The Planning Inspectorate

Appeal Decision

Inquiry held on 14, 15, 16 and 17 June 2016

Site visit made on 16 June 2016

by J Dowling BA(Hons) MPhil MRTPI

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

Decision date: 26 September 2016

Appeal Ref: APP/W1525/W/15/3121603
Main Road, Great and Little Leighs, Great Leighs CM13 1NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Mr Steve Latham (Gladman Developments Ltd) against Chelmsford City Council.
- The application Ref 14/01791/OUT, is dated 30 October 2014.
- The development proposed is development of up to 100 dwellings with associated infrastructure, open space and landscaping with all matters reserved except for access.

Decision

1. This appeal is allowed and outline planning permission is granted for the development of up to 100 dwellings with associated infrastructure, open space and landscaping at Main Road, Great and Little Leighs, Great Leighs CM13 1NP, in accordance with the terms of the application, reference 14/01791/OUT, dated 30 October 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The appeal was made on the grounds of non-determination although subsequent to this the Council resolved that had it been in a position to determine the application, it would have refused it for four reasons. Prior to the start of the Inquiry the Council indicated that it no longer wished to defend its third reason for refusal as following the submission of the appellant's evidence, information pertaining to current travel to school patterns that were not addressed in the original planning application had been included. In light of all that I have read, heard and seen I have no reason to disagree with this position and have revised the main issues to reflect this.

3. The application was made in outline with all detailed matters other than access reserved for future consideration and I have determined the appeal on this basis.

4. In discussing the suggested conditions it became clear that although the description of development used by the appellant on the original planning application made reference to a 'phased' development, given the number of units proposed the scheme, if consented, would not be built out in phases. For clarity I have therefore amended the description of development in the banner heading to reflect this.

5. The Inquiry sat for four days. I had an accompanied site visit on 16 June 2016 and I also undertook two unaccompanied site visits on the 13 and 16 June 2016.

6. A number of separate topic based Statements of Common Ground were submitted prior to and at the start of the Inquiry which set out the policy context along with matters of agreement and those in dispute.

7. Due to time constraints it was agreed that both parties could submit their closing statements in writing to an agreed timetable. The Council also agreed to publish the closing statements on their website so that they would be available for inspection by any of the interested parties.

8. Following the close of the Inquiry the Council submitted a recent appeal decision[1] which was lodged by the same appellant as for this appeal and which considered similar issues to this appeal. Both parties were provided with an opportunity to comment on that decision and I have taken their comments and that decision into account when considering this appeal.

Main Issues

9. The main issues are:

   - Whether the Council can demonstrate a 5 year housing land supply; and
   - whether the proposal would result in a sustainable form of development which includes consideration of the effect of the proposal on the character and appearance of the area and access to facilities.

The Policy Background

10. The development plan for the area consists of the Chelmsford City Council Core Strategy and Development Control Policies Development Plan Document (2008) (the CS and DCP). Following the publication of the National Planning Policy Framework (the Framework) in 2012, the Council undertook a focused review of the CS and DCP in order to update those policies within the development plan that they considered needed to be amended to ensure consistency with the Framework. Following an examination in public, where it was found sound, the Council adopted the Chelmsford City Council Core Strategy and Development Control Policies Focused Review (2013) (the Focused Review). In addition the Council have an adopted Site Allocation Development Plan Document (2012) (the SA DPD) which was also the subject of a public examination.

11. The Framework[2] advocates that the closer the policies in a plan are to the policies in the Framework, the greater the weight that they may be given.

12. The policies relevant to the determination of this appeal are CP1, CP2, CP4, CP5 and DC2. Policies CP1, CP5 and DC2 were policies that were subject to the Focused Review.

13. CP1 seeks to promote and secure sustainable development by linking housing and employment needs and directing development to those locations where there is the infrastructure to support it. It also reflects paragraph 14 of the

[1] Appeal Ref: APP/W1525/W/15/3129306
[2] Paragraph 215 of the National Planning Policy Framework (2012)

Framework in that it advocates that where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then planning permission will be granted unless material considerations indicate otherwise. As such this policy is compliant with the Framework and can be given full weight.

14. Policy CP2, which was not part of the Focused Review, outlines a spatial strategy which provides a framework for sustainable housing and job growth for the area. It advocates that new development should make the best use of previously developed land and buildings. It also sets out a sequential approach to the location of development whereby Chelmsford and South Woodham Ferrers are to be the main focus for development, supported by appropriate development within the Key Defined Settlements. The latter includes Great Leighs and the North of Chelmsford's Urban Area.

