



Appeal Decision

Hearing held on 24 November 2015

Site visit made on 25 November 2015

by Christa Masters MA (Hons) MRTPI

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

Decision date: 11 December 2015

Appeal Ref: APP/X5210/W/15/3095242

The Leighton, 101 Brecknock Road, London N7 0DA

- 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 Bryanston Investments against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/4554/P, dated 10 July 2014, was refused by notice dated 25 March 2015.
 - The development proposed is the conversion and extension of the existing pub and residential unit at 101 Brecknock Road. Pub to remain at ground floor with 5 new residential units to be provided in the upper floors of the existing building as well as a single storey roof extension.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of the existing pub and residential unit at 101 Brecknock Road. Pub to remain at ground floor with 5 new residential units to be provided in the upper floors of the existing building as well as a single storey roof extension at The Leighton, 101 Brecknock Road, London N7 0DA in accordance with the terms of the application, Ref 2014/4554/P, dated 10 July 2014, subject to the conditions set out on the schedule at the end of this decision.

Procedural Matters

2. The description of development as noted on the application form refers to 6 flats. However, the plans before me and the Statement of Common Ground refer to 5 flats. Accordingly, I have amended the description of development in line with this description.
 3. A revised plan reference BRE-PL-GA-22 was submitted at the Hearing. This amendment sought to address the second reason for refusal regarding commercial waste storage provision. In addition, drawings BRE-PL-GA-17, BRE-PL-GA-18 and BRE-PL-GA-19 provided coloured elevation of the existing elevations already submitted. I do not consider that the scheme would be so changed by this modification such that any interests would be prejudiced by having regard to these drawings as part of this appeal. I have proceeded to determine the appeal on this basis.
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4. A number of other appeal decisions¹ have been drawn to my attention by both the Council and the appellant. I have had regard to these decisions in reaching my conclusions below.
5. A separate Hearing took place on 25 November 2015 to consider appeal reference APP/X5210/W/15/3095453. This appeal is subject to a separate decision.

Main Issues

6. From the evidence presented and from what I heard at the Hearing, this appeal has 3 main issues. Firstly, the effect of the rear extension on the character and appearance of the area. Secondly, the effect of the proposal on the living conditions of:
 - (a) the occupiers of the proposed residential units with particular reference to noise and disturbance;
 - (b) other residents in terms of noise and disturbance associated with the loss of the access to the beer garden and its effect on on street activity.
7. Finally, the effect of the proposal on the long term retention of the public house, recognised by development plan policies as a community facility.

Reasons

Character and appearance

8. The appeal property is a substantial building occupying a prominent corner plot on Brecknock Road at its junction with Torriano Avenue. It is visible from a number of vantage points including more distant views in both directions along Brecknock Road. The surrounding area is primarily residential. Torriano Avenue has a varied character including a number of more modern buildings as well as a mixture of Victorian terraced properties, painted stucco and a number of properties with brick frontages.
9. The Torriano Avenue frontage is an important elevation to the property, however it is clearly secondary. The existing rear of the building where the extension is proposed has a number of extensions which have been introduced over time, a disused fire exit door, existing chimney stacks and windows placed in a unremarkable fashion. In my view, the rear elevation as existing delivers no benefits to the local townscape.
10. The existing public house operates from the ground floor with a large central bar, open kitchen area, toilets and seating. The basement provides a storage and cellar area. I agree with the appellants submissions that the public house is very dated venue and has lacked any modernisation for a significant number of years. The exit to the former beer garden is through a small door at the rear of the property. On the upper floors, there is ancillary accommodation which although no longer in use, has been used for residential purposes associated with the public house use. The only means of access to the upper floors is through the public house so it cannot operate as self contained residential accommodation.

