135. Given that some witnesses conceded that a number of benefits were substantial, it was maintained in closing for the Appellants that if the harm to heritage assets was found to be less than substantial, it follows that planning permission should be granted. This is simplistic. Indeed, TDC's heritage witness was at pains to stress that whilst a residual value of £5.3 million might be substantial that was in financial terms and would not necessarily equate to substantial harm to an asset. £5.3 million might be a substantial sum of money, but in the context of a conservation deficit of £39,886,190 it would equate to something far less than substantial. Judgement and context have to be applied and considered.
136. Some benefits and harms will apply to each application whilst others would only apply to some. The extent of the benefit/harm would also differ between applications. The major benefit in each appeal would be the repair/conversion works that would be enabled by the residual land value generated by the proposals. Similarly the major disbenefit would be the harm caused to the individual heritage assets. Considerable weight should be given to the statutory duties to preserve a listed building or preserve or enhance a Conservation Area but in these appeals the statutory duty would apply to both sides of the balance.
137. *Framework* paragraph 140 refers to securing the future conservation of a heritage asset. The Appellants' CIL compliance note sets out the works that would be carried out as a result of the various enabling works. Unfortunately, in these cases, it indicates that apart from parts of the Gatehouse, no other major historic assets would be restored to a condition capable of beneficial use without further works. The former would therefore attract 'great weight' as set out in *Framework* paragraph 132 but the latter

would provide little benefit to be weighed in the balance as their futures would not be secured.

138. Appeals A-D would all provide houses that are much needed, given the Council's lack of a 5 year housing land supply. However, given the enabling aim of the proposals no affordable housing would be provided which would to some extent reduce the benefit arising from the provision of a significant number of new houses. On the other hand the proposal would help to sustain the local economy and tourism and help support local shops and facilities. Indeed, TDC's aspiration for the Priory is for it to be a major tourist attraction, albeit that this would lead to a greater intensity of use with a corresponding impact on the heritage assets. There would be some employment benefits, predominantly during construction but also due to the provision of holiday lets. The detailed design would comply with the aims of design policies, particularly LP Policy QL9, and the examples of City and Country schemes seen elsewhere demonstrate the quality that their schemes can achieve. Public access, albeit with restrictions, would also be an important benefit.
139. In terms of harm, which both singly and cumulatively would be less than substantial, the main consideration would be the adverse impacts on the significance of the historic assets, 'the other side of the coin' to the benefits of repair. There would also be the moderate adverse effect on education infrastructure and the slight harm to medical infrastructure.
140. There would be no significant adverse impacts or benefits arising from the additional traffic that would be generated, similarly there would be no material effect on ecology. There would be no unacceptable impact on the living conditions of the occupiers of properties on the north side of Mill Street in terms of outlook and privacy, and the effects on views and property prices are not generally a planning consideration.
141. Turning to **Appeal A**, the 23 dwellings would help meet the housing need of the District and produce a contribution of £690,368 towards repairs, of which £324,473 (47%) would fund actual works as opposed to fees, irreclaimable VAT, profit etc. Against this should be weighed the lower moderate long term impact of the proposals on the significance of both the Conservation Area and the open setting of the Park, together with some slight harm to educational and medical infrastructure. I consider that the harm outweighs the benefits in this Appeal.
142. **Appeal B** would generate £1,802,229, of which £847,048 would fund actual works, from its 46 dwellings that would also help to meet local housing need. The other side of the coin is that there would be higher moderate long term harm to both the Conservation Area and the setting of the Park together with some slight harm to educational and medical infrastructure. In this case the harm would clearly outweigh the benefits.
143. The 33 dwellings in **Appeal C** would help satisfy housing need and generate £1,030,983 residual land value of which £484,562 would fund actual works. In this appeal there would be serious harm to the significance of the Conservation Area and the landscape setting of the Priory. Together with the proportion of harm to the educational and medical infrastructure the harm would outweigh the benefits.

