



Bromley: Self-Build and Custom Housebuilding

This technical note has been prepared by Iceni Projects ("Iceni") on behalf of Mr and Mrs Selby to consider the need for self and custom housebuilding in the London Borough of Bromley ("Bromley").

As this note sets out, by virtue of a development plan which contains no specific policy that considers self and custom build housing, paragraph 11(d) of the Framework ("the titled balance") is engaged and policies which are most important for determining the application should be viewed as out of date. Iceni's review has also identified a shortfall of serviced plots which should be addressed urgently.

a. Self and Custom Housebuilding

The Council established its Self-Build and Custom Housebuilding Register on 1st April 2016 in line with the requirements of the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). The 2016 Act under the 'duty to grant planning permissions etc' places a statutory duty on the relevant authority to grant enough planning permissions to meet the demand for self-build housing as identified through its register in each base period.

The monitoring data from the Council's register is published annually by Government¹ with the latest full base period ending on 30th October 2022 (i.e. the seventh base period). In November 2020 at Development Control Committee, Bromley asked Members to agree to (a) the introduction of a local connection test for future application as well as (b) the application of the test retrospectively to individuals on the register who had joined since 2016. On the latter, the Council set out that the intended approach was to write to individuals already on the register to ask for information to demonstrate that they meet the local connection test in order to remain on the register. The Committee resolved to agree both (a) and (b).

The local connection test requires individuals to have been resident in the Borough for a continuous period of five years up to the date of application. The introduction of the connection test splits the register into two parts, with those who pass the test entered onto Part 1 and those who did not on Part 2. In line with the PPG, those on Part 1 must count towards the number of suitable serviced plots that must be granted permission. Entries on Part 2 do not count towards demand for the purpose of the Self Build and Custom Housebuilding Act 2015 ("the 2015 Act"); however, authorities must still have regard to Part 2 when carrying out their planning, housing, land disposal and regeneration functions.

¹ [Ministry of Levelling Up, Housing & Communities: Right to Build Register Monitoring](#)

For example, the starting point for establishing overall demand in plan-making would be the total of Part 1 *and* Part 2.

The PPG² is clear that the introduction of a local connection test is expected to be introduced only where there is a strong justification for doing so and in response to a local recognised issue. However, Iceni does not consider that strong justification has been provided in this instance. In the paper³ submitted to the Development Control Committee (paragraph 3.11), the Council stated that:

“Officers consider that a local connection test should be introduced. This will ensure that entrants on the Register have a genuine connection with the area and means that demand evidenced by the Register will be much more likely to be genuine rather than potentially one of many similar requests for entry onto registers in other areas.”

First, Iceni does not regard this as strong justification and it is clearly not a localised issue. If the Government had written the PPG with the expectation that strong justification could mean ensuring “entrants on the Register [having] a genuine connection with the area” then a local connection test would have been incorporated to the Act as standard given this could apply to all authorities in the Country – it is not a local issue.

Second, Iceni would highlight that the Borough effectively forms part of a wider London Housing Market Area (“HMA”) and therefore it would be expected that individuals would apply to more than one register. It is important that Council recognises that HMAs do not always respect local authority boundaries and that people may have connections with more than one Borough or indeed with one of the surrounding Districts. Taken together, Iceni would maintain that strong justification has not been provided by the Council to introduce a local connection test.

There is also an expectation in the PPG⁴ that the introduction of eligibility tests are consulted on; however, this has not happened in the Borough which is a significant shortcoming in the process. The paper submitted to the Development Control Committee (paragraph 4.3) was clear that:

“No consultation is proposed on the proposed local connection test which this report recommends is introduced”

² Paragraph: 019 Reference ID: 57019 20170728

³ [Bromley Development Control Committee Agenda: Self Build](#)

⁴ Paragraph: 019 Reference ID: 57-019-20210208

This lack of consultation has been scrutinised in other local authority areas by Planning Inspectors including in an appeal decision⁵ in Canterbury District which Iceni were directly involved in. In the case of that appeal decision, the Inspector (paragraph 41) concluded that:

“I consider the Council’s approach to be only partially compliant with the advice in the National Planning Practice Guidance (NPPG). This is because the lack of consultation on imposing the local connections test undermines any rationale for its imposition”.