¹ APP/X5210/W/15/3003396, APP/X5210/A/14/2218740, APP/X5210/A/12/2184317, APP/C3240/A/13/2194804, APP/G2815/A/03/1128215

11. The appeal proposal would see the refurbishment of the ground floor bar and kitchen area. A rear extension is proposed which would span the entire width of the rear of the property. A new ground floor entrance would be created from Torriano Avenue to provide access to the residential accommodation on the upper floors. A total of 5 flats would be created and a roof terraced added to provide private amenity space.
12. The relevant development plan policies under which the proposal should be assessed are policy CS14 of the Core Strategy (CS) 2010 and policy DP24 of Camden's Development Policies (DP) 2010. Policy CS14 is a five part policy concerning, amongst other things, creating high quality spaces. Part (a) advises that the Council will require development to be of the highest standard of design that respects local context and character. Policy DP24 also relates to securing high quality design. It advises, amongst other things, that the Council will require all developments to be of the highest standard of design. Where extensions are proposed, the Council expects development to consider the character, setting form and scale of neighbouring buildings, as well as the character and proportions of existing buildings, as is the case here. In addition, other important aspects for consideration include, amongst other things, the quality of the materials to be used and accessibility.
13. The Council contend the proposed rear extension would be excessive in bulk, scale and massing. In my view, the proposal would be subordinate to the host property, being a full floor lower than the parapet of the host building. It would also be set back from the flank elevation of the public house, allowing the existing quoins to be retained and remain the dominate feature to this elevation. In light of these considerations and taking into account the scale, massing and height, the proposal cannot be described as an excessively bulky addition to the property. The host property would continue to be seen as a prominent building in the overall street scene and the extension would not detract from this. Similarly, I cannot agree that the splayed footprint of the building would cause material harm as the site runs perpendicular to Torriano Avenue. One of the Council officers stated at the Hearing in her professional opinion the property could be worthy of local listing. However, this was not the view of the Council and accordingly has had no bearing on my decision.
14. There was great debate concerning whether the proposal should be assessed as a rear or side extension. To my mind, the proposal is clearly a rear extension. However, it will be accessed from Torriano Avenue, the side elevation of the property. Reference was made to the Camden Supplementary Planning Document and CPG1 Design (SPD) 2013. However, this document is in my view more applicable to residential house extensions than the appeal proposal and accordingly, I have attached limited weight to it. In any event, as I have set out above, the extension would be proportionate to the host property so its description as either a side or rear extension has little bearing on my deliberations.
15. Turning to consider the roof extension, this would be set well in from the edge of the building. I appreciate that the extension will be visible, primarily in longer range view of the public house along Brecknock Road. However, it is an important consideration that visibility does not in itself amount to material harm. It would be subordinate in scale and as such would be acceptable in design and scale. In terms of the materials to be used, the Council expressed concerns that the contemporary approach would not respect the architectural

style of the host property. The development plan policies do not prohibit contemporary design or materials, providing the resulting development is of a high quality and respects the local context. Indeed, paragraph 24.6 of the supporting text to policy DP24 advises that high quality contemporary design will be welcomed. In my opinion, the material proposed would complement the existing host property, and reflect the contemporary design of the extension. Furthermore, the use of render on the rear elevation would be in keeping with other rendered properties in the vicinity.

16. Additional concerns were raised regarding the effect of the extension on the existing gap within the street scene. However, given the scale and width of the proposed extension, I cannot agree that the proposal would result in any material difference to the existing gap in the street scene. Given its height, scale and set back, it would not, as suggested by the Council, create a sense of enclosure. Similarly, although glimpsed views through to rear gardens are possible, these would continue to be possible with the appeal proposal in place. Moreover, this is not a clear defining feature of either Torriano Avenue or Brecknock Road.
17. I therefore conclude the proposal would not result in any material harm to the character and appearance of the area. It would, as a result, accord with policy CS14 of the CS as well as policy DP24 of the DP outlined above.