144. **Appeal D** would provide 21 flats to help reduce housing need and generate a residual land value of £250,993 of which £164,427 would fund works. The other side of the coin would be that as with Appeal C there would be serious harm to the significance of the Conservation Area and the landscape setting of the Priory.
145. Turning to the Park proposals in **Appeal E**, I have already explained why I do not consider it possible to 'pick and mix' from the buildings proposed within the Park appeal scheme. The regrading works would produce an important benefit which would contribute to reducing the conservation benefit. The 19 buildings would provide £1,116,296, of which £524,659 would fund works. Due to the small number of residential houses, as opposed to holiday lets, there would be a very small benefit to housing provision but a greater contribution to tourism than in Appeals A-D. The harm to the various buildings has been assessed individually but the overall harm would be moderate to high and would outweigh the benefits that would be achieved.
146. As the harm would outweigh the benefits in each of the 5 appeal proposals individually, cumulatively the balance would be the same. The total harm, although less than substantial, would outweigh the total of benefits and Appeals A-E should be refused.

Overall Conclusion

147. Having considered all the matters raised and weighed them in the planning balance I conclude that the harm that would be caused would, in the circumstances of this case, outweigh the undoubted benefits of the proposals and Appeals A to E should all be dismissed. Although 7 Mill Street has a neutral impact on the Conservation Area, the gap left by its demolition would be detrimental to its character and appearance. In these circumstances, there would be no benefit to weigh in the balance against the harm due to demolition as there is no acceptable scheme for its replacement. Whilst the harm would be less than substantial, Appeal G should also be dismissed.

K D Barton

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CD 10.302	Existing Plans, Sections & Elevations
CD 10.303	Proposed Plans, Sections & Elevations
CD 10.304	Alternative Layouts for South End
CD 10.305	West Elevation as approved and as Proposed
CD 10.306	Reinstated Dormer Existing Elevation
CD 10.307	Reinstated Dormer 1st Floor Plan
CD 10.308	Reinstated proposed dormer West Elevation
CD 10.309	Reinstated dormer side elevation Brew House - Offices option
CD 10.310	Existing Plan & Elevation
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CD 10.312 East Elevation Existing and Proposed

Brew House - Residential option

CD 10.313 Proposed site / block plan

CD 10.314 Proposed plans, Section and Elevations

The Dairy

CD 10.315 Existing Ground Floor & 1st floor plans

CD 10.316 Existing Elevations & Section A-A

CD 10.317 Proposed Ground Floor & 1st Floor

CD 10.318 Proposed Elevations & Section A-A

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CD 10.319 Plan

CD 10.320 Elevations & Sections

CD 10.321 Proposed Sections A-A, B-B, C-C & D-D

CD 10.322 Proposed Location Plan

CD 10.323 Proposed Sections A-A, B-B, C-C & D-D

New Garages

CD 10.324 Existing Location Plan

CD 10.325 Existing Sections A-A, B-B, C-C, D-D, E-E

CD 10.326 Proposed location Plan & Roof Plan

CD 10.327 Proposed Section A-A, B-B, C-C, D-D, E-E

CD 10.328 Proposed Part Elevations

CD 10.329 Proposed Location Plan

CD 10.330 Proposed East Elevation & Section D-D

CD 10.331 Proposed Fence Detail garages

Darcy House West Wing

CD 10.332 Existing Ground floor Plans

CD 10.333 Existing 1st Floor Plans

CD 10.334	Existing Roof Plan & Section
CD 10.335	Proposed Ground Floor Plan
CD 10.336	Proposed 1st Floor Plan
CD 10.337	Proposed Roof Plan & Sections
CD 10.338	Proposed Laylight to 1st Floor
CD 10.339	Proposed Patent Glazing
	Darcy House condition clearance
CD 10.340	Proposed amends to approved scheme Gnd Fl plan
CD 10.341	Proposed amends to approved scheme 1st Fl plan
CD 10.342	Proposed amends to approved scheme sections
CD 10.343	Proposed amends to approved scheme section & Elevs
	Darcy House East Wing
CD 10.344	Existing East & South Elevations
CD 10.345	Proposed East & South Elevations
CD 10.346	Existing Ground Floor plan
CD 10.347	Existing 1st Floor Plan
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CD 10.349	Proposed 1st Floor Plan

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CD 10.352	Existing 2nd Floor Plan
CD 10.353	Existing Section & Elevations
CD 10.354	Proposed Ground Floor Plan
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CD 10.357	Proposed Sections & Elevations
CD 10.358	Proposed replacement western stair
CD 10.359	Proposed breakfast room stair & floor The Gate House West Wing
CD 10.360	Existing Ground Floor Plan & Elevation
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CD 10.362	Existing 2nd Floor Plan
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CD 10.371	Proposed ground floor & structural 1st floor plans
CD 10.372	Proposed sections & part south elevation
CD 10.373	Timber frame existing & proposed
CD 10.374	Proposed section D-D West Barn - Office Option
CD 10.375	Existing Ground & 1st Floor Plans
CD 10.376	Existing East, South & West Elevations & Section
CD 10.377	Proposed Ground & 1st Floor Plans
CD 10.378	Proposed East, South & West Elevation & Section
CD 10.379	Proposed Drainage Plan