Taking all of this together, for the purposes of this assessment, we consider that all individuals entered should continue to be used in assessing demand (i.e. all entered as Part 1 on the Council’s register).

Demand for Self and Custom Build Plots

Our analysis of the monitoring data collected by the Government shows that there has been a total of 192 individuals added to the register since the beginning of 1st April 2016 to 30th October 2022. The Table below shows the annual entries by base period⁶.

Table: Bromley Demand: Annual Entries

Base Period	Total
Base Period 1 (1 st April 2016 – 30 th October 2016)	2
Base Period 2 (31 st October 2016 – 30 th October 2017)	33
Base Period 3 (31 st October 2017 – 30 th October 2018)	22
Base Period 4 (31 st October 2018 – 30 th October 2019)	27
Base Period 5 (31 st October 2019 – 30 th October 2020)	19
Base Period 6 (31 st October 2020 – 30 th October 2021)	51
Base Period 7 (31 st October 2021 – 30 th October 2022)	38
Total	192

At Base Period 6 – when the Council introduced the local connection test – the data returns begin to split into Part 1 and Part 2. However, it is not possible to understand how the data splits out historically year-on-year in the context of the Council applying the test retrospectively. This has been requested from the Council but not received. The Table below therefore shows how the data splits into Part 1 and Part 2 from Base Period 6 onwards based on the cumulative total.

Table: Bromley Demand: Part 1 vs Part 2 [Cumulative Total]

Base Period	Part 1	Part 2
Base Period 6 (31 st October 2020 – 30 th October 2021)	20	143

⁵ APP/J2210/W/20/3259181

⁶ It should be noted that the data returns suggest that 209 individuals have been added in total; however, the annual entries sum to 192

Base Period 7 (31 st October 2021 – 30 th October 2022)	42	167
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Notwithstanding the lack of detail on the data returns, as set out in the sub-section above, we consider that all individuals on the register – historic entries and future entries - should continue to count towards Part 1. As a result, our position is that the total demand is equal to 192 plots over seven base periods to date.

In accordance with the Self-Build and Custom Housebuilding Regulations⁷, the local authority has 3 years in which to grant permission for the number of plots of land are required by those entered onto Part 1 of the register for each base period.

Supply of Self and Custom Build Plots

In order to understand if the Council has met its statutory duty to grant sufficient planning permissions, IcenI has referred to a combination of the Council's Annual Monitoring Reports, the paper submitted to the Development Control Committee in November 2020 regarding the local connection test⁸ and the Government's Right to Build Register Monitoring.

The paper submitted to the Development Control Committee (paragraph 3.7) states that the Council has sought to count suitable permissions by including all Community Infrastructure Levy ("CIL") self-build exemptions. The underlying justification for this is that the Act (Section 2A (6)(a)) sets out that "development permission is "suitable" if it is permission in respect of development that could include self-build and custom housebuilding". However, as IcenI will set out, this approach is fundamentally flawed.

First, it is not clear how all self-build CIL exemptions can be valid given that CIL exemptions for self-build can include rear and side extensions, replacement dwellings and barn conversions. Although certain applications may relate to development constructed by an individual applying for self-build exemption from CIL, there is no way to determine if these homes satisfy the demand expressed by those on the Council's register without a proper review of the application material to ensure that they accord with the legal definition of self and custom build in the Act.

Second, we would note that the legislation is wholly unclear. This is why the Government publishes supporting guidance to the legislation to steer decision-taking and plan-making on the matter. Planning Practice Guidance ("PPG") on self-build and custom housebuilding and separate guidance published by the Right to Build Taskforce⁹ - who are funded by Government - do not advise authorities

⁷ The Self-Build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 (31st October 2016)

⁸ [Bromley Development Control Committee Agenda: Self Build](#)

⁹ Right To Build Taskforce Planning Guidance, PG10: Counting Relevant Permissioned Plots (March 2021).

to simply count all single dwelling permissions. In fact, the latter (paragraph 15) explicitly makes clear that “the counting of all windfalls or all permissions on smaller sites is not an appropriate approach.”