Living conditions

18. Policy DP12 of the DP advises that in order to manage potential harm to amenity from food, drink and entertainment uses, the Council will use planning conditions to address a number of issues which include, amongst other things (i) noise and vibration. The Council accepted at the Hearing that the suggested conditions which they had put forward would adequately protect the living conditions of the future occupiers although expressed concerns that these conditions may prove too onerous for future occupiers of the pub.
19. The appellant confirmed the leaseholder, had worked at the premises for 15 years and had been the leaseholder for the last 2 years. The existing lease was in place for 9 years. The appellant confirmed that the pub could operate within the parameters of the suggested conditions. Given the leaseholders significant long term involvement with the premises, I see no reason to disagree with this view. As such, the conditions suggested would support the objectives of policy DP12 outlined above.
20. To my mind, any future occupiers of the upper floors would be well aware of the existing commercial activity taking place at ground floor level. I have no evidence before me to suggest that the conditions to address sound insulation would be materially harmful to the running of the commercial business on the ground floor. Furthermore, the Framework is clear at paragraph 123 that planning decision should mitigate and reduce to a minimum adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. Therefore, I can attach little weight to the Councils arguments in relation to this issue.
21. Additionally, concerns were raised regarding residents opening windows on the upper floors and being disturbed by patrons standing outside the pub. As stated above, any future occupiers of the residential accommodation would be well aware that opening windows may increase noise disturbance. However, it

is important to note that Brecknock Road is a relatively busy road with buses and other vehicles passing on a regular basis. I cannot therefore agree that patrons of the pub standing outside would have a materially harmful effect in this regard.

22. Concerns were expressed that the proposal would result in additional noise and disturbance to existing residents as patrons stand and drink on the public footpath. However, it is important to note that this activity is already taking place. To my mind, this is a situation evident outside many public houses in urban locations and is certainly not unique to the Leighton. Whilst there is currently no license in place for tables and chairs on the public highway, the merits or otherwise of this is not a matter for my deliberations. On the other hand, as noted by the officer's report to committee, there have been a number of complaints made by residents regarding noise and disturbance associated with the use of the beer garden. The issue is therefore finely balanced.
23. I acknowledge that the proposal would result in the loss of the direct access from the existing pub to the beer garden. However, the beer garden closed in August 2014 and has not been in use since this time. It was explained to me at the Hearing that the beer garden had become difficult to manage with antisocial activity taking place on a regular basis. The appellant highlighted that the lack of visibility from the bar itself had exacerbated this issue. Although the premises are licensed until 1am, I was advised at the Hearing that the license restricts the use of the beer garden to 9pm only. The appellant explained that this restriction creates additional problems in terms of removing customers from the beer garden at this time, particular in the summer months. I can fully appreciate the difficulties that this situation may deliver.
24. Taking the above factors into account, I am not convinced that the appeal proposal would result in additional noise and disturbance to residents by preventing a direct access from the rear of the pub to the beer garden. Moreover, I have no evidence before me to suggest that refusing the appeal on this basis would alter the existing pattern of activity already taking place in terms of patrons drinking and smoking outside of the Leighton.
25. On balance, I therefore conclude the proposal would have an acceptable impact on the existing residents, as well as future occupiers of the upper floor flats. Accordingly, the proposal would accord with policies DP12 and DP26 of the DP. Policy DP26 advises that the Council will protect the quality of life of occupiers and neighbours by only granting planning permission for development that does not cause harm to amenity. For the same reasons, the proposal would also accord with policy CS5 of the CS which advises, amongst other things, that the Council will protect the amenity of residents and those working in the borough by making sure the impact of developments on their occupiers and neighbours is fully considered.
26. For the same reasons, it would also accord with paragraph 17 of the Framework, which advises that developments should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The effect on the long term retention of the public house, recognised by development plan policies as a community facility

27. As I have stated above, the existing premises are clearly dated abut nevertheless serve a local community need. Policy DP15 of the DP relates to protecting community and leisure uses within the Borough. It advises, amongst other things, that the Council will protect existing community facilities by resisting their loss. In addition, policy CS10 of the CS advises at part (f) that the Council will support the retention and enhancement of existing community, leisure and cultural facilities.
28. The proposal would not result in the loss of the public house. The premises would be refurbished and modernised on the ground floor. There would be a small loss of floorspace which was agreed between the parties at the Hearing to be 13sqm. However, the refurbishment and much needed modernisation of the ground floor could deliver many positive benefits to the premises and ensure its longevity for the local community, making the premises a much more desirable place to visit. To my mind, there is therefore no conflict with the objectives of either policy DP15 or CS10.
29. I therefore conclude the proposal would not effect the long term retention of the public house. It would therefore accord with the provisions of policies DP15 and CS10 outlined above.

