



## Appeal Decision

Hearing held on 18 August 2015

Site visit made on 19 August 2015

by **Peter Rose BA MRTPI DMS MCM**

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

Decision date: 25 January 2016

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**Appeal Ref: APP/X1545/W/15/3032632**

**Land off Maldon Road, Great Totham, Essex CM9 8NH**

- 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 Ltd against the decision of Maldon District Council.
  - The application Ref OUT/MAL/14/00936, dated 30 September 2014, was refused by notice dated 13 March 2015.
  - The development proposed is erection of up to 115 dwelling houses with associated infrastructure.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is for outline planning permission with all matters reserved for subsequent approval, except for access.
3. A completed Unilateral Undertaking dated 18 August 2015 was submitted to the hearing and is considered as part of the proposal.
4. The Maldon District Replacement Local Plan (the RP) was formally adopted in November 2005. Its proposed replacement, the Maldon District Pre-Submission Local Development Plan 2014-2029 Consultation (the LDP), is the subject of an Examination in Public (the EIP) and review by the Secretary of State for Communities and Local Government. I afford weight to relevant policies of both documents as indicated in the main issues below in accordance with the advice of paragraphs 49, 215 and 216 of the National Planning Policy Framework (the Framework).

### Main Issues

5. The main issues are:
    - (a) the effect of the proposed scheme upon the special architectural and historic interest of The Bull public house and adjacent stables, both grade II listed buildings, and upon the locally listed Great Totham village hall;
    - (b) the effect of the proposed development upon the character and appearance of the appeal site and surrounding area;
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- (c) whether the Council is able to demonstrate a five-year supply of housing land;
- (d) the effect of the proposed development upon the supply of housing required to meet local housing needs with particular regard to affordable housing;
- (e) whether the proposed scheme would constitute sustainable development.

## Reasons

### *Listed buildings*

6. The appeal site is an open field which lies adjacent to The Bull public house, a grade II listed building. The statutory List Entry identifies the public house as dating from the seventeenth century or earlier. It is largely two-storeys in form with a single-storey extension behind, and is of timber-framed construction. It has a hipped, red plain tiled roof with two red brick chimney stacks, and comprises a distinct and impressive building displaying a range of architectural and historic features. The main elevation fronts Maldon Road to the south.
7. Some 10 metres south-west of the public house is a former stable building which is also grade II listed and which the List Entry dates from the nineteenth century. It is of painted brick with a red plain tiled roof and contains two red brick chimney stacks.
8. To the south-east of the appeal site on the opposite side of Maldon Road is Great Totham village hall. This is a locally listed, twentieth century building and comprises a large rendered, barn-like hall with arcading along its side walls.
9. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon the decision-maker, in considering applications for planning permission, to have special regard to the desirability of preserving statutorily listed buildings or their settings or any features of special architectural or historic interest which they possess. The Council's particular concerns relate to the effect of the development upon the settings of the listed buildings.
10. The Framework makes clear that the setting of a heritage asset is the surroundings in which it is experienced and that the setting of a designated asset can contribute to its significance.
11. Historic England's Historic Environment Good Practice Advice in Planning: 3 The Setting of Heritage Assets advises that the contribution of setting to the significance of a heritage asset is often expressed with reference to views, a purely visual impression of an asset, and including views of the surroundings from or through the asset. It states that views which contribute more to understanding the significance of a heritage asset include those where relationships between the asset and places or natural features are particularly relevant. It further advises that setting is not in itself a heritage asset, nor a heritage designation, and its importance lies in what it contributes to the significance of the heritage asset.
12. Of relevance to the significance of listed buildings, English Heritage's Conservation Principles Policies and Guidance for the Sustainable Management