Drawing on the relevant guidance, which is published to support and compliment legislation, it is clear that relevant authorities must be satisfied that development permissions being counted meet legislative requirements. Icení considers that the inclusion of permissions should be fully evidenced based and justified.

The PPG (paragraph 38) sets out that in order to determine if an application is for self and custom build housing, an authority may wish to consider whether developers have identified that self-build or custom build plots will be included as part of their development and it is clear that the initial owner of the homes will have primary input into its final design and layout.

The Taskforce guidance goes further to say that in considering whether permissions qualify for self and custom build supply, they can only be regarded as “definitely” self and custom build supply when there is evidence of:

- A permission with a signed Unilateral Undertaking committing to self-build;
- A permission with condition or agreement for marketing the plot(s) as a self and custom build opportunity; or
- A permission that **creates a new dwelling** and has a submitted Form 7: Self Build Exemption Claim Form – Part 1 and Part 2.

This approach has been supported by a number of Planning Inspectors in recent appeal decisions. In a landmark appeal decision¹⁰ in North West Leicestershire in June 2019, an Inspector addressed the definition of suitable permissions when dealing with the need for serviced plots for self and custom build housing. In the decision letter (paragraph 22), the Inspector noted that the Council, in stating that 133 suitable dwellings had been approved in response to the need for serviced plots, had:

“not provided any information to suggest that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding Act 2015 (as amended)” (our emphasis)

As a result, the Inspector (paragraph 23) noted that this raised:

“considerable doubts as to whether any of the single dwelling permissions would count towards the number of planning permissions the Council has granted for serviced plots and

¹⁰ APP/G2435/W/18/3214451

thus whether these consents would actually contribute towards the delivery of self-build and custom housebuilding in the District

Having addressed CIL exemptions in general we have undertaken our own search of the Council's online planning history records to identify any proposals which include an element of self and custom build. A search for the terms 'self build' and 'self-build' within the description of development returned the following relevant application (excl. applications which were refused):

Table: Review of Council Planning Application Portal: "Self-Build"

Reference	Proposal	Review
18/03018/FULL1	Temporary mobile home occupied during self build for 12 months duration	This application is linked to application ref:16/04578/FULL1 for the development of a one bedroom bungalow. There is no signed Unilateral Undertaking committing to self-build development nor a condition or agreement for marketing the plots as a self and custom build opportunity which would enable those on the Council's register to access a serviced plot; in line with the 2015 Act. There is also no mention of self or custom build in the description of development for the main application.

A search for the term 'new dwelling' returned 4 results, 17/01895/RECON3, 21/02861/RECON, 16/05877/RECON and 03/03205/VAR all of which relate to minor material amendment or variation of condition applications and not full planning permission. A sample search for the term 'single dwelling' – which will comprise the bulk of the CIL exemptions relied upon – within the description of development returned the following relevant results:

Table: Review of Council Planning Application Portal: "Single Dwelling"

Reference	Proposal	Review
19/04607/RECON	Removal of condition No. 6 of planning permission 19/04607/FULL1 (dated 1 April 2020 for Demolition of rear balcony. Erection of two 2-storey rear extensions and fenestration alterations. Subdivision of plot and conversion of existing single	This seeks to vary conditions attached to the approval of 19/04607/FULL1. The initial application has no relevance whatsoever to the Self and Custom Housebuilding Act and partly includes a rear extension as well as flatted development. The application is not seeking to provide a serviced plot which could meet the need on the Council's register.

