

Our ref: J031045/letters/10.3.14(MDC)JFB

Maldon District Council  
Prince's Road  
Maldon  
Essex  
CM9 5DL

**FAO: The Planning Policy Team**

10 March 2014

Dear Sir/Madam

**Maldon District Pre-Submission Local Development Plan 2014-2029 - Comments regarding Policy E1**

GL Hearn is instructed by Countryside Properties plc and CML Microsystems plc to submit representations relating to the Pre-submission Local Development Plan Consultation Draft, on their behalf.

CML Microsystems plc occupies land known as Oval Park, Langford. This is their UK headquarters office and they moved to the site approximately 20-years ago.

The entire site extending to approximately 11ha is currently allocated in the adopted Local Plan for employment purposes falling within Class B1 and this allocation has been carried through into the draft Local Development Plan (2014-2029). Representations were made to the previous draft Local Development Plan last year (September 2013), by Capita Symonds on behalf of CML Microsystems plc. Unfortunately, the concerns raised therein have not been addressed in this subsequent Pre-Submission Draft. Accordingly, these representations remain outstanding objections.

We note Oval Park, Langford, continues to be identified in its entirety as an '*employment site extending to 11.75 hectares*'. Our client's position is that, having marketed the site for many years with the intention of securing other occupiers to join their business on this site, without success that they would now like to see a more flexible approach to the use of the site allowing release of some of the site for alternative uses

We consider such flexibility is appropriate in circumstances where in her decision relating to the recent appeal into the residential proposal on this site (Appeal ref: APP/X1545/A/12/2183335 – July 2013- Copy attached) she accepted that the entire site comprises previously developed land (Brownfield) where future development is directed by the NPPF in preference to Greenfield land and in relation to the allocation of employment land, she concluded:

*'Given that there would still be land available at Oval Park for employment use, should it be required, and there would be other sites available to be developed for hi-tech industrial and office development (as confirmed in the Council's draft Economic Prosperity Strategy) I consider that it is no longer necessary to safeguard the whole of the remainder of Oval Park site solely for that use and this should not be a reason for refusing planning permission for the appeal proposal.'*

She went on to state that:

*'However, while the employment contribution would not doubt be helpful to the Council's economic strategy as a whole ... I do not consider it necessary, given my findings, that there is a need to retain more land for B1 Use on the site than is included in the appeal proposal.'*

Little or no regard has been given to the recent Inspector's Appeal decision relating to this site and, due to, the fact that no additional employment land capacity work has been undertaken for use as an evidence-base to the draft Local Development Plan we consider this element of the draft Local Development Plan remains unsound.

Malden District Council's failure to acknowledge the Inspector's findings in this regard is in direct contradiction to NPPF paragraph 1.60, which advises that LPAs should:

*'Work closely with the business community to understand their changing needs and identify and address barriers to investment, including a lack of housing, infrastructure or viability.'*

As you will be aware, the landowner – who is also a local employer – provided significant evidence to the Appeal Inquiry of the lack of market demand and need for the entirety of this site for employment purposes and, therefore, the need to secure alternative means of investment, through land disposal for alternative uses, the latter of which accords with NPPF paragraph 22. The Local Development Plan is, therefore, considered unsound in this regard.

We consider the above proposed amendment is appropriate in circumstances where little or no regard has been given to the recent Inspector's Appeal decision (Appeal ref: APP/X1545/A/12/2183335 – July 2013 (Attached)) relating to this site and, indeed, the fact that no additional employment land capacity work has been undertaken for use as an evidence-base to the draft Local Development Plan.

On the basis we consider the evidence base to be out of date, we consider this element of the draft Local Development Plan remains unsound.

In addition but also in relation to policy E1., whilst we support the inclusion of criteria, against which proposals that will cause any loss of existing employment uses can be considered, we would recommend criterion (3) is slightly reworded.

Criterion (3) currently reads:

*'The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis uses of an employment nature and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.'*

We would recommend the addition of a time limit for the marketing of the site, to a period of a minimum of two-years and, therefore, recommend the addition of the words: **'for a minimum of a period of two years'** such, that criterion 3) of the policy would now read:

*'The site has been marketed effectively **for a minimum period of two-years** at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis uses of an employment nature ...'*

This would provide a more definitive period during which the market could be tested so that landowners are not expected to retain land or indeed market sites for future employment purposes indefinitely.