- of the Historic Environment, 2008, identifies four types of heritage value that an asset may hold: aesthetic, communal, historic and evidential.
13. The significance of the public house as a building of special architectural and historic interest relates, amongst other matters, to its quality as a traditional historic public house and to the evidential, historic and aesthetic value arising.
  14. The historic parts of the stables are enclosed by subsequent extensions to its north and south sides but the public house and stables effectively form part of the same site and, by reason of their proximity and associated historic use, together offer significant group value in terms of their evidential, historic and aesthetic contributions.
  15. Whilst a visually interesting and attractive building, the main significance of the village hall relates to its background communal value. The building was designed by a local arts and crafts architect, A H Mackmurdo, who lived and worked in Great Totham. He had a particular interest in social reform and designed a number of village halls in Maldon under the auspices of the Rural Community Council for Essex. Notwithstanding its undoubted local interest, I do not find the setting of the village hall to be a particular contributory factor to its significance.
  16. The public house includes an extensive car park to the front and side and the building is set back from Maldon Road, and incorporates an attractive, extensive public garden to the north. To the west, the site is adjacent to a public footpath which marks the boundary to an area of extensive twentieth century residential development. To the north and east, however, the setting is significantly defined by the original open character of the appeal site. To the south, the site overlooks the village cricket pitch beyond Maldon Road, and the adjacent village hall.
  17. The undisputed evidence is that, historically, the public house and stables formed a prominent coaching inn/hostelry on a significant road and set within open countryside. That open setting has been lost to the residential development to the west and, to a lesser degree, by built development to the south-west. To the east, however, the open setting of the appeal site is retained in views to and from the appeal site and I consider that remains part of the building's historic significance.
  18. Whilst much of the historic parts of the stables is not readily evident in views around the site, the setting of the stables remains significant in relation to its physical and historic association to the public house.
  19. The proposal would incur the loss of the appeal site to built development and, notwithstanding proposals for landscaping and re-siting of boundary hedges along Maldon Road, significant historic views of the appeal site within open countryside would be lost. I recognise that views from the east towards the public house along Maldon Road are already limited by the hedges to the front of the appeal site and by other vegetation along the shared boundary between the two sites. Even so, the public house is not physically enclosed, and the appeal site provides a significant backdrop to the listed building in views towards the east/north-east and significant views from within the curtilage of the public house. There would be an erosion of the established rural setting of the buildings which would result in some harm to the significance of the statutorily designated heritage assets.

20. Nevertheless, I consider the contribution that the appeal site makes to the overall significance of the adjacent listed buildings to be relatively limited. That said, I find that the development, by reason of its scale and location, would still fail to preserve the settings of the statutorily listed buildings and would thereby diminish the significance of those assets.
21. I note that English Heritage similarly considers that the existing open, rural outlook to the front, rear and east side makes a contribution to the significance of both buildings and that the introduction of up to 115 dwellings would effectively suburbanise their setting, resulting in harm to their significance. English Heritage does not accept that the appeal site makes a 'neutral' contribution to the significance of these assets, and I agree.
22. Hence I find that the proposed development would be harmful to the architectural and historic integrity of the listed buildings but, given its relationship to those buildings as described, that the harm would be less than substantial. The Framework makes a distinction between development causing substantial harm to the significance of a designated heritage asset, such as a listed building, and development that would lead to less than substantial harm. The Framework requires less than substantial harm to be weighed against the possible public benefits of the scheme and this is addressed as part of my overall planning balance to follow.
23. I therefore conclude that the scale and location of the proposed development, by reason of its impact upon the setting of The Bull public house and adjacent stables, would be harmful to the significance of those listed buildings. Accordingly, the proposed development would be contrary to Policy D3 of the LDP which seeks to ensure that all development affecting a heritage asset or its setting should preserve or enhance its special character, setting and townscape/landscape value in a manner appropriate to its significance.
24. Given the formally unadopted status of Policy D3, I attach only limited weight accordingly. The Council has also confirmed that Policy BE16 of the RP is not directly relevant to the development as it relates to development within the curtilage of a listed building and not to its wider implications. Nonetheless, the scheme would still be contrary to the Framework insofar as it recognises that heritage assets such as listed buildings are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance. The Framework further states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

