
Appeal Decision

Inquiry opened on 5 October 2015

Site visits made on 15 October 2015 and 2 March 2016

by Clive Hughes BA (Hons) MA DMS MRTPI

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

Decision date: 08 March 2016

Appeal Ref: APP/W1525/W/14/3001771

Land South East of The Lion Inn, Main Road, Boreham, Chelmsford, Essex

- 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 Cogent Land LLP against the decision of Chelmsford City Council.
 - The application Ref 14/00826/OUT, dated 13 May 2014, was refused by notice dated 15 October 2014.
 - The development proposed is described on the planning application form as "outline planning application for the development of up to 200 homes and creation of new publicly accessible open space (all matters reserved)".
 - The inquiry sat for 7 days on 6 to 9 and 13 to 15 October 2015.
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Preliminary matters

1. As part of the appeal process the appellant submitted a revised scheme reducing the number of homes from up to 200 to up to 163. This was the subject of extensive public consultation before the Inquiry opened. A revised outline planning application, ref: 15/01079/OUT, also for up to 163 homes, was refused in September 2015 on similar grounds to the appeal scheme.
2. At the Inquiry the appellant formally requested that this amended scheme be substituted for the appealed scheme. As the revised scheme is for a lesser amount of development on the same site and as interested parties have had the opportunity to consider and comment on it, I am satisfied that it accords with the "Wheatcroft" principles and that no interests would be unfairly prejudiced by my consideration of the amended scheme. The Council raised no objections to this approach. In view of the above this Decision is based upon the revised scheme for up to 163 homes (Drawings 001 Rev D, 005 rev H and the revised Illustrative masterplan dated 22 June 2015).
3. The revised scheme is in outline form with all matters of detail reserved for future consideration. Both the original application and the reduced scheme were accompanied by parameter plans identifying the extent of the residential area and public open space, proposed maximum ridge heights, the vehicular access point and existing and proposed pedestrian routes. They were also accompanied by illustrative master plans showing an indicative site layout.
4. As set out in the Council's Statement of Case and in the Statement of Common Ground, revised highway models were submitted by the appellant which addressed the concerns of the Essex Highway Authority and Highways England. In the light of this the City Council did not provide any evidence to support the fifth reason for refusal relating to highway matters.

5. A signed and completed Agreement under s106 of the Act was submitted by the appellants and is dated 14 October 2015. It has been signed by the appellants, other land owners, and the City and County Councils. The Agreement makes provision for affordable housing (35% of the units); local open space; public art; wheelchair housing units (3% of the units); a secondary school transport contribution; various highway works; and a residential travel plan.
6. Before this Decision was made the appellant drew attention to two documents which had been published after the Inquiry closed. These documents, copies of which the appellant provided, are the Chelmsford Local Plan: Issues and Options Consultation Document (November 2015) and an Officers' Report to the Council's Planning Committee in respect of an outline planning application for up to 100 dwellings on land north east of 158 Main Road, Great Leighs (ref: 14/01791/OUT) (25 January 2016). I have taken these documents into account and given the parties the opportunity to comment on them. I have also carried out an unaccompanied site visit to the site at Great Leighs.

Decision

7. The appeal is dismissed.

Main Issues

8. The main outstanding issues are:
 - Whether the Council can demonstrate a 5-year housing land supply and the implications of this on local and national planning policy;
 - The effect of the proposals on the visual amenity of the area;
 - Whether the necessary infrastructure can be delivered to accommodate the proposals, with particular regard to primary school education; and
 - Whether the proposals would preserve or enhance the setting of local heritage assets, and in particular Boreham House, a Grade I listed building set within a Grade II Registered Park and Garden (RPG).

Reasons

Background

9. The appeal site, which has an area of about 14.77ha, is of irregular shape, roughly square, and is in use for agriculture. It is located immediately to the west of Boreham, outside the Defined Settlement Boundary (DSB). It adjoins existing housing/ gardens and the Lion Inn to the north and east; Main Road (B1137) to the north; and further agricultural land to the west and south. A stream, the Boreham Brook, is to the south. The site is crossed by a public footpath (FP29), that runs in an east/ west direction, and there is a further public footpath (FP30) that runs along much of the eastern boundary.
10. The site slopes downhill from north to south with a drop of around 15m. There is a hedge along the western boundary. In the field to the west there are electricity pylons and overhead lines. Further west lies Boreham House, a Grade I listed building set within a Grade II RPG. To the east, within the built-up part of Boreham, lies the Church Road Conservation Area while a little way to the south is the Chelmer & Blackwater Navigation Conservation Area.

11. Boreham is a Key Defined Settlement as set out in the Core Strategy (2008). Within walking distance of the site are shops, including a small supermarket, various community facilities and a primary school. It is served by a number of bus services with routes to Chelmsford, Colchester, Maldon and Great Baddow.

Proposals

12. The revised proposals reduce the number of homes from 200 to up to 163 and the residential area from 6.1 ha to 5.3 ha. There is a related increase in the area of public open space to 9.5 ha. The revised illustrative Masterplan shows that the housing would be located in the north east portion of the site, abutting existing housing and the Lion Inn car park. The remainder of the site would be open space with the footpaths retained on their present alignments. The plans indicate various paths giving access to the open space which, according to the Design and Access Statement, would be meadowland. There would be planting to the western and southern boundaries and a balancing pond.