We would welcome the opportunity to discuss these comments but, if you have any queries, do not hesitate to contact me at this office.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jennie Bean', with a large, stylized initial 'J'.

**Jennie Bean**  
Director

[jennie.beam@glhearn.com](mailto:jennie.bean@glhearn.com)

Encs



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## Appeal Decision

Inquiry held on 18 – 21 and 25 June 2013

Site visit made on 24 June 2013

**by Katie Peerless Dip Arch RIBA**

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

**Decision date: 24 July 2013**

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**Appeal Ref: APP/X1545/A/12/2183335**

**Oval Park, Hatfield Road, Langford, Maldon CM9 6WG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by CML Microsystems Plc and Countryside Properties UK (Ltd.) against the decision of Maldon District Council.
  - The application Ref FUL/MAL/12/00313, dated 29 March 2012, was refused by notice dated 15 August 2012.
  - The development proposed is residential development comprising 146 dwellings, internal access road, public open space and ancillary development, demolition of former open water storage tanks and ancillary outbuilding to CML's headquarter building.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider that the main issues in this case are:
  - (a) the effect of the proposed development on:
    - (i) the character and appearance of the surrounding area and the Chelmer and Blackwater and Langford Conservation Areas in particular;
    - (ii) the setting of adjacent listed buildings;
  - (b) whether the proposed represents a sustainable form of development in terms of its location;
  - (c) whether a change of use of allocated employment land is justified;
  - (d) whether the proposed affordable housing provision is acceptable.

### Site and surroundings

3. Oval Park is part of a larger former waterworks and water treatment site that included land to the south east where a former pumping station, now a Scheduled Ancient Monument, still exists. The appeal site has now been partly developed for B1 use and contains the Headquarters building of one of the appellants, CML Microsystems Ltd. The site lies on the outskirts of the village of Langford, about 3 miles from Maldon town centre and is within the Chelmer and Blackwater Navigation Conservation Area. The site is adjacent to the curtilage of the grade II listed building at Beavis Hall, which also includes a listed barn.

4. It is agreed by the parties that the site can be defined as previously developed land and that all of it is allocated as employment land in the Maldon District Replacement Local Plan 2005 (LP) and the emerging Local Development Framework (LDF) where it is identified as such in the Local Development Plan Preferred Options Consultation (2012) - Proposed Site Designations and Settlement Boundaries.
5. However, most of the site is presently given over to landscaping and contains many mature specimen trees, that appear to have been planted during the time it was part of the wider waterworks complex, which now contains the Museum of Power, housed in the former pumping station. An access road leads into the site from the B1091 Hatfield Road and runs round an oval area of grass in front of the headquarters building, which gives the site its name. Further parts of the site are also laid to mown grass but there are extensive areas of rough scrubland that is presently unmanaged.

### **The appeal proposal**

6. The proposal was originally for 147 houses located to the north and east of the 'oval' on the site. The number of houses was later reduced to 146 and the final scheme includes 4 'character areas' consisting of a low density (less than 30 dwellings per Ha [dph]) 'countryside edge' along Hatfield Road and adjoining the public open space that would be located on the easternmost part of the site, a high density (35 – 40 dph) 'formal crescent' facing the oval, medium density (30 – 35 dph) 'urban courts' in the central part of the development and high density 'main streets' to the extreme north west and south of the housing development, where the affordable housing element would be located. Further areas for commercial development are allocated on each side of the headquarters building.
7. The house types are drawn from the local traditional vernacular and make use of a variety of materials and features, such as tile hanging, weather boarding and dormer windows. Houses mirror the historic designs found in the area, with steeply pitched roofs, some with classically proportioned facades and others in a more informal 'cottage' style.