*Character and appearance*

25. The appeal site comprises a large area of open land outside, but adjacent to, the defined development boundaries of Great Totham accompanying Policies H1, S1 and S2 of the adopted RP and Policy S8 of the emerging LDP.
26. The site comprises some 5.85 hectares of land in agricultural use with no buildings or other structures present. It effectively forms part of the open countryside and Policy S2 of the RP (Development outside development boundaries) seeks to protect the countryside for its own sake, particularly with regard to various matters, including landscape, historical, ecological and recreational value.

27. The site lies within an area defined by the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments (September 2006) as wooded farmland. The key characteristics of this area are indicated to include predominantly agricultural fields enclosed by woodland patches or hedgerows with mature trees, and with colour-washed buildings both in villages and scattered in the landscape.
28. The site also forms part of the Chelmer-Blackwater Ridges Special Landscape Area (SLA) as referred to in Policy CC7 of the RP. I note that paragraph 3.44 of the RP states that Landscape Character Assessments (LCA's) would supersede SLA designations and the Council accepted at the hearing that the site's SLA designation now technically no longer applies.
29. Nevertheless, these references all contribute to a recognition of the significance of the appeal site as a valued landscape for the purposes of the Framework, and this value is also reflected in the various representations made by the local community as part of the appeal.
30. Great Totham is further defined in the Maldon District Characterisation Assessment published July 2012 as an Arcadian settlement displaying a dispersed settlement pattern which it defines to be not consistent with a scale or sense of enclosure approaching an almost urban configuration.
31. The built environment to the west terminates at the public house and at the village hall on opposite sides of Maldon Road, and this is broadly where the local built environment meets open countryside from the north, east and south. The public house, village hall and village cricket pitch to the south all contribute to a distinct sense of place, and all benefit from an essentially open, rural aspect.
32. The appeal site itself makes an important and integral contribution to this local distinctiveness in terms of its scale and openness in-keeping with its predominantly rural surroundings. Whilst set behind a large hedgerow and therefore relatively limited in views from Maldon Road, the relatively unkempt hedgerow is itself significant in its contribution to this distinctive local rural character, set in a forward position adjacent to the highway and without footpaths.
33. The appellant's indicative Development Plan Framework seeks to recognise the existing qualities of the site and its visual attributes and includes significant boundary treatment and open space within the site, and the scheme includes proposals to increase biodiversity. The submitted Landscape and Visual Impact Appraisal (LVIA) also suggests the appeal site is well contained visually, and identifies its main exposure to the south and from footpaths and gaps to the north. The LVIA has also been subject to a formal independent evaluation which agreed that the landscape impacts would be localised to the site itself and to the close vicinity.
34. Notwithstanding the findings of the LVIA, and its subsequent independent endorsement, I find that a distinction is still to be made between the impact of the development within the site itself, and implications relating to the broader character and role of the site in its wider context.
35. The scheme would introduce a substantial built form across a large area of open countryside and development of this open field on the scale proposed