Planning Policy

13. The development plan comprises the Core Strategy and Development Control Policies DPD (adopted February 2008) (the CS); the Site Allocations DPD (February 2012); the Core Strategy and Development Control Policies Focused Review DPD (December 2013) (the CSFR); and the Community Infrastructure Levy Charging Schedule (February 2014). The CS and Site Allocations DPDs both pre-date the National Planning Policy Framework (2012) (the Framework).
14. The CSFR involved amendments to a number of the policies in the CS to bring them into line with the Framework. The CSFR only sought to reconsider and redraft a limited range of policies; it was not a total review. It only considered some policies that would not necessitate the provision of new evidence so such matters as housing were excluded. It has been though the rigors of an Examination and was found sound. The relevant policies that were amended by the CSFR are Policies CP1, CP5 and DC2. These can be given full weight as they have been found to be consistent with the Framework. The Council continues to rely on many policies from the CS; the weight that they can be given varies in accordance with their consistency with the Framework.
15. Also relevant to this appeal is the Boreham Village Design Statement (BVDS) which was produced by the community in collaboration with the City Council in March 2008. It identifies that the western border of the parish is the most vulnerable because of its proximity to the edge of the urban area of Chelmsford. It says that the village should continue to be surrounded by agricultural land maintaining its distinct identity and separation from the urban edge. The weight that can be given to this document, however, is limited as it is not consistent with the Framework which it pre-dates by several years.
16. The development plan identifies that the site lies outside the DSB for Boreham and within the Rural Area beyond the Metropolitan Green Belt. The site was considered as part of the Council's Strategic Land Availability Assessment when it scored well against availability and achievability criteria. The Assessment identified some suitability constraints in respect of its location adjacent to a DSB and the proximity to Boreham House and its RPG.
17. The emerging plans include the Chelmsford Local Plan: Issues and Options Consultation Document (November 2015) (the IOCD). The consultation period

for this document ended on 21 January 2016. It is still at an early stage in the plan-making process and so carries only limited weight. It refers to some of the policies in the Framework and it does provide an indication of current thinking concerning the direction of travel for development in Chelmsford.

Whether the Council can demonstrate a 5-year housing land supply and the implications of this on local and national planning policy

18. Paragraph 47 of the Framework says that a local planning authority should use its evidence base to ensure that the Local Plan meets the full objectively assessed needs of market and affordable housing (the FOAN). The CS sets a minimum housing target of 700 new homes per year. The East of England Plan increased that figure to 800 per year, but this was revoked in January 2013 so that figure carries no weight. The Council accepted that its CS housing requirement was not up to date and so, together with Braintree, Colchester and Tendring, commissioned a FOAN for the housing market area. The PBA Study was completed in July 2015 and in September 2015 the Council adopted as its FOAN requirement a figure of 775 dwellings per year to be used for the calculation of its 5-year housing land supply.
19. To this the Council added 254 dwellings due to historic shortfall and a 20% buffer. The Council had an average completion rate of 552 dwellings per annum for the period 2001/2 to 2014/5 which, when compared to the (then) requirement of 700, represents persistent under-delivery. A 20% buffer is justified. The 5-year requirement was calculated to be 4,955 dwellings, which works out at 991 dwellings per year.
20. In contrast, the appellants consider that a FOAN requirement figure in excess of 1,000 dwellings per year would be reasonable, giving an overall 5-year requirement of 6,000 dwellings allowing for a 20% buffer for persistent under-delivery. This would equate to a requirement of 1,200 dwellings per year.
21. The Council's figure is not accepted by the appellant for a number of reasons, not least of which is that it has not been tested through an Examination in Public. It is certainly not the purpose of this Decision to forensically examine the figures; that is the role of a future Examination. It is not for me on this s78 appeal to seek to carry out some sort of local plan process as part of determining this appeal. There was no other figure for the FOAN before the Inquiry; the appellants did not put forward an alternative FOAN and indeed are not obliged to do so. The Council's FOAN was produced by a leading practitioner in this field who gave evidence to the Inquiry. He is also author of the Planning Advisory Service's document "Objectively Assessed Needs and Housing Targets" (2015). The appellant was able to cross-examine this witness which gives his evidence added weight.
22. The figure is an unconstrained figure; it is not "policy on". The approach of the Council's consultants seems to follow the PAS Technical Advice Note and follows the methodology in the Planning Practice Guidance (PPG). The PBA Study has been adopted by the Council for the purposes of assessing its 5-year housing land supply.
23. The appellant raised various concerns about the FOAN but nonetheless accepted that it will be for the Local Plan review to determine the FOAN for Chelmsford. With regard to the main areas for dispute, concerning affordable housing I have noted that the appellant used planning judgement to arrive at a

figure well in excess of the Council's figure. They did not assess the actual need. The Council's reasoning is derived from paragraphs 2a-001 to 029 of the PPG and it will be for the Examination to test this approach. From the information before this Inquiry it appears to be a sound approach.

