
Appeal Decision

Inquiry held on 12-15, 19 & 20 April 2016

Site visit made on 18 April 2016

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 25 May 2016

Appeal Ref: APP/W1525/W/15/3049361

Land off Plantation Road, Boreham, Essex CM3 3EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Limited against the decision of Chelmsford City Council.
 - The application Ref 14/01552/OUT, dated 16 September 2014, was refused by notice dated 15 May 2015.
 - The development proposed is described as outline planning application for demolition of existing buildings (10 & 12 Plantation Road) and the residential development of up to 145 residential dwellings, open space, landscaping, associated infrastructure including means of access.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of existing buildings (10 & 12 Plantation Road) and the residential development of up to 145 residential dwellings, open space, landscaping, associated infrastructure including means of access at Land off Plantation Road, Boreham, Essex CM3 3EA in accordance with the terms of the application, Ref 14/01552/OUT, dated 16 September 2014, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the details relating to these reserved matters submitted with the application as a guide as to how the site might be developed.
3. The Council confirmed at the start of the Inquiry that, notwithstanding the wording of the second reason for refusal, the appeal proposal does not conflict with the Boreham Village Design Statement (BVDS). Furthermore, while the first refusal reason refers to the Council having an Interim Housing Target of 800 dwellings per annum (dpa), as set out in the Housing Land Supply subsection it now considers the full objectively assessed need for its area to be 775 dpa. I have, therefore, considered the appeal on that basis.

4. During the Inquiry the appellant and the Council submitted a signed Planning Obligation¹, dated 20 April 2016, pursuant to Section 106 of the Town and Country Planning Act 1990 (the S106 Agreement). In the event that planning permission is granted and implemented the S106 Agreement would secure the provision of affordable housing; a residential travel plan; a financial contribution towards secondary school transportation; and on-site open space and play equipment along with its maintenance. I have had regard to the S106 Agreement during my consideration of the appeal.

Main Issues

5. The main issues are:
 - Whether or not the Council is able to demonstrate a five-year supply of housing land for the area;
 - The effect of the appeal scheme on the Council's Borough-wide Spatial Strategy;
 - Its effect on the character and appearance of the area;
 - Whether the necessary infrastructure can be delivered to accommodate the proposals, with particular regard to primary school education; and
 - Whether any harm arising is outweighed by any considerations including whether or not there is a National Planning Policy Framework compliant supply of housing land in the area.

Background

Site Context

6. The appeal site is located on the eastern edge of Boreham, a village located some 3.7 miles north east of Chelmsford and approximately 5 miles west of Witham. The site measures some 6.86 hectares in area and largely comprises a single arable field located immediately beyond the rear gardens of the existing residential properties that line the eastern side of Plantation Road and the northern side of Church Road. It also includes 10 and 12 Plantation Road, two existing dwellings that would be demolished to create the proposed vehicular access. With the exception of nos 10 and 12, the site lies a little beyond the Defined Settlement Boundary of Boreham as identified in the development plan, as does the open countryside to the north, east and south.
7. In general terms, Boreham stands on relatively high ground forming the northern slope of the River Chelmer Valley and is largely contained to the north by the A12. The village has a range of services including Boreham Primary School, a doctors' surgery, a recreation ground, pubs, a church, a health club, a post office, a village hall and convenience stores. The bus services in Boreham connect to Chelmsford and its railway station, Witham, Hatfield Peverel railway station and Marks Tey railway station. Services also connect to Colchester and Broomfield Hospital. These services and bus stops are all within reasonable walking distance of the site.
8. There is a public footpath, ref 213_38, to the northern boundary and vegetation with rough grassland beyond. Rights of way also run adjacent to

¹ Inquiry Document 22

the eastern and southern site boundaries, refs 213_39 and 213_40 respectively, beyond which there lies open countryside. These paths wrap around the site connecting to Plantation Road and Church Road and also provide access to the extensive rights of way network in the surrounding countryside.

9. The appeal site comprises 'best and most versatile agricultural land' and is predominantly at sub-grade 3a. There are also a number of heritage assets within its vicinity. The Church of St Andrew, listed at grade I, is located some 200 metres to the west of the nearest part of the site. There is, to the south of Church Road, also Old Barn and its associated Barn, both individually listed at grade II, some 70 metres to the south of the site as well as Shottesbrook, listed at grade II, some 15 metres to the southwest. Church Road Conservation Area is also located to the south west of the site and stands some 80 metres away at its closest point.

Policy Context

10. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Paragraph 14 sets out how this presumption is to be applied and indicates that development proposals which accord with the development plan should be approved without delay, while going on to say that where it is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
11. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. Applications for housing should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The main parties agree that, for the purposes of this appeal at least, there is not a Framework compliant supply of housing land, albeit that they have divergent positions regarding the scale of the shortfall. The Council's evidence also points to a greater than 5 year supply of housing land measured against the housing target of the development plan.
12. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. The development plan for the area includes the Core Strategy and Development Control Policies Development Plan Document, February 2008 (the CS & DC DPD), the Site Allocations Development Plan Document, February 2012 (the Allocations DPD) and the Community Infrastructure Levy Charging Schedule, February 2014 (the CIL Schedule). The CS & DC DPD was the subject of a Focussed Review, which also forms part of the development plan following its adoption in December 2013.
13. The Focussed Review amends a number of the policies in the CS & DC DPD to bring them into line with the Framework; it has been through Examination and found sound. Given that the CS & DC DPD and the Focussed Review must be

read together and for ease of reference I refer to them collectively as the Core Strategy. The plan period for the Core Strategy and the Allocations DPD runs to 2021. The reasons for refusal indicate that the appeal development would be contrary to Policies CP1, CP2, CP4, CP5 and DC2 of the Core Strategy. These are the most pertinent development plan policies to the appeal proposal.