West Barn - Residential Option

CD 10.380 Alternative proposals Ground & 1st Floor Plans

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Appendix A

CD 10.382 Landscape Character Assessments

Appendix B

CD 10.383 B.1 Extract from ECC HER data

CD 10.384 B.2 Assessment & Site Inspection 2001

Appendix C

CD 10.385 Listed Buildings: Heritage Gateway March 2010 with summary sheet

CD 10.386 Planning History List 11.01.25

CD 10.387 Rev. A: Priory Structures and Listings Plan

CD 10.388 Priory Walls Plan April 2010

CD 10.389 Precinct Planning Consents Plan

CD 10.390 Survey of Conditions Reference Plan

CD 10.391 Priority of Building Repairs Plan

CD 10.392 St Osyth Priory Schedule of Repairs to the Walls

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Appendix D

CD 10.393 D.01 Register of Parks and Gardens of Special Historic Interest: St Osyth Priory, Essex : Citation and Plan no. 1145

CD 10.394 D.01.1 Register of Parks and Gardens of Special Historic Interest: St Osyth Priory, Essex : Plan no. 1145

CD 10.395 D.02 Tree Survey, Arboricultural Implication Assessment & Method Statement

CD 10.396 D.03 LL Tree Removal Schedule

CD 10.397 D.04 Historic Landscape Survey Vol 1, The Report

CD 10.398 D.04 Historic Landscape Survey Vol 2, Archival Sources

CD 10.399 D.04 Historic Landscape Survey Vol 3, Plans & Postcards

CD 10.400	D.05.1 Landscape Conservation Management Plan; St Osyth Priory Gardens, St Osyth, Essex
	D.05.2 Appendices 1, 2 & 3:
CD 10.401	Priory Gardens Phase 1 Survey
CD 10.402	TS & AIA - Area J
CD 10.403	TS & AIA - Area P
CD 10.404	Register of Park & Gardens of historic interest
CD 10.405	Registered park & Garden plan
CD 10.406	Tree Survey & Constraints plan
	D.05.3 Annex 1
CD 10.407	LCMP Figure 1: Priory Gardens: Site Location
CD 10.408	LCMP Figure 2: Priory Gardens: LCMP Character Areas
CD 10.409	LCMP Figure 3: Priory Gardens: Listed Buildings and Scheduled Ancient Monument
CD 10.410	LCMP Figure 4: Priory Gardens: Earthworks
CD 10.411	LCMP Figure 5: Priory Gardens: 1762 Eyre plan
CD 10.412	LCMP Figure 6: Priory Gardens: 1814 St Osyth Parish Plan
CD 10.413	LCMP Figure 7: Priory Gardens: 1874 OS plan
CD 10.414	LCMP Figure 8: Priory Gardens: 1897 OS plan
CD 10.415	LCMP Figure 9: Priory Gardens: Existing Planning Permissions
CD 10.416	City & Country CC-0175-PW001: Priory Walls Plan 2010
CD 10.417	LCMP Figure 10: Priory Gardens: Vegetation survey of Estate walls 1 of 3
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CD 10.419	LCMP Figure 12: Priory Gardens: Vegetation survey of Estate walls 3 of 3
CD 10.420	LCMP Figure 13: Priory Gardens: Master Plan
CD 10.421	LCMP Figure 14: Priory Gardens: Tree Survey
CD 10.422	LCMP Figure 15: Priory Gardens: Access and Circulation Strategy
CD 10.423	D.06 Report of an assessment of the soils in the mineral workings areas at St Osyth Park, Essex
CD 10.424	D.07 Report of an assessment of the restoration of agricultural land at Lodge Piece, St Osyth Park, Essex

- CD 10.425 D.08 Repair of Estate Tracks
- CD 10.426 D.09 Nun's Wood Management Proposals
- CD 10.427 D.10 CMP Table 1 Implementation of Landscape Works
- CD 10.428 D.011 Registered Park and Garden Plan
- CD 10.429 D.11 CMP Table 2 Key Views within the Park

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CBRE:

- CD 10.430 Proposed Enabling Development Report
- CD 10.431 Review of Marketing
- CD 10.432 City & Country Response to CBRE Report
- Appendices A-R for City & Country Response to CBRE Report:
- CD 10.433 Appendix A DRAFT St Osyth meeting notes
- CD 10.434 Appendix B Letter to John Neale
- CD 10.435 Appendix C DRAFT St Osyth CBRE meeting notes
- CD 10.436 Appendix D Response from John Neale to Tim Sargeant
- CD 10.437 Appendix E Owners guide to Vacant historic buildings
- CD 10.438 Appendix F St O market testing CBRE report Final
- CD 10.439 Appendix G Marketing Recommendations Letter
- CD 10.440 Appendix H Minutes of meeting between CBRE, English Heritage, TDC & City & Country
- CD 10.441 Appendix I Marketing Report covering letter
- CD 10.442 Appendix I Private and Confidential St Osyth Priory Interim Marketing Report Final
- CD 10.443 Appendix J St O Tender letter
- CD 10.444 Appendix J St Osyth - Tender Letter List
- CD 10.445 Appendix K St O Marketing V3
- CD 10.446 Appendix L Article From Issue 67 of Planning in London Magazine
- CD 10.447 Appendix M EH Guidance on Disposals
- CD 10.448 Appendix N OCG Guide for disposal of surplus property

- CD 10.449 Appendix O TDC Local Plan Inspectors Report
- CD 10.450 Appendix P RWLP Gary Pullan letter
- CD 10.451 Appendix Q CBRE Draft Letter Report
- CD 10.452 Appendix R CBRE Review of marketing campaign

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- CD 10.453 Covering letter to TDC regarding the original planning submission
- CD 10.454 Statement of Heritage Significance of The St Osyth Priory Estate and Surroundings
- CD 10.455 Statement of Community Engagement
- CD 10.456 Statement of Community Engagement – Addendum
- CD 10.457 Supporting Planning Statement
- CD 10.458 Sustainability Report
- CD 10.459 Transport Assessment
- CD 10.460 S106

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- CD 10.461 Condition Survey 2009 Revision C

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- CD 10.462 BNP Paribas Report
- CD 10.463 Appendix 1 - Agreed Document List
- CD 10.464 Appendix 2 - McBains Cooper Cost Plan
- CD 10.465 Appendix 3 - BCIS Costs
- CD 10.466 Appendix 4 - Appraisal Summaries
- CD 10.467 Conservation Deficit Report & appendices
- CD 10.468 Appendix A – Listed Building Listing Descriptions
- CD 10.469 Appendix B – Schedule of Planning & Listed Buildings Consents
- CD 10.470 Appendix C – Estate Master Plan
- CD 10.471 Appendix D – Historic Core Plan

- CD 10.472 Appendix E – Essex Record Office Entry
- CD 10.473 Appendix F – Revenue Comparables
- CD 10.474 Appendix G – Proposed Repairs Programme
- CD 10.475 Main Report & appendices
- CD 10.476 Appendix A – Bidwells’s Letter dated 14.03.2011 & Development Schedules
- CD 10.477 Appendix B – McBainbs Cooper Letter dated 24.02.2011 and cost plan summary
- CD 10.478 Appendix C – Schedule of Planning & Listed Buildings Consents
- CD 10.479 Appendix D – Estate Master Plan
- CD 10.480 Appendix E – Historic Core Plan
- CD 10.481 Appendix F – Proposed Repairs Programme

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- CD 10.482 Topographical Survey - ALS4544-200-31 to 36 & ALS4544-500-1 to 14

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- CD 10.482 Topographical Survey - ALS4544-500-15 to 30 & ALS4928-500-01 to 06

Folder 11

- CD 11.1 National Planning Policy Framework
- CD 11.2 National Planning Practice Guidance (Extracts)
- CD 11.3 PPS5 – Planning for the Historic Environment Planning Practice Guide
- CD11.4 English Heritage ‘Guidance on Enabling Development and the Conservation of Significant Places’
- CD 11.5 English Heritage ‘Historic Environment Good Practice Advice Notes’ (consultation drafts)
- CD 11.6 English Heritage ‘The Setting of Heritage Assets’
- CD 11.7 RICS ‘Financial Viability in Planning - First Edition’
- CD 11.8 Landscape Institute/Institute of Environmental Management and Assessment Guidelines for Landscape and Visual Impact Assessment, Third Edition
- CD 11.9 English Heritage Conservation Principles, Policies and Guidance
- CD 11.10 English Heritage Enabling Development Guidance 1999