### **Planning history**

8. The planning history of the site has been set out in the Statement of Common Ground and the Council's evidence but, in summary, outline planning permission<sup>1</sup> for the B1 use was first granted in 1994 for the development of a high tech business park on the Oval Park and adjacent Langford Waterworks sites. This was followed by further permissions<sup>2</sup> for the erection of 20,000 sq ft of Class B1 floor space in a number of buildings.
9. In 2004, the first outline planning permission was varied to extend the time limit for its implementation and the submission of reserved matters. Full planning permission<sup>3</sup> was subsequently granted in 2007 for 5,813 square metres of B1 floor space pursuant to OUT/MAL/0199/93. It was confirmed that this permission had been partly implemented through the grant of a Certificate of Lawfulness<sup>4</sup> in 2010.

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<sup>1</sup> Ref: O/MAL/00199/93

<sup>2</sup> Ref: OUT/MAL/94/00725 & FUL/MAL/04/00699

<sup>3</sup> Ref: RES/MAL/07/00910

<sup>4</sup> Ref: LDE/MAL/09/01013

## Reasons

### *Character and appearance*

10. The countryside adjacent to the appeal site forms part of the valleys of the Chelmer and Blackwater rivers and is gently rolling agricultural land characterised by wide vistas interspersed with historic manor halls and clumps of trees. The appeal site has a different appearance, being more akin to parkland, where mature trees are set in grassland which is not generally used for agriculture other than, perhaps, for grazing. From footpaths in the vicinity, the existing Headquarters building can be seen through the trees but, although it covers a substantial footprint, its height has been kept lower than might be expected for a building of this type.
11. The site is also part of the linear Conservation Area that includes the Navigation of the Chelmer and Blackwater rivers. Although this Conservation Area is, in places, very narrow and limited to the land immediately adjacent to the navigable waterways, it is considerably wider close to the appeal site where it expands to take in Oval Park and other parts of the former waterworks land.
12. Other sections of the surrounding landscape have separate designations for their particular qualities but have not been included in conservation areas, which are generally identified for their historic qualities rather than their landscape value. In this case, whilst there is no doubt historic interest in the manor hall farmsteads that are dotted around the countryside, it has not been deemed necessary to include them all within conservation areas.
13. I therefore consider that the reason for including Oval Park within the Chelmer and Blackwater Navigation Conservation Area may well be the historic interest that links the site with the former pumping station and water treatment plant and its associated parkland, which came into existence in Victorian times, even though it also includes the manor at Beavis Hall and parts of the surrounding landscape quality. Therefore, it is important that the impact of any development on the site would not harm the character of this particular part of the Conservation Area which, although different from the land immediately adjacent to the Navigation, nevertheless has its own interest and importance.
14. The layout of the proposed scheme would keep many of the specimen trees, but would also bring about the loss of much of the planting that was part of the landscaping scheme for the employment park scheme, to the detriment of the overall character of the site. The manner in which the houses would be distributed would leave the area of public open space to the east but would otherwise be fairly evenly spread in a largely informal manner across the remainder of the available site up to the 'oval'. This layout would make little reference to the loose knit linear form of the village of Langford and would result in a significant and, in my view, adverse change to its parkland character.
15. I am also not persuaded that the tighter urban grain of the nearest towns of Maldon and Heybridge, as referenced by the 'urban courts' and 'main streets' character areas, is necessarily appropriate for this countryside site. The development would not be an urban extension and the higher density areas of housing would not be related to an established town streetscape, which would normally be expected to contain a variety of building types in varying uses. In this respect, these areas would appear at odds with the remainder of the development, which would be more reminiscent of a typical out-of-town suburban estate, such as were commonly constructed in the last century.