Other matters

30. Prior to the Hearing, the appellant prepared a revised layout of the refuse storage area on the ground floor. The Council accepted the revisions adequately addressed the policy requirements and therefore the Councils objections in this regard. I am also satisfied that appropriate refuse storage provision can be provided on site. However, concerns were expressed that the alterations made had resulted in the cycle parking area now being inadequate. This matter remained unresolved at the Hearing. I am satisfied that subject to an appropriately worded condition, the number and design of the cycle parking area could be adequately addressed.
31. A number of interested parties raised concerns regarding the proposal. These concerns include the effect of the proposal on on street parking provision, privacy and overlooking and effect on daylight and sunlight. In relation to car parking, I am satisfied that in accordance with the conclusions drawn by the Council, the appellants commitment to provide a car free development would adequately address this issue. Turning to consider the issue of privacy and overlooking, taking into account the separation distances involved, I am not convinced that the proposal would result in any material harm in terms of overlooking to other properties in the vicinity.
32. In terms of daylight and sunlight, detailed evidence was provided in relation to this issue by the appellants. The Vertical Sky Component Test (VSC) which accompanied the application confirms that none of the nearest windows with an outlook facing the site will result in a VSC of less than 27%. I have no technical evidence before me which would suggest that this is inaccurate. Accordingly, I conclude that the proposal would maintain an adequate amount of daylight and sunlight to adjoining properties.

33. I have also had regard to the other appeal decisions before me presented by both of the main parties. Although the full details of each scheme are not before me, the circumstances and particulars of the developments are also different and accordingly this limits the weight I can attach to them. In any event, each appeal must be determined on the basis of the evidence presented.
34. A signed Section 106 Agreement has been provided. I have considered this document in light of the statutory tests contained in Regulations 122 and 123 (3) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). In relation to both of the items, the Council confirmed at the Hearing that there are currently no other contributions in place for the items specified, therefore I am satisfied that there are no issues concerning the issue of pooled contributions in relation to this appeal. The details of the contributions sought are set out below.
35. Firstly, an environmental improvement contribution of £4000. Clause 2.8 of the Agreement specifies that the environmental improvements contribution would be used towards the provision of pedestrian cycling and environmental improvements in the vicinity of the development. No details have been provided regarding where current deficiencies lie in relation to these matters. Furthermore, although the Council referred to general policies from the development plan, no detailed evidence was provided as to how this figure had been arrived at. Accordingly, I am not persuaded that it is necessary to make the development acceptable in planning terms. Neither am I persuaded that it is fairly related in scale and kind to the development. Hence the obligation would fail to meet the test in the Regulations.
36. Secondly, a highways contribution of £26,800. The Council referred to policies DP29 of the DP as well as CPG8 of the SPG to support this requirement at the Hearing. Policy DP29 is a general policy concerning, amongst other things, improving access to facilities and opportunities. CPG8 of the SPG covers a number of matters which may be addressed by a planning obligation. Repairs to the highway network are not listed.
37. The Council's appeal statement refers to policy DP21 of the DP. Part J of this policy advises that the Council will expect development connected to the highway network to repair any construction damage to transport infrastructure or landscaping. I therefore agree there is a policy basis to support the Council's request in relation to this matter.
38. However, the appeal proposal is for a rear extension. The façade and floors of the existing building would be retained. Whilst a breakdown of materials required was provided by the Council, I am not convinced that the amount is fairly sought or fairly and reasonably related in scale and kind to the development proposed. I am also not convinced it is necessary to make the development acceptable in planning terms. I am therefore unable to conclude with any confidence that this aspect of the obligation would pass all the tests of CIL Regulation 122.
39. The document also contains obligations to ensure the development is car free. The appeal site is located within an area with good transport accessibility (PTAL rating of 4). Policy DP18 advises that the Council expect all development within the Central London Area to be car free. The Council have identified that the appeal site is located within an existing Controlled Parking Zone (CPZ) which already suffers from high levels of parking stress. Having regard to the above

factors, I am satisfied that the restriction would be appropriate and necessary. It therefore passes the statutory tests.