24. Concerning employment growth, the parties used slightly different predictions which mainly differed in their approach to part time working. It may be that the Council's uplift figure is too low as it assumes that part-time jobs will be filled by people with more than one part time job. However, it is likely that some jobs would be filled in this way which would limit the uplift. Overall, however, the figure should probably be raised but the extent of this is not possible to determine on the basis of the evidence before this Inquiry. In any case, this would have only a limited impact on the overall figures.
25. The exclusion of Maldon from the housing market area is unlikely to make a significant difference. It is a matter of judgement and there is no evidence before me to show that the housing market area adopted in the PBA Study does not function as a housing market area.
26. The various differences of opinion concerning the robustness of the PBA Study can and will be tested at a future Examination. For the purposes of this Inquiry, however, none of the appellant's criticisms are so clear-cut as to demonstrate that the Council's calculations are unsound. I have therefore adopted the Council's figure of 775 dwellings per year as the starting point.
27. Concerning supply, footnote 11 to paragraph 47 of the Framework sets out what constitutes a deliverable site. The Council's position is that it can demonstrate a 5-year housing land supply. It claims a 5-year supply of 6,095 dwellings which is 1,140 dwellings above the identified 991 dwellings per year requirement and equates to a 6.15 year supply. In support of this contention it argued that 87% of the identified sites have the benefit of planning permission and so, in accordance with the footnote, should be considered to be deliverable. This figure rises to 97% when allocated sites are also included. Delivery is considered to be realistic given that housing completions in Chelmsford are increasing.
28. In advance of the Inquiry the Statement of Common Ground – Addendum (September 2015) was submitted which listed the eleven specific sites in dispute. These involve a total of 3,197 dwellings. During the Inquiry the list of disputed sites was reduced to 8, involving 2,567 dwellings. It was not contended by the appellant that none of the units would come forward. The Report by New Hall Properties (Southern) Ltd (the NHPR) on behalf of the appellant gives a revised figure of 1,350 units from these 8 sites for the 5-year period. If all the appellants' reduced figures for these 8 sites are correct, then the Council's identified 1,140 surplus would be reduced to a deficit of 77 units. These sites are therefore considered in turn. The potential for sites not to come forward, known as the lapse rate, and the likelihood of windfall sites is also considered.
29. The Car Park, Western End Wharf Road is an allocated site owned by the Council. The Council estimates it will generate 300 units by 2019/20; the appellants (based upon the NHPR as updated in September 2015) anticipate 150 dwellings. The original NHPR gives a figure of 225 for this site; it is not clear why the earlier figure has been reduced. The appellant's witness accepted that the site would come forward; it was simply a matter of timing

- given the uncertainties concerning the need for planning permission and the discharge of conditions. Clearance of conditions, such as archaeology, may take longer than anticipated. There is, inevitably, a degree of speculation in such matters, but it seems reasonable that commencement could be achieved in 2017 with 300 dwellings delivered within the 5 year period.
30. The Lockside Industrial Estate site is also in the Council's ownership; it has resolved to sell it. The whole site would accommodate 200 dwellings and the Council contends that 100 of these could come forward within the period. Part of the land is subject to tenancies but the Council's figure relates solely to the open land which is not subject to tenancies and so could come forward independently. That may not be the final outcome as there may be commercial reasons for developing the whole site as a single development as was suggested by the appellant. However, there is no evidence to support the contention that all the land has to come forward as a comprehensive scheme. There is no planning requirement for such an approach. A large part of the site is not constrained by tenancies and it seems reasonable to conclude that this land could come forward now.
31. The "Channels" site, Belsteads Farm Lane, Broomfield has the benefit of planning permission. The Council says that 700 units can come forward within the period; the appellants say 450 dwellings. There is no debate about the earlier phases. The appellant argued that the pace of delivery for the later phases is a matter of judgement, which is a fair point but has not been backed up by the clear evidence of non-delivery sought by Footnote 11. While phases 3a/ 3b have been sold to Croudace Homes, there is still time for the new owners to have the reserved matters approved by the Council and for the development to start on site to enable it to be included in the 5 year period. There is time for the later phases to come forward. As the Council's figures arise from information provided by the promoter of the site, and as there is no evidence to show the timescale to be unrealistic, I consider that it is reasonable for the Council to rely on them.
32. The site on land to the east of North Court Road, Broomfield also has the benefit of full planning permission. However, no reserved matters applications have yet come forward. According to the NHPR, Countryside Properties have put the site on hold due to third party constraints. Land Registry details indicate that the landowners have not yet sold the site and there are potential issues with highway works covered by a Grampian condition. Nonetheless, the developer has advised the Council that once commercial discussions with the landowner are concluded the site should come forward in the period.
33. The landowner did not give evidence to the Inquiry and given the contrasting information provided to the parties it is difficult to conclude on the likelihood of this site coming forward. The appellant's contention that no dwellings will come forward seems unduly pessimistic while the Council's contention that the whole site will be developed within 5 years may be unrealistic. I expect the correct figure is somewhere in between. There is, however, no "clear evidence" to the effect that the site cannot be delivered in the period.
34. Greater Beaulieu Park is a major development that has the benefit of outline planning permission. Development has commenced and the appellants provide a 5-year figure of 750 dwellings compared to the Council's 1037 (a figure that includes 50 units from the Beanfield). It is a joint venture between

Countryside Properties and London Quadrant and the Council has used figures provided on a phase by phase basis by these developers. While this means an ambitious build rate, indeed one that is higher than other home builders in Chelmsford in recent years, the supporting evidence is such that the Council would have been reckless to have ignored it. The appellant again relies on the judgement of advisors. In these circumstances the Council's evidence is more substantial and I have no reason to contradict it.