Folder 12

- CD 12.1 Tendring District Replacement Local Plan and saving direction

- CD 12.2 2012 Draft Tendring Local Plan (as amended by the 2014 Focussed Changes)
- CD 12.3 St Osyth Conservation Area Appraisal and Management Plan
- CD 12.4 Essex Design Guide
- CD 12.5 Essex County Council Parking Standards Design and Good Practice
- CD12.6 Local Wildlife Site Review (TE57)
- CD 12.7 Tendring District Council - Local Plan Committee 21 October 2014 - report of the head of planning

Folder 13

- CD 13.1 St Osyth Building Preservation Trust – Bringing a Vision to Life
- CD 13.2 Report on proposed costs for works to repair and convert existing structures within priory precinct and associated new build enabling development
- CD 13.3 City & Country response to RNJ August 2012 report
- CD 13.4 R (Cherkley Campaign Ltd) v Mole Valley District Council [2014] EWCA Civ 567
- CD 13.5 English Heritage’s Historic Buildings report, St Osyth Priory
- CD 13.6 Letter from Jane Asquith at CBRE re: REVIEW OF BNP PARIBAS REPORT

Folder 14

- CD 14 Conservation Management Plan Report

Appellant’s Documents

- AP/1 Statement of Case
- AP/2 Opening Submissions
- AP/3A Dr Chris Miele’s Proof of Evidence
- AP/3B Dr Chris Miele’s Summary Proof of Evidence
- AP/3C Appendices to Dr Chris Miele’s Proof of Evidence
- AP/3D Dr Chris Miele’s Rebuttal Proof of Evidence
- AP/3E Appendix 7 to Dr Chris Miele’s Rebuttal Proof of Evidence
- AP/3F ES 10.3 overlayed with 1874 OS Plot lines
- AP/3G Photograph of 69 Mill Street
- AP/3H Proposed Priority of Works
- AP/3I Barnfield Report and Decision APP/M1900/V/2192045
- AP/3J Transcript of TDC Planning Committee Meeting 21 January 2015
- AP/4A Design Statement of Ian Dieffenthaler Within AP/3C App 2
- AP/5A Anthony Lee’s Proof of Evidence
- AP/5B Anthony Lee’s Summary Proof of Evidence Within AP/5A
- AP/5C Appendices to Anthony Lee’s Proof of Evidence Within AP/5A

AP/5D	Anthony Lee's Rebuttal Proof of Evidence (Financial Viability)
AP/5E	Anthony Lee's Rebuttal Proof of Evidence (CBRE Report)
AP/5F	Residual Land Values
AP/5G	Conservation Deficit
AP/5H	External Works The Applicants Case
AP/5I	Covering E-Mail
AP/5J	Note on External Works
AP/6A	McBains Cooper Audit Report Within AP/5A
AP/6B	Summary of McBains Review Within AP/5A
AP/6C	Appendices to McBains Audit Report Within AP/5A
AP/7A	Helen Moore's Proof of Evidence
AP/7B	Appendices to Helen Moore's Proof of Evidence Within AP/7A
AP/8A	John Boyd's Proof of Evidence
AP/8B	John Boyd's Summary Proof of Evidence
AP/8C	Appendices to John Boyd's Proof of Evidence
AP/8D	John Boyd's Rebuttal Proof of Evidence
AP/8E	Unsigned Agreed Statement of Common Ground on Heritage Matters
AP/8F	12 January Draft Statement of Common Ground
AP/8G	Letter of withdrawal re visitor centre
AP/8H	Draft Statement of Common Ground on Planning Matters
AP/8I	Note on how Statutory Requirements have been met
AP/8J	Note on Mitigation Measures
AP/9A	Michael Bedwell's Proof of Evidence
AP/9B	Michael Bedwell's Rebuttal Proof of Evidence
AP/9C	Highways Statement of Common Ground
AP/9D	2nd Highways Statement of Common Ground
AP/9E	Essex County Council Highways consultation response re Tithe Barn application
AP/10A	Carlos Abrahams' Proof of Evidence
AP/10B	Carlos Abrahams' Summary Proof of Evidence Within AP/10A
AP/10C	Written Statement
AP/10D	Addendum Written Statement
AP/11A	Michelle Bolger's Proof of Evidence
AP/11B	Michelle Bolger's Summary Proof of Evidence
AP/11C	Appendix 1 to Michelle Bolger's Proof of Evidence (A3)
AP/11D	Appendices 2-6 to Michelle Bolger's Proof of Evidence
AP/11E	Michelle Bolger's Rebuttal Proof of Evidence
AP/11F	Note on Funding of Landscape Proposals