14. Policy CP1 states that the Council will promote and secure sustainable development and adds that this means linking housing and employment needs and directing development to locations supported by effective transport provision, leisure, community and other essential services, whilst minimising damage to the environment and actively securing environmental enhancements. The Policy continues using similar language to that of the Framework, particularly that of paragraph 14.
15. Policy CP2 identifies a minimum requirement of 14,000 (net) new dwellings in the period 2001 to 2021, the equivalent of 700 dpa. The Policy also makes provision for 16,170 (net) new dwellings in the period 2001 to 2021. Additionally, Policy CP2 sets out the Borough-wide Spatial Strategy for the area. In broad terms this is that new development will make the best use of previously developed land and buildings and follow a sequential approach to the sustainable location of development with the Urban Areas of Chelmsford and South Woodham Ferrers as the main focus supported by appropriate development within nine Key Defined Settlements, which include Boreham, and with the remaining housing requirement to be in the form of new neighbourhoods to the north of Chelmsford's Urban Area via an Area Action Plan (AAP).
16. Policy CP4 states that all new development shall meet the necessary on and off-site infrastructure requirements to support the development and mitigate its impact on existing community interests. Education provision to serve new and existing communities is among the key infrastructure requirements identified therein. The standard charges and formulae referred to in the Policy are, at least in part, replaced by the subsequently adopted CIL Schedule and associated Regulation 123 List².
17. Policy CP5 says that urban growth will be contained by defining the physical limit of defined settlements, which include Boreham. Within the rural areas beyond the Metropolitan Green Belt, such as the appeal site, the Council will protect the intrinsic character and beauty of the countryside, while supporting rural communities and economies. Paragraph 3.3 of the Focussed Review says that the objective of this amended policy is to ease restrictions placed on development within the rural area beyond the Green Belt. Paragraph 3.4 says that the policy seeks to prevent the erosion of the intrinsic beauty and character of the countryside from inappropriate forms of development.
18. Policy DC2 sets out the types of development for which planning permission will be granted in such areas, albeit subject to the caveat that the intrinsic character and beauty of the countryside is not adversely impacted upon. Supporting paragraph 3.15 says that the objective of the amended policy is the same as that for Policy CP5.
19. The Core Strategy housing requirement was formulated well before the advent of the Framework and stems from the now revoked Regional Spatial

² CD 8.5.2

Strategy (RSS). In view of the relevant legal cases on housing land-supply, such as the Barwood judgment³, a revoked RSS is not a basis for the application of a constraint policy to the assessment of housing needs, because it has been revoked and cannot be part of the Development Plan. The same would be true of an out of date Local Plan which did not set out the current full objectively assessed needs. Until the full, objectively assessed needs are qualified by the policies of an up to date Local Plan, they are the needs which go into the balance against any Framework policies. It is at that stage that constraints or otherwise may apply. In these circumstances, therefore, the housing requirement of the Core Strategy cannot be said to be up to date in the terms of the Framework.

20. There is also an emerging local plan in the form of the Chelmsford Local Plan: Issues and Options Consultation Document, November 2015 (the eCLP), the consultation period for which ended in January 2016. As it is still at an early stage in the plan-making process it carries only limited weight.

Reasons

Housing Land Supply

21. As outlined in the preceding sub-section, the housing requirement of the Core Strategy is not up to date in the terms of the Framework. Consequently, in line with the relevant legal authorities, it is for me to assess the housing need in order to properly determine the appeal in accordance, among other things, with paragraph 47 of the Framework.
22. The main parties disagree over whether or not the Council can demonstrate a five-year supply of housing land for the area. They have, nonetheless, found a considerable amount of common ground on this matter, which is set out in the Housing Land Supply Statement of Common Ground and the Supplementary Statement of Common Ground. Both of these documents were agreed and submitted during the course of the Inquiry⁴.
23. Notable areas of agreement include that the starting point calculation for the full objectively assessed need (the FOAN) should be re-based from 2013/14 in order to align with the demographic projection base date, any shortfall in housing delivery since then should be dealt with during the five-year period following the Sedgefield approach, a 20% buffer should be applied due to past persistent under-delivery and the relevant five-year period should be 2015/16 to 2019/20. Ultimately, the appellant did not contest the Council's evidence regarding affordable housing in terms of its potential influence on the FOAN. Nor did it contest the Council's housing delivery evidence for that five-year period such that the supply would amount to 6095 dwellings over those five years. I have found no good reason to take a different position on any of these considerations.
24. Based on this projected level of housing delivery and on the Council's calculation of the existing shortfall since 2013/14 of 254 dwellings, the Council would be able to demonstrate a Framework compliant supply of housing land with a FOAN of up to 965 dpa.

³ South Northamptonshire Council v Secretary of State for Communities and Local Government, Barwood Land and Estates Limited, 10 March 2014, EWHC 573 (Admin)

⁴ Inquiry Documents 13 & 15 respectively

25. Notwithstanding the common ground found in respect to housing land supply, important differences remain between the parties on this matter. The Council maintains that the FOAN equates to 775 dpa, while the appellant considers it to be 1129 dpa, respectively well-below and well-above the five-year housing land supply 965-966 dpa 'tipping point' referred to in the preceding paragraph.
26. The difference between the parties' preferred FOANs is 354 dpa, which by the end of the Inquiry was essentially due to two areas of disagreement. Firstly, headship rates, which account for 109 dpa, with the remaining 245 dpa due to differing approaches to economic activity rates (EAR). When these two figures are added separately to the Council's preferred FOAN it results in totals of 884 dpa and 1020 dpa respectively, which fall either side of the 'tipping point'. I deal firstly with economic activity rates as the additional 245 dpa promoted by the appellant would alone cause the housing land supply to fall below the five years required by the Framework.
27. Regarding EAR the Planning Practice Guidance (the PPG) requires an *assessment of the likely changes in job numbers based on past trends and/or economic forecasts as appropriate and also having regard to the growth of the working age population in the housing market area*⁵. Both parties used job growth projection of 887 jobs per annum.
28. My attention has been drawn to other appeal decisions and, in respect to this aspect of the evidence, notably to those concerning residential development at Muxton, Telford and Ormesby, Middlesbrough⁶. These appeals were considered and determined at a similar point in time, such that it is very likely that each would have been considered/made without knowledge of the other. The respective Inspectors have taken a somewhat different approach to EAR, which is unsurprising in the circumstances. At the Muxton appeal the FOAN witnesses were the same as those for this appeal, Ms Howick and Mr Donagh, whereas of these witnesses only Ms Howick gave evidence at the Ormesby appeal.
29. In the context of EAR, the Muxton appeal Inspector set out that *if the appellant had been able to demonstrate obvious shortcomings that would have affected my assessment of the reliability of the OAN ... but on the basis of the evidence I heard, I do not consider that the appellant's criticisms were sufficiently well founded to suggest the Council's OAN was unreliable and I shall treat the OAN as the best indicator of housing need that is available*.
30. There are, nonetheless, clear parallels between the Ormesby appeal and the appeal that is before me regarding EAR, particularly in respect to labour supply and migration. These matters are considered in some detail at paragraphs 14 to 21 of the Ormesby appeal decision letter. In broad terms in the Ormesby case the appellant's FOAN witness preferred the Office for Budget Responsibility (OBR) projections in favour of those of Experian as used by Ms Howick in that case.
31. The circumstances of the current appeal are similar in that Ms Howick prefers EEFM's rates to the OBR rates and, like the Experian rates in the Ormesby case, they are markedly above those of the OBR. I note that the evidence indicates that OBR figures are used by the Government in the most important