40. Finally, the obligation also includes for a construction management plan to be entered into. This would accord with the requirements of policy DP26 of the DP which relates to managing the impact of development on occupiers and neighbours. Policy DP20 of the DP has also been referred to however this policy is applicable to development which would generate significant movement of goods which is not the case in relation to this appeal. The Council have explained that this matter has been addressed via the agreement as a number of the provisions would relate to off-site requirements such as loading and unloading of vehicles. Taking into account the evidence presented, I am satisfied that this element of the obligation is directly related to the development and is fairly and reasonably related in scale and kind to the development. It therefore passes the statutory tests.

Conditions

41. I have considered the conditions as suggested by the Council in light of the discussions which took place at the Hearing, the advice contained within paragraph 206 of the Framework as well as the Planning Practice Guidance. Where necessary, I have reworded the suggested conditions in the interests of enforceability and precision.
42. A standard condition limiting the life of the permission is necessary. I also agree it is necessary to specify the approved plans for the avoidance of doubt and in the interests of proper planning. A condition requiring the materials to be used as part of the development to be submitted is necessary to ensure the appearance of the development is satisfactory. However, I have replaced the condition suggested by the Council with a more general condition as I do not consider the level of detail requested by the Councils suggested condition is either necessary or reasonable.
43. A condition requiring the details of the cycle parking to be agreed is necessary in order to ensure cycle parking can be adequately accommodated within the site. Conditions have also been attached to address noise mitigation measures within the building. These are necessary to protect the living conditions of the future occupiers of the proposed flats. However, as the pub is an existing use on the site, the wording of the conditions has been amended to reflect this. An additional condition has been suggested by the Council to cover lifetime home standards. This condition is no longer necessary as a new system of housing standards commenced in March 2015, covered by Building Regulations. An additional condition to cover the use of the external terraces is necessary in order to protect the living conditions of neighbouring occupiers. A condition requiring details of protection to trees on the site during the construction process is also reasonable and necessary.
44. In terms of water consumption, the Planning Practice Guidance states that the mandatory national standards set out in building regulations are 125 litres /person/day. However, where appropriate the Council may consider a tighter water efficiency requirement. The condition suggested by the Council refers to 105 litres/person/day. Policy DP22 of the DMP notes the Council will require development to be resilient to climate change and include appropriate measures such as reducing water consumption. Taking into account the Guidance on this issue, I am satisfied that the condition is both reasonable and

necessary. The final condition covers compliance with the submitted energy statement which is considered reasonable and necessary in the interests of sustainable design and construction.

Conclusion

45. I am satisfied that the development proposed would not materially harm the character and appearance of the area. It would also provide satisfactory living conditions for existing and proposed occupiers as well as existing neighbouring occupiers. I am also satisfied that the proposal would not conflict with the Framework or Camden policies which seek to support community facilities. For the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Christa Masters

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr M Cramer	Appellant
Ms J Brosnan	Leaseholder of the Leighton PH
Mr S Satwick	Appellant
Mr M Evans	Martin Evans Architects
Mr D Norris	Planning Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Tullock	London Borough of Camden
Ms C Bond BA (Hons) B Arch Hons MTP Grad Dip Cons AA IHBC	London Borough of Camden

INTERESTED PARTIES

Mr A Paterson	Local Resident
Mr R Fairley	Local Resident
Ms A Fairley	Local Resident
Ms J Herald	Local Resident
Cllr J Headlam-Wells	Ward Councillor
Cllr Meric Apak	Ward Councillor

