



## Appeal Decision

Inquiry Held on 9 January 2018

Site visit made on 11 January 2018

by **S R G Baird BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19 February 2018**

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**Appeal Ref: APP/P1560/W/17/3176089**

**Land to the rear of New Road, Mistley, Essex CO11 2AL**

- 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 Hollins Strategic Land LLP & Grasmere Assets Essex Limited against the decision of Tendring District Council.
  - The application Ref 17/00004/OUT, dated 23 December 2016, was refused by notice dated 7 April 2017.
  - The development proposed is the erection of 67 dwellings together with the formation of an access.
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### Preliminary Matters

1. The application was submitted in outline with all matters other than access and layout reserved. The Statement of Common Ground notes that satisfactory detail in relation to surface water drainage has been submitted and can be dealt with by a planning condition. An S106 Unilateral Undertaking (UU) obliging the developer to make appropriate provision for affordable housing and contributions to the improvement of education facilities was submitted at the inquiry. These matters address the second and third reasons for refusal.

### Decision

2. The appeal is allowed and planning permission is granted for the erection of 67 dwellings together with the formation of an access on land to the rear of New Road, Mistley, Essex CO11 2AL in accordance with the terms of the application, Ref 17/00004/OUT, dated 23 December 2016, subject to the conditions set out in the attached Schedule of Conditions.

### Main Issues

3. Whether the local planning authority (lpa) can show a 5-year supply of deliverable housing sites; the effect on the Manningtree and Mistley Conservation Area (CA); and the effect on the character and appearance of the area.

### Reasons

4. The development plan comprises saved policies of the Tendring District Local Plan 2007 (LP). The lpa has published the Tendring District Local Plan 2013-2033 and Beyond (eLP) which is currently the subject of public examination.

## Housing Land Supply

5. Paragraph 47 of the National Planning Policy Framework (Framework) seeks to boost significantly the supply of housing. Lpas are required to meet the full objectively assessed needs (OAN) for market and affordable housing in the housing market area (HMA). They are required to identify and update annually a supply of deliverable sites to provide 5-years' worth of housing land against their housing requirements with an additional buffer of 5% or 20% where there has been a record of persistent under-delivery of housing.

### *Housing Requirement*

6. The appellants submit that the OAN of 550 dwellings per annum (dpa) contained in eLP Policy SP3 should be used as the basis for demonstrating a 5-year housing land supply (HLS). This figure is derived from an Objectively Assessed Housing Needs Study produced by PBA<sup>1</sup> in 2015 and updated in 2016 for the North Essex Authorities<sup>2</sup> (NEA). For this inquiry, the lpa's position is that an OAN of 480 dpa should be used to determine whether a 5-year HLS exists. The lpa adopted the 480 dpa figure in November 2017 following publication of ONS<sup>3</sup> data on population change and subsequent work for Tendring by NMSS. Notwithstanding the November decision, the lpa has submitted the 550 dpa figure as the OAN to the eLP public examination
7. In a paper<sup>4</sup> published in response to questions posed by the eLP Examining Inspector, the NEA submit that "... *the proposed overall housing requirement in policy SP3... and the constituent requirement (550dpa) for Tendring is based on a sound analysis of the available and relevant evidence, and does reflect the full objectively assessed need for housing over the plan period...*" The NEA response also identifies that updated ONS national population projections have particular relevance to Tendring and that the 550 dpa figure "may" be an overestimate and "may" need to be the subject of an early review.
8. Planning Practice Guidance<sup>5</sup> (PPG) recognises that household projections are trend based and household projection-based estimates of housing need may need adjustment to reflect factors affecting local demography. Moreover, account should also be taken of the most recent demographic evidence including the latest ONS population estimates. Both the PBA work for the NEA and the recent NMSS work for Tendring have taken into account factors particularly relevant in Tendring i.e. unattributable population change<sup>6</sup> and factoring in the ONS increased mortality rates. PPG<sup>7</sup> also advises that whilst local needs assessments should be informed by the latest available information and the Framework says that Local Plans should be kept up-to-date this does not automatically mean that housing assessments are out of date every time new projections are issued.
9. The OAN for an area is the objectively assessed need for market and affordable housing in a housing market area. Given the above PPG guidance,

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<sup>1</sup> Peter Brett Associates.