	dwellinghouse into 5x flats, along with associated parking etc.	
18/02126/RECON	Variation of 11 of permission 17/05916/FULL1 granted for elevational alterations and part two/part three storey rear extension, front and rear dormers, formation of lightwells and enlarged basement accommodation and conversion of resultant building from single dwellinghouse to 5 no. flats (1 x one bed, 2 x two bed and 2 x three bed) with associated refuse and cycle storage and landscaping, to allow alterations to the rear/side elevation of the part two/three storey rear extension.	This seeks to vary conditions attached to the approval of 17/05916/FULL1. The initial application has no relevance whatsoever to the Self and Custom Housebuilding Act – it involves an extension and conversion. The application is not seeking to provide a serviced plot which could meet the need on the Council's register.
08/01583/VAR	Variation of Condition 33 of application ref. 07/02250 (approved as a variation to permission ref. 05/03503 for change of use of mansion to single dwelling and change of use of coach house/stable block to seven dwellings) to enable retention of the Cottage	This seeks to vary conditions attached to the approval of 07/02250 and 05/03503. The initial applications have no relevance whatsoever to the Self and Custom Housebuilding Act – the applications relate to change of use as opposed to development of self and custom build homes. The application is not seeking to provide a serviced plot which could meet the need on the Council's register.
04/04816/VAR	Use of annex as separate dwelling house (Tripes Farm House) (Removal of condition 2 of permission ref. 95/0592 granted for conversion of north wing into residential annexe to permit use as a single dwelling house)	This seeks to vary conditions attached to the approval of 95/0592. The initial application sought to convert an existing building into an annex and therefore has no relevance whatsoever to the Self and Custom Housebuilding Act. The application is not seeking to provide a serviced plot which could meet the need on the Council's register.

This proves that single dwelling permissions do not always translate as valid permissions in the context of self and custom build housing in line with the definition of the 2015 Act.

A search for the term 'detached dwelling' within the description of development returned 38 results. Of these 38 results, 36 relate to variation/discharge of condition or minor material amendment applications and therefore in of themselves have no relevance to the Self and Custom Housebuilding Act. However, we have sought to undertake a random sample assessment of some of the initial applications they relate to where the description indicates the dwelling may contribute to self-build supply. The sample applications are as follows:

Table: Review of Council Planning Application Portal: "Detached Dwelling"

Reference	Proposal	Review
22/00861/DET	Details of scale, appearance and landscaping, pursuant to Outline permission DC/21/02495/OUT granted planning permission on 05.11.2021 for demolition of existing dwelling and erection of 2 x detached dwellings.	This application offers further detail to application 21/02495/OUT. The initial outline application makes no reference to either of the two proposed dwellings being intended for self-build. Neither the outline or detailed approval have conditions attached ensuring the dwellings as self-build, nor is there any evidence within the applications to suggest that they align with the 2015 Act. The application also partly represents a replacement dwelling scheme.
20/04305/RECON	Minor material amendment under Section 73 of the Town and Country Planning Act 1990 to allow variation of Condition 2 to permission 20/04305/FULL1 (granted for the Demolition of an existing dwelling and erection of two storey 4 bedroom detached dwelling), to allow a 0.6m increase in depth at ground floor level, alterations to internal layout, alterations to windows/doors and 0.2m increase in ridge height.	It is noted that this application and the initial full application relate to the construction of a replacement dwelling and therefore has no relevance whatsoever to self and custom build housing in the 2015 Act. The Right to Build Taskforce Guidance (paragraph 25) is clear that replacement dwellings should not count as suitable permissions in stating: "A substantial enlargement or redevelopment that creates new floorspace but not a new dwelling" definitely does not count as a suitable permission.
16/01330/RECON	Minor material amendment under Section 73 of the Town and Country Planning Act 1990 of planning permission 16/01330/FULL1 for demolition of two detached dwellinghouses and construction of a crescent	Both this application and the initial full application relate to the construction of replacement terraced dwellings. Neither approvals have conditions attached ensuring the dwellings as self-build, nor is there any evidence within the applications to suggest that they meet the requirements of self-build