- would undoubtedly change its distinctive character and appearance. That, in turn, would also undermine the existing broader pattern of surrounding open countryside and other open space to which it significantly contributes, and would not be in-keeping with the established dispersed Arcadian townscape of the wider settlement.
36. The scheme would be visible from the south, from the west, and from various viewpoints along the higher ground to the north, including nearby footpaths. Views of unspoilt open countryside across the appeal site from in and around the public house, and notably from its public garden, are particularly attractive features of the local setting and would be lost.
37. The Framework advises that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. More generally, the Framework also places importance upon local distinctiveness. A core principle also seeks for planning to take account of the different roles and character of different areas, which includes recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
38. I therefore conclude that the loss of open land arising from the scale and location of built development proposed would be seriously harmful to the distinctive character and appearance of the appeal site and of its surrounding area. The development would suburbanise an important part of Great Totham to the detriment of its wider distinctive rural character and appearance.
39. Accordingly, the proposed development would be contrary to Policy CC6 of the RP which seeks to protect the natural beauty and traditional quality of the District's landscape. The scheme would also be contrary to Policy H1 of the RP, which makes a presumption against housing development outside development boundaries, and to Policy BE1 which seeks to ensure that development outside defined development boundaries makes a positive contribution to the landscape and open countryside. Policy S2 also states that outside development boundaries, the countryside will be protected for its own sake. Similar aims are expressed by Policy S8 of the LDP. Policy D1 of the LDP also seeks to ensure that all development should respect and enhance the character and local context.
40. The status of Policies H1, S2, BE1 and S8 for the purposes of this appeal, and the weight to be attached, will also depend upon my assessment of the Council's ability to demonstrate a five-year supply of housing land in accordance with the expectations of the Framework, and this is considered further below.

*Housing land supply*

41. The Framework requires the local planning authority to prepare a five-year supply of deliverable housing sites in response to its full objectively assessed needs for market and affordable housing (OAN).
42. The housing requirement of the adopted local plan has not been saved, and the target figure of the Regional Spatial Strategy (the RSS) has been revoked.
43. Notwithstanding the Council's previous progress towards adoption of its LDP, no up-to-date housing requirement has yet been tested and agreed as part of

- the formal statutory development plan process and, accordingly, no statutory five-year housing land supply is available.
44. In this local policy vacuum, I have been presented with two contrasting sets of evidence.
  45. From the Council, I have received a revised Planning Policy Advice Note published in July 2015 accompanied by a Five-Year Housing Land Supply Statement 2014/15 (the Statement). The Statement identifies the District's housing requirement to be 310 new homes per annum and considers it can now demonstrate 6.95 years' worth of housing land supply relative to a five-year housing target of 1776 dwellings.
  46. In response, I have received from the appellant three alternative calculations of five year supply. The first is based upon the Council's own housing need figure of 310 dwellings per annum and concludes there to be a supply of 4.98 years. The second is based upon the appellant's own assessment of the District's housing requirement which it assesses to be 444 dwellings per annum and finds a land supply of 3.4 years. A third scenario is based upon a housing requirement of 381 dwellings per annum contained within a previous Strategic Housing Market Assessment dating from 2014 (the SHMA) and concludes a supply of 4.05 years. This third scenario is significant as, in the EIP Inspector's statement of Key Concerns dated 24 June 2014, he expresses an initial view that the full objective housing need assessment is more likely to be that set out in the SHMA rather than a lower figure put forward by the Council, and that it may be higher if further work is required to take account of recessionary under-estimation.
  47. In terms of housing need, it was agreed at the hearing that a significant explanation of the differences in OAN between the Council's Statement and the alternatives put forward by the appellant relate to underlying assumptions of economic growth and of household formation. The appellant's submission is based upon the latest 2012 ONS Sub-National Population Projections and the CLG's household projections. Whilst the Council confirmed its Statement to be based upon 2011 data, the hearing was advised that the 2012 data had been considered and that the Council's assessment of its requirement remained at 310 dwellings per annum. The Council has adopted more conservative figures of household formation and lower rates of economic growth than those applied by the appellant. This also includes differences identified with regards to the wider housing market areas. These differences of approach are also subject to on-going examination as part of the EIP.
  48. In terms of housing land supply, there are also significant differences in the respective submissions.
  49. The Statement includes a significant contribution of eleven LDP Strategic Allocations which the Council estimates would contribute 1729 dwellings over five years of its total deliverable housing land supply of 2468 units, and this appears to be based upon statements made by developers prior to discussions at the EIP. Two sites are each allocated for over a thousand dwellings, and all but one are allocated for over a hundred dwellings.
  50. To be considered developable, Footnote 11 to the Framework requires each site to be available now, to offer a suitable location for development now, to have a

realistic prospect that housing will be delivered on the site within five years and, in particular, that development of the site is viable.