<sup>2</sup> Braintree, Chelmsford, Colchester and Tendring

<sup>3</sup> Office for National Statistics.

<sup>4</sup> North Essex Authorities – Matter 3 Meeting Housing Needs (Policy SP3) – 5 December 2017.

<sup>5</sup> Paragraph: 015 Reference ID: 2a-015-20140306

<sup>6</sup> A discrepancy between the 2001 and 2011 Census populations and the mid-year estimates by the Office for National Statistics (ONS).

<sup>7</sup> Paragraph: 016 Reference ID: 2a-016-20150227.

tempting as it is to accept the figure of 480 dpa as the OAN, what is important is confidence that the exercise undertaken to arrive at that OAN is robust. On the evidence before me, I am not certain that, in advancing an OAN of 480 dpa, the lpa has undertaken a full assessment of what constitutes the OAN and the implications of adopting this figure in isolation for the HMA. It is not the role of this inquiry to undertake that exercise. The determination of the OAN is a matter for the public examination of the eLP, where the assumptions and divergent views can be thoroughly tested. Given the NEA December 2017 housing paper it is clear that the only estimate of OAN that will be tested at the eLP is the PBA figure of 550 dpa.

10. Drawing all of the above together, I consider that given the caution to be applied to the NMSS figure and the inconsistency of the lpa's position, the appropriate starting point for assessing whether the lpa has a 5-year HLS is the PBA estimate of OAN of 550 dpa. Both parties agree that it is appropriate to adopt the Sedgefield approach to meeting shortfalls in delivery and to include a 20% buffer. This translates to a 5-year housing requirement of some 4,291 dwellings or 858 dpa.

#### *Housing Supply*

11. The parties agree the contribution to the HLS of emerging allocations and small windfall sites. What is in dispute is the contribution within 5 years from 10 sites. Following an assessment of deliverability in November 2017, which included lead-in times and delivery rates, the lpa considers the HLS supply stands at 4,347 units (5.1 years). The appellants' assessment is that the HLS stands at some 3,973 dwellings (4.6 years).
12. The appellants considers 3 of the 10 disputed sites (Cliff Hotel, the Church Road and Charity Field) do not meet the test of deliverability. Although these are challenging sites given that the lpa is still within the first year of the 5-year period, I consider on the evidence before me these sites are deliverable. On the remaining sites the appellants' concerns relate to the delivery trajectory and/or lead-in times. In terms of delivery trajectory, the appellants rely on rates based on their consultant's general experience rather than those based on the lpa's local experience and developer/owner input. The evidence suggests that the lpa has taken on board criticisms made in recent appeal decisions relating to its estimates of lead-in times and delivery trajectory. As such, on the evidence before me, I consider the remaining disputed sites are deliverable.
13. On this issue, I consider the lpa can show a 5.1-year supply of deliverable housing land.

#### *Effect on the Conservation Area*

14. LP Policy EN17 says that permission will be refused for development that would harm the character or appearance of the CA including, amongst other things, the arrangement of open areas and their enclosure. Policy PPL 8 of the eLP says that development will only be permitted where, amongst other things, regard has been had to the importance of spaces to the character and appearance of the CA.
15. Framework paragraph 132 indicates that when considering the impact of a development on the significance of a designated heritage asset (HA), great

weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The Framework defines significance as the value of a HA to this and future generations because of its heritage interest, which may be archaeological, architectural, artistic or historic. Significance can be harmed or lost through alteration or destruction of the HA.