⁵ PPG Reference ID: 2a-018-20140306

⁶ Appeal References: APP/C3240/W/15/3010085 dated 10 March 2016 and APP/V0728/W/15/3018546 dated 9 March 2016 respectively

activities of the State. In this case the appellant has also submitted rates of EU and KCC. As these are broadly consistent with the OBR rates, they too are significantly exceeded by the EEFM rates. I also note that the 'current' EEFM EAR is markedly above that of EEFM's previous EAR⁷.

32. In my view, as in the Ormesby case, the OBR projections give good reason to doubt the EAR rates assumed by the Council; a conclusion which is supported in this case by the EU and KCC projections as well as by past EEFM projections. I have not found anything within what I have read and heard during the appeal process that gives me good reason to justify reliance on the Council's significantly higher rates in the face of this evidence. Consequently, I consider that the EEFM predictions are likely to be unrealistic and that greater weight should be attached to the EU, KCC and OBR evidence.
33. For these reasons, therefore, on the evidence before me it is appropriate to include in the FOAN the additional 245 dpa identified by the appellant arising from its EAR evidence. When added to the Council's preferred rate of 775 dpa this results in an annual FOAN of 1020 or 5100 over five years. Applying the Council's preferred current shortfall figure of 254 dwellings and the 20% buffer following the Sedgefield approach results in a five-year requirement of some 6425 homes. Setting this figure against the projected housing delivery of 6095 dwellings results in a shortfall of some 330 homes for the period 2015/16 to 2019/20 and a supply of some 4.74 years.
34. Regarding headship rates, I consider that the Council's approach does follow the requirements of the PPG, it is supported by academic research⁸ and takes reasonable account of local factors. Nonetheless, as outlined above, I have concluded that the Council has failed to demonstrate a five-year housing land supply.
35. The evidence also refers to recent appeal decisions within the Council's administrative area for proposed residential development near to The Lion Inn, Boreham and at Bailey's Cottage, Chatham Green⁹. The Inspectors for both of these appeals concluded that on the evidence before them the Council was able to demonstrate a Framework compliant supply of housing land.
36. However, the information before me indicates that in the case of the Lion Inn appeal that appellant did not contest the Council's FOAN of 775 dpa but rather followed a different approach to the case put forward by the current appellant's witness Mr Donagh. Consequently, it is reasonable to assume that at that Inquiry the Council's FOAN would not have been as thoroughly tested as it was in the current appeal.
37. I also note that the Lion Inn appeal decision was before the Bailey's Cottage Inspector when she made her decision and, consequently, it is likely to have had some influence on her conclusion regarding housing land supply. Furthermore, the Bailey's Cottage appeal was considered via a Hearing rather than an Inquiry, such that the Council's FOAN is again unlikely to have been subject to the degree of testing it underwent at the current appeal. I am also mindful that the information before me indicates that Mr Donagh's evidence had not been tested at any Inquiry in Chelmsford until the current appeal.

⁷ EEFM's Phase 7 Report in contrast to its Phase 6 Report

⁸ CD 10.14 and CD 10.15

⁹ Appeal References: APP/W1525/W/14/3001771 dated 8 March 2106 and APP/W1525/W/15/3137020 dated 23 March 2016 respectively

For these reasons and those set out above, therefore, I am content that my conclusion that the Council has not demonstrated a five-year housing land supply in this case is justified and that this is not inconsistent with the Lion Inn and Bailey's Cottage decisions.

38. Although ultimately the Council's housing delivery projections over the five year period in question were not contested, the appellant has requested, 'to be consistent' with the Lion Inn decision, that lapse rates should be applied. I also note that the Bailey's Cottage Inspector concluded that a lapse rate of 5% should be applied. While I am mindful of the Council's past delivery performance against its past projections, I have found nothing in the evidence before me that gives me good reason to believe that a lapse rate adjustment would be justified.
39. For all of the reasons outlined above, for the purposes of determining this appeal, I consider the FOAN to be 1020 dpa such that the Council has not demonstrated a five-year supply of deliverable housing sites. On this basis while the shortfall would be only 330 homes over the five years in question, it is nonetheless significant and substantially exceeds the potential 145 dwellings proposed.
40. The proposed level of affordable housing does not exceed the 35% generally required by the development plan as part of schemes of this type. Nonetheless, affordable housing provision should be regarded as a benefit, particularly where it would help meet an identified need and therefore should be weighed against any harm identified. Both parties agree that positive weight should be attached to such a benefit.
41. The proposed development, therefore, would make a valuable contribution to identified housing need. For the reasons outlined, I find that the need for both market and affordable housing carries weight in favour of the proposal.