	terrace of 7 three storey four bedroom plus roof accommodation townhouses with basement car parking, refuse store and associated landscaping in order to vary condition 4 to allow the planting along the road frontage of 18 fastigate oaks at a height of 6 metres.	as set out in the Act. The development therefore has no relevance whatsoever to the Self and Custom Housebuilding Act.
17/01895/RECON	Variation of Condition 14 of planning permission reference 17/01895/FULL1 (granted for seven detached dwellings) concerning revised contaminated land assessment	Neither this application nor the full application it relates to make any reference to the proposed dwellings being for self build housing. There are no conditions attached ensuring the dwellings are constructed as self-build, nor is there any evidence within the applications to suggest that they meet the requirements of self-build as set out in the Act. The development therefore has no relevance whatsoever to the Self and Custom Housebuilding Act.
20/00607/RECON	Minor material amendment under Section 73 of the Town and Country Planning Act 1990 for the Variation of Condition 2 of planning permission 20/00607/FULL1 approved for demolition of existing bungalow, erection of 2no semi-detached dwellings (1 no. two bedroom and 1 no. three bedroom) with associated works to allow conversion of approved roof space, to provide 1no. additional bedroom to House 1 and 1no. additional bedroom to House 2, creation of 2no. dormer windows on the rear roof slope and insertion of 4no. roof windows on the front elevation.	Both this application and the initial full application relate to the construction of a replacement semi-detached dwellings. Neither approvals have conditions attached ensuring the dwellings as self-build, nor is there any evidence within the applications to suggest that they meet the requirements of self-build as set out in the Act. The development therefore has no relevance whatsoever to the Self and Custom Housebuilding Act.

16/03068/RECON	Minor Material Amendment under S73 to vary Condition 2 of Planning ref: 16/03068/FULL6 and 18/0023/RECON for the Partial demolition of a two storey six bedroom detached dwelling retaining some of the existing external walls, refurbishment and erection of a new two storey five bedroom detached dwelling in order to allow address a number of drawing errors, addition of new windows, extended basement for plant and proposed rear additions.	Both this application and the initial full application relate to the construction of a replacement dwelling. Neither approvals have conditions attached ensuring the dwellings as self-build, nor is there any evidence within the applications to suggest that they meet the requirements of self-build as set out in the 2015 Act. The development therefore has no relevance whatsoever to the Self and Custom Housebuilding Act.
19/04089/DET	Details of landscaping pursuant to condition 1 of outline permission ref: 16/00634/OUT (granted for demolition of Nos. 39 and 41 Oregon Square and retention of No 43, and erection of 8 dwellings comprising 3 pairs of semi-detached dwellings and 2 detached dwellings with associated access road and car parking).	Both this application and the initial full application relate to the construction of 8 new dwellings. Neither approvals have conditions attached ensuring the dwellings as self-build, nor is there any evidence within the applications to suggest that they meet the requirements of self-build as set out in the Act. The development therefore has no relevance whatsoever to the Self and Custom Housebuilding Act.
18/01926/RECON and 18/01926/FULL1	Minor material amendment under Section 73 of the Town and County Planning Act 1990 to allow a variation of the planning permission 18/01926/FULL1 for demolition of existing buildings and erection of two 2 bedroom detached dwellings, retention of existing garage and part of stable building and conversion to provide garage/storage for the dwellings in order to allow for internal reconfiguration to	Both this application and the initial full application relate to the construction of on replacement and one new dwelling. Neither approvals have conditions attached ensuring the dwellings as self-build, nor is there any evidence within the applications to suggest that they meet the requirements of self-build as set out in the Act. The development therefore has no relevance whatsoever to the Self and Custom Housebuilding Act.

	create three bedrooms to each dwelling.	
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As is clear from our sample assessment of permissions, there is not always a correlation between the CIL exemptions being relied on by the Council and the need identified on the register insofar as:

- Some have no relevance to the Self and Custom Housebuilding Act; or
- Some relate to replacement dwellings or side/rear extensions which are not appropriate in the context of the Act; or
- On sites where new dwellings are proposed, there is no mechanism to secure the housing for self and custom build nor even mention of self or custom build in the description of development.

