



Appeal Decision

Site Visit made on 2 September 2021

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Appeal Ref: APP/H0738/W/21/3278158

Land to the north of Holmewood, Aislaby Road, Aislaby, Eaglescliffe, Stockton-on-Tees

- 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 Mr Chris Richardson against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 20/1063/FUL, dated 27 May 2020, was refused by notice dated 2 June 2021.
 - The development proposed was initially described as *'the erection of 16 no holiday lodges with associated parking & pathways'*.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 14 no. holiday lodges with associated parking & pathways at land to the north of Holmewood, Aislaby Road, Aislaby, Eaglescliffe, Stockton-on-Tees in accordance with the terms of the application, Ref 20/1063/FUL, dated 27 May 2020, subject to the conditions set out in the attached Schedule of Conditions.

Application for costs

2. An application for an award of costs was made by Mr Chris Richardson against the Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the Council determined the planning application and the appeal was submitted, the revised National Planning Policy Framework (the Framework) has been published¹. The main parties have had the opportunity to comment on the effect of the revised Framework upon their respective cases. I have had regard to any comments and my decision is made in the context of the revised Framework.
4. It is noted that the application was revised during the Council's consideration of the proposal by way of alterations to extent of the appeal site and a reduction in the number of proposed holiday lodges from sixteen to fourteen. It is clear that the Council determined the application in its revised form and so shall I, adopting the revised quantum of development in my decision above.
5. For the avoidance of doubt, I have used the development site address set out on the planning application form.

¹ 20 July 2021

Main Issues

6. The main issues are:

- Whether or not the appeal site is an appropriate location for the proposed development, having regard to the development plan and other material considerations;
- The effect of the proposed development on the character and appearance of the surrounding area; and
- The effect of the proposed development on the living conditions of occupiers of nearby residential properties, with particular regard to noise and disturbance.

Reasons

Location

7. The appeal site is a sloping field alongside Aislaby Road, between Aislaby and Eaglescliffe / Yarm, and lies a short distance to the east of Aislaby. Broadly rectangular in shape, the site slopes downwards to the south from its hedgerow boundary with Aislaby Road. There is an area of woodland to the west of the site, but the site's southern and eastern boundaries are more open, marked currently by post and rail fences and occasional planting. An area of hardstanding accessed from a track serving Holmewood House to the south lies towards the north-eastern corner of the site, whilst two open 'lakes' lie adjacent to the southern boundary.
8. Neither the appeal site nor Aislaby are particularly well linked to other settlements by public transport. It is not that there are no links, but that what links there are limited and reliant upon a dial-a-ride service. Nevertheless, whilst I do not have the full details of this service I accept that it is quite likely that its extent and frequency would be limited. However, such a situation is perhaps not uncommon in a rural countryside setting.
9. Aislaby Road is an undulating and unlit rural country road which is relatively narrow in places between Aislaby and Eaglescliffe. Road verges are variable in their presence and width and there is no footway link along the road. It is undoubtedly possible to cycle between the appeal site and Eaglescliffe and Yarm, but the topography and nature of the road is likely to disincentivise all but the more serious cyclist making the journey on a regular basis, and unlikely to encourage pedestrian use.
10. However, as a location for a form of development which would cater for holiday, leisure and recreation purposes, the site's location and the nature of the local road network may indeed be part of its attraction. Rather than an impediment to making journeys by means other than the private vehicle, I can imagine that the quiet country lanes and pleasant rural landscape would not discourage those looking to explore by cycle. By the same measure, for those making journeys on foot the site's location and links to both countryside and the banks of the River Tees would be as likely to be an attraction as it would a hinderance.
11. There are, I saw, a network of local footpaths and public rights of way which the appeal site would have close and easy access to. These provide a range of

options to access facilities in Yarm and Eaglescliffe, provide circular walks across fields or along the riverbank from the appeal site, or links to longer distance walks such as the Teesdale Way. Whilst I have noted the concerns of local residents regarding the signing of the local rights of way network close to the appeal site, the type of guest likely to be keen to explore the local area on foot would not be solely reliant upon signage to access footpaths and, in any event, the presence (or not) of signage is not a matter for me to consider further.