16. These factors would, in my opinion, result in a development that lacked cohesion and legibility and which would fail to establish either a sense of its own individuality or create a recognisable link with any existing nearby character area. In contrast, the approved scheme for the industrial park relied on larger buildings, albeit of a restricted height, sited so as to leave greater areas of open space between them, with consequently better opportunities for landscaping.
17. The appellants consider that if the site is to be developed for housing, it should make the best possible use of the available land, in terms of density. However, the constraints of this particular location, including the surrounding countryside setting, the established parkland character of the site and the lack of any obvious link to established urban development, do not, in my view, lend themselves to higher density housing across the majority of the available land.
18. I am also concerned that the development would lack any meaningful focal point and that the device of arranging a crescent of high density housing facing onto the 'oval' and the Headquarters building would appear contrived and unsuccessful in terms of the character and appearance of the site. The appellants have confirmed that there would need to be security fencing separating the housing from the employment areas and this would create a divisive and unattractive feature. Even if the fence were to be screened by hedge planting, the object of relating the curve of the housing to the 'oval' would be lost and as a result the outlook from, and the views towards, the crescent would be restricted.
19. Although some of the aspects of the proposal that I have criticised would only be visible from within the site, I am mindful that these views would still be within a conservation area where the statutory duty set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (LBCA) requires special attention to be paid to the desirability of preserving or enhancing its character or appearance when considering the merits of a planning application. I consider that the extent to which the proposed development would cover the site and the poor relationships within it and to the wider surroundings of the Conservation Area means that the character and appearance of the area would be harmed.
20. I accept that there would be little impact on the Langford Conservation Area which, although it abuts the Chelmer and Blackwater Navigation Conservation Area, is set at some distance from the Oval Park site boundary. It is therefore only the latter Conservation Area on which the proposed development would have an impact. It is also the case that planting could, eventually, screen some of the development from longer views from the surrounding area. However, it seems to me that the strategy of locating some of the denser housing at the perimeter of the site on the boundary with the open countryside would nevertheless cause the development to be more obtrusive in the landscape than is necessary.
21. In particular, the affordable housing on the southern boundary would be on land that is already raised and planted and this screen would be lost if the proposal went ahead. Replacement planting would take time to establish and would be sited in some of the smallest gardens on the site. This would be likely to limit the height and density to which the trees could grow in order to avoid being oppressive for the occupiers of the properties.

22. In contrast, the 'countryside edge' character area would be located adjacent to the road, where higher density development would, perhaps, be better located as it would be partly screened by the existing mature tree planting.
23. Therefore, I find that, for the reasons set out above, the proposed development would cause harm to the appearance of the Chelmer and Blackwater Navigation Conservation Area and the landscape character of the countryside in which it would be set and would not meet the design standard that this attractive and historic area deserves.
24. The scheme would consequently conflict with the aims of policies S2, H1, CC6, CC7, BE1 and BE13 of the LP which, among other things, seek to ensure new housing is directed to areas within development boundaries and that the intrinsic qualities of the landscape and the character and appearance of Conservation Areas are protected.
25. Although the LP is now out of date in some respects, many of the objectives of the policies noted above reflect the statutory duty in the LBCA and are being carried forward into the emerging LDF. In addition, paragraph 17 of the National Planning Policy Framework (the Framework), makes clear that planning decisions should always seek to secure high quality design and should take account of the character of different areas, recognise the intrinsic character and beauty of the countryside and conserve heritage assets. Chapter 7 as a whole sets out the importance the Government places on good design and paragraph 58 in particular calls for development to establish a strong sense of place and to respond to local character and history.
26. The Framework, in Chapter 12, also gives great weight to the conservation of designated heritage assets. Where any harm is found, even if judged to be less than the substantial harm that paragraph 133 indicates should result in refusal of planning permission in all but the most exceptional circumstances, this harm must be weighed against any public benefits of the scheme. The harm I have outlined above, while not amounting to a total loss of significance of the Conservation Area, will nonetheless carry significant weight when set against the benefits of the scheme.

#### *Listed buildings*

27. The appeal proposal is agreed by all parties to fall within the setting of the listed buildings on the Beavis Hall site. The original house has been altered in recent years by the addition of a linked extension that is of similar size to its host. This extension lies between the house and the appeal site and has, in my opinion, had a significant impact on the setting of the listed building. The house is now clearly seen as a substantial domestic property sitting in gardens that contain ancillary structures such as a large summerhouse and a swimming pool and all these alterations have, to my mind, put a considerable distance between the existing building and its origins as a manor farmhouse within a farmyard.
28. The existing barn is a reminder of these origins, but the wider setting, including the former waterworks, has altered so much that the link between the manor farm and its former landholding is no longer readily apparent. However, the building was formerly sited in an open landscape and the previous planning permissions have, through the established planting scheme, maintained a substantial green buffer between the later development and the historic farmhouse.