Borough-wide Spatial Strategy

42. Core Strategy Policy CP2, in conjunction with the Key Diagram, sets out the Council's Borough-wide Spatial Strategy. In broad terms, it identifies that new development will make the best use of previously developed land and buildings and will follow a sequential approach to the sustainable location of development. On my reading, the Policy establishes a clear expectation that new residential development will only be within the two Urban Areas and the nine Key Defined Settlements, with a hierarchical preference for Chelmsford and South Woodham Ferrers, or sites to be allocated via the Area Action Plan process.
43. While the appeal site is located adjacent to the eastern edge of the Defined Settlement Boundary of Boreham it is not within it or any Urban Area / Key Defined Settlement in the terms of Policy CP2. Nor does it fall within a site identified for development in the wider development plan. Consequently, while I acknowledge that other policies of the Core Strategy make provision for some development, including residential, beyond these settlement boundaries in certain circumstances, the appeal development would be at odds with the Council's Borough-wide Spatial Strategy in conflict with Core Strategy Policy CP2.

Character and Appearance

44. The site is located within the National Character Area 86 South Suffolk and North Essex Clay Lands Landscape character area and within B21, the Boreham Farmland Plateau of the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment (LCA)¹⁰. The LCA states that the gently undulating landscape is fairly densely populated with the large settlements of Hatfield Peverel and Boreham and scattered smaller villages and hamlets such as Nounsely; and that in the area within which the appeal site stands *there are large open arable fields separated by banks and ditches providing extensive long range distance views across the River Chelmer valley. In these areas there are a few isolated dwellings and farmsteads and trees scattered across the landscape.* These features and characteristics are largely consistent with what I observed when I visited the area around the site. The LCA goes on to identify a key planning and land management issue for this area as being the potential residential expansion of villages and towns, which would be conspicuous on the surrounding rural landscape. It also indicates that this character area has low to moderate sensitivity to change.
45. The appellant has produced a detailed Landscape and Visual Impact Assessment (LVIA) of the proposal¹¹, which has largely been adopted by Mr Holliday the appellant's landscape witness. The Council has not produced its own LVIA and does not challenge the methodology of the LVIA. It has nonetheless, made a reasonably detailed assessment of its own which comes to different conclusions regarding the effect of the development in landscape and visual impact terms. I focus, therefore, on the principal matters on which the main parties differ. These are primarily whether or not the site is a 'valued landscape' in the terms of the paragraph 109 of the Framework and the visual impact that the appeal development would have reasonably near to the site.
46. The appeal site has no specific landscape designation or protection in adopted planning policy terms. Nonetheless, it does not necessarily follow that the site's landscape is without worth or value, as is recognised by the Guidelines for Landscape and Visual Impact Assessment (the GLVIA)¹². The GLVIA identifies a series of factors that are generally agreed to influence value and which help in the identification of valued landscapes. Of these factors the main area of disagreement between the main parties is in respect to *recreational value*.
47. The introduction of development to any undeveloped site would be very likely to alter its character. From the information before me and from what I heard during the Inquiry it is evident that the site is valued locally. It is an open field with a gentle slope that falls from roughly north to south towards the Chelmer River some distance to the south. Other than its topography and the assorted residential boundary treatment to the neighbouring dwellings in Church Road and Plantation Road to the south and east the site has few features. To a large extent, therefore, its value stems from the fact that it is open and undeveloped.
48. While not readily apparent from within Plantation Road and Church Road due to the intervening development and domestic planting, or from more distant views

¹⁰ CD 13.2 and CD 13.3 respectively

¹¹ CD 1.6

¹² CD 13.1

due largely to the topography and countryside vegetation, the site's open undeveloped character is striking when experienced from the adjacent footpaths to the north, east and south. Nonetheless, other than along the footpath that runs along the northern boundary, the appeal site itself is not available for recreational activity such that its recreational value is limited. Furthermore, from what I have read, heard and experienced as part of the appeal process, I have no good reason to believe that the site has any significant characteristics of the other factors set out in the GLVIA to assist in the identification of valued landscapes. Therefore, while its open undeveloped nature is clearly appreciated and valued by those who live in and travel around the area, the site does not amount to *valued landscape* within the meaning of Framework paragraph 109.

49. More distant views of the appeal site are fairly limited and where views are available the development would be seen largely against the backdrop of the rising land and/or existing nearby development. Within the context of the greater village, the development would be perceived as a small continuation of the settlement's built form. Consequently, its effect on the character and appearance of the village would be reasonably limited when perceived from some distance away such that its effect on landscape character and visual amenity would be limited in this respect. However, in terms of visual impact the greater area of disagreement between the main parties is in respect to the impact closer to the site.
50. The Council considers that the appellant's evidence understates the visual effects of the appeal development in terms of nearby residents and users of the public rights of way in the immediate vicinity of the site, with specific reference to viewpoints 1 and 3-6 inclusive of the LVIA. Notwithstanding the presence of rear garden structures, planting and boundary treatment of the neighbouring dwellings, the proposed development would fundamentally change the outlook from these nearby properties in terms of introducing development to the appeal site itself as well as in respect to the effect that the appeal development and associated planting would have in screening/filtering views to the countryside beyond.
51. For similar reasons the experience of users of the footpaths in the vicinity of the site would be significantly changed. In particular southward views of the Chelmer River Valley would be altered and in part, especially from along the footpath that passes along the site's northern boundary, obscured, as would be views of the tower of the Church of St Andrew. By bringing the developed form of the village up to that footpath and the right of way that runs to the east of the site the experience of being within the countryside away from the village would be significantly undermined.
52. For these reasons, therefore, I consider that the effects of the proposed development in terms of its visual impact are more closely aligned to the conclusions of the Council's witness rather than those of the Appellant's. While the effect would be constrained to the private properties concerned and fairly limited sections of the local rights of way network, the impact would be considerable particularly in respect to the rights of way given their proximity to the village and their likely level of use.
53. As outlined above, landscape impact would be limited and the development offers some potential benefits in terms of addressing what is currently a rather

hard edge to the settlement in this part of the village. Nonetheless, the scheme would result in the loss of countryside and cause visual harm such that overall it would have a reasonably significant detrimental effect on the character and appearance of the area and the intrinsic character and beauty of the countryside. There is no evidence to suggest that the appeal development at large would accord with any of the types of the development referred to in Core Strategy Policy DC2. Consequently, it would conflict with Policies CP5 and DC2 of the Core Strategy.