12. There would, inevitably, be some reliance upon private vehicles to access the site and to travel further afield as part of a holiday at the appeal site. However, the type of accommodation proposed would be low key in both scale and appearance and would not necessarily lend itself to a location within an existing settlement. Policy SD1 of the Stockton-on-Tees Local Plan (LP) sets out the Council's approach to sustainable development, reflecting the approach set out in the National Planning Policy Framework (the Framework). LP policy SD4 sets out the Council's Economic Growth Strategy and, amongst other things, the approach to sustainable tourism proposals whilst LP policy EG7 seeks to support and promote sustainable growth and expansion of new and existing rural based enterprises.
13. Together, these policies state that support will be given to proposals within out of centre locations if they cannot be located within the limits of development, are related to activity in these areas and are of an appropriate scale having regard to the intrinsic character of the countryside and do not cause harm to the character and appearance of the countryside
14. Although the appeal proposal has not been justified in specific economic or viability terms, the development plan in the shape of the policies referred to above and the Framework, seek to support a prosperous rural economy. Although not specifically quantified in terms of its financial benefits, it is nevertheless broadly recognised that additional overnight tourist accommodation would contribute to the wider local economy as a base for visiting both local and regional services, facilities and attractions.
15. Whilst I consider matters related to character and appearance and living conditions in more detail, below, I am satisfied that the nature of the proposed holiday accommodation development would be such that it would require a rural location. In this instance, the appeal site's rural location is such that it provides opportunities to access the local services and facilities in Yarm and Eaglescliffe by means other than the private car. The proposal therefore garners support from LP policies SD1, SD4(17) and (18) and EG7 and from the Framework.

Character and appearance

16. At present, the appeal site is a gently sloping open field set to grass. Within the site towards its lower southern boundary are two ponds. Although the mature and dense roadside hedge screens views into the site from Aislaby Road from the north, the site is nevertheless open to views from the entrance to the track from the former, and from the east along the track itself.
17. In this context, the proposed holiday lodges and the associated area of car parking would be relatively obvious and incongruous features within the gently rolling surrounding countryside. However, the proposed site plan indicates that

- the lodges would be set amongst newly landscaped surroundings. Thus, the presently open views across the site from the site access track's junction with Aislaby Road would be intercepted by both boundary planting and planting within the site's interior around and between the lodges. A further dense buffer of planting along the site's southern boundary would provide additional visual and contextual screening between the site and the nearest neighbouring residential properties.
18. The lodges would be of two designs comprised of 6 smaller lodges and 8 larger ones, but of similar timber construction under a curved roof. The introduction of a number such structures in an open field within the gently rolling rural countryside surrounding the site would, I accept, be somewhat incongruous. However, with the mitigation of landscape planting around, and within, the site they would become largely hidden and unobtrusive within the rolling countryside.
 19. Nor would the proposed landscape planting, as a means to screen the lodges, appear incongruous. The surrounding countryside, particularly alongside this part of the River Tees, is typified by a patchwork of fields bounded by mature and dense hedgerows, hedgerow trees and stands of trees. The planting block proposals indicated on the proposed site plan would be broadly reflective of this prevailing pattern and character. They would also be effective, in the context of existing site viewpoints, at both providing screening and reflecting the pattern of nearest planting.
 20. Thus, planting along the site's eastern boundary would respond in form and layout to the avenue of trees along the eastern side of the Holmwood House access track and public footpath. The planting on the inside of the junction would continue existing roadside hedgerow planting whilst the woodland belt to the south would reflect that found beyond the site's western boundary, and also the woodland areas opposite the site, to the north, and along the river, to the south.
 21. In this context, the proposed lodges would only become evident in closer views and, even then, the lodges and the activities associated with their occupation would be seen amongst, against and deflected by, the proposed planting. Whilst I accept that this planting would take some time to establish itself and to provide the degree of screening and mitigation ultimately anticipated, the site is not so exposed, prominent or visible that the lodges or the use of land around them would be harmful to the character or appearance of the surrounding area.
 22. The appeal site is detached from Aislaby, but not, in my judgement, significantly or harmfully so. It is close enough to it to not appear completely isolated amongst open fields whilst being detached sufficiently to appeal as a relaxing setting in a rural location, set apart from the closest residential properties. Neither the proposed planting, nor the lodges once the planting has been put in and, over time, matures, would be out of keeping with the prevailing rural character of the surrounding area, whilst the proposal itself would be of a modest scale.
 23. LP policy EG7 broadly seeks to support rural economic development. The support offered is contingent on, amongst other factors, proposals being well-designed and which respect the character of the countryside. This approach is also reflected in LP policies SD5 and SD8, and also within the Framework, in