35. During the Inquiry the remaining three sites were generally considered together. They are known as the Royal & Sun Alliance site (55 units); Threadneedle House (42 units); and Rosehart Properties (65 units). They are all sites for which permission has been granted through the GPDO for changes of use from offices to residential. The appellant's argument was based, in part, on the anticipation that these temporary permitted development rights would expire in May 2016 before the development took place. During the Inquiry, however, the Government announced that this permitted development right was to be made permanent. While the appellant also put forward judgements concerning the likelihood of the sites coming forward, as planning permission is in place such judgements do not amount to the "clear evidence" necessary for the sites to be discounted. In any case, during the Inquiry an application for works to the Royal & Sun Alliance site was received by the Council, further evidence of the likelihood of this site coming forward. There is no compelling reason not to include any of these three sites in the 5 year total.
36. I have also had regard to the fact that there is likely to be a lapse rate; it seems improbable and unrealistic that all the identified sites will come forward within the 5 year period. The appellant's suggested lapse rates of 5% for sites with planning permission and 10% for other sites seems reasonable and has been used elsewhere, for example in West Dorset. This would result in the loss of 343 dwellings (5% of 5315 = 265 plus 10% of 780 = 78).
37. The Council has made an allowance for 181 dwellings from windfall sites. This is based on the figures for the past three years (about 140 dwellings per year) with the Hayes Leisure Park units, where the status of park homes was regularised, omitted from the calculations as being outliers. This seems a fair assessment. It is unrealistic to consider that no further windfalls will come forward, especially in years 4 and 5. There are existing windfall sites in the Council's Housing Site Schedule and these, together with an allowance for the last two years, brings the total to 181 units per year. As this is based upon recent figures, albeit over a relatively short period, the figures are reasonable.
38. I conclude on the supply side, therefore, that the Council has taken a reasonable approach in terms of the sites that have been contested by the appellant. While the achievement of the Council's figure for North Court Road, Broomfield, is challenging, it is nonetheless the figure given to it by the developers. The figure for windfalls is based upon recent windfall rates and the known supply of windfalls. The Council's figures for the contested sites and windfalls, therefore, appear to be sound. The total needs to be reduced, however, to take account of a lapse rate. Using the rates adopted in West Dorset, this would result in a reduction of 343 dwellings.
39. This brings the supply side figure down from 6,095 dwellings to 5,752. Using the 5-year housing land supply requirement of 991 dwellings per year, this gives a supply of 5.8 years rather than 6.15 years.

40. On the evidence before me at the Inquiry I am satisfied that the Council can demonstrate a 5-year housing land supply. Even if the requirement has been under-calculated due to such factors as employment growth there is sufficient flexibility in the supply side. For the purposes of paragraph 49 of the Framework relevant policies for the supply of housing are not excluded from my determination of this appeal on the basis that they are not up to date.
41. However, being able to demonstrate a 5-year housing land supply does not mean that all schemes for housing on other sites need necessarily be refused. The cited figure of 991 dwellings per year is not a maximum. It needs to be read in conjunction with paragraph 47 of the Framework where it states the Government's objective of boosting significantly the supply of housing. This objective needs to be further considered in the overall planning balance.

The effect of the proposals on the visual amenity of the area

42. The appeal site lies to the east of Boreham, immediately abutting its DSB as identified in the CS. The whole site is clearly visible from the public footpaths, which are not bounded by fences or hedges, and there are open views of the site from Main Road. Views from the public footpaths are inevitably dependant upon the direction of travel but the site appears contiguous with the open countryside to the south and west. When travelling eastbound on public footpath FP29 the view is dominated by the fences, dwellings and domestic landscaping within the village. From Main Road the edge of the village and the dwellings are clearly visible but these do not dominate the view as the distant hills are visible above the housing and form a fine backdrop to the village.
43. Policy CP5 of the CSFR says that urban growth will be contained by defining the physical limit of defined settlements (which include Boreham). Within the rural areas beyond the Metropolitan Green Belt the Council will protect the intrinsic character and beauty of the countryside, while supporting rural communities and economies. Paragraph 3.3 of the CSFR says that the objective of this amended policy is to ease restrictions placed on development within the rural area beyond the Green Belt. Paragraph 3.4 says that the policy seeks to prevent the erosion of the intrinsic beauty and character of the countryside from inappropriate forms of development.
44. Policy DC2 of the CSFR sets out the types of development for which planning permission will be granted in such areas, albeit subject to the caveat that the intrinsic character and beauty of the countryside is not adversely impacted upon. The current proposals do not fall within any of the cited forms of development. Supporting paragraph 3.15 says that the objective of the amended policy is the same as that for Policy CP5.
45. The BVDS sets out guidelines for the Parish which include that Boreham should continue to be surrounded by agricultural land. The reason given for this is to maintain its distinct identity and separation from the urban edge of Chelmsford. The proposals would bring Boreham closer to Chelmsford. The new access from Main Road would be located on the Chelmsford side of the Lion Inn where there is currently a field. While the Lion Inn would still be the first building on this side of the road, the entrance paraphernalia would alter the character of this entrance to the village.
46. The location of the proposed development within the site, as shown on the illustrative Masterplan, is on the eastern side of the site, adjacent to the