29. In contrast, the proposed residential scheme would site one of the densest areas of housing within only a few metres of the boundaries of the garden of Beavis Hall. There would also be 2½ storey properties close to the eastern boundary with the bungalow at Beavis Lea, an unlisted building within the curtilage of Beavis Hall. These houses would, in my opinion, crowd the open setting of both buildings. It is unlikely that there would be any loss of privacy and there is no requirement to maintain an existing view, but development in such proximity to the curtilage of the listed building would diminish its established setting. The LBCA requires that the desirability of preserving the setting of listed buildings must be given special regard when considering applications for planning permission and any identified harm in this respect will therefore also carry significant weight against the proposal.
30. Although the impact of the proposal would, again, not amount to the substantial harm to the listed building or its setting to which paragraph 133 of the Framework refers, it nevertheless add to the objections to the proposals. As previously noted, where the harm is less than substantial, this should be weighed against any public benefits of the scheme and this will be considered in later paragraphs.

### *Sustainability*

31. The appeal site lies outside any settlement boundary and there is little in the way of services or facilities within walking or easy cycling distance. There is a part time shop selling basic provisions in the vestry of the church in the village of Langford, which also has a village hall and a bus service, but it seems inevitable that residents of any new housing development would rely on the private car for much of their shopping and other travel needs. However, it is the case that there are good rail connections from the station at Hatfield Peverel, just over 3 miles away, and no doubt a number of residents of any development at the appeal site could make use of this service.
32. To encourage the use of public transport, the appellants have proposed a package of measures, through a Unilateral Undertaking under s.106 of the Town and Country Planning Act 1990 (as amended) (UU) to improve the sustainability of the site, including a residents' travel pack with free bus tickets for a limited period, a subsidy to provide enhanced bus services past the site for a defined period, the upgrading of footways along Hatfield Road and the improvement of bus and taxi drop-off and pick up facilities at Heybridge Primary School and The Plume Secondary School in Maldon. The more frequent bus service could encourage commuters to leave their cars at home if they wanted to use the station and the total package would help to improve the sustainability credentials of a development that would otherwise be isolated from educational, retail and employment facilities, apart from those already existing on Oval Park.
33. The appellants have also offered money towards improving the village shop but, while I accept the good intentions of this proposal, I saw or heard little that indicated that such a scheme would be feasible. The small scale nature of the existing arrangement, run by volunteers, gives no indication as to whether a larger enterprise would prove profitable or sustainable in the long term and there is no indication of who would take on an enlarged facility or whether it could be run as a self-sustaining venture.

34. The offer of financial help to improve the equipment for the nursery in the village would no doubt be welcomed by the operators, as would the larger catchment of nursery aged children that the appeal scheme could provide. The appellants have also offered a contribution to help towards providing toilets in the church; a requirement that was apparently identified through discussion with the local community and related to the possibility that the local shop would be improved and both it and the church used by the increased number of residents. However, these measures would not equate to a particularly significant improvement in the overall range or availability of local services to serve the new development.
35. The appellants also believe that the housing proposal would be likely to generate fewer trips than if the site were to be fully developed for an employment use. However, the TRICS data relied upon does not appear to relate to large family houses that form the majority of the proposed house types, nor has the trip data for the existing Headquarters building been analysed to give an indication of the likely number of movements that the permitted number of industrial units of the high tech type envisaged for Oval Park would generate. Without such data, I am not persuaded that number of vehicle movements between the two alternatives would be similar.
36. Nevertheless, the Council has already granted planning permission for a housing development on other parts of the old waterworks site, to the east of Oval Park. This is a scheme consisting of 11 houses and the appellants submit that the sustainability credentials of this location are almost exactly the same as for Oval Park. However, even taking into account the sustainability measures that would complement the appeal scheme, there is still a clear difference in impact between 11 and 146 dwellings, particularly on the character of the area and on the number of journeys that the developments would generate.
37. However, the Framework does not rule out development outside existing development boundaries and, in this case, there are major settlements and transport links within 3 or 4 miles of the site. Development in rural areas can help to support local facilities and this is recognised in paragraph 55 of the Framework, albeit that there is presently little in the way of local services that would benefit from a development of this scale in this location.
38. Nevertheless, I consider that the fact that the site is previously developed land and has an extant permission for employment development indicates that a housing proposal could also be considered acceptable, subject to the scale of the development, the detailed design and the facilities that would be provided with it. When the measures proposed by the appellants are taken into account, I consider that the sustainability of the site would be improved to a degree that would indicate that the appeal should not be dismissed solely on the ground that the site is in an unsustainable location.