15. Whilst this sequential approach is broadly consistent with the Framework it is based on the housing requirement figures contained within the Draft East of England Plan which was revoked in 2013 and not on any objective assessment of need (OAN) as required by the Framework[3]. Consequently, policy CP2 is out of date and can only be afforded limited weight.

16. Policy CP5 was amended as part of the Focused Review with the aim of easing restrictions placed on development within the Rural Area beyond the Green Belt[4]. As with CP2 it seeks to focus growth within the Urban Areas of Chelmsford, South Woodham Ferrers and the Key Defined Settlements. In the Rural Areas beyond the Green Belt it advocates that the Council will protect the intrinsic character and beauty of the countryside. This approach is reinforced by policy DC2 which restricts development within the Rural Area beyond the Green Belt generally to sites within the defined settlement boundaries.

17. I am aware that a number of Inspectors[5] have differed about the weight that can be attached to policies CP5 and DC2. However, I consider that the sequential approach to focusing new housing in existing urban areas and key defined settlement areas is consistent with the aims of sustainable development which the Framework promotes[6]. Whilst I consider the principle of focusing development in sustainable locations accords with the Framework, nonetheless, the housing figures on which CP5 and DC2 are based are not up to date. As a result whilst policies CP5 and DC2 carry some weight as part of the development plan, their weight is reduced.

18. Finally, the Council is in the early stages of drafting a new Local Plan and as part of this process it has highlighted that Great Leighs could possibly accommodate between one and two thousand new homes. However, the plan is still at a very early stage in the process and has not been the subject of any robust testing and as a result I have afforded it very limited weight.

19. Policy CP4 of the CS and DCP requires, through the use of planning contributions, all new development to meet the necessary on and off-site

[3] Paragraph 47 of the National Planning Policy Framework (2012)
[4] Paragraph 3.3 of the Core strategy and Development Control Policies Focused Review (2013)
[5] Appeal Ref: App/W1525/W/14/3001771, APP/W1525/15/3137020, APP/W1525/W/15/3009062 and APP/W1525/W/15/3129306
[6] Paragraph 17 of the National Planning Policy Framework (2012)

infrastructure requirements required to support the development or mitigate its impact.

Reasons

Whether the Council can demonstrate a 5 year housing land supply and the implications that this has for this appeal

20. At the Inquiry the disagreement over the robustness of the OAN centred upon the demand side of the calculation focusing upon household formation rates (with the appellant arguing that those used by the Council were supressed) and the Economic Activity Rates (EARs) used by the Council which were considered by the appellant to be unrealistic and implausible.

21. The Planning Practice Guidance[7](the PPG) advocates that housing requirement figures should be used as the starting point for calculating the five year supply of housing. Considerable weight should be given to the housing requirement figures in adopted Local Plans. However the PPG acknowledges that evidence that dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs. For the reasons detailed earlier I consider that the figures contained within the CS and DCP which are based on the revoked East of England Plan are out of date.

22. The PPG goes on to state that where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, as is the case here, information provided in the latest full assessment of housing needs should be considered. However, it recognises that the weight given to these assessments should take account of the fact that they have not been tested or moderated against relevant constraints.

23. Whilst the OAN for Chelmsford has not been the subject of a formal examination it has, through the appeal process, been the subject of significant testing. With the exception of the Boreham decision[8] most of the previous Inspectors[9] concluded that the Council had a robust OAN and could demonstrate a five year housing land supply. This conclusion was reached again most recently in the appeal for land east of Main Road, Bicknacre[10].

24. It is not the purpose of this appeal to provide a definitive critique of the Council's OAN as that is the function of the Local Plan examination. However, what is clear from the evidence I heard at this Inquiry is that much of the argument turns on which figures, particularly for household formation and economic activity rates, should be used when calculating OAN.