51. Some 391 dwellings are forecast to be delivered from the eleven Strategic Allocation sites by 2016/17 i.e. over the next eighteen months. Of the eleven sites, however, unchallenged evidence was submitted that only two currently have planning permission (accounting for 82 dwellings), four have applications pending, and the remaining five (accounting for 210 dwellings of the identified delivery) have no permission and outstanding delivery issues. Contrary to the tests of Footnote 11, I also note that at least one of the sites (Heybridge Swifts) appears not to be currently available.
52. Evidence was also submitted regarding the significant lead-in times generally required for development of large-scale sites, including in relation to matters of infrastructure and of detailed viability. The appellant's estimates, supported by other empirical evidence, suggest a realistic lead-in time from submission of application to starting on site to be some 23-35 months. The EIP Inspector similarly identified possible concerns in relation to multiple ownerships, and unresolved key infrastructure matters.
53. In light of these doubts, the appellant's assessment of the eleven Strategic Allocations is that the Council's overall five-year supply of 1481 dwellings not yet subject to planning permission should be reduced by some 525. Notwithstanding the Council's commitment to an Infrastructure Delivery Plan, for the reasons indicated, I share the appellant's concerns regarding the general robustness of the Council's stated delivery in relation to these sites.
54. In support of the Council's position, the authority is now pursuing a proactive approach to bring forward for development its LDP allocations and other housing sites, and the Council's progress was noted by the Inspector in the Interim Findings of the EIP. By March 2015, there was a total of 944 dwellings with extant planning permission in the District compared to 497 in March 2014.
55. Nonetheless, I also have other concerns relating to the robustness of the forecast delivery. Whilst the Council states that it has historically met its housing targets, I note that, in the five years from 2010/11 to 2014/15, housing completions in Maldon only once exceeded the RSS target of 120, by 4 dwellings in 2012/13. The Statement proposes in excess of a two and half-fold increase in annual provision relative to need and, notwithstanding its recent concerted efforts to bring forward sites for development, I have insufficient evidence to satisfy me that the proposed step change in provision will materialise. More generally, the Planning Advisory Service's Objectively Assessed Need and Housing Targets Technical advice note dated June 2014 also indicates that the level of completions is a good indicator of the severity of local planning constraints.
56. I also have other doubts regarding a number of detailed aspects of the Council's Statement.
57. The Council employs a lapse rate of some 5% based on local empirical data, whilst other evidence, including Appeal Ref: APP/H1840/A/12/2171339 dated 24 August 2012 and relating to land at Honeybourne, Worcestershire, suggests a figure of 10% to be more appropriate. I consider a higher lapse rate would also be reasonable where the robustness of data may be in question. The