Education

54. The evidence indicates that Boreham Primary School (BPS), the only school within the village and within walking distance of the village, is currently full. Temporary accommodation that was, at least in part, introduced to the school site to provide additional capacity for a 'bulge year' is planned to be removed during 2016 to coincide with the departure of that year group. While the parties do not entirely agree regarding the normal permanent pupil capacity of BPS, on the evidence it is reasonable to take it to be approximately 210. This is consistent with the approach taken in the Lion Inn appeal which considered similar issues regarding primary education. If the current appeal scheme were to be developed it would be likely to be home to some 43 primary school aged children, compared to 45 in the case of the Lion Inn appeal development.
55. The third refusal reason cites conflict with Core Strategy Policy CP4. Although it post-dates the Core Strategy, it is reasonable to consider that the CIL Schedule amounts to the standard charge referred to in the Policy, including in respect to primary education. The formulation of the CIL Schedule and the associated Regulation 123 List is such that the appeal development would trigger payment of the CIL tariff. On this basis, therefore, I do not consider that there would be any direct conflict with Policy CP4 arising from the development.
56. In essence the refusal reason says that BPS is full and expected to remain so. It adds that as the school premises are constrained such that they cannot be permanently enlarged to accommodate the additional pupils that would be associated with the appeal development, children that would otherwise have attended BPS would have to be transported to primary schools elsewhere and this is not sustainable.
57. While there are, no doubt, some differences between this case and the evidence that was before the Lion Inn Inspector, the key principles appear to be very similar regarding education. I find, on the evidence before me, that on this matter I largely agree with the assessment made by that Inspector. In principle the school could be enlarged and the facilities altered within the existing site to accommodate additional students, yet it is far from clear how feasible this would be in practice. Indeed the desk-top study intended to show how it might be achieved includes evident shortcomings. For instance, that scheme relies on a new additional vehicular access to the northwest, however, the evidence indicates that an access along these lines is very unlikely to be achievable in practice.
58. Although some rough estimates of the possible cost of some of the potential works are included in the evidence, in the absence of thorough feasibility work these are of very limited value. In the circumstances, particularly the school site's apparent constraints, it appears most likely that the capacity of the

existing school cannot be permanently enlarged to meet the additional need that would result from the appeal development.

59. The only mechanism the appellant has to fund additional education capacity is via the fixed CIL tariff and, given that the appeal site is not allocated for development, the local CIL regime is unlikely to have foreseen a scenario of this kind. Like the Lion Inn Inspector, the circumstances of the case demonstrate the benefits of a plan-led system in which new housing can be located in appropriate locations where schools can either accommodate the increase in pupils or be readily expanded to prevent the need for pupils to be transported elsewhere.
60. The eCLP includes an option that would involve additional housing and a new primary school at Boreham but this is one of several options and given that it is at such an early stage the eCLP carries limited weight. As things stand the appeal site is not allocated for housing and as such there is no reason why the education authority would consider it necessary to provide additional facilities in this area. Indeed, as the Lion Inn Inspector identified, the eCLP is likely to further reduce the probability of the permanent capacity of BPS being enlarged in advance of plan-led decisions as to where development in Chelmsford should be concentrated.
61. For the foregoing reasons therefore, I agree with the Lion Inn Inspector that the probability is that the County Council would have to transport a significant number of pupils to alternative schools by bus or similar transport. Of itself this would not be in the interests of either the pupils themselves or the principles of sustainable development and would not promote choice in the terms envisaged by paragraph 72 of the Framework. Therefore, notwithstanding that I have not found any conflict with Core Strategy Policy CP4, these considerations weigh against the appeal scheme in the overall balance.

Other Issues, Housing Land Supply Policy and Planning Balance

62. In undertaking the planning balance I have considered the weight to be given to the relevant development plan policies and made an assessment of whether the appeal proposal would amount to sustainable development in the terms of the Framework. In doing so I have had regard to, among other things, the absence of a Framework compliant supply of housing land and the contents of the Framework as a whole.
63. Policy CP2 of the Core Strategy identifies the area's housing requirement as well as the Borough-wide Spatial Strategy including in respect to the residential development. Although they also address wider matters, including protecting the intrinsic character and beauty of the countryside, Core Strategy Policies CP5 and DC2 have a direct bearing on the supply of housing land through restricting development to largely within the Urban Areas of Chelmsford and South Woodham Ferrers and the Defined Settlements. Consequently, these are all relevant policies for the supply of housing in the terms of paragraph 49 of the Framework and in the absence of a five-year housing land supply they should not be considered up-to-date.
64. In terms of the economic and social dimensions of sustainable development, I have no good reason to believe that the appeal proposal would not be deliverable and increase the supply and choice of housing, including affordable

homes at a rate of 35% of the greater development, in an area where there is not a Framework compliant supply of housing land. The development would also contribute towards economic growth during the construction phase in terms of employment and possibly an increase in local spending. In the longer term, the additional population may increase the potential for spending, for instance in local shops, and help support the sustainability of the local services.