- existing houses. The boundary is now roughly concave in shape; the development would fit within the curve such that, when viewed from the site entrance from Main Road, it would all lie between the viewpoint and existing housing. However, being closer to the viewpoint, it would appear much larger and this increased scale would mean the long views, over the existing houses, would be lost. The BVDS identifies that one of the main strengths of the village are the outstanding views to the south over the Chelmer Valley. From this vantage point in Main Road such views would be harmfully diminished.
47. The appeal site is currently open and in agricultural use. The expansion of the village into the eastern side of the site would be visually intrusive when seen from Main Road and from the public footpaths. This would result in some harm, as accepted in the appellant's LVIA. While the built form would be set back from Main Road, in accordance with advice in the BVDS, it would still be visually prominent from these public viewpoints. In longer views the impact would be significantly less, however, as the village is already visible in long views and the development would just bring the built form a bit closer.
48. I am not convinced by the Council's contention that the site provides a transition between the built form of the settlement and the countryside. The boundary is in fact quite stark with domestic fences and planting abutting the agricultural field. There is no urban/ rural transition between the two. The character of the site also needs to be considered in the light of the proximity of the built form of the village. The houses, fences and planting within Boreham contribute to both the character of the site and the appearance of the area.
49. Nonetheless, the site lies outside the DSB of Boreham. The proposals would therefore be contrary to the provision of up to date policies in the CSFR that seek to prevent such development in the rural area. The proposals would, in effect, move the western boundary of Boreham some distance to the west, towards Chelmsford. The BVDS, which carries limited weight, identifies that one of the main threats to the village is the continued eastward expansion of Chelmsford, resulting in the potential absorption of Boreham into Chelmsford and the loss of its separate identity. While the landscape has no specific designations, it contributes to the rural setting of Boreham and to the separation of the village from Chelmsford. This contribution includes allowing views over the built form of the village to the hills beyond.
50. I have had regard to the Officers' Report in respect of the scheme at Great Leighs. This proposal is the subject of an appeal against non-determination. While the Officers recommended that, had the Council been in a position to determine the application it should have approved it subject to appropriate conditions and the completion of a s106 Agreement, Members disagreed and resolved that they would have refused the application.
51. While there are some similarities between that proposal and the scheme the subject of this appeal, including its siting outside the DSB and the site being crossed by public footpaths, the sites are very different in other respects. In particular the Great Leighs scheme would, in part, involve the infilling of an uncharacteristic gap in an otherwise built-up road frontage with the ribbon of existing development continuing for about 0.5 km to the north. According to paragraph 6.33 of the Report, the site adjoins developed land inside the DSB to the north, south and west. Due to this, and the lack of important long views across the site, the impact on the character and the appearance of the area

would be very different to the scheme before me. These differences impact upon the overall planning balances for the respective schemes.

52. The development on the current appeal site would not only be contrary to the cited development plan policies but would also result in some visual harm to the amenity of the area. The conflict with advice in the BVDS carries limited weight. Overall, however, this harm weighs against the proposals.

Whether the necessary infrastructure can be delivered to accommodate the proposed development, with particular regard to primary school education

53. The IOCD identifies that there is very little spare capacity in both primary and secondary schools in Chelmsford. It says that new development to 2036 will require new and expanded schools. It is common ground that Boreham Primary School, which can accommodate 210 pupils, is presently at capacity. In the school year 2015/16, two children in the priority admissions area who put it as first preference failed to secure a place; in the preceding year the figure was 5. It is also common ground that the proposed development can reasonably be expected to generate 45 children of primary school age. It is recognised that as a result of the Community Infrastructure Levy Regulations (CIL) it is not possible for the appellants to provide for the necessary primary level education infrastructure.
54. While the school is tightly constrained by surrounding development it seems that it would be feasible to increase its capacity within its existing site. There is no permission for such development; the County Council has no plans to expand the school. It would be possible to expand it to accommodate either 280 pupils (based upon 40 pupils per year) or 315 pupils (45 per year). Both options would involve mixed age teaching. The desk-top survey shows that additional classrooms and related facilities could fit on the site. This may involve a second storey although there is no evidence as to whether or not the existing structure could support that. It would also be necessary to provide an all-weather pitch to replace the playing fields or, if that was not possible, then permanent off-site provision of playing pitches would be necessary. It is not clear how or where this would or indeed could be provided.
55. It was agreed by the respective witnesses that a capacity of 280 pupils would be educationally detrimental due to the necessary mix of classes including some pupils being separated from the rest of their age groups. This solution is not supported by either the school or the County Council and the only 2 schools in Essex where it takes place are being considered for expansion.
56. The school cannot accommodate the increase in the number of children in its priority admissions area that this scheme would be likely to generate. There are no other schools within a reasonable walking distance. The probability, therefore, is that the County Council would have to bus a significant number of pupils to alternative schools. I agree with the Council that such an outcome would not result in the promotion of sustainable travel.
57. I have also had regard to the fact that the proposed redevelopment of the Cock Inn in Boreham to provide 28 new dwellings was recently granted planning permission. It is a brownfield site, having accommodated a waste recycling business and is the only housing site allocated in Boreham in the Site Allocations DPD. The County Council's Community Infrastructure Planning (Education) noted that it is an allocated site and that due to the relatively small