This issue has been addressed on numerous occasions in recent planning appeal decisions and is addressed explicitly in guidance published by the Right to Build Taskforce as well as the PPG on self-build and custom housebuilding.

As our assessment is only a sample, Iceni would request a full list of the permissions relied on by the Council with supporting justification in order to determine whether there are indeed relevant permissions which can be said to meet demand for serviced plots on the self and custom build register. In the absence of this list with justification and on the basis of our sample assessment of sites on the Council's planning application portal, it is our working assumption that no suitable serviced plots have been approved in the Borough which accord with the legal definition on self-build and custom housebuilding as per the Act.

Shortfall of Self and Custom Build Plots

Drawing on our analysis of demand and supply above, the Table below sets out the current supply-demand position in the Borough up to 30th October 2021. This draws on the demand generated by Part 1 of the register which is equal to 192 plots set against a supply of 0 suitable permissions.

Table: Bromley: Supply Shortfall

Stage	
Requirement	
Demand (Base Period 1-7)	192
Supply	
Bromley Suitable Permissions (1 st April 2016 – Present)	0
Shortfall to 30th October 2022	192

As is clear, there is a shortfall of 192 serviced plots – which is significant – and the Council has therefore failed to meet its legal duty to grant sufficient planning permissions for Part 1 of the register in accordance with the Act.

Policy Position on Self and Custom Housebuilding

In terms of addressing the significant shortfall identified, the PPG is clear that authorities should consider how local planning policies may address identified requirements for self and custom housebuilding to ensure enough serviced plots with suitable permission come forward and can focus on playing a key role in facilitating relationships to bring land forward.

In reviewing the latest London Plan - adopted in 2021 - we note that there is no specific policy on self and custom housebuilding but the Plan does express support for “those wishing to bring forward custom, self-build and community-led housing” within Policy H2. This general support is positive; however, it is a pan-London policy in support of development on small sites and is not a specific policy covering self and custom build homes. In the Borough of Bromley, the 2019 Bromley Local Plan does not mention self or custom housebuilding and therefore clearly also does not have a specific policy covering the sector.

There’s established precedent through a number of planning appeal decisions that the absence of a specific self and custom housebuilding policy is reason to trigger paragraph 11(d) of the Framework so that the “tilted balance is engaged”.

In an appeal decision¹¹ in Wychavon District issued in July 2020, the Inspector found that the development plan was out of date in respect of self-build housing as there was no reference to self-build housing in policy. The Inspector in the decision letter (paragraph 51) set out as a result that:

“In view of the importance attached to provision for self-build housing in the NPPF and PPG, I do not accept the Council’s view that it should be treated simply as a component of general market housing. **The tilted balance is therefore engaged in this case.** The forthcoming review of the plan does address self-build housing but is at an early stage and carries very little weight at this time”. (our emphasis)

In another appeal decision¹² dealing with the position in Canterbury District, the Inspector in the decision letter (paragraph 31) for an appeal scheme at 40 Dargate Road, Canterbury set out that:

“In the light of these considerations, to which I give significant weight, and of the only general encouragement to self-build, and absence of any **specific** policy in the Local Plan, I conclude that there are no relevant development plan policies in this respect, and that paragraph 11 d)

¹¹ APP/H1840/W/19/3241879

¹² APP/J2210/W/18/3204617

of the current Framework, the successor to paragraph 14 of the previous Framework, would therefore be engaged if this were to be a self-build development.” (our emphasis)

In a more recent appeal decision¹³ also in Canterbury District, which involved both Iceni and Quinn Estates as the appellant, the Inspector in the decision letter (paragraph 39) was clear that:

“In the preamble to policy HD2 of the Local Plan, paragraph 2.33 states the Council will support self-build plots and custom build housing. However, there are no relevant development plan policies for determining applications for this type of housing development. In such circumstances, I am directed to paragraph 11(d)(ii) of the National Planning Policy Framework (the Framework) and the so-called titled balance”.