16. Framework paragraph 138 identifies that not all elements of a CA will necessarily contribute to its significance. Here, the lpa acknowledges that elements of a HA that do not contribute to its significance may be adversely affected without causing harm to the significance of the HA. Conversely loss of an element which makes a positive contribution to the significance of the CA should be treated either as substantial harm or less than substantial harm, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the CA. The lpa submits that the proposal would result in less than substantial harm, albeit towards the top of that scale, to the significance of the CA. In this context, Framework paragraph 134 says where a development would result in less than substantial harm to the significance of a designated HA this harm should be weighed against the public benefits of the proposal.
17. The CA covers an extensive area, which includes the historic urban cores of Manningtree and Mistley separated by open land associated with the former Mistley Hall. The 2006 CA review identifies that the, "...area is completed by... the attractive if degraded designed landscape associated with the long-vanished Mistley Hall." The review divides the CA up into 7 character areas where the appeal site and the grounds of the former Mistley Hall are included within, "The Rest of the Area, area 7". Green Lane is identified as an entrance into the park past the one surviving Adam gate lodge and reference is made to fine views over open countryside to the south, with more limited views to the north because of the mature hedge and specimen trees.
18. The CA Management Plan (MP) produced in 2010, refers to the 2 settlements being linked by the surviving grounds and designed landscape of the former Mistley. It notes that whilst much of this open land was shaped by the Rigby family during the 18<sup>th</sup> and 19<sup>th</sup> centuries it has been affected by, amongst other things, modern agricultural practices. The MP identifies 3 significant views relating to the parkland. These are, one from Green Lane by the appeal site looking south to the replacement Mistley Hall and the Acorn Village Community<sup>8</sup>; the second from Green Lane well to the east of the former coach house looking south south-west across open countryside between Dairy House and Furze Hill and a third from Clacton Road to the south looking north-east towards Dairy House and Furze Hill. None of these views include the appeal site and it is not identified as Significant Open Space.
19. The open land comprises 2 elements; these are the designed parkland associated with the former Mistley Hall and the surviving grounds. It is clear from an examination of the historic maps, particularly the 1778 map that the designed parkland was concentrated around the former hall to the east and south-east of a road that ran south-west to north-east leading to Mistley between the former hall and the appeal site. At this time the appeal site was in agricultural use and located to the west of this road. Sometime between 1778 and 1782, the road disappeared and the appeal site became part of

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<sup>8</sup> A residential community for adults with a learning disability.

what I believe is described as Home Park. That said, in 1845, after the break-up of the Rigby Estate the site reverted to agricultural use.

20. I consider the appeal site is part of the surviving grounds of the Rigby Estate and not part of the designed parkland landscape; this is an important distinction. Even today despite the degraded nature of the Rigby Estate it struck me that the appeal site has a distinctly different character and appearance (enclosed and discrete) from the land to the south and east (open and expansive). The land to the south of Green Lane displays obvious traces of remnant designed parkland. The location of the 2 Adam gatehouses at the junction with New Road, only one of which remains, lends some weight to the suggestion that Green Lane formed a principal access to the estate. However, given the enclosed and discrete nature of the site and the fact that it does not form part of or inform the significant views of the designed parkland indicates to me that the appeal site does not contribute to the historical significance of Green Lane as a key access to the former Mistley Hall.
21. Drawing all of these factors together, the appeal site falls squarely within the description contained within Framework paragraph 138. On this issue, I conclude that the site does not contribute to the aesthetic or historical significance of the CA. As such development on this site would preserve the character and appearance of the CA as a whole.

#### Character and Appearance

22. The appeal site is located outside and adjoins the settlement boundary of Manningtree. Here, LP Policy QL1 says that only development that is consistent with countryside policies will be permitted. The supporting text indicates that development in the countryside will only be granted permission where it would not detract from the appearance or character of the area. LP Policy EN1 seeks to protect and where possible enhance the landscape and its distinctive local character. Development that would significantly harm landscape character or quality will not be permitted. Amongst other things, the policy seeks to conserve the setting and character of settlements, historic landscapes and important hedgerows and trees. The appeal site is located within a Local Green Gap where LP Policy EN2 indicates that the land will be kept open and essentially free from development so as to prevent the coalescence of settlements.
23. The eLP does not alter the settlement boundary for Manningtree. Outside the settlement boundary eLP Policy SPL 2 indicates that development proposals will be considered in relation to the settlement hierarchy and any other relevant policies. The supporting text says that development outside the settlement boundary will be subject to strict control to protect and enhance the character and openness of the countryside. The appeal site is retained within a Strategic Green Gap. Here, eLP Policy PPL 6 indicates that development will not be permitted that would result in the joining of settlements or neighbourhoods. Development that would not compromise the open setting between settlements or neighbourhoods may be permitted.
24. I viewed the site from the various viewpoints used in the Landscape and Visual Appraisal that accompanied the application. I consider these views to be representative of the views that are obtained from the extensive and well used public footpath network in the area. In terms of visual impact, I have started from a baseline where the sensitivity of receptors is high.