#### *Employment land*

39. The Council is concerned that the Oval Park site is the only suitable allocation for a high quality business park within the District. It has already allowed the release of land previously allocated for employment uses for residential development and submits that this demonstrates that it is flexible and proactive in reviewing changing needs for differing types of development. However, it strongly maintains that there is a shortage of land of this calibre available for B1 commercial development and that it would be a mistake to allow it to be reallocated because of short term problems relating to the

present economic downturn and the difficulty of finding a suitable occupier. The strategy in the emerging LDF looks forward as far as 2029 and the Council submits that longer term indications are that the site should be retained in its present allocation to encourage and support future employment growth in the District.

40. Nevertheless, the appeal proposal retains space for more potential employment development than the unbuilt portion of the extant planning permission. This space is sufficient to allow for CML's own expansion objectives as well as for additional occupiers to come onto the site. The appellants maintain that the site has been continuously marketed for employment uses since the Headquarters building was constructed and, although there have been a number of 'near misses' in terms of finding suitable tenants or freeholders, none of these have yet come to fruition. This situation preceded the current stagnation in the employment development sector and seems likely to continue, possibly for some considerable time to come.
41. Paragraph 22 of the Framework advises that employment sites should not be protected on a long term basis where there is no reasonable prospect for the site being used for that purpose. There is also an acute need for housing development, particularly for affordable units, and there is strong encouragement in the Framework to meet any unmet need. The appellants have also provided for a financial contribution through the UU to help support the Council's Economic Prosperity Strategy which could be used to provide a small business advisor for local start up companies. The Council contend that, if the economic strategy contribution is necessary, this supports its case that the loss of employment land at the site should be resisted.
42. However, given that there would still be land available at Oval Park for employment use, should it be required, and there would be other sites able to be developed for high tech industrial and office development (as confirmed in the Council's draft Economic Prosperity Strategy) I consider that it is no longer necessary to safeguard the whole of the remainder of the Oval Park site for that use and this should not be a reason for refusing planning permission for the appeal proposal.

#### *Affordable housing*

43. The affordable housing provision in the appeal scheme meets the quantitative requirement of the policies in the LP. The Council are nonetheless concerned that the proportional mix of unit sizes does not meet the need established in the Council's 2009 Strategic Housing Market Assessment (SHMA) which has very recently been updated. It considers that the scheme would provide too many larger three bed units and this would be unacceptable given that there would also be no one bed units. The updated SHMA recommends 30 one and two bed units and 13 three bed units; the scheme proposes 19 two bed units and 25 three bed units.
44. The Council has had great difficulty in achieving the delivery of affordable housing in recent years; between 2010 and 2012 only 20 units were completed. When set against this figure and a background of a continuing requirement of about 300 units, the 44 affordable houses would be a welcome contribution to the stock. Nevertheless, on other sites where three bed units have been provided they have apparently proved unaffordable to those with a local connection and have been let to people coming from outside the District.

45. However, despite this, the SHMA still identifies a requirement for some three bed units which the scheme could provide. It would also deliver the 19 two bedroom units for which there is also an established need. Therefore, whilst I consider that the mix should preferably be more in line with the proportions set out in the SMHA, this should not necessarily be a reason for refusal of the proposal. The limitations of the affordable housing mix does, however, serve to reduce the benefits that can be attributed to it, given that it does not provide anything other than the minimum provision required by LP policies.