65. As outlined above, it is likely that as a result of the appeal development significant numbers of primary school aged children would need to be transported by bus or similar transport to schools away from Boreham. This would not be in the interests of those children or the principles of sustainable development contrary to the social and environmental dimensions of sustainable development.
66. I am, nonetheless, mindful of other appeal decisions concerning matters of education arising from proposed housing development which were brought to my attention. These include a Secretary of State decision concerning development that would result in the bussing/driving of primary school pupils to a school that was not within safe or convenient walking distance of that development site¹³. The Inspector in that case found that this would not be an unusual situation. She added that although it is preferable to be within walking distance of a school there is little evidence to show that there would be any significant social disadvantage to pupils who take the bus and that buses can promote sustainable travel to school.
67. In that case the Secretary of State shared the Inspector's view that the appeal site would represent a sustainable location in respect of primary education provision. I broadly agree such that while transporting additional children to primary schools away from Boreham would bring disbenefits, including for existing residents of Boreham given the appeal site's proximity to BPS, the weight this carries is somewhat limited.
68. The appeal development would also be at odds with the Council's development strategy. Nonetheless, given the site's location on the eastern fringes of Boreham, as outlined in the *Background* section, the appeal development would be in a reasonably sustainable location overall such that residents would have access to a good range of facilities, services and transport options.
69. The development would also result in the loss of best and most versatile agricultural land. Due to its limited size in the context of available agricultural land nearby the proposal would not represent 'significant development' in the terms of the Framework. While the site's loss to a non-agricultural use weighs against the proposal, in the context of a housing land shortage that weight is limited, particularly bearing in mind the reasonably small amount of land concerned and that the greater agricultural holding would not be severed.
70. Regarding the environmental dimension, the development offers potential for the incorporation of energy efficiency/renewable energy measures as well as additional planting and habitat enhancement, for instance as associated with the proposed sustainable drainage and new hedging. All of these matters weigh in favour of the proposals albeit to a limited extent. Nonetheless, as set out above, the scheme would have a harmful effect in terms of the area's

¹³ Appeal Ref: APP/J0405/A/2152198, dated 19 January 2012 – CD 11.9

character and appearance including the intrinsic character and beauty of the countryside.

71. In summary, the appeal scheme would conflict with the Borough-wide Spatial Strategy and harm the character and appearance of the area contrary to Policies CP2, CP5 and DC2 of the Core Strategy. It would also be likely to result in a significant number of primary school aged children having to be transported to schools away from Boreham. However, in the current circumstances these important considerations, along with the other factors identified that weigh against the appeal scheme, do not significantly and demonstrably outweigh the matters that are in favour of the proposals, particularly the delivery of housing. The appeal development would, therefore, represent sustainable development in the terms of the Core Strategy Policy CP1 and the Framework.

Other Matters

Heritage

72. There is no suggestion that there are any on-site heritage assets and the Council does not contest the appellant's evidence regarding the scheme's effect on off-site heritage assets. These include the listed buildings of the Church of St Andrew, Old Barn and its associated Barn and Shottesbrook, as well as Church Road Conservation Area. That evidence is principally contained in the assessment prepared for the appeal planning application¹⁴ and the Built Heritage Assessment appended to Mr Williams' proof of evidence¹⁵.
73. In considering the evidence I have had regard to the effect of the appeal development on the setting of the Conservation Area and special regard to the desirability of preserving each of these listed buildings or their setting or any features of special architectural or historic interest which they possess. Having done so I broadly agree with the assessments of the heritage assets set out in these documents and with the conclusion that while the proposed development has the potential to impact upon the significance of those listed buildings and the Conservation Area any impacts would not be material.

Planning Obligations

74. In the event that planning permission were to be granted and implemented the S106 Agreement would secure the provision of affordable housing; a residential travel plan; a financial contribution towards secondary school transportation; and on-site open space and play equipment along with its maintenance¹⁶.
75. The Council has submitted a 'Legal Justification for the Planning Obligations' statement (the Planning Obligations Statement)¹⁷, which addresses the application of statutory requirements to the planning obligations within the S106 Agreement and also sets out the relevant planning policy support/justification. I have considered the S106 Agreement in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations.

¹⁴ CD 1.11

¹⁵ Mr Williams' Appendix 2 – Built Heritage Statement by David Carruthers of CgMs, February 2016

¹⁶ Inquiry Document 22

¹⁷ Inquiry Document 16

76. Having done so, I am satisfied that the obligations of the S106 Agreement would be required by and accord with the Policies set out therein. The Planning Obligations Statement also confirms that none of the obligations of the S106 Agreement would result in double charging with the Council's adopted CIL charging schedule and I have found no reason to disagree. The Planning Obligations Statement also confirms that none of the financial contributions that would be secured would result in the pooling of more than five obligations for that project or type of infrastructure projects. From the information before me I have no reason to disagree. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.

Other Considerations

77. In addition to the foregoing matters, concern has been expressed, including by those who spoke at the Inquiry, in respect to several considerations. These include the development's effect, including in combination with other development on highway safety and congestion; on pollution and carbon emissions; on existing services, utilities and the adequacy of existing and future infrastructure/ facilities, including healthcare, drainage/sewerage, electricity, water supply and public transport; on the living conditions of neighbouring occupiers, including in regard to being overlooked as well as noise and disturbance during construction; on wildlife and biodiversity; and on flooding and drainage; on Church Lane as a 'protected lane'; and on Boreham's status as a village.
78. Other issues raised include that the village does not need nor can it accommodate any more housing and there is already enough housing development on-going/planned to meet needs; Chelmsford has a sound plan for housing land supply which was consulted upon and is being delivered; the development conflicts with the development plan and with the BVDS; there is other land including brownfield sites that should be occupied/developed prior to green fields; the appeal scheme would create a precedent for further development; the proposed development is out of proportion to the village and smaller scale development would more appropriate; the proposed scheme does not contain the type and affordability of homes required to meet needs; its against the wishes of many Boreham residents; and past attempts to allocate the site for development have failed and the reasons for that remain valid.
79. Concern has also been expressed regarding that requisite infrastructure will place a burden on public finances and some infrastructure has already been installed; there are insufficient jobs in the area and the development could result in further commuting to London; the appeal site is used by dog walkers; off-site recreation/wildlife mitigation should be provided; the scheme would extend development into the vulnerable gap between Boreham and Hatfield Peveral; development raising similar issues was resisted in the Lion Inn appeal; the development would be home to additional secondary school age children who would need to be transported to schools elsewhere; the proposal is premature and potentially prejudicial to the local plan review process; if planning permission is granted for housing development it does not necessarily follow that the homes will be built; and the development would be ad hoc, there is a lack of co-ordinated planning for development in the area.

80. These matters are largely identified and considered within the Council officer's report on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at the Inquiry. Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusion subject to the identified obligations of the S106 Agreement and the imposition of planning conditions.
81. Concerns have also been raised in respect to the conduct and motives of the land owner and appellant, the cost to the tax-payer associated with the planning process and the development's effect on property values. However, these are not matters for my consideration in the determination of the appeal.