25. The site is located in an area covered by national, county and local assessments of landscape character. I agree with the appellants that given their scale it would not be appropriate to seek to apply their key characteristics to a site of this scale. In general terms, the local landscape assessment should be the most appropriate to apply. However, in this case, the site and surrounding area shows none of the characteristics of the District Landscape Character Area 7A Bromley Heaths.
26. The appeal site is bounded by mature, generally well maintained hedgerows on its north-east and southern sides and by urban development on the north-western edge. It is an enclosed and discrete site where close-up views across it i.e. from Green Lane and the public footpath along its north-eastern edge are limited. In medium and long distance views from the east, views of the site are significantly restricted by dense mature woodland. From the more open views to the south-east, the appeal site is largely obscured from view by mature linear planting along the southern edge of Green Lane and the local topography. The overall experience is that the site is divorced from the wider landscape.
27. In terms of the effect on landscape character and visual impact the development would, inevitably, result in a major change in character within the site. As to visual impact, the greatest effect would be experienced in the direct, albeit, limited views from Green Lane and the public footpath on the north-eastern boundary. However, given the density and maturity of the boundary hedges, the opportunities to retain and reinforce these boundaries and the proposed setback from the southern boundary, the minor to moderate adverse effect in terms of visual impact would be mitigated. In medium to long distance views, the effect on landscape character and visual impact would be significantly diminished and overall the effects would be negligible.
28. Although located within the Green Gap between Manningtree and Mistley, the site is largely separated from the bulk of the gap by dense woodland and hedgerow. As a result there is no inter-visibility between the site and Mistley and visually it does not form part of that gap. As a result, the development would not result in either physical or perceived coalescence contrary to the objectives of Green Gap policy.
29. Overall, I consider the landscape and visual impact of this development would be minor moderate adverse but that effect would be highly localised and would not harm the setting of Manningtree and Mistley.

#### Other Considerations

30. The S106 UU obliges the developer to make appropriate provision for affordable housing and to provide contributions to improvements in education facilities. These are site specific requirements and the obligation meets the tests in the CIL Regulations.
31. Whilst concern has been expressed about traffic generation and existing parking on New Road, the highway authority has no objection to the proposal and I have no reason to disagree with that conclusion.

#### **Planning Balance & Conclusions**

32. The development plan comprises the saved policies of the LP adopted in 2007 to plan for the period up to 2011. Relevant policies in this case are couched



in terms such as "*The Spatial Strategy for Tendring to 2011...*" (Policy QL1) and "*During the plan period...*" (Policy EN2). Although the relevant policies are chronologically old that in itself does not make them irrelevant or out-of-date. The LP is subject to a Saving Direction from the Secretary of State issued in September 2010, which provides that the saved policies can continue to be used for development management so as to ensure continuity in the plan-led system and a stable planning framework locally. Guidance on the weight to be accorded to the relevant policies is set out in Framework paragraph 215.

33. LP Policy QL1 relating to development outside settlement boundaries confines itself to seeking consistency with LP countryside policies. The overarching objective of LP Policy EN2 accords with Framework paragraph 17 where it sets out that decisions should, "*take account of the different roles and character of different areas ...recognising the intrinsic character and beauty of the countryside...*" However, in referring to, "*...minor development proposals may be permitted...*" it is wholly preclusive, inflexible and inhibits development. In such circumstances this policy conflicts with the Framework as a whole and as such is out-of-date and attracts moderate weight. Emerging LP Policy PPL 6 carries forward Green Gap policy albeit in a less restrictive manner. The eLP has just commenced public examination and as such the relevant policies, which may be subject to change, attract only limited weight.
34. I conclude that LP Policies QL1 and EN2 are out-of-date and given my conclusion that the proposal does not conflict with LP Policy EN17 regarding the CA, the tilted balance contained within Framework paragraph 14 applies i.e. that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
35. It is acknowledged that the appeal site is in a sustainable location. Whilst the lpa can show a 5-year HLS, the surplus is marginal. As far as I am aware there are no constraints that would prevent the early implementation of this proposal. The development would deliver up to 67 dwellings of which 30% would be affordable houses, which would materially assist in achieving the Government's objective of boosting significantly the supply of housing. Accordingly, the contribution this development would make to the provision of market and affordable housing in the District is a significant benefit that carries considerable weight.
36. The proposal would result in a minor to moderate, albeit highly localised, adverse effect on the character and appearance of the area and as such would conflict with the objective of LP Policy EN2 to protect the rural setting of settlements. However, the localised harm to the character and appearance of the area and the breach of LP Policy EN2 is significantly outweighed by the benefits of this scheme in terms of boosting the supply of housing. Accordingly and taking all other matters into consideration, the appeal is allowed.