### **Other matters**

46. The UUs submitted by the appellants make provision for a number of other contributions to be delivered if planning permission is granted for the proposal. In addition to those specifically mentioned in previous paragraphs, such as affordable housing, the economic strategy contribution and the sustainable transport measures, these include an education contribution, together with a contribution towards a science related scholarship towards further education fees for pupils from The Plume School, a healthcare contribution and a contribution to cover highway matters. However, the appellants do not suggest that the scholarship contribution should be considered as a matter that should add weight to their case that planning permission should be granted and I have not therefore considered it as such.
47. The Council has questioned whether those covered by the seventh (village shop), eighth (church toilets) and ninth (nursery contribution) schedules are CIL compliant and deliverable and, as previously noted, it has objected to the proposed affordable housing mix and has commented on the need for the economic strategy contribution if the loss of employment land is accepted. Otherwise it raises no objections to the proposed contributions.
48. I consider that the sustainability measures are necessary to make the proposal acceptable on these grounds and the majority of the other contributions are directly related to the pressures that would be put on local facilities and services should the proposed development go ahead. They would, however, be mitigation measures and do not add to any planning benefits that the proposed development would deliver.
49. However, while the employment contribution would no doubt be helpful to the Council's economic strategy as a whole and would therefore be a benefit, I do not consider it is necessary given my findings that there is no need to retain more land for B1 use on the site than is included in the appeal proposal.

### **The balancing exercise**

50. The lack of a 5 year housing supply and the possibility of acquiring a number of affordable units weighs in favour of the proposal, albeit that the proportion of the affordable housing contribution is not as required by the SHMA, as explained above. I have also found that there should be no 'in principle' objection, based on the loss of employment land, to a proportion of the total site being given over to housing, provided the space allocated to the commercial development can be safeguarded.
51. The measures proposed by the appellants serve to improve the sustainability of the site such that this factor should also not be a reason for refusal. These measures would also help to support the other nearby sites that have already been granted planning permission for housing development but, as noted above, they do not represent a significant improvement that could be

considered as a positive benefit in favour of the scheme. Rather they act as mitigation measures for a site that would otherwise be poorly related to local services.

52. However, I have found that the design of the scheme, in particular the scale of the development and the manner in which the site is proposed to be laid out, would harm the character and appearance of the Conservation Area, and the wider landscape. The setting of the nearby listed buildings would also be compromised. The harm to these heritage assets must be set against the public benefits of the scheme and these include the provision of much needed housing. However, the Framework places great importance on good design and I have concluded that the appeal proposal does not meet the policy standards set out in this document or the LP as a whole.
53. I consider that the harm to the heritage assets could be avoided if the design and layout of the scheme was of an acceptable quality and I conclude that the benefits of providing housing on this site could equally be achieved by a scheme that meets the required design policy background. Consequently the public benefits of the scheme do not amount to material considerations sufficient to outweigh the identified harm to the heritage assets and the surrounding landscape and do not therefore indicate that planning permission should be granted for the proposal.

### **Conclusions**

54. For the reasons given above I conclude that the appeal should be dismissed.

*Katie Peerless*

**Inspector**

**APPEARANCES****FOR THE LOCAL PLANNING AUTHORITY:**

Simon Bird QC	of Counsel, instructed by Philip Thompson of Essex Legal Services
He called	
David Coleman BA, MA, RTPI	Senior Planning Policy Officer, Maldon District Council
Jacqueline Longman MSc, Cert British Archaeology	Senior Conservation and Urban Design Officer, Maldon District Council
Daniel Ekstrand CIHT	Associate, Peter Brett Associates LLP
David Lawrence BSc Econ	Director, Peter Brett Associates LLP
Phillip Rowson BSc(Hons) Grad Dip Urban and Regional planning	Development and Projects Manager, Maldon District Council

**FOR THE APPELLANT:**

Neil King QC	of Counsel, instructed by David Maxwell of Capita Symonds
He called	
John Chesterman BSc	CML Microsystems plc
Noel Stevens BSc (Hons) MRICS	Capita Symonds
Kevin Murphy BArch MUBC RIBA IHBC	KM Heritage
Andrew Williams BA (Hons) Dip LA Dip UD CMLI	Define
Andrew McDonald BEng(Hons)	Waterman Transport and Development Ltd.
David Maxwell BA(Hons) Dip UP MRTPI	Capita Symonds