encouraging amongst other things, sustainable rural tourism development which is respectful of the character and appearance of the surrounding countryside.

24. As set out above, I am satisfied that a countryside location is appropriate for the nature and scale of the development proposed. Furthermore, I am also satisfied that it would not, with the appropriate use of suitable planning conditions to secure and maintain effective landscaping planting, cause harm to the character, appearance, nature or quality of the surrounding rural countryside setting. Nor have I been presented with any compelling justification as to how the proposal would cause harm to the landscape of the Teesside Heritage Park. There would be no conflict with the aims of LP policies EG7, SD5 or SD8, or with the Framework, in seeking to encourage sustainable rural tourism proposals.

Living conditions

25. The closest neighbouring houses to the appeal site lie between approximately 73 metres to 134 metres away from the edge of the appeal site. Their garden plots extent considerably closer. The nature of the intervening land is typical of the wider setting and surroundings; fields, field hedges with occasional hedgerow trees and, in some places, more dense hedges and areas of woodland.
26. In the context of a small rural community such as Aislaby and its surrounding countryside, background noise levels will typically be low, which the appellant's 'Noise Impact Assessment of External Plant' (NIA)² confirms. There is no dispute between the main parties as to the conclusions of the appellant's NIA, nor have the Council advanced any further compelling or substantive evidence in this respect.
27. The NIA assesses existing background noise levels and the likely noise levels of external plant. However, given the relatively limited scale of the proposal, the nature of the accommodation units and assumed external plant limited to kitchen and bathroom extract systems, it concludes that with appropriate mitigation measures there would be no increase above background noise levels arising from plant and extraction equipment. Whilst noting the concerns of the Council and nearby residents, I have not been presented with any evidence that would lead me to conclude otherwise in this respect.
28. I am therefore satisfied that with appropriate mitigation, including the measures set out within the NIA and within the scope of landscaping measures, the proposal would be unlikely to cause harm to the living conditions of nearby residents in terms of noise disturbance arising from external plant. However, the NIA does not consider noise arising from the occupation of the holiday lodges.
29. Each of the proposed lodges would have an area immediately to the front of the unit for sitting out. Although loosely grouped around the two ponds within the site, the proposed site plan suggests that each lodge would have areas of planting beside it to mark out the space associated with each. The proposed layout does not therefore indicate large communal open areas where guests may gather. Although activity around each lodge may, cumulatively, give rise

² Nova Acoustics – 12/04/2021

to sources of noise, the absence of a focal gathering point within the site would avoid a single larger noise source.