scale of the development and the site constraints of the school, it would not be possible to mitigate the impact on the local Primary School by providing additional accommodation. The County Council did not raise any objections to that development. Expansion of the school to 315 pupils, therefore, would meet the extra need generated by that smaller site.

58. The benefits of expanding the school would, therefore, be greater than simply enabling the additional pupils generated in the priority admissions area to attend the local school. The Cock Inn scheme also demonstrates that the Council accepts that some bussing of children to alternative schools is likely. I also have sympathy with the appellant's position in that the company cannot provide financial assistance towards the costs of providing sufficient places through no fault of their own. There is no mechanism to enable this.
59. However, the current proposals, and the inability of existing infrastructure to accommodate the primary school pupils, seems to me to demonstrate the benefits of a plan-led system in which new housing can be located in appropriate locations where schools can either accommodate the increase in pupils or be readily expanded to prevent the need for pupils to be bussed out of the area. The appeal site is not allocated for housing in any plan so there is no reason as to why the education authority would consider it necessary to provide additional facilities in this area. This situation may change, of course, depending on the outcome of the on-going local plan process. One of the 3 options under consideration in the IOCD, Option 3, includes the distribution of some of the new housing to larger villages, including Boreham. This emerging consultation document suggests the expansion of Boreham in an area to the east of the village to provide a potential capacity of 800 dwellings in the period 2021-2026. The indicative infrastructure requirements include a new primary school. As set out above, however, this is just one of the options and as it is still at an early stage in the process it carries limited weight.
60. The circumstances at Boreham represent further differences with the scheme referred to by the appellant at Great Leighs. At Great Leighs the existing primary school could not accommodate the likely number of pupils arising from the dwellings now proposed. However, all the excess pupils could be accommodated in a single school (White Court Primary School, Great Notley) which lies about 3 miles away and which can be safely accessed on foot. In addition, Great Leighs is identified for expansion in all three of the Options in the IOCD. In Options 1 and 2 the IOCD indicates that two new primary schools would be required; in Option 3 one new primary school would be required. In Boreham only one of the Options includes any housing development with the need for a new primary school.
61. The result of the current scheme in Boreham is that additional pupils would need to be bussed out of their priority admissions area. That would not be in the interests of either the pupils themselves or the principles of sustainable development. This weighs against the scheme in the overall balance.

Whether the proposals would preserve or enhance the setting of local heritage assets, and in particular Boreham House, a Grade I listed building set within a Grade II Registered Park and Garden

62. The parties agree that the heritage significance of Boreham House lies primarily in the high quality of its architectural composition; the renown of its possible architect; the age of its building fabric; and the aesthetic quality of its formal

- setting. The quality of its interior is also of significance. The significance of the RPG is centred on the aesthetic quality of what remains of the original gardens. This includes an unusual canal feature laid out in the 1720s and the pleasure grounds designed by Richard Woods in the 1770s as well as its historical association with the House.
63. The House lies about 300m from the appeal site and about twice that distance from the edge of the proposed built development. There are fields, hedges, pylons and overhead wires in the space between the heritage assets and the proposed development. These, together with the distance, the change in level and the boundary planting at Boreham House, combine to result in few clear long distance views between the House and the appeal site. Nonetheless, the parties agree that the proposed development would be located in the setting of the heritage assets.
64. Policy DC18 of the Core Strategy was not cited in the reasons for refusal. Nonetheless, when read in conjunction with supporting paragraph 3.37, it is clearly relevant. It says that planning permission will be refused where development proposals fail to preserve or enhance the setting of a listed building. Policy DC20 of the Core Strategy says that planning permission will be refused where development would have an adverse effect on the special character or the setting of RPGs. These policies date from 2008 and so pre-date the Framework. They are not fully consistent with the Framework as no balancing exercise is called for and so they carry reduced weight.
65. The parties agree that the development would result in less than substantial harm to the setting of both these identified heritage assets. I agree with that conclusion. In accordance with paragraph 134 of the Framework any harm has to be weighed against the public benefits of the proposal.
66. In terms of harm Historic England (HE) (writing initially under their former name, English Heritage) object to both the original scheme for 200 dwellings and the revised, reduced proposals for up to 163 dwellings. HE concur that the harm is less than substantial. The objection says that the proposed development would further erode the setting of both the House and the RPG.
67. The character of these two heritage assets is, in part, derived from their rural location and their setting in this wider landscape. It is undeniable that this setting has been compromised by recent developments to the north of the B1137 and by infrastructure associated with the A12. The junction between the A12 and the B1137 lies a short distance to the west, beyond this junction lie the outskirts of Chelmsford. The proximity of this junction, the development around it and its urban characteristics have all reduced the scale of the rural setting for the House and the RPG. Further harm, albeit rather more limited in scale, has been caused to their setting by the pylons and overhead wires to the east. It is clear that the existing harm to their setting does not mean that further harm is justified but it does reduce the contribution that the appeal site can make to their setting.
68. The most important of the views of Boreham House is from Main Road from where the front elevation can be seen with the canal feature in the foreground. This view has been changed as it is no longer framed by mature elm trees; these were lost to disease in the 1960s. Nonetheless, it remains a valuable view. It would not be affected by the proposed development. Indeed, there are few other views of the House due to the boundary planting and its set back