AP/12A	David Sargeant's Proof of Evidence
AP/12B	David Sargeant's Summary Proof of Evidence Within AP/12A
AP/12C	Appendices to David Sargeant's Proof of Evidence Within AP/12A
AP/12D	Copies of Notices relating to the Bury
AP/12E	Bundle of photographs of St Osyth Priory 28 January 2015
AP/12F	Bundle of photographs of St Osyth Church
AP/12G	Letter to Mr Le Gry
AP/12H	Letter from Year 6 of St Osyth School
AP/12I	Extract from St Osyth Priory Contract Documents
AP/13A	Tim Sargeant's Proof of Evidence
AP/13B	Tim Sargeant's Summary Proof of Evidence Within AP/13A
AP/13C	Appendices to Tim Sargeant's Proof of Evidence Within AP/13A
AP/13C	Appendix 6 to Tim Sargeant's Proof of Evidence bound separately
AP/13D	Tim Sargeant's Rebuttal Proof of Evidence and Appendices
AP/13E	Advice re contract with English Heritage
AP/13F	Bundle of E-mails
AP/13G	Bundle of letters
AP/13H	Bundle of Photographs
AP/13I	Screenshot from Parish Council's Website
AP/13J	Minutes of Parish Council Meeting 19 July 2007
AP/13K	E-mail trail re National Trust interest in the Priory
AP/13L	Draft Unilateral Undertaking
AP/13M	Three Peoples Popular Front of Toosey documents
AP/13N	Amended Draft Unilateral Undertaking
AP/13O	Draft S106 Agreement
AP/13P	Tim Sargeant's Rebuttal Proof of Matters Raised at the Evening Session
AP/13Q	Hold Scenario Spreadsheet
AP/13R	Distribution list for Letter
AP/13S	Liaison Group Contact List
AP/13T	Liaison Group Letter
AP/13U	Map annotated with Mr Smith's Enabling Sites
AP/13V	Draft S106 Agreement
AP/13W	CIL Compliance Note and Restoration Works Calculation Spreadsheet
AP/13X	Amended Draft S106 Agreement inc revised Plan 7 Park Access Plan
AP/14	Closing Submissions on behalf of the Apellants
AP/15A	Appellant's Notification of a Costs Application against Save Our St Osyth
AP/15B	Appellant's Notification of a Costs Application against St Osyth Parish Council

AP/15C	Appellant's Notification of a Costs Application against English Heritage
AP/15D	Appellant's Notification of a Costs Application against Tendring D C
AP/16A	Appellant's Application for Costs Against Save Our St Osyth
AP/16B	Appellant's Application for Costs Against St Osyth Parish Council
AP/16C	Appellant's Application for Costs Against English Heritage
AP/16D	Appellant's Application for Costs Against Tendring D C
AP/17A	Final Comments on Appellant's Application for Costs against Save Our St Osyth
AP/17B	Final Comments on Appellant's Application for Costs against St Osyth Parish Council
AP/17C	Final Comments on Appellant's Application for Costs against English Heritage
AP/17D	Final Comments on Appellant's Application for Costs against Tendring District Council
AP/18	Witness Statement of Richard Winsborough

Tendring District Council's Documents

DC/1	Statement of Case
DC/2	Opening Submissions
DC/3A	Paul Drury's Proof of Evidence
DC/3B	Paul Drury's Summary Proof of Evidence
DC/3C	Appendices to Paul Drury's Proof of Evidence
DC/3D	Paul Drury's Rebuttal Proof of Evidence
DC/3E	Letter to Mr Drury dated 6 January 2015 from David Geddes Colliers International
DC/3F	Update of Tables at 5.4 of Drury's Proof
DC/3G	Extract from Draft S106
DC/4A	Gary Guiver's Proof of Evidence
DC/4B	Gary Guiver's Summary Proof of Evidence
DC/4C	Gary Guiver's Rebuttal Proof of Evidence
DC/4D	Visitor Centre Planning Permission 14/01008/FUL 9 January 2015
DC/4E	Visitor Centre Listed Building Consent 14/01009/LBC 9 January 2015
DC/4F	Tendring District Local Plan 2007
DC/4G	Tendring District Local Plan Proposed Submission Draft Written Statement
DC4H	Tendring District Local Plan Proposed Submission Draft Written Statement Major Changes
DC/4I	Tendring District Local Plan Proposed Submission Draft Written Statement Minor Changes
DC/4J	Earls Hall Farm Windfarm decision
DC/4K	List of suggested conditions
DC/4L	Amended List of Suggested Conditions 5 February
DC/4M	Amended List of Suggested Conditions 6 February
DC/4N	Emerging Policy relating to suggested condition on Local Recruitment
DC/4O	Amended List of Suggested Conditions 9 February
DC/5	Closing Submissions on behalf of Tendring D C