#### Conditions

37. In the interests of certainty a condition has been imposed specifying the approved plans (4)<sup>9</sup>. In the interests of protecting the character and

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<sup>9</sup> The numbers in brackets refer to the conditions in the attached schedule.

appearance of the area and promoting biodiversity, conditions relating to landscaping and tree protection are imposed (5, 6, 7, 8, 9 & 11). To protect the living conditions of residents, a condition requiring the submission of a Construction Management Plan is necessary (10). In the interests of highway safety and promoting sustainable transport choices, conditions relating to the access, the provision of garages, the improvement of bus stops and the provision of a travel information pack are necessary (12, 13, 14, 15, 16 & 17). To ensure the potential archaeological interest of the site is recorded, conditions relating to a scheme of archaeological investigation and recording are necessary (18, 19 & 20). In the interests of preventing flooding and pollution, conditions relating to details of surface water drainage are necessary (20, 21, 22, 23 & 24). Where necessary and in the interests of clarity, precision and enforceability, I have reworded the suggested conditions.

*George Baird*

Inspector



## SCHEDULE OF CONDITIONS

- 1) Details of scale, appearance and landscaping (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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan: Drawing No. 0964-F01 rev D - Access Plan and Drawing No. 1628 URB XX XX GA 90 001 Rev H – Site Layout.
- 5) Any Reserved Matters application relating to landscaping as required by Condition 1 shall include a detailed specification of hard and soft landscaping works for the development. This shall include plant and tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.
- 6) All areas of hardstanding shall be constructed using porous materials laid on a permeable base. All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in phases to be agreed in writing as part of that scheme by the local planning authority. Prior to the occupation of each dwelling, the hardstanding associated with that dwelling shall be fully laid out.
- 7) Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives approval in writing to any variation.
- 8) No development shall commence until details of all trees, shrubs and hedges to be retained, together with the means of protecting them including any trees located outside but adjacent to the site boundary, from damage during the carrying out of the development have been submitted to and approved in writing by the local planning authority. The approved means of protection shall be installed prior to the commencement of development and shall remain in place until after the completion of the development.
- 9) No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges. No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges unless the express consent in writing of the local planning authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, or hedges.
- 10) No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in

writing by the local planning authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from construction works;
- details of hours of deliveries relating to the construction of the site;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the construction phase, including details of any piling operations

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 11) No development shall commence or site clearance or on site investigation works take place until a Biodiversity Management Plan for enhancing biodiversity including the detailed design of proposed biodiversity enhancements and their subsequent management once the development is completed, is submitted to and approved in writing by the local planning authority in line with the recommendations contained in the submitted Extended Phase 1 Habitat Survey dated November 2016. Development shall be implemented in accordance with the approved scheme and thereafter maintained.
- 12) Prior to occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4m by 43m in both directions, as measured from and along the nearside edge of the carriageway. The vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.
- 13) The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway and shall provide, but not be limited to, the following aspects;
  - carriageways measuring no less than 5.5m in width;
  - 2x2m Footways on both sides of the access road;
  - appropriate pedestrian crossing facilities where the new road joins the existing highway;
  - 13.6m minimum centre line radii;
  - kerb radii measuring 8m;
  - the initial 15m of the road shall be straight and at right angles to the existing road
  - any other reasonable items to ensure the access is in accordance with current policy standards.
- 14) Any garages provided within the development shall conform to the measurements below:
  - single garages shall have a minimum internal measurement of 7m x 3m;
  - double garages shall have a minimum internal measurement of 7m x 6m;