DOCUMENTS SUBMITTED AT THE HEARING

1. Signed Section 106 Agreement dated 23 November 2015
2. 4 photographs from google earth showing the appeal site
3. Notification of Hearing letter
4. Statement prepared by Mr Paterson on behalf of the local residents
5. Statement of Common Ground
6. Schedule of highways works

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; BRE-EX-GA-01, BRE-EX-GA-02; BRE-EX-GA-03; BRE-EX-GA-04; BRE-EX-GA- 05; BRE-EX-GA-06; BRE-EX-GA-07; BRE-EX-GA-08; BRE-EX-GA- 09; BRE-EX-GA-10; BRE-EX-GA-11; BRE-EX-GA-12; BRE-EX-GA-13, BRE-EX-GA-14, BRE-PL-GA-02 A; BRE-PL-GA- 03; BRE-PL-GA-04 B; BRE-PL-GA-05 B; BRE-PL-GA-06 C; BRE-PL-GA-07 C; BRE-PL-GA-08 C; BRE-PL-GA-09 C; BRE-PL-GA-10 E; BRE-PL-GA-11 C; BRE-PLGA- 12 C; BRE-PL-GA-13 C; BRE-PL-GA-14 A; BRE-PL-GA-15 C; BRE-PL-GA-16 C; BRE-PL-GA-17; BRE-PL-GA-18; BRE-PL-GA-19; BRE-PL-GA-22; BRE-DEM-GA-01; BRE-DEM-GA-02; BRE-DEM-GA-03; BRE-DEM-GA-04; BRE-DEM-GA-05; BRE-DEM-GA-06; BRE-DEM-GA-07; BRE-DEM-GA-08; BRE-DEM-GA-09.
- 4) Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of an enhanced sound insulation value $D_{nT,w}$ and C_{tr} dB of at least 20dB above the Building Regulations value, for the wall and floors separating the residential units from the ground and basement floors. Approved details shall be implemented prior to the first occupation of the residential units and thereafter be permanently retained and maintained.
- 5) Prior to the occupation of the new residential units, all sound system speaker equipment and any amplified sound equipment at basement and ground floor shall be fitted with an appropriate anti-vibration system. In addition, prior to the first occupation of the new residential units, an appropriate automatic noise control device must be fitted to all amplified sound equipment at basement and ground floor level. The device must be:
 - a) Set so that the volume of any amplified sound emanating from the premises is inaudible in any residential part of the development.
 - b) The limiting device must be capable of controlling the frequency element of entertainment music.
- 6) Prior to the occupation of the residential units hereby approved, a post completion noise and vibration assessment shall be carried out from within the approved residential units and external amenity areas to confirm compliance with the noise and vibration criteria submitted for conditions 4 and 5. Any additional steps that may be required to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to occupation of the residential units and thereafter be permanently retained.
- 7) Only the areas specifically shown on the plans hereby approved as external terraces shall be used for such purposes and no other flat roofed areas shall be used as a roof terrace.

- 8) Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the Council in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.
- 9) Prior to first occupation of the development hereby approved, details of the cycle storage shall be submitted to and approved by the local planning authority. The approved facility shall be provided in its entirety prior to the first occupation of any of the new residential units, and permanently retained thereafter.
- 10) The residential units hereby approved shall achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use. Prior to occupation of the residential units, evidence demonstrating that this has been achieved shall be submitted to and approved by the Local Planning Authority.
- 11) The development hereby approved shall be constructed in accordance with the approved energy statement by Syntegra Consulting dated 10th July 2014 to achieve a 20% reduction in carbon dioxide emissions beyond Part L 2013 Building Regulations in line with the energy hierarchy, and a 20% reduction in carbon dioxide emissions through renewable technologies. Prior to occupation of the residential units hereby permitted, evidence demonstrating that the approved measures have been implemented shall be submitted to and approved in writing by the Local Planning Authority and shall be retained and maintained thereafter.