DC/6 Tendring D C's Response to the Applicant's Costs Application

English Heritage's Documents

EH/1 Statement of Case
EH/2 Opening Submissions
EH/3A John Neale's Proof of Evidence
EH/3B John Neale's Summary Proof of Evidence Within EH/3A
EH/3C Appendices to John Neale's Proof of Evidence
EH/3D John Neale's Rebuttal Proof of Evidence and Appendices
EH/3E Extract from Tendring Revised Deposit Draft Local Plan subject of footnote in proof
EH/3F Summary of S106 proposal subject of footnote in proof
EH/3G Mr Neales Proof from Bradwell on Sea Inquiry
EH/4 Closing Submissions on behalf of English Heritage
EH/5 English Heritage's Response to the Applicant's Costs Application

St Osyth Parish Council's Documents

PC/1 Statement of Case
PC/2 Opening Submissions
PC/3A Sonia Grantham's Proof of Evidence
PC/3B Sonia Grantham's Summary Proof of Evidence
PC/3C Appendices to Sonia Grantham's Proof of Evidence
PC/3D Sonia Grantham's Rebuttal Proof of Evidence and Appendices
PC/3E Parish Council's comments on S106
PC/3F Parish Council's comments on the Highways Statement of Common Ground
PC/3G Extract from 1012 Draft Local Plan Focus Changes
PC/3H Transport Statement from Tithe Barn Application
PC/3I Bundle of Correspondence
PC/3J Quinquennial Report 2013
PC/4A Guy Smith's Proof of Evidence
PC/4B Not Used
PC/4C Appendices to Guy Smith's Proof of Evidence
PC/4D Guy Smith's Rebuttal Proof of Evidence
PC/4E E-mail trail with English Heritage
PC/5A Simon Talbot's Proof of Evidence
PC/5B Not Used
PC/5C Appendices to Simon Talbot's Proof of Evidence
PC/5D Simon Talbot's Rebuttal Proof of Evidence
PC/5E Letter from Fenn Wright dated 21 January 2015
PC/5F Memorandum of Understanding re Gift of Land to St Osyth Building Preservation Trust

PC/5G	Letter from English Heritage to Mr & Mrs French
PC/5H	Letter from Mr & Mrs French
PC/6A	Dr Prashant Arora's Proof of Evidence
PC/6B	Dr Prashant Arora's Rebuttal Proof of Evidence
PC/7	Closing Submissions on behalf of St Osyth Parish Council
PC/8	St Osyth Parish Council's Response to Appellant's Costs Application

Save Our St Osyth's Documents

SOS/1	Statement of Case
SOS/2	Opening Submissions
SOS/3A	Peter Le Grys' Proof of Evidence
SOS/3B	Not Used
SOS/3C	PLG 1-4 Appendices to Peter Le Grys' Proof of Evidence
PLG6	Maps and photographs
PLG7	Listed Building consent 00/00702/LBC dated 17 August 2000
PLG8	Sites for accompanied visit
PLG8A	Amended Sites for accompanied visits
PLG9	St Osyth Priory Estate Newsletter Edition 2
SOS/4	Closing Submissions on behalf of Save Our St Osyth
SOS/5	SOS Response to Appellant's Costs Application

Interested Persons Documents

IP/1	Andy May's Statement
IP/2	Mr Grantham's e-mail from Mr Sergeant
IP/3	Bundle of submissions read out at Evening Session
IP/4	Bundle of written submissions

Inquiry Documents

ID/1	Agenda for Pre-Inquiry Meeting
ID/2	Guidance for Document Preparation and Numbering
ID/3	Notes of Pre-Inquiry Meeting