**FOR THE Rule 6 (6) parties:**

John Dagg MRTPI	Of Counsel, instructed by Mr & Mrs Gable
He called	
Mark Woodger BA	Team Leader, Smart Planning Limited

**INTERESTED PERSONS:**

Cllr. Mark Durham	Ward Councillor, Maldon District Council
Cllr. Andrew Tween	Chair, Langford and Ulting Parish Council
Cllr. Richard Perry	Langford and Ulting Parish Council and local businessman
Cllr. Henry Bass	Deputy Leader and Ward Councillor for Langford, Maldon District Council
Roy Pipe JP	Local resident
Cllr. Irene Allen	Vice Chair, Langford and Ulting Parish Council
John Harrison	Heybridge resident
Cllr. Colin Giffin	Hatfield Peverel Parish Council

**DOCUMENTS SUBMITTED AT INQUIRY**

- 1 Addendum to Mr Coleman's proof of evidence
- 2 Mrs Longman's rebuttal proof of evidence
- 3 Summer views from view points 7 & 8 in Mr Williams' appendices
- 4 Revision to Mr Stevens' proof of evidence
- 5 Notes of Mr Bird's opening statement for the Council
- 6 Notes of Mr King's opening statement for the appellants
- 7 Extract from Maldon District Council Local Development Scheme 2012
- 8 Appendix 3: Proposed circulation list for draft Economic Prosperity Strategy
- 9 Planning permission ref: OUT/MAL/12/00437 for housing development in Southminster
- 10 Appendix 1: Consultation Draft Maldon District Economic Prosperity Strategy 2013 - 2029
- 11 Appendix 2 Economic Prosperity Strategy 2013 - 2029, Evidence Base
- 12 E-mails to/from Richard Bailey, Invest Essex re Oval Park
- 13 Maldon Strategic Housing Market Assessment Update Final Report
- 14 Response by Chris Roberts to an E-mail from David Coleman dated 18/6/13
- 15 Notes of Cllr. Tween's statement
- 16 Notes of Cllr. Perry's statement
- 17 Notes of Cllr. Durham's statement
- 18 Cllr. Giffin's report of his Inquiry Statement.
- 19 Notes of Cllr. Allen's statement
- 20 Committee Report for OUT/MAL/13/00079 appended to Mr Harrison's statement
- 21 Notes of Mr Pipe's statement and appendices
- 22 Notes of Cllr. Bass's statement
- 23 Notes from Mr Murphy on planning application ref: FUL/MAL/12/00313 dated 13 June 2012
- 24 Extract from Industrial Housing in Essex 2006 - Essex County Council
- 25 SHMA Update Explanatory Note
- 26 E mail to Chris Roberts dated 23 October 2012
- 27 Notes of meeting of Langford and Ulting Steering Group Meeting, 16 March 2012
- 28 Schedule of building heights at Oval Park
- 29 Local train timetables
- 30 Diagram of train connections
- 31 Addendum to Mr Rowson's proof of evidence
- 32 Revised Unilateral Undertaking submitted by appellants
- 33 Conditions appendix to Statement of Common Ground
- 34 Tree details submitted by Mr Williams
- 35 Route 99 dial a ride timetable
- 36 E-mail to arrow taxis dated 28 February 2012
- 37 Supplementary evidence of Mr Chesterman
- 38 Signed Unilateral Undertakings
- 39 Suggestion for revised landscaping condition
- 40 Notes of Cllr. Tween's closing statement
- 41 Notes of Cllr. Durham's closing statement
- 42 Notes of Mr Dagg's closing statement for Rule 6 (6) parties
- 43 Notes of Mr Bird's closing statement for the Council
- 44 Legal authority: *Garner v Elmbridge Borough Council [2011] EWHC 86 (Admin)*
- 45 Notes of Mr King's closing statement for the appellants

**PLANS**

- A Plan showing densities of appeal scheme
- B Plans showing extant planning permission for Oval Park