25. As with the Boreham and Bicknacre appeals the starting point for this appeal is that the Council consider the OAN to be 775 dwellings per annum (dpa), whereas the appellant considers that the OAN should be 1,129 dpa. The Council's approach to household formation or headship rates followed the requirements of the PPG and I consider takes reasonable account of local factors such as affordability. Furthermore, I agree with the Council that the

[7] Planning Practice Guidance paragraph 03 Reference ID: 3-030-20140306
[8] Appeal reference: APP/W1525/W/15/3049361
[9] Appeal references: APP/W/1525/W/14/3001771, APP/W1525/W/15/3137020
[10] Appeal reference: APP/W1525/W/15/3129306

2012 projection rates, which are based on the 2011 census information are an appropriate base for calculating and producing an up to date OAN.

26. With EAR the main difference between the parties was the size of the labour force that would be necessary to meet the projected growth in jobs and whether this could predominantly be met by the existing population (the Council's view) or whether additional workers would be required thus triggering the need to deliver additional housing (the appellant's view). The difference in the figures came down to the use of different forecasting models.

27. The Council used the activity rates from the EEFM[11]. However, these figures, due to the very high employment rates they predict, were considered unrealistic and implausible by the appellant who felt that the activity rates, would in reality, be much lower and produced a number of alternative EARs based on a different set of projections including OBR, EU and KCC[12].

28. Whilst I agree that the OBR rates are highly regarded, they project forward current patterns of behaviour this would mean that future likely changes to activity, such as people working longer would not be captured. However, on the basis of what I have read and the evidence provided at the Inquiry, whilst I acknowledge that the employment rates used by the Council are high I am satisfied with the explanation provided by the Council as to how they have been calculated. As these have then been used to calculate the OAN I consider that the Council's OAN to be robust. The Council have identified a supply of housing based on the figures generated by the OAN that would deliver in excess of a 5 year supply of housing including an allowance for the previous shortfall and a 20% buffer. As a result I am satisfied that the Council is able to demonstrate a five year housing land supply in accordance with the requirements of the Framework.

29. However, it is also important to recognise that the housing figures that result from an OAN represent a minimum and not a maximum requirement for an area and that accepting that an area has a 5 year supply of housing does not necessarily preclude a scheme from being sustainable development or mean that it would be inherently harmful.

Whether the proposal would result in a sustainable form of development

30. At the heart of the Framework is a presumption in favour of sustainable development[13]. Paragraph 7 states that there are three dimensions to sustainable development: economic, social and environmental which give rise to the need for the planning system to perform a number of roles.

31. It was clear from the evidence given at the Inquiry that Great Leighs benefits from a healthy and vibrant local community which has access to a good range of facilities including a combined shop and post office, two pubs, a village hall and primary school all of which are located within the village. Immediately adjacent and opposite the site entrance are bus stops that provide a direct regular service for village residents to Chelmsford and Colchester. As outlined at the Inquiry, in the short term the proposal would deliver a number of construction jobs and local investment. In the longer term the 100 new

[11] East of England Forecasting Model
[12] Office for Budget Responsibility, European Union and Kent County Council
[13] Paragraph 14 of the National Planning Policy Framework (2012)

dwellings would bring 100 more households utilising these local business and services and providing an increased local workforce which would assist in the availability of local labour. As a consequence the proposal would contribute to building a strong, responsive and competitive economy (the economic role).

32. Great Leighs is a Key Defined Settlement where policy CP2 of the CS and DCP advocates that new development should be directed. Although outside the Defined Settlement Boundary (DSB), due to its fairly central location within the village, I consider that unlike many sites that come forward that are outside of the development boundary the application site physically appears to form part of the village. The scheme would provide a mix of housing of a variety of different types and tenures, including on-site affordable housing for which, from the evidence given at the Inquiry, there is a considerable local need. Consequently, given the Framework's aim to maintain or enhance the vitality of rural communities[14] and boost significantly the supply of housing[15] I consider that the scheme would contribute to meeting the needs of present and future generations (the social role).

33. The Council confirmed at the Inquiry that the site has no specific landscape designation or protection in adopted planning policy terms. However, they advocated, and I agree, that a lack of formal designation or protection does not necessarily mean that the site's landscape is without worth or value. Under a Borough/District wide assessment[16] the site is included within the Terling Farmland Plateau Landscape Character Area which is characterised by, amongst other things, rolling arable farmland, remnants of ancient woodland and scattered settlement patterns.