- appellant suggests this would reduce the Council's five-year supply by 94 dwellings.
58. I am unclear why 69 completions from 2014/15 should be included in a future delivery plan given that this figure is already set against the Council's unmet target of 310 dwellings for 2015/16.
59. I am unconvinced, given the necessary lead-in period and the trawl of sites already identified, that windfall allowances should apply to the first two years. The appellant suggests this should reduce the Council's figure by a further 40 dwellings.
60. The Council's Statement does not apply the buffer to the annual housing requirement and backlog but adds it as a separate element. This is contrary to the practice of a number of recent appeal decisions quoted, and means the Council's estimated need is lower than if calculated by the alternative method, although relevant numbers would be relatively small.
61. In the absence of a statutorily defined housing requirement reflecting Maldon's OAN, I place particular weight upon the EIP Inspector's initial view that the full objective housing need assessment is more likely to be that set out in the 2014 SHMA, and that it may be higher. Importantly, the Inspector also describes that SHMA as a sophisticated and robust assessment. Whilst the SHMA figure of 381 is less than that identified by the appellant's assessment, I also find it significant that the appellant's submission is consistent with the Inspector's finding of a possibly higher figure.
62. Applying the minimum 2014 SHMA figure of 381, which is still significantly below that advocated by the appellant, to the appellant's suggested supply figure of 1871, would give a supply of 4.05 years.
63. Applying the 381 figure to the Council's total supply figure of 2468 (unadjusted for lapse rates, windfalls, and completions) would involve an initial requirement of 1905 dwellings ( $5 \times 381$  dwellings per annum). Adding a backlog of 312 and a 5% buffer would require 2328 dwellings over five years at 466 dwellings per annum. This would yield a supply of 5.3 years ( $2468 \text{ dwellings} / 466$ ).
64. Setting aside wider and potentially more far-reaching issues around differences in delivery rates, and other uncertainties relating to the Strategic Allocations, just removing the identified 69 completions, 40 windfalls (two years' allocation), and 47 lapses (5% of 944 dwellings identified with planning permission) from the same Council total would reduce this figure of 2468 to 2312 and would yield a deficient supply of some 4.96 years ( $2312 / 466$ ).
65. In summary, I recognise that the Council's Statement may have significant benefit as a list of potential future housing sites, but I cannot be satisfied that the Statement is sufficiently robust as to constitute a five-year supply of sites each meeting the detailed terms of Footnote 11. This is particularly so as the Statement has not been endorsed following the rigours of an EIP, its overall robustness as a strategic planning tool is untested, and significant questions remain.
66. The Planning Practice Guidance (the Guidance) advises that planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the five-year supply. Local planning authorities will need to provide robust, up-to-date evidence to support the deliverability of

sites, ensuring that their judgements on deliverability are clearly and transparently set out. Full such details are not before me as part of this appeal.

67. I am therefore not satisfied from the information before me that the Council is able to demonstrate a five-year housing land supply as required by paragraph 47 of the Framework, and nor has any other evidence or decisions been presented to me to suggest otherwise. It follows that policies within the development plan relating to the supply of housing are considered out-of-date in accordance with paragraph 49, and the presumption in favour of sustainable development would thereby otherwise be engaged.
68. The implication is that Policies H1, S2 and BE1 of the RP and Policy S8 of the LDP, which act as constraints to future housing supply by presuming against housing development outside development boundaries, are considered out-of-date, and little or no weight is attached as part of my overall planning balance.

*Affordable housing*

69. The proposal makes provision through the submitted Unilateral Undertaking for 30% of the housing to be affordable, of which 80% is intended to be social rented housing and 20% intermediate. This level of provision accords with the requirements of Policy H9 of the adopted RP.
70. Policy H1 of the LDP requires a higher provision of 40%. The Council indicated at the hearing its pressing needs for affordable housing and the importance of securing a higher figure where the viability of sites is not in question. The Council considers Policy H1 to be a more up-to-date reflection of its needs, and explained that, whilst objections have been raised to the policy as part of the EIP, these relate to site-specific matters and not to the principle of the policy itself.
71. Policy H1 is not a formally adopted policy of the development plan and, accordingly, can only be afforded limited weight. Further, I note the proposal was the subject of pre-application discussions, that a figure of 40% was not raised at that time, and that the application proceeded in accordance with that advice reflecting the requirements of the adopted Policy H9.
72. In these circumstances, I find a requirement of 40% to be unreasonable given the history of the scheme and, more particularly, its compliance with the extant, adopted development plan and the limited, emerging status of Policy H1.
73. I therefore conclude that the proposed development would not be harmful with regard to the supply of housing required to meet local housing needs and, in particular, affordable housing. Accordingly, the proposed development would be consistent with a core principle of the Framework which looks for planning to proactively drive and support sustainable economic development to deliver required homes.

*Sustainable development*

74. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development.

75. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. At the heart of the Framework in paragraph 14 is a presumption in favour of sustainable development. The Framework further identifies economic, social and environmental dimensions to sustainable development.
76. I have noted the various appeal decisions referred to by the appellant, and the recognition given to the role of housing in supporting the broader sustainability of villages and of smaller settlements as set out in the government's Guidance.
77. I have had particular regard to the appellant's Socio-Economic Sustainability Statement. The scheme would undoubtedly provide considerable housing benefits, and not just in terms of affordable housing but also in terms of market provision, and such benefits would be consistent with the social dimension of sustainable development. The investment represented by the development would also be consistent with the economic dimension, and there is no dispute between the main parties that the location is, in principle, a sustainable one.
78. In environmental terms, however, I find the impact of the scheme upon the character and appearance of the appeal site and surrounding area, and with particular regard to its location and scale, and its relationship to the settings of the adjacent listed buildings, to be unsustainable for the reasons described.
79. I therefore conclude that, although the development would yield significant benefits in terms of the economic and social dimensions of sustainable development, other aspects of the scheme, particularly with regard to the site's environmental impact, would not be sustainable. In overall terms, given the extent of the environmental harm reflecting the scale and location of the proposed development, I find the scheme would not be sustainable development in accordance with the expectations of Policies S1 and S8 of the LDP. Policy S1 states that the Council will take a positive approach that reflects the presumption in favour of sustainable development, including supporting growth within the environmental limits of the District, conserving and enhancing the historic environment, and in maintaining the rural character of the District without compromising the identity of individual settlements. Policy S8 states the Council will support sustainable developments within the defined settlement boundaries. Whilst I consider Policy S8 to be technically out-of-date for the purposes of the Framework, I still find the underlying aims of these policies to be broadly consistent with national policy.

*Unilateral Undertaking*

80. The Unilateral Undertaking makes commitments to various matters, including affordable housing, early years and childcare facilities, health, secondary school transport, a travel plan, and in relation to open space.
81. Although the Undertaking provides for considerable benefits, it is still incumbent upon me to assess the proposed contributions with regard to the tests identified in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (the Regulations), and with reference to the advice of the Framework, of the Guidance, and in relation to the general expectations of the Planning Inspectorate's Procedural Guide Planning Appeals - England, published July 2015.

82. Regulation 122 makes clear that it is unlawful for a planning obligation to be taken into account in a planning decision unless it meets three tests. These are that the obligation is necessary to make the proposal acceptable in planning terms, that it is directly related to the scheme, and that it is fairly and reasonably related in scale and kind to the development, and these tests are more generally expressed in the Framework and Guidance. Further, Regulation 123 also places limitations upon the number of pooled contributions for particular projects.
83. I note the Council's case for the contributions and the justification provided, including the Council's Developer Contributions Guide Adopted December 2005, and in Essex County Council's Developers' Guide to Infrastructure Contributions 2010 Edition, and in the County's Education Contribution Guidelines, and by Policy H9 of the RP. On this basis, I find the contributions would each satisfy the appropriate tests.
84. The Council raises no issues regarding the form and drafting of the Undertaking which I find is fit-for-purpose, and is content with the contributions as they relate to Regulation 123.
85. I therefore have regard in my decision to the Undertaking, and consider these matters further as part of the overall planning balance.

#### **Other Matters**

86. I have considered all other matters raised, including concerns relating to the impact upon the village's limited transport and social services. The Council explained these matters had been carefully considered as part of its decision in consultation with relevant authorities, and that it is satisfied with the terms of the Undertaking in those regards. I have little reason from the evidence before me to conclude otherwise.
87. I note that no objection is raised by the highway authority on the grounds of highway safety, and I have little basis to disagree.
88. The Council also raises no objection with regard to impacts in relation sewage/drainage, wildlife/ecology, and to matters of access for disabled people. Given the outline status of the application with all matters reserved except access, I have little basis to conclude otherwise.
89. I have noted references made to pre-application discussions, and to the appellant's Statement of Community Involvement. I also note the scheme has been assessed as not to involve Environmental Impact Assessment (EIA) development.
90. I have had regard to all other planning decisions and appeals as referred to in the submitted evidence, to all correspondence and other documents submitted in relation to the EIP, and to all other considerations raised at both the hearing and in written evidence.