30. It is inevitable that guest holidaying in the lodges will take advantage of good weather in the evenings and look to sit out outside their accommodation. Such activities are not unusual at tourist accommodation sites, whether accommodation is provided in lodges, camper vans, caravans or tents. Nor, however, is it unusual for such sites to have particular site management rules for curfews or 'quiet times'. With suitable revision to the suggested condition regarding curfew times to broaden its requirement to cover a site management plan setting out such details, I am satisfied that suitable, reasonable and enforceable control would exist to manage and mitigate the effects of noise generation from within the site.
31. Together with existing and, more significantly, proposed landscape planting the proposal would maintain and add additional intervening planting between the lodges and neighbouring properties. This would serve to both mitigate and absorb noise generated as a result of the occupation of the lodges, and create a visual break between the site and the nearest neighbouring properties as the landscaping matures.
32. I am aware of the concerns expressed about the operation of the proposed lodges and the proximity of some dwellings to the appeal site. However, the appellant lives close to the site to aid effective management of the lodges and a suitably worded condition regarding site management would provide confidence regarding measures to manage activities within the site. The operation and management of holiday lodges in the past near to the site are not material factors to which I give any significant weight and I am satisfied, for reasons I have set out, that the proposal would not cause material harm to the living conditions of occupiers of nearby residential properties.
33. LP policy SD8, in seeking to see new development designed to the highest standards, states amongst other things that proposals will need to respond positively to amenity of all existing and future occupants of land and buildings. The appellant's NIA demonstrates that background noise levels are, as would be expected within a rural setting, generally low with peaks dominated by road traffic on Aislaby Road. It has been demonstrated that it is unlikely that plant and extract equipment within the lodges would cause harm to amenity by reason of noise. A site management plan and landscaping scheme, secured by way of planning condition, would provide sufficient management of potential noise generation sufficiently to avoid material harm to the living conditions and amenity of nearby residents. There would, therefore, be no conflict with the aims and provisions of LP policy SD8 in respect of amenity.

Other Matters

34. I have noted the concerns expressed by local residents about access to, and the signing of, the local public rights of way network. This is not however a matter which falls within the scope of my determination of this appeal and is rather a matter to be addressed to the relevant local authority.
35. I have noted a comparison with a previous appeal scheme at a nearby property for a residential access driveway. Although I do not have the full details of that proposal before me, it appears to be for a scheme of a materially different nature. I have, in any event, considered this appeal on the basis of the

evidence before me and the development plan context as it currently exists and a comparison with a previous appeal for a different scheme on a different, albeit nearby, site is not a material consideration to which I give any significant weight.

Other Matters

36. Local residents have raised concerns regarding the suitability of Aislaby Road, and the junction with it from the access track leading to the appeal site, to cope with the level of traffic associated with the proposal. However, although the road is narrow and undulating in places, it was not unduly so and I note that there was no objection to the proposal on highways grounds from the Council and highways matters did not form one of the Council's reasons for refusal. Nor is there any compelling evidence before me which would lead me to conclude otherwise.
37. There are also objections to the proposal from local residents on a wider basis, including in respect of the proposal setting a precedent, comments on the operation of a previous nearby holiday lodge development and other works carried out prior to the submission of the appeal proposal. I have considered the appeal entirely on its own merit and in light of all the information before me; any future proposals would also need to be considered in the same manner.
38. Those matters described in relation to a previous holiday lodge use, other works prior to the current appeal proposal and access to the public rights of way network are not matters for me to consider within the scope of this appeal. These are not material considerations to which I give any significant weight.

Conditions

39. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. Where necessary and in the interests of precision and brevity, I have amended the conditions.
40. In addition to a plans condition setting out the approved plans, I have attached a time limit condition. Both are necessary in the interests of good planning and to provide certainty.
41. In the interests of amenity and living conditions, the suggested conditions regarding restricting occupancy to holiday purposes, and only holiday lodge accommodation are reasonable, necessary and enforceable. Conditions prohibiting the installation of external music systems and hot tubs, the control of smoke, and compliance with the submitted NIA are also necessary. I have not however attached these conditions in the suggested form but have instead added a site management condition which would encompass the provisions of these conditions and also provide scope to cover quiet times and the control of smoke. I have not attached the suggested planning unit condition as the site management plan would more effectively address the matters which this condition seeks to address. In doing so, I am satisfied that no parties would be disadvantaged by these amendments.
42. Conditions relating to hard and soft landscaping proposals, the maintenance of soft landscaping after planting, means of enclosure and lighting are all reasonable and necessary in the interests of character and appearance. Similarly, a materials condition in respect of the lodges themselves will assist

their integration into the landscaping scheme, also in the interests of character and appearance.