- tandem garages shall have minimum internal measurements of 12m x 3m.
- 15) Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport the details of which shall first be submitted and approved in writing by the local planning authority, to include 6 one-day travel vouchers for use with the relevant local public transport operator.
  - 16) Prior to commencement of development, a scheme shall be submitted to and approved in writing by the local planning authority for the upgrading and improvement of the 2 nearest bus stops to the site. The scheme shall be implemented in accordance with the approved details.
  - 17) No vehicular access to the development shall be taken from Green Lane.
  - 18) No development or preliminary ground-works shall commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted to and approved in writing by the local planning authority. Following the completion of this initial phase of archaeological work, a summary report shall be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.
  - 19) No development or preliminary groundwork shall commence on those areas of the development site containing archaeological deposits, until the completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been approved off by the local planning authority.
  - 20) Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a written post-excavation assessment (within 6 months of the completion date, unless otherwise agreed in writing with the local planning authority), which will include a post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and the submission of a publication report.
  - 21) No works shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to:
    - detailed hydrogeological testing to demonstrate the viability of infiltration. Where possible infiltration should be the preferred method of surface water disposal;
    - if infiltration testing demonstrates that ground conditions are unsuitable then further consideration should be given to the alternative discharge strategy, including limiting discharge rates to 5l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
    - provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event and a 10% allowance for urban creep;
    - final modelling and calculations for all areas of the drainage system;
    - the appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753;

- detailed engineering drawings of each component of the drainage scheme;
- a final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features;
- a written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall be implemented prior to occupation.

- 22) No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.
- 23) No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the local planning authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements shall be provided.
- 24) The applicant or any successor in title shall maintain yearly logs of maintenance which shall be carried out in accordance with any approved Maintenance Plan. These shall be available for inspection upon a the submission of a written request by the local planning authority.

## **APPEARANCES**

### FOR THE APPELLANT

David Manley QC instructed by Sedgwick Associates.

He called:

Kathryn Sather BA, MSc.  
Kathryn Sather Associates.

Nigel Evers CMLI.  
Viridian Landscape Planning.

Paul Sedgwick Dip TP, MRTPI.  
Sedgwick Associates.

### FOR THE LOCAL PLANNING AUTHORITY

Josef Cannon, of Counsel, instructed by Linda Trembath, Senior Solicitor (Litigation & Governance).

He called:

Neil McDonald BA (Cantab).  
Independent Consultant, NMSS.

Tim Murphy IHBC, MCIfA.  
Historic Environment Manager, Place Services, Essex County Council.

Alison Hutchinson MRTPI.  
Partner, Hutchinsons.

### INTERESTED PERSONS

Mr M Rayner, Mistley Parish Council.

Mr J Travis.

Mr C Cox.

Mr J Linton.

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- Doc 1 - List of agreed conditions.
- Doc 2 - Final positions on Housing Land Supply.
- Doc 3 - Matter 3: Meeting Housing Needs, North Essex Authorities, 5/12/17, Local Plan Examination.
- Doc 4 - Table 3 Large Sites with Planning Permission or subject to S106, annotated with notes from telephone conversations and or emails with site owners/developers.
- Doc 5 - Land Supply Round Table Note.
- Doc 6 - Tendring District Council and SoS for Communities & Local Government and Ray Chapman, Consent Order CO/4802/2017.
- Doc 7 - Appeal Decision APP/P1560/W/17/3181635, Land adjacent to 113 Holland Road, Little Clacton.
- Doc 8 - SoS Decision Letter & Inspector's Report APP/P1425/W/16/3145053, Land east of Ditchling Road, Wivelsfield.
- Doc 9 - High Court Judgement, Case No: C1/2015/4315, Gladman Developments Ltd & Daventry District Council and SoS for Communities & Local Government.
- Doc 10 - Extracts from archive entries, supplement to the evidence of Kathryn Sather.
- Doc 11 - Statement of Common Ground.
- Doc 12 - CIL Compliance Schedule.
- Doc 13 - S106 Unilateral Undertaking.