Overall, therefore, even in instances where support is expressed for such housing but there are no specific policies against which to determine an application, the titled balance is engaged. In Bromley, the adopted Plan contains no specific policies relating self and custom build housing. As a result, there can be no doubt that paragraph 11 (d) of the Framework is in effect.

b. Conclusion

The Council has failed to grant sufficient planning permissions for self-build and custom housebuilding plots and the adopted Local Plan is silent on the matter. As a consequence, our position is therefore that paragraph 11(d) of the Framework (“the titled balance”) is engaged, policies which are most important for determining the application should be viewed as out of date.

In a recent appeal decision¹⁴ in the Royal Borough of Windsor and Maidenhead, the Inspector (paragraph 31) found that:

“against a very substantial and acknowledged shortfall, the proposals for four SBCH plots, which would be secured through the submitted UUs, must merit very significant favourable weight in the planning balance” (our emphasis)

It is Iceni’s position that the Council has a significant shortfall in serviced plots and as a result, we would say that, in line with this recent appeal decision, the application’s intended provision of a self-build home should weigh significantly in favour of approval in the context of the titled balance. The Council should address the shortfall as a matter of urgency.

¹³ APP/J2210/W/20/3259181

¹⁴ APP/T0355/W/22/3309281



Appeal Decisions

Hearing held on 27 March 2023

Site visit made on 27 March 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2023

Appeal A Ref: APP/T0355/W/22/3309281

Land Adjoining Pondview, Sturt Green, Holyport, Berkshire SL6 2JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Ms Janet Mead-Mitchell against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
- The application Ref 21/03573, dated 2 December 2021, was refused by notice dated 19 April 2022.
- The development proposed is outline planning application (all matters reserved other than access) for 4 serviced plots for self-build and custom housebuilding.

Appeal B Ref: APP/T0355/W/23/3314990

Land Adjoining Pondview, Sturt Green, Holyport, Berkshire SL6 2JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms Janet Meads-Mitchell against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/02789, dated 14 October 2022, was refused by notice dated 21 December 2022.
 - The development proposed is outline planning application (all matters reserved other than access) for 4 serviced plots for self-build and custom housebuilding.
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Decisions

1. Appeal A is allowed and planning permission is granted for outline application for access only to be considered at this stage for four serviced plots for Self-Build and Custom Housebuilding, at Land adjoining Pondview, Sturt Green, Holyport, Berkshire SL6 2JH, in accordance with the terms of the application, Ref 21/03573, dated 2 December 2021, subject to the conditions set out in the attached schedule.
2. Appeal B is allowed and planning permission is granted for outline planning application (all matters reserved other than access) for four serviced plots for Self-Build and Custom Housebuilding, at Land adjoining Pondview, Sturt Green, Holyport Berkshire SL6 2JH, in accordance with the terms of the application, Ref 22/02789, dated 14 October 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

3. The applications were both made in outline with all matters reserved except for access. I have considered the appeals on the same basis and have treated the submitted plans as being for illustrative purposes only, apart from those specifically related to the matter of access in each proposal.

4. The appellant has submitted a unilateral undertaking (UU) in respect of each case dealing with, among other things, Self-Build and Custom Housebuilding. I have taken these into consideration later in this decision letter.
5. The Council initially included a reason for refusal in each case relating to the impact on protected species. The appellant has subsequently produced additional evidence to address this matter to the Council's satisfaction. From the evidence before me, I have no reasons to conclude otherwise. Consequently, this matter no longer forms a main issue of the appeal.