43. I have amended and simplified the wording of the condition relating to the provision and retention of parking spaces and turning areas, but which is otherwise necessary in the interests of highway and pedestrian safety. A construction management plan would adequately deal with highways matters during the construction phase, whilst construction hours, site levels, waste management, foul drainage, flood risk and ecology conditions would address amenity, ground conditions and ecological matters and ensure compliance with technical reports submitted during the course of the planning application. Details regarding smoke control measures would more appropriately be dealt with as an 'informative' to which the appellant's attention is drawn.

Conclusion

44. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

G Robbie

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be in accordance with the following approved plans; 1927 / 02 'O'; 1927 / 01 'A'; 1927 / 03 'A'; 1927 / 04 'A'; 1927 / 05 'A' and 1927 / 06 'O' 6 April 2021
- 3) The use of the site for holiday lodges, hereby approved, shall be limited to the area annotated as camping pods as detailed on drawing number 1927 / 03 'A' received by the Local Planning Authority on the 06 April 2021. Overnight stays shall only be undertaken within the 14No. lodges within this area. No additional forms of camping in the form of tents, caravans, caravettes or any other form of motorhome will be allowed.
- 4) The development hereby approved must comply with the following requirements:
 - i) the lodges accommodation shall be occupied for holiday purposes only and shall not be occupied as a person's permanent, sole or main place of residence;
 - ii) No let may exceed 31 days per calendar year;
 - iii) the owners/operators shall maintain an up to- date register of the names of all owners/occupiers of the accommodation, and of their main home addresses. The owner/operator shall advise the Local Planning Authority of the name and address of the holder of the records and shall make the information on the register available at all reasonable times to the Local Planning Authority.
- 5) The areas shown on drawing number 1927 / 03 'A' received by the Local Planning Authority on the 06 April 2021, for parking spaces, turning areas and access shall be kept available for their intended purposes at all times for the lifetime of the development.
- 6) Notwithstanding details shown on the plans hereby approved, prior to any works commencing on site a scheme of existing and proposed ground levels, including those in adjacent land and finished floor levels for all buildings within the development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.
- 7) No development shall take place, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The Construction Management Plan shall provide details of:
 - the site construction access(es);
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials including any restrictions on delivery times;
 - storage of plant and materials used in constructing the development;

- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing;
- measures to be taken, including but not limited to wheel washing facilities and the use of mechanical road sweepers operating at regular intervals or as and when necessary, to avoid the deposit of mud, grit and dirt on the public highway by vehicles travelling to and from the site;
- measures to control and monitor the emission of dust and dirt during construction;
- a Site Waste Management Plan;
- details of the HGVs routing including any measures necessary to minimise the impact on other road users;
- measures to protect existing footpaths and verges; and
- a means of communication with local residents.

The approved Construction Management Plan shall be adhered to throughout the construction period.

- 8) No construction/demolition works, or deliveries shall be carried out except between the hours of 8.00am and 6.00pm on Mondays to Fridays and between 9.00am and 1.00pm on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.
- 9) No development shall commence until full details of proposed hard landscaping has been submitted to the Local Planning Authority. This will include all external finishing materials, finished levels, and all construction details confirming materials, colours, finishes and fixings. Thereafter, no part of the development shall be brought into use until the hard landscaping scheme, as approved in writing by the Local Planning Authority, has been completed in accordance with the approved details. Any defects in materials or workmanship appearing within a period of 12 months from completion of the total development shall be made-good by the owner as soon as practicably possible.
- 10) No development shall commence until full details of soft landscaping, including, where necessary, proposals to phase development and planting, have been submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations, inter-relationship of plants, stock size and type, grass, and planting methods including construction techniques for pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following commencement of development and prior to the occupation of any lodges, unless development is to be phased, in which case the planting scheme shall be completed in the first planting season following the commencement of each phase and prior to the occupation of any lodges within each respective phase.
- 11) No development shall commence until full details of proposed soft landscape management has been submitted to and approved in writing by the Local Planning Authority. The soft landscape management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas/ retained vegetation, other than small privately owned domestic gardens, and shall be submitted to and approved in

writing by the Local Planning Authority and implemented in accordance with the approved plan prior to the occupation of the development or approved phases.