34. From my site visit I observed that, although the site has a pleasant pastoral aspect due to its location within the village, it is bounded by housing to the north, south and west. To a large extent therefore, its value appears to stem from the fact that it is open and undeveloped and allows views from the village towards Sandylay and Moat Woods. From the evidence given at the Inquiry its open and undeveloped nature is clearly appreciated and valued by those who live in and around the area and particularly those who use the public footpaths through and in the vicinity of the site. However, I agree with the appellant that this does not amount to a valued landscape within the meaning of paragraph 109 of the Framework.

35. All parties agreed that the proposal would affect the character and appearance of the area by virtue of introducing housing and its related infrastructure into what is effectively a greenfield site. However, what needs to be assessed is whether harm would result from this change and the effect that this would have on the character and appearance of the area.

36. As outlined earlier although the site is not 'within' the DSB. However, unusually for a site outside a DSB it is located centrally within the village and appears as an uncharacteristic gap in an otherwise built up road frontage with the existing ribbon of development continuing north for about 500m. It is only when one continues to the northern and southern edges of the village that other gaps begin to develop along Main Road and the village takes on a

[14] Paragraph 55 of the National Planning Policy Framework (2012)
[15] Paragraph 47 of the National Planning Policy Framework (2012)
[16] Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments (2006)

more rural character. As a consequence I consider that the site physically forms part of the village and appears to be 'within' Great Leighs.

37. I observed at my site visit that Great Leighs has been the subject of numerous infill developments. This is most evident by the recent developments on the western side of Main Road but there are also a cluster of earlier housing schemes on the western side of Main Road, in particular around Aragon Road. As a consequence I consider that, whilst Great Leighs may have originally been a linear village, over time development has occurred behind the houses which front onto Main Road which is of a tighter urban grain than the original village and the proposal would reflect and replicate this pattern of development.

38. Due to their location within the centre of the village, the topography and the surrounding vegetation and buildings, I consider that the fields do not appear as part of the wider open countryside, but instead look towards and are more strongly associated with the existing village to the north, south and west. Whilst currently open land, the character of the site is derived from its location within the centre of the village.

39. A Landscape and Visual Assessment (LVA) was undertaken by the appellant which found that the visual impacts of the proposal would be mainly limited to users of the public footpaths and views from the surrounding houses. Specific concerns were raised by residents at the Inquiry regarding views from Sandylay and Moat Woods. I acknowledge that the woods are predominantly deciduous and that, as a result, there will be seasonal variations. However, as I observed at my site visit, due to their dense nature views out from the woods towards the site are limited to the edges of the woodland where public access is limited as the main footpaths meander through the centre of the woods.

40. I acknowledge that there would be some long distance glimpsed views from Banters Lane, however observers from these viewpoints would view the site against the backdrop of the existing village and, as a result, I consider that the proposal would not appear out of character.

41. Furthermore, the scheme would not harm any ecological, arboricultural or heritage assets and would, through the use of conditions, include new planting and measures to enhance biodiversity (the environmental role).

42. The appeal site has a unique set of characteristics not least its central location within the village and the fact that it is bounded by development on three sides. As a consequence whilst I recognise that it would be a sizeable scheme, I consider that the proposal would reflect and respect the pattern and density of existing development within the village and would, due to its location appear as part of the village. Furthermore, the site is located in a sustainable location and the delivery of additional housing would help maintain the vitality of the existing community.

43. As a consequence I conclude that the proposal would be outside the DSB and would result in some loss of open countryside, contrary to policies CP5 and DC2 of the Focused Review. However, I consider that the harm that would result from this loss would be limited. Furthermore, for the reasons outlined above I consider the proposal would be sustainable development and as a

result would be in accordance with policy CP1 of the Focused Review and the development plan as a whole.

Section 106 Agreement

44. A signed Section 106 agreement was submitted at the end of the Inquiry[17]. In addition to delivering on-site affordable housing and a contribution towards secondary school transport the agreement would also provide a recreational open space including a play area within the development in accordance with a specification and maintenance plan that would be agreed with the Council and provide a residential travel information pack to encourage sustainable travel patterns by future residents.

45. In order to comply with the Framework and the policy DC31 within the CS and DCP, a percentage of the proposed units would need to be affordable. Under the terms of the S106 agreement 35% of the dwellings in the development would be required to be affordable housing units two thirds of which would be rented housing, with the remaining third being intermediate and/or shared ownership. The proposal would therefore comply with the Framework and policy DC31.