from the road. Even from public footpaths the views are limited by the planting; from Danbury Hill to the south and from the appeal site to the east views are long distance with limited views of the House itself. The RPG, surrounded as it is by mature planting, is quite inward looking and the relationship between it and the House is not really discernible from outside the boundary. This relationship would not be affected by these proposals.

69. The assets, however, are set within a designed, rural setting. They were designed to relate to their surroundings and the current proposals would further encroach into their setting and would increase the cumulative change to their designed setting. This change would further harm their setting. The elevated location of the new housing and the likely scale and height of the buildings would inevitably make them conspicuous in the landscape. While additional planting would, in time, be likely to reduce this impact the new housing would make it more difficult to read the history of the House and its RPG within their designed setting. The character and, more importantly, the appearance of this part of the valley would undergo further change with the built form encroaching closer to these assets. This would result in some harm to the setting of this Grade I listed building and its Grade II RPG.
70. This harm to the setting of designated heritage assets would be contrary to the development plan and in particular to Policies DC18 and 20 of the CS. These policies, however, carry limited weight due to their non-conformity with the Framework. In accordance with paragraph 134 of the Framework it is necessary to weigh this harm against the public benefits of the proposals.

The planning balance

71. The Framework sets out a presumption in favour of sustainable development. It is therefore necessary to first consider whether the proposals comprise sustainable development as defined in that document. Paragraphs 18-219 of the Framework, taken as a whole, constitute the Government's view as to what sustainable development means in practice for the planning system. Paragraph 7 identifies the three dimensions to sustainable development, referring to the economic, social and environmental roles. These are considered in turn.
72. Concerning the economic role, the proposals would contribute towards achieving the Government objective of boosting significantly the supply of housing. They would provide up to 163 dwellings, of which 35% would be affordable housing. This is a significant benefit notwithstanding my conclusions on the housing land supply. Other benefits of the proposals include the benefits arising from the s106 Agreement. In addition, the proposals would bring economic benefits in the form of additional trade to shops and other businesses in Boreham and the surrounding area. There would be further economic benefits including jobs in the construction industry. The lack of infrastructure, and in particular the lack of sufficient primary school places, however, weighs against the development as this would be likely to result in the need to bus pupils to schools elsewhere.
73. Concerning the social role the proposed housing, including the associated affordable housing, is in line with Government objectives of supplying housing to meet the needs of present and future generations. The development would be well located to access local services including shops and other businesses as well as some local community facilities, although, as stated above, the Primary School is already at capacity. It would also be well located for access to local

bus services. The provision of open space would be of particular benefit to the occupiers of some of the new houses as they would overlook this land. The other benefits of the open space are limited as it would comprise meadowland. While there would be public access, there is a wide network of public footpaths in the surrounding countryside and the benefits of public access to this land appear to be limited. In this regard I have noted that the Parish Council and local residents do not support this part of the proposals. The public open space would not accord with the Guidelines in the BVDS.

74. In terms of its environmental role the proposed development would result in some harm to the visual amenity of the area and would be harmful to the setting of a Grade I listed building and its Grade II listed RPG. That harm is less than substantial and so needs to be balanced against the public benefits of the proposals. The development would fail to protect or enhance the natural, built or historic environment.
75. In considering whether the proposals constitute a sustainable form of development it is necessary to weigh the environmental harm with the economic and social benefits. The economic and social benefits arising from the provision of additional housing need to be seen in the light of my conclusions concerning the Council's ability to demonstrate a 5-year housing land supply. Overall, there is no doubt that the totality of the harm is significant and outweighs the identified benefits and so, in accordance with advice in the Framework, the proposals do not constitute sustainable development. The public benefits of the proposals are not so substantial as to outweigh the less than substantial harm to the setting to the heritage assets.
76. The identification of Boreham in the IOCD as a possible location for a substantial amount of additional housing gives an indication of a possible way forward for the Council. However, the weight that can be attributed to this is limited by its early stage in the plan process. It is further limited by Boreham only being identified as a possible location for housing in one of the three Options, unlike Great Leighs for example, which is identified for expansion in all three Options. In respect of the appeal site the weight is reduced still further by the identification in the IOCD of an area to the east of Boreham for housing while this appeal site lies to the west of the village. The indicative plan shows a "potential green buffer" between Boreham and Chelmsford which adds some limited weight against the proposals. The IOCD identifies that such an expansion would require a new primary school. This reduces the likelihood of the current school being extended within its existing site in advance of plan-led decisions as to where development in Chelmsford should be concentrated.
77. The IOCD identifies that since 2001 brownfield sites have provided the majority of development in Chelmsford and that there are now only a limited number of such sites that are not earmarked for development. Consequently there will be more development required to be built on greenfield sites in the future. The appeal site is a greenfield site but, due to the need to develop such sites, this does not in itself weigh against the proposals.
78. The Framework also reiterates the primacy of the development plan. These proposals would be contrary to the CS and the FRCS as the site lies outside the defined settlement boundary of Boreham and would be in conflict with cited policies CP5, DC2, DC18 and DC20, albeit that the latter two policies carry limited weight. There is further conflict with guidance in the BVDS.