Any vegetation within a period of 5 years from the date of from the date of completion of the total works that is dying, damaged, diseased or in the opinion of the Local Planning Authority is failing to thrive shall be replaced by the same species of a size at least equal to that of the adjacent successful planting in the next planting season.

Landscape maintenance shall be detailed for the initial 5 year establishment from date of completion of the total scheme regardless of any phased development period followed by a long-term management plan for a period of 20 years. The landscape management plan shall be carried out as approved.

- 12) Notwithstanding any description of the materials in the application, prior to the siting of the lodges, hereby approved, precise details of the materials, including treatment to be used in the construction of the external walls of the lodges shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the external walls and roofs of the building. The development shall be carried out in accordance with these approved details.
- 13) Prior to the development hereby approved being brought into operation a plan shall be submitted to and agreed in writing by the Local Planning Authority for the management of waste collection. The plan shall provide details of the containers for the storage and disposal of waste foods and other refuse from the premises, including their location and frequency. Those containers shall be constructed, maintained, and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents. The waste storage arrangements shall be maintained for the life of the development to the satisfaction of the Local Planning Authority.
- 14) Notwithstanding the submitted Drainage Strategy, prior to the commencement of development hereby approved a detailed treatment of foul water shall first be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall thereafter be installed prior to the occupation of the development and maintained as such thereafter.
- 15) Notwithstanding the proposals detailed in the submitted plans, prior to the erection of any means of enclosure, details of the enclosure shall be submitted to and approved in writing by the Local Planning Authority. Such means of enclosure shall be erected in accordance with the approved details and be maintained as such thereafter.
- 16) All works must be carried out in accordance with the Flood Risk Assessment and Drainage Strategy Aislaby Road, Holiday Lodges, Rev A dated March 2020 as received by the local planning authority on the 28 May 2020.
- 17) Prior to the bringing into use of the hereby approved development, a Site Management Plan shall be submitted to, and approved in writing by, the local planning authority. Thereafter, the approved development shall be carried out and operated in complete accordance with the agreed details. The Site Management Plan shall include, and provide details of:

- The Recommendations and Mitigations contained within the submitted Noise Impact Assessment received by the Local Planning Authority on the 1 April 2021 shall be fully implemented in accordance with the details set out therein.
 - A quiet or curfew period and the management provisions to ensure compliance with the quiet or curfew period, which shall commence at 10pm (22:00 hours) each evening;
 - Noise from the site is to be managed / controlled by staff at all times. A telephone number of the management should be made available should residents need to make a complaint.
 - Any noise from the premises shall not cause a disturbance at the nearest residential premises.
 - There shall be no music heard beyond the boundary of the site.
 - The Site Management Plan shall set out provisions for periodic assessments of the noise coming from the site and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments and shall include, the time and date of the checks, the person making them and the results including any remedial action. All records shall be retained for one year.
 - There shall be no external music system installed.
 - There shall be no siting of hot tubs anywhere on the site, including the associated amenity areas.
- 18) All ecological mitigation measures contained within Chapter 5 of the Ecological Impact Assessment received by the Local Planning Authority on the 28 May 2020 shall be implemented throughout the development in full accordance with the advice and recommendations.
- 19) Prior to the installation of any external lighting full details of the method of external LED illumination including:
- i) Siting;
 - ii) Angle of alignment;
 - iii) Light colour; and
 - iv) Luminance.

of buildings facades and external areas of the site shall be submitted to and agreed in writing by the Local Planning Authority before development is commenced and the lighting shall be implemented wholly in accordance with the agreed scheme prior to occupation.

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