Conditions and Conclusion

82. The Council and the appellant jointly prepared a list of draft conditions, which include the standard time limit/implementation conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
83. In order to provide certainty, to protect the character and appearance of the area and in the interests of highway safety, conditions would be necessary to control the detail of certain aspects of the reserved matters and to control delivery of the site access, parking, on-site highways details and facilities for refuse and recycling. Conditions to secure and control drainage would be necessary in the interests of flood prevention, to protect the environment and in the interests of highway safety.
84. To safeguard the character and appearance of the area and in the interests of biodiversity, conditions to control landscape management and to secure the development is carried out in accordance with the Ecological Appraisal would also be necessary. A condition to secure water, energy and resource efficient measures as part of the development would be necessary in the interests of sustainable development. For that reason and to promote sustainable modes of transport, conditions to secure improvements to bus stops and to the footpath that runs to the northern site boundary would be necessary.
85. A condition requiring that an investigation of the nature and extent of contamination affecting the site, along with any requisite remediation, would be necessary to safeguard the health and well being of future occupiers. A condition would also be necessary to ensure that features of archaeological interest are properly examined/recorded.
86. To add cultural value to the development in accordance with Core Strategy Policy DC43 a condition to secure public art in association with the development would be necessary. In the interests of highway safety and to safeguard residents' living conditions, a condition to ensure that the construction works proceed in accordance with a Construction Method Statement would also be necessary.
87. Overall, therefore, notwithstanding the identified policy conflict and its effect on the Borough-wide Spatial Strategy, on the character and appearance of the area and on primary school children, given the absence of a five-year housing land supply and the status of relevant policies of the development plan for the

supply of housing, I find that the considerations that weigh against the development collectively do not significantly and demonstrably outweigh those matters that are in its favour, particularly the delivery of housing. On this basis the proposals would be sustainable development and, consequently, the appeal is allowed subject to the identified conditions.

G D Jones

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Josef Cannon, of Counsel	Instructed by Chelmsford City Council (CCC)
He called	
Cristina Howick MA(PPE)	Partner, Peter Brett Associates
MSc(Econ)	
Jeremy Potter MA MRTPI	Senior Planning Officer, CCC
Robin Hosegood MRTPI	Principal Planning Officer, CCC
Blaise Gammie BA(Hons)	Infrastructure Planning Manager, Essex
DipEd	County Council

FOR THE APPELLANT:

Giles Cannock, of Counsel	Instructed by Gladman Developments Ltd
He called	
James Donagh BA(Hons)	Director, Barton Willmore
MCD MIEED	
Gary Holliday BA(Hons)	Director, FPCR Environment & Design Ltd
MPhil CMLI	
Matthew Williams BA(Hons)	Director, Savills (UK) Ltd
DipTP MRTPI	
Stephen Clyne LCP	Principal, Educational Facilities Management
DipSMS CertEd MAE	Partnership Ltd

INTERESTED PERSONS:

Cllr John Galley	City Ward Councillor and Chairman of Boreham Parish Council
Barry Winter	Local Resident
Richard Wilks	Local Resident
Sir Jeffery Bowman	Local Resident
Mark Button	Local Resident
Charles Martin	Local Resident
Alan Swash	Boreham Conservation Society

DOCUMENTS submitted at the Inquiry

- 1 Draft s106 Agreement
- 2 Draft suggested conditions
- 3 Mr Venning's Rebuttal Evidence document
- 4 Mr Clyne's Rebuttal of Evidence document
- 5 Extract from EEFM 2014 Technical Report
- 6 Email correspondence between Ms Howick and Bobby Shjai / Sunsil Joshi (Experian), 31 March to 11 April 2016 inclusive
- 7 Appeal decision letter - APP/R3650/A/14/2223115, dated 23 September 2015
- 8 Appeal decision letter - APP/W1525/W/15/3137020, dated 23 March 2016
- 9 Cornwall Local Plan Strategic Policies – Examination, Preliminary Findings Following the Hearings in May 2015, dated 5 June 2015

- 10 Suffolk Coastal DC v Hopkins Homes & SSDCLG and Richborough Estates v Cheshire East BC & SSDCLG, Neutral Citation Number: [2016] EWCA Civ 168, 17 March 2016
- 11 a) Mr Drummond-Hay's Supplementary Evidence document
b) Email from Ivor Beamon (Gladman Developments Ltd) to Mr Potter, dated 31 March 2016
- 12 Plans showing the location of the Lion Inn appeal site, ref: APP/W1525/W/14/3001771
- 13 Housing Land Supply Statement of Common Ground, as agreed between the main parties
- 14 General Statement of Common Ground, as agreed between the main parties
- 15 Supplementary Statement of Common Ground, as agreed between the main parties
- 16 Legal Justification for the Planning Obligations document
- 17 Photographs of traffic in Plantation Road, submitted by local residents
- 18 Location Plan – Drg No 6045-L-03 Rev A
- 19 Extract from the Education Act 1996
- 20 Revised Suggested Conditions, dated 19 April 2016
- 21 Additional written submissions from local residents: Miss J Johnson, Miss C Johnson and Mr N Johnson
- 22 Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 dated 20 April 2016

Richborough Estates

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/W1525/W/15/3049361:

1. Application(s) for the approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
2. The development to which the permission relates shall be begun within:
 - (i) 3 years from the date of this permission; or
 - (ii) 2 years from the date of approval of the final reserved matters to be approved, whichever is the later.
3. Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters"), shall be submitted to and approved in writing from the local planning authority (LPA) before any development commences and the development shall be carried out as approved. The reserved matters submitted in accordance with this condition shall include the following details to the extent that they are relevant to the reserved matters application in question:
 - A. Layout
 - (i) The layout of routes, buildings and spaces, the block form and organisation of all buildings, the distribution of market and affordable dwellings and full details of the approach to vehicle parking including visitor parking (together with details of the design approach for access points into any undercroft parking), full details of the approach to cycle parking including the location, distribution, types of rack, spacing and any secure or non-secure structures associated with the storage of cycles and the location and form of open areas and where appropriate, street furniture;
 - (ii) The location of wheelchair accessible housing (category 2 of the Building Regulations – Part M 2015) and details of the plot numbers, the parking arrangements, the amenity spaces, external and internal layout and the turning, transfer and manoeuvring spaces of the wheelchair housing units;
 - (iii) The access and circulation of modes of travel, the design of roads and paths including the retention of existing footpath links and the provision of new footpath and cycleway links between development (including the adjacent development site) and the existing network;
 - B. Scale and Appearance
 - (i) Scale, form and appearance of the architecture within the development and public/private realm definition;
 - (ii) Detailed drawings and sections showing the finished levels of all parts of the development in relation to the levels of the surrounding area and any adjoining buildings;
 - (iii) Details of the proposed treatment of all boundaries, including drawings of any gates, fences, walls, railings;
 - (iv) Details of proposed materials of the development hereby permitted;
 - (v) Details of the location and design of all external artificial lighting and lighting furniture to all buildings, amenity areas, roads and parking areas;

- C. Estate Roads (other than those details of access hereby approved)
- (i) Details of the estate roads and footways (including layout, levels, visibility splays, gradients, surfacing and means of surface water drainage); and
 - (ii) Visibility splays (as approved by the LPA) shall be made ready for use before the road within that part of the development is first used by vehicular traffic and retained free of any obstruction in perpetuity (in each case, in accordance with requirements (i) above).
4. Development will accord with the approved access drawing 1758 GA 03 Rev C and no occupation of dwellings on the site shall take place until the access works shown in that drawing have been completed to the satisfaction of the local planning authority.
 5. There shall be no discharge of surface water from the development onto the highway.
 6. No occupation of the development shall take place until upgrades of the bus stop on Main Road, opposite The Cock Public House (stop ID 1500 101301) to include a new wooden shelter with Real Time Passenger Information, and the stops either side of Plantation Road to include new poles, flags and timetable information have been completed to the satisfaction of the local planning authority in accordance with details that shall have been previously submitted to and approved in writing by the local planning authority.
 7. No more than 50 dwellings within the development shall be occupied until an upgrade, including surfacing and waymarking, to the existing footpath 38 Boreham, on the northern boundary of the site between Plantation Road and the development, has been completed in accordance with details that shall have been submitted to and approved in writing by the local planning authority.
 8. No development shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the local planning authority (LPA). A mitigation strategy detailing the excavation/preservation strategy for any archaeological deposits shall be submitted to the LPA following the completion of this work. No development shall commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, previously submitted to and approved in writing by the LPA. A post-excavation assessment shall be submitted to the LPA within six months of the completion of fieldwork unless otherwise agreed in writing in advance by the LPA. This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
 9. Prior to the commencement of the development:
 - (i) A detailed site wide surface water drainage scheme based on sustainable drainage principles and as assessment of the hydrological and hydrogeological context of the development; the Flood Risk Assessment dated July 2014 prepared by WSP and letter dated 1 August 2014 prepared by WSP and letter dated 13 November 2013; and

- (ii) A detailed site wide Sustainable Drainage Management Plan shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out otherwise than in accordance with the approved scheme and shall thereafter be maintained in perpetuity in accordance with the approved Sustainable Drainage Management Plan.
10. The development shall be carried in accordance with the Ecological Appraisal dated 11 September 2014 prepared by FPCR Environment and Design Ltd.
11. Prior to the installation of the hard and soft landscape works to be approved under Condition 3 a programme for their installation shall be submitted to and approved in writing by the local planning authority and the works shall be carried out in accordance with these approved details.
12. Prior to the occupation of any dwellings, a site-wide landscape management plan shall be submitted to and approved in writing by the local planning authority. The plan shall cover all landscape areas other than private domestic garden areas and include the long term landscape design objectives, management responsibilities (and measures to resist public ingress where appropriate), and a programme of maintenance that will be applied in perpetuity. The development shall not be carried out otherwise than in accordance with the approved landscape management plan. If within a period of five years from the date of planting of any tree/hedge/plant, that tree/hedge/plant, or any tree/hedge/plant planted in replacement for it, is removed, uprooted, destroyed, or becomes, in the opinion of the LPA, seriously damaged or defective, another tree/hedge/plant of the same size and species as the original, shall be planted in the same place unless the LPA gives its written consent to any variation.
13. No development shall take place until a scheme to assess and deal with any contamination of the site has been submitted to and approved in writing by the local planning authority (LPA). Prior to the occupation or first use of the development, any remediation of the site found necessary shall be carried out, and a validation report to that effect submitted to the LPA for written approval and the development shall be carried out in accordance with that scheme.
14. Prior to the commencement of development a scheme for the provision and implementation of water, energy and resource efficiency measures, during the construction and occupational phases of the development shall be submitted to and agreed, in writing, with the local planning authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development. The scheme shall be constructed and the measures provided and made available for use in accordance with such timetables as may be agreed.
15. No dwelling shall be occupied until such time as the parking areas for that development as referenced in the relevant Reserved Matters approval have been made available for use. The spaces shall not thereafter be used for any purpose other than the parking of motor vehicles in conjunction with that part of the development which they serve.
16. No development shall take place within the site until details of the facilities for the storage of refuse and recyclable materials for any terraced dwellings have been submitted to and approved in writing by the local planning authority.

17. Prior to the commencement of the development details of the surfacing, lighting, signage and street furniture to be applied to roads, footways and cycleways within the development shall be submitted to and approved in writing by the local planning authority. Prior to occupation all roads, footways and cycleways shall be surfaced and provided with associated furniture in accordance with those approved details and shall thereafter remain as approved for public use.
18. Within six months from the commencement of the development, a public art statement shall be submitted to and approved in writing by the local planning authority. The Statement shall include the following:
 - (i) Proposed Public Art and location including details on the chosen theme and medium of the scheme; and
 - (ii) Details for the installation and future maintenanceThe approved Public Art scheme shall be implemented prior to first occupation of the development.
19. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be fully implemented and complied with throughout the period of construction.

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