46. Although the Council chose not to defend their third reason for refusal, the effect of the proposal on local services, in particular access to places at the local school, remained a concern for local residents. The Council at the Inquiry confirmed that it has an adopted CIL charging regime and as a result the development would deliver a financial contribution to ensure that services, such as education and healthcare provision, could be expanded to accommodate the needs of future residents of the site. Furthermore, the Council confirmed that they were satisfied that the contributions towards secondary school transport provision proposed by the S106 agreement would ensure that secondary school age children would have access to facilities that were not located within the village. As a result the proposal would meet the necessary off-site infrastructure requirements required to support the development and mitigate its impacts in accordance with policy CP4 of the CS and DCP.

47. Policy DC40 of the CS and DCP requires the provision of Open Space for all residential developments and policy DC6 seeks the mitigation of significant increases in vehicle movements on the highways network including through the use of Travel Plans to encourage the use of more sustainable methods of transport

48. The obligations within the Section 106 agreement are necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. As a consequence they meet the tests within CIL regulation 122 and paragraph 204 of the Framework.

Other matters

49. At the Inquiry it was clear that Local Residents had concerns regarding the volume of traffic, particularly at peak times, which use Main Road and the effect that the additional traffic that would be generated by the development would have on the local road network. At their request I visited the site

[17] Inquiry Document 20

during the morning peak. The Council confirmed that the Highways Authority did not object to the proposal and considered that any additional traffic generated by the development could be satisfactorily accommodated on the local network. Whilst I have noted the traffic survey undertaken by the Parish Council it does not lead me to a different conclusion to the Highways Authority.

50. Local residents were also very concerned about the potential impacts on the Sandylay and Moat Wood nature reserve in particular the potential impacts on flora and fauna during construction and the impact on trees with particular reference to a veteran tree which would be in close proximity to the site boundary. In addition residents advised that the woods were home to badgers and used for foraging by bats. Construction work could be managed through a condition requiring the submission of a Construction Method Statement which amongst other things, would control the hours of working and measures to supress dust. As a consequence, given that the majority of the woods are some distance from the appeal site and the indicative layout indicates that where the woods are closest to the site boundary construction would be kept to a minimum, I consider that the woods would not be adversely affected by the noise and disturbance from construction works. When I visited the site the location of the veteran tree was pointed out to me and, whilst it is close to the site boundary, the illustrative plans indicate that it would be some distance from any construction work and I am therefore satisfied that subject to a condition requiring protective fencing around trees, the tree would not be damaged or lost as a result of the proposals. Finally, regarding the references to bats and badgers inhabiting the woods I note that the Council is satisfied that the environmental and ecological reports submitted with the application were robust and I heard no evidence at the Inquiry to lead me to a different conclusion.

The Planning Balance

51. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state that determination of a planning application must be carried out in accordance with the development plan unless material considerations indicate otherwise. These other considerations include the Framework, whether the development would be sustainable and whether any other planning harm resulting from the development is of such weight that the appeal should be dismissed.

52. The proposal would result in the development of a site outside the DSB and through the loss of the open countryside there would be some harm, albeit very limited, to the character and appearance of the area. As a result I recognise that the proposal would be contrary to a number of the Council's adopted policies, including CP2, CP5 and DC2, and as such the development would not be in accordance with the development plan in this respect. However, these policies were drafted on the basis of what are now out of date housing figures, and even though an adequate supply currently exists, they nevertheless imply a significantly greater degree of protection for the countryside than is envisaged in the Framework. Bearing in mind the Framework's advice about consistency in paragraph 215, for the reasons outlined at the beginning of this decision, when determining this appeal I have afforded these policies reduced weight.

53. The proposal would result in the provision of 100 units which would deliver economic, environmental and social benefits including the creation of jobs, a range of different housing types and tenures (including a contribution towards affordable housing in an area where there is a recognised need) and measures to enhance the biodiversity of the site. Although, not within the DSB, due to its central location within the settlement, the site physically does form part of the village which has a good supply of easily accessible local services. Furthermore, Great Leighs is recognised in the development plan as a Key Defined Settlement and due to its transport links and access to local services is considered a sustainable location.

54. The proposal reflects the form, density and scale of existing development within the area and as a consequence would not be out of character. Whilst the appeal scheme would encroach to some extent into open countryside, due to its unique and specific location, topography and very limited long distance views I consider that there would be limited harm to the intrinsic character and beauty of the countryside.