#### **Overall Planning Balance**

91. I consider Policies H1, S2 and BE1 of the RP and Policy S8 of the LDP to be policies for the supply of housing. As I am not satisfied that the authority has a five-year supply of deliverable housing sites, I find those policies to be out-of-date and attach little or no weight accordingly.

92. Policy CC6 of the RP is a formally adopted development plan policy which broadly accords with the Framework. Given the emerging status of the LDP, I only attach limited weight to Policies S1, H1, D1 and D3. Notwithstanding on-going issues around the EIP, it was also agreed at the hearing by the main parties that comments made by the Inspector to date were neither criticising nor endorsing these particular policies but related to other detailed aspects of housing policy, particularly in relation to accommodation for gypsies and travellers.
93. I have concluded that there would be some harm to the significance of the public house and stables as designated heritage assets but that this would be limited, and thereby less than substantial. I consider that the public benefits of the development in terms of its economic and social implications described would be sufficient to outweigh that harm to the significance of the heritage assets. I therefore find that the appeal scheme would not conflict with policies of the Framework relating to the historic environment.
94. Notwithstanding the undoubted economic and social benefits of the development, and the commitments arising from the Unilateral Undertaking, substantial harm would still be incurred by the scheme. In particular, substantial harm would arise to the character and appearance of the appeal site and surrounding area. The scheme would involve the loss of a considerable area of countryside with wider implications for the character and appearance of Great Totham contrary to expectations of both the development plan and of the Framework. The appeal site is integral to the character and appearance of Great Totham and development would harmfully suburbanise an important part of the village and its surrounding countryside.
95. In this regard, I place particular weight upon the aims of the Framework. The Framework advises that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, places importance upon local distinctiveness, and seeks for planning to take account of the different roles and characters of different areas. This includes recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. All these expectations would be harmed by the scheme.
96. Taken together, I therefore find that the adverse impacts of the scheme, by reason of its location and scale, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, and with regard to the development plan as a whole. Further, there are specific policies in the Framework which indicate that development should be restricted.

### **Conclusion**

97. For the above reasons, the appeal is dismissed.

*Peter Rose*  
INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Steve Latham	Gladman Developments Ltd
Nicky Parsons	Pegasus Group
Lydia Voyias	Pegasus Group
Katie Machin	Pegasus Group
Jason Clemons	CgMs Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Clive Tokley	Planning consultant
Jacqueline Longman	Senior Conservation and Urban Design Officer
Tai Tsui	Senior Planning Policy Officer
Gary Sung	Planning Policy Officer

### INTERESTED PERSONS:

Councillor Jim Gregan	Parish Council
Kevin Bennett	Local resident
Paul Mutton	Local resident
Graham Thorne	Local resident
Wendy Stamp	Local resident
Christine Adams	Local resident
Rupert Marks	Local resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Signed Statement of Common Ground dated August 2015
2. Completed Unilateral Undertaking dated 18 August 2015
3. Update to appellant's Core Document List dated 11 May 2015
4. Maldon District Council List of Assets of Local Heritage Value (undated)
5. Extract from 'Essex', Nikolaus Pevsner, 1954

6. Council's 'Matter 2: Strategic Housing Growth: Implications of DCLG's 2012-based Household Projections (published 27 February 2015)', Ref: EWT - M02b - 01 dated 31 March 2015
7. Council's 'Identification of Objectively Assessed Needs for Housing (OAN)' Ref: EBO98c dated September 2014
8. Appendix G of Council's Five-Year Housing Land Supply Statement July 2015
9. Council comments re. Unilateral Undertaking financial contributions
10. Council's annotated aerial views of the appeal site and surroundings

Richborough Estates