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**Response to Supplement 2 of the South Cambridgeshire Matter SC1
Hearing Statement SCDC.****Castlefield International Ltd****Respondent No 18235****22 June 2017****22 JUN 2017**

This summary responding statement is submitted on behalf of Castlefield International Ltd, pursuant to the relevant hearings relating to Matter SC1 (1.3C Fulbourn) held during the week of 5th June 2017.

Following the judgement on the '*Richborough Estates*' case, delivered on 10th May 2017, there has understandably been a move within the development industry to seek increased clarity on a number of the issues raised by the Supreme Court. Helpfully there is now a wealth of commentary available from leading legal commentators, as well as from the principal *Richborough* advocates themselves, to help assist in the correct interpretation of these matters.

Our understanding of the available legal commentary and its contextual relevance to the omission site at Teversham Road is as set out below:

Whilst we accept that the range of policies that are considered to be 'relevant policies for the supply of housing' was judged to be narrower by the Supreme Court than by the Court of Appeal, the Supreme Court also made clear that the Courts should not set about defining 'policies for the supply of housing.' Lord Carnwarth, in particular, made clear that there was no need for a legal interpretation of 'policies for the supply of housing' albeit that the Supreme Court took on that occasion the view that this meant policies dealing only with the numbers and distribution of housing (the 'narrow' interpretation).

The Court held that the important question is not how to define individual policies, but whether the result is a five year supply in accordance with the objectives of paragraph 47 of the NPPF. If there is a failure in that respect, it then matters not whether the failure is attributable to policies directly concerned with housing provision, or because of the over-restrictive nature of any other non-housing policies. The shortfall is simply enough to trigger the operation of the second part of paragraph 14.

As the Court of appeal also recognised, the Supreme Court held that it is paragraph 14, not paragraph 49, which provides the substantive advice by which the development plan policies and other material considerations relevant to the application are expected to be assessed. It is for

this reason that Richborough Estates won their case in the Supreme Court and the development of 146 houses within the protected Green Gap between Willaston and Crewe, outside the settlement boundary, was upheld. Whilst the Green Gap was not itself judged to be a 'relevant policy for the supply of housing' the settlement boundary was based on out-of-date housing requirements and paragraph 14 was engaged.

Lord Carnwarth held (on the correct operation of NPPF paragraph 14) that in the absence of relevant up-to-date development plan policies, *'the balance is tilted in favour of the grant of planning permission, except where the benefits are significantly and demonstrably outweighed by the adverse effects or where specific policies indicate otherwise'*.

The key message arising from the Richborough Estates judgement is that it is sufficient for an applicant or appellant to show that there is no five year housing land supply. Once that has been achieved, it provides an automatic answer to whether relevant policies are out of date, such that the tilted balance applies under NPPF paragraph 14. Furthermore, where any settlement boundaries are based on out-of-date requirements they can be given reduced weight in decision making and this was key to the success of the scheme at Willaston.

When applying the *Richborough* principles to the Castlefield International Ltd omission site at Teversham Road, two key factors emerge:

Firstly; the operational nature of a village framework for a minor rural centre is much more restrictive in terms of permissible housing numbers for windfall development, than that of a rural centre. Indeed Policy S/9 sets a maximum scheme size of only 30 dwellings within minor rural centres, as opposed to redevelopment without any limit on individual schemes within rural centres.

Accordingly, as stated in our verbal representations to the Inspector at the Fulbourn hearing session in matters relating to village classification, we consider that in this instance, the move to downgrade Fulbourn from a rural centre to a minor rural centre is a 'relevant policy for the supply of housing' as the intended policy amendment is specifically designed to reduce future housing supply in this location.

Therefore whilst the council itself does not consider village classification and framework policies to be 'relevant policies for the supply of housing', in principle, where a strategic revision is proposed (as it is with Fulbourn) which has the effect of limiting the potential for future housing supply, then by any reasonable judgement this type of policy reconfiguration must logically be a relevant policy for the supply of housing, even using the narrow definition.

Secondly; as the Council acknowledges that (outside of the MOU) it does not have a five year supply of housing (and recent Annual Monitoring evidence suggests that this position is materially declining) the existing village boundary of Fulbourn, which is designed to constrain development, can only be given very limited weight at this time. This is analogous to the Willaston case, albeit that the land in question at Teversham Road is not within a defined Green Gap.

In conclusion, whilst it is clear that the scope of 'relevant policies for the supply of housing' may have narrowed, the presumption in favour of sustainable development and the tests required by paragraph 14 of the NPPF remain fully in force. Furthermore, settlement boundaries which were conceived within the context of earlier outdated Local Plans cannot be used to constrain future development where there is a lack of a five year housing land supply, unless specific policies or other relevant material considerations indicate otherwise. This is not the case in Fulbourn.

Finally where general settlement policies are applied which have the effect of restricting the future supply of housing from that enjoyed by the current position (as made clear in their wording) then these settlement wide policies are relevant policies for the supply of housing, if they are applied.

The *Richborough* case therefore has no direct bearing on the validity of Mr Wildsmith's appeal decision in November 2016 as the five year supply remains further in default, such that the maintenance of the existing village boundary in this location can be given very little weight.

STEVEN KOSKY

Planning Director