55. Whilst I have found that the Council can currently demonstrate a five year housing land supply, and so there is no immediate pressure to release further land for housing, the housing figures calculated from the OAN are not a maximum. It is clear from the work being undertaken by the Council on the emerging Local Plan that further sites will be required to maintain a continuing supply of housing five year supply of housing land, beyond the current five year period, and that all of this need cannot be met through brownfield sites As a consequence I consider that the housing supply situation alone is not a reason to justify refusal of the scheme.

56. The Framework seeks to boost significantly the supply of housing[18] and advocates that planning should respond positively to wider opportunities for growth[19]. It also refers to the need to promote sustainable housing and other development in rural areas in locations where such development would enhance or maintain the vitality of rural communities[20], all of which the scheme would deliver.

57. I acknowledge that the Framework strongly supports a plan led system and that the proposal would be in conflict with a number of development plan policies. However when taking into account the Framework and the development plan as a whole, I consider that on balance the benefits that the scheme would deliver outweigh the limited harm that it would cause. Finally, the Framework[21] advocates that there is a presumption in favour of sustainable development and that for decision making this means approving developments that accord with the development plan without delay. Therefore having concluded that the proposal would accord with the development plan as a whole, this is a material consideration that weighs heavily in favour of granting conditions.

[18] Paragraph 47 of the National Planning Policy Framework (2012)
[19] Paragraph 17 of the National Planning Policy Framework (2012)
[20] Paragraph 55 of the National Planning Policy Framework (2012)
[21] Paragraph 14 of the National planning policy Framework (2012)

Conditions

58. At the end of the inquiry the Council and the Appellant produced an agreed list of conditions[22]. Paragraph 206 of the Framework sets out a number of tests that conditions need to meet. I have considered the conditions suggested by the Council against paragraph 206, the advice contained within the PPG[23] and the discussions at the Inquiry. Where necessary I have adjusted their wording in the interests of clarity. Conditions relating to the submission of reserved matters and the timing of commencement of development are needed due to the outline nature of the proposal.

59. Having heard the Council's evidence I consider that to help provide clarity for both the Council and the appellant a condition listing the information to be submitted with regards to the reserved matters details would provide precision and aid enforceability. In view of the constraints of the site and the surrounding residential development and having regard to the amount of development which the illustrative plans indicate could be accommodated within the site a condition limiting the number of dwellings to 100 is necessary in order to ensure a satisfactory form of development.

60. To ensure highways safety, conditions requiring the approved access to be constructed prior to the occupation of the units and the surfacing, lighting and signage or roads, footways and cycleways within the development are necessary. However, a condition requiring the provision and retention of onsite car parking could be dealt with as part of the reserved matters and therefore I do not consider the suggested condition as worded would meet the Framework tests.

61. Drainage schemes, including sustainable methods of dealing with surface water and restricting surface water from discharging on to the highway are necessary to ensure that there is no detriment to adjoining areas. Archaeological finds have been found within the area and therefore a condition requiring further investigation and setting out what would need to be done if remains are unearthed would also be reasonable.

62. Given the proximity of the adjoining Sandylay and Moat Woods nature reserve a condition requiring the development to be carried out in accordance with section 4 of the Ecological Appraisal is considered necessary to ensure that the development would not impact upon the surrounding biodiversity or any protected species. Although landscaping is a reserved matter conditions requiring future maintenance and management are considered necessary. Whilst this is a greenfield site and it is therefore unlikely, given the evidence presented by the Council at the Inquiry, it is appropriate to adopt a precautionary approach and have a condition requiring an assessment of contamination in order to ensure the health and safety of future occupiers.

63. In order to protect the trees shown to be retained a condition requiring approval of protective fencing is considered relevant. The need to submit a public art statement reflects the requirements set out in policy DC43 of the CS and DCP and is therefore appropriate.

64. To ensure highway safety, protect the living conditions of neighbouring properties during construction and to minimise the impact on the adjacent

[22] Inquiry Document 18
[23] Planning Practice Guidance ID 21a

nature reserve a condition requiring the submission and approval of a Construction Method Statement, which would control amongst other things working hours; delivery times and routes; construction workers parking; dust suppression measures etc. is considered appropriate.

65. In order to encourage sustainable travel patterns a condition requiring the upgrading of the bus stops adjacent to the site, including the stop which would need to be relocated as a result of the proposed site entrance, would be reasonable.