Overall conclusions

79. On balance, therefore, the proposals would provide benefits including boosting the supply of housing and the provision of affordable housing. However, the Council has an identified 5-year housing land supply and the proposals do not constitute sustainable development as defined in the Framework. The benefits of the proposals are outweighed by the harm and the proposals are in conflict with the development plan. The appeal is dismissed.

Clive Hughes

Inspector

APPEARANCES

FOR THE APPELLANT:

Paul Brown QC	Instructed by Clyde & Co LLP
He called	
Paul Drew BA(Hons) Dip Arch DipUD	Design Director, Icen Projects Ltd
Brita von Schoenaich DipLA MLI	Joint Principal, Schoenaich Landscape Architects Ltd
Laurie Handcock MA MSc	Senior Associate Director, CgMs Ltd
John Powell LL.B(Hons)	Operations Director, EPDS Consultants Ltd
Ian Anderson BA(Hons) DipTP MRTPI	Executive Director, Icen Projects Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Guy Williams	Of Counsel; instructed by Nicola Doole, Solicitor to Chelmsford City Council
He called	
Richard Pestell MPhil MRTPI	Senior Associate, Peter Brett Associates
Jeremy Potter MA MRTPI	Senior Planning Officer, Chelmsford CC
Michael Hurst BSc MSc MRICS IHBC	Senior Conservation Officer, Chelmsford CC
Blaise Gammie BA(Hons)	Infrastructure Planning Manager, Essex CC
Julie Broere MTP MRTPI	Senior Planning Officer, Chelmsford CC

INTERESTED PERSONS:

Cllr John Galley	City Councillor for Boreham and the Leighs Ward; Parish Councillor for Boreham; local resident
Charles Martin	Local resident
Catherine Etheridge	Hatfield Peverel Parish Council
Lynne Button	On behalf of Mark Button, local resident
Jeffrey Bowman	Local resident
Richard Beauchamp	Vice Chair, Essex CPRE
Alan Swash	Chairman, Boreham Conservation Society; local resident
David Wheatley	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Council's notification letter and list of persons notified
- 2 List of contested sites showing New Hall Properties September update
- 3 Maps showing locations of contested sites
- 4 Delegated report – 15/01079/OUT – Land South East of The Lion Inn, Main Road, Boreham, September 2015
- 5 Opening submissions on behalf of the Appellant
- 6 Opening submissions of the Council
- 7 Statement of Cllr John Galley
- 8 Statement of Catherine Etheridge
- 9 Statement of Jeffrey Bowman
- 10 Corrected table for Appendix 7 of Jeremy Potter's proof of evidence
- 11 Plan showing Michael Hurst's photograph viewpoints
- 12 Agenda Item 7: Development Policy Committee (2 September 2015) – Strategic Land Availability Assessment
- 13 Committee Report 14/01890/FUL – Land adjacent The Cock Inn, Main Road, Boreham
- 14 Tables for two Primary School class scenarios for 280 pupil roll
- 15 Letter from Tricia Moxey, CPRE Essex, to City Council (5 August 2015)
- 16 Letter dated 6 May 2015 from the Infrastructure Planning Officer, Essex County Council to Chelmsford CC
- 17 Revised Design and Access Statement (June 2015)
- 18 Statement of Alan Swash
- 19 A3 version of Brita von Schoenaich's Appendix 4
- 20 Draft conditions
- 21 Housing land supply Update 9 October 2015
- 22 S106 Agreement (unsigned)
- 23 Committee Report (21 November 2006): The Red Lion Public House, Main Road Boreham
- 24 Housing land supply update 9 October 2015 – CCC Site 4
- 25 Design and Access Statement update 6 October 2015
- 26 Press release - Prime Minister: Councils must deliver local plans for new homes by 2017 (12 October 2015)
- 27 CIL Regulations 2010 (as amended): Compliance Note
- 28 S106 Agreement dated 14 October 2015
- 29 Final submissions of the Council
- 30 Closing submissions on behalf of the appellant with attachments

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 31 Officers' Report to Planning Committee: 14/01971/OUT
- 32 Chelmsford Local Plan: Issues and Options Consultation Document

PLANS

- A Drawing No 001 Rev D – Application area plan
- B Drawing No 002 Rev C – Constraints plan
- C Drawing No 005 Rev H – Parameter plan
- D Unnumbered plan dated 22.06.2015 – Illustrative masterplan