66. At the Inquiry a local resident submitted a request[24] that should the development be granted planning permission a condition be attached requiring the public footpath that currently runs through the middle of the site to be located to the southern edge of the site and the land on which the footpath runs be made inalienable to protect it for future use by the community. The relocation of a public footpath is a matter that would be dealt with by a footpath diversion order under the Highways Act 1980 and as a result a condition to move the footpath and make the land inalienable would not meet the tests set out in paragraph 206 of the Framework.

Conclusion

67. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jo Dowling

INSPECTOR

[24] Inquiry Document 15

APPERANCES

FOR THE LOCAL PLANNING AUTHORITY:

Josef Cannon, of Counsel

He called

Simon Drummond-Hay	Director, HDH Planning and Development Ltd
Richard Pestell	Director, Peter Brett Associates
Jeremy Potter	Senior Planning Officer, Chelmsford City Council
Simon Quelch	Solicitor, Chelmsford City Council
Clive Tokley	Independent Planning Consultant

FOR THE APPELLANT:

Giles Cannock, of Counsel

He called

Ivor Beamon	Project Manager, Gladman Developments Ltd
Jonathan Dixon	Associate Director, Savills
James Donagh	Director, Barton Willmore
Gary Holliday	Director, FPCR Environment and Design Ltd
John Londensborough	Assistant Planner, Gladman Developments Ltd
Steve Lucas	Director, Development Economics Ltd
George Venning	Director, Bailey Venning Associates Ltd

INTERESTED PERSONS:

Terri Amory	Local resident
Brian Barnes	Local resident
Dot Creighton	Local resident
James Donnelly	Local resident
Councillor John Galley	City Councillor for Boreham and Leighs ward
Joanne Hawes	Local resident
Alan James	Local resident
Robert McGuigan	Local resident

Councillor Richard Poulter	City Councillor for Bicknacre and East and West Hannigfield ward and Vice Chair of the Planning Committee
Alison Ratcliffe	Local resident
Jeff Therlow	Great Leighs Parish Council
Janet Thomas	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

Document 1:	Signed Statement of Common Ground for Education
Document 2:	Signed Statement of Common Ground for Affordable Housing
Document 3:	Draft section 106 Agreement
Document 4:	Opening submission of Appellant
Document 5:	Opening submission of the Council
Document 6:	Tables to accompany Mr Lucas's Proof of Evidence
Document 7:	Signed Statement of Common Ground for Housing Land Supply
Document 8:	Copies of transcripts from the residents of Great Leighs oral evidence
Document 9:	Copy of transcript of Councillor John Galley's oral evidence
Document 10:	Copy of letter from Gladman Developments Ltd to Julie Broere of Chelmsford City Council dated 15 January 2016 referred to by Mr Jeff Thurlow in his oral evidence
Document 11:	Copy of traffic survey conducted by the Parish Council carried out between 3-9 September 2015 referred to by Mr Brian Barnes in his oral evidence
Document 12:	Hard copy of PowerPoint presentation (photo montage) by the residents of Great Leighs
Document 13:	Copy of letter dated 15 June 2016 from Miss Janet Thomas
Document 14:	Copies of internal consultation responses for planning application reference 14/01791/OUT
Document 15:	Written request from Mr James Donally for a suggested condition
Document 16:	Replacement document for Core Document 8.3
Document 17:	Email of 17 June 2016 from Olivia Gibbons
Document 18:	Joint response by the appellant and the Council to queries raised regarding the list of suggested conditions
Document 19:	Written legal justification for planning obligations produced by the Council

Document 20: Signed and dated copy of the S106 agreement

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

Document 1 Closing submissions on behalf of the Local Planning Authority

Document 2 Closing Submission of the Appellant

Document 3 Copy of appeal decision for Land east of Main Road, Bicknacre, appeal ref: APP/W1525/W/15/3129306 and covering email dated 26 July 2016 from Julie Broere on behalf of the Council

Document 4 Email response from Kate Fitzgerald on behalf of the appellant dated 2 August 2016

Schedule of conditions

1) An application for the approval of the reserved matters shall be made to the local planning authority no later than three years from the date of this permission. The development hereby permitted shall take place no later than two years from the date of approval of the last of the reserved matters to be approved.

2) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

3) The reserved matters submitted in accordance with condition 2 shall include, but not be limited to, 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 for 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 identification of 3% of the dwellings to be wheelchair accessible housing and to be constructed in accordance with Category 2 of the Building regulations – Part M 2015.

      iii. The access and circulation of modes of travel, the design of roads and paths and junction layout including the retention of existing footpath links and the provision of new footpath and cycleway links between development phases and the existing network.

   B. Scale and Appearance

      i. Scale, form and appearance of the architecture and public/private realm definition.

      ii. Detailed drawings and sections showing the finished levels of all parts of the development illustrated 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 and railings.

      iv. Details of proposed materials of the development hereby permitted.

      v. Details of the location and design of all artificial lighting and lighting furniture to all buildings, amenity areas, roads and parking areas.

C. Estate Roads

Details of the estate roads and footways (including layout, levels, visibility splays, gradients, surfacing and means of surface water drainage) and the surface treatment of the public footpaths across the site.

D. Landscaping

The landscape design and specification of hard and soft landscape works including details of ecological habitat, corridors or foraging grounds, measures to be taken to protect trees to be retained both within and adjacent to the site and a programme for the carrying out of all hard and soft landscaping.

4) The residential development hereby approved shall be limited to a maximum of 100 dwellings.

5) The development will be constructed in accordance with the approved access drawing number 1387/01 dated May 2014. No dwelling shall be occupied on the site unless and until the access works shown in that drawing have been completed to the satisfaction of the local planning authority.

6) There shall be no discharge of surface water from the development onto the highway.

7) No development shall take place 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.

   A mitigation strategy detailing the excavation/preservation strategy for any archaeological deposits shall be submitted to the local planning authority 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 local planning authority in consultation with its historic environment advisors.

   The applicant shall submit to the local planning authority a post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in writing in advance with the Planning Authority). 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.

8) No development shall take place until:

   i. A detailed site wide surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. This shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development; the Flood Risk Assessment and Surface Water Drainage Strategy dated October 2014 prepared by Hydrock and the

consultation response dated 4 March 2015 from the Lead Local Flood Authority confirming the 1 in 1 greenfield rate.

ii. A detailed site wide Sustainable Urban Drainage Management Plan has been submitted to and approved in writing by the local planning authority

The development shall not be carried out other than in accordance with the approved schemes and shall thereafter be maintained in perpetuity in accordance with the approved Sustainable Urban Drainage Management Plan.

9) The development shall be carried out in accordance with Section 4 of the Ecological Appraisal produced by FPCR dated October 2014.

If within a period of five years from the date of planting 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 local planning authority, 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 local planning authority gives its written consent to any variation.

10) 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 shall 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.

11) 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.

Prior to the first occupation of any dwelling any remediation of the site found necessary, shall be carried out and a validation report to that effect submitted to the local planning authority for written approval.

12) Prior to the commencement of development details of the surfacing, lighting, signage and street furniture to be applied to the roads, footways and cycleways within the development shall be submitted to and approved in writing by the local planning authority.

Prior to the occupation of any dwelling served by them the roads, footways and cycleways shall be surfaced and provided with the associated furniture as approved pursuant to this condition and shall thereafter remain as approved for public use.

14) 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 of the chosen theme and medium of the scheme; and

ii. Details of the installation and future maintenance.

15) No development shall take place including any ground works, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details and shall include but not be limited to:

- construction site access details;
- areas for parking of vehicles of site operatives and visitors;
- areas for loading and unloading of plant and materials;
- areas for storage of plant and materials used in constructing the development;
- wheel and underbody washing facilities;
- measures to supress dust;
- measures to prevent the tracking out of mud and debris onto the highway;
- hours of working and receiving deliveries; and
- measures to ensure the maintenance of the footpath route during the construction period.

16) Trees that are indicated to be retained both within and on the boundaries of the site shall be protected by a barrier erected in accordance with BS 5837: 2012 – trees in relation to design, demolition and construction – Recommendation Figure 2, or as otherwise agreed in writing by the local planning authority. The fence shall be erected before the commencement of any clearing, demolition and building operations. No material shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area unless previously agreed in writing by the local planning authority.

17) No occupation of the development shall take place until upgrades to the two nearest bus stops to the site frontage on Main Road (northbound and southbound) to include raised kerbs, passenger shelters, real time passenger information and road markings as appropriate have been completed in accordance with details that shall have been previously been submitted to and approved in writing by the local planning authority.