Main Issues

6. The site lies within the Metropolitan Green Belt. Therefore, the main issues in both cases are:
 - Whether the proposal amounts to inappropriate development in the Green Belt, including the effect on the openness of the Green Belt and the purposes of including land within it;
 - If the development is inappropriate within the Green Belt, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

7. The Government attaches great importance to Green Belts. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings within the Green Belt is inappropriate development but it lists certain forms of development which are not regarded as inappropriate. These include, at criterion e), limited infilling in villages.
8. Policy QP5 of the Borough Local Plan (February 2022) (the BLP) sets out that the rural areas in the Royal Borough are defined as land within the Metropolitan Green Belt, which includes those settlements that are 'washed over' by the Green Belt. In all instances, national Green Belt policy will be applied to development in these areas. The policy adds that permission will not be granted for inappropriate development unless very special circumstances are demonstrated. This accords with the national approach set out in the Framework.
9. The site is a roughly rectangular parcel of land located on Sturt Green, a straight lane with fairly consistent linear housing on its southern side between the junction with the A330 Ascot Road and the appeal site. On the northern side, development is slightly more intermittent with a pond and wider undeveloped land directly opposite the site.
10. The Framework does not define 'limited infilling.' Paragraph 6.18.9 of the BLP states that, for the purposes of applying Policy QP5, limited infilling is considered to be the development of a small gap in an otherwise continuous frontage, or the small scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development. It should be appropriate to the scale of the locality and not have an adverse impact on the character of the locality.

11. It is common ground between the main parties that the proposal for four dwellings in each case would constitute limited infilling in the context of Policy QP5 and the Framework. This is also the conclusion reached by the Inspector in a previous appeal on the site in 2018¹. The site is enclosed by development to either side on Sturt Green and Rolls Lane, and at the rear, and having observed the site I agree that it would amount to limited infilling in this instance. The outstanding question, therefore, is whether the proposal lies within a village.
12. The Framework does not set out a methodology to be considered in determining whether a proposal would be within a village. Policy QP5 states that, within the Royal Borough, village settlement boundaries as identified on the Policies Map will be used in determining where limited infilling may be acceptable. This may occur outside of the identified village settlement boundaries where it can be demonstrated that the site can be considered as falling within the village envelope as assessed on the ground, this being based upon assessment of the concentration, scale, massing, extent and density of built form on either side of the identified village settlement boundary and the physical proximity of the proposal site to the village settlement boundary.
13. This approach reflects the Court of Appeal judgment in *Julian Wood*², wherein it was held that whilst settlement boundaries as set out in a development plan are a consideration in whether a proposal for limited infilling fell within a village, they are not determinative, and whether the proposal falls within a village is ultimately a matter of planning judgment for the decision maker based on the facts on the ground.
14. As worded, Policy QP5 seeks for specific factors to be taken into consideration, rather than additional criteria to be strictly met. In this respect, I do not regard Policy QP5 as being inconsistent with the Framework, but rather it sets out factors to which a decision maker might reasonably have regard in reaching a view on the question of limited infilling.
15. Sturt Green lies outside of the settlement boundary for Holyport. The Council points to the site being some 700m from the nearest point of the boundary and takes the position that development on Sturt Green lies outside of the village of Holyport. The appellant argues that various factors, including the historic development of the area and landscape assessments, point to the development being part of the village of Holyport. The Inspector in 2018 determined that Sturt Green did not fall within Holyport.
16. Holyport is centred around the village green bounded by Ascot Road, Holyport Road, and Moneyrow Green, with development extending respectively along these roads to the north, north-east and south. The appellant, through a landscape character assessment, has identified the village envelope as including Sturt Green, due to the village green extending to the south-west along Ascot Road, in doing so connecting Sturt Green with Holyport.
17. I understand that there may be historic links between Sturt Green and Holyport, that residents of Sturt Green may consider themselves part of the village, frequent its facilities and use a Holyport address. However, for the purposes of determining whether a proposal would amount to inappropriate

¹ Appeal Ref APP/T0355/W/18/3201716

² *Julian Wood v The Secretary of State for Communities and Local Government*, Gravesham Borough Council EWCA Civ 195 - 9 February 2015

development, it is the assessment on the ground which is the most relevant consideration.

18. In that respect, I saw that the village green as it extends along Ascot Road is a narrow finger of land bisected and dominated by the main road. A line of trees surrounding a brook next to the village signs provides a distinct visual and physical separation between the main green and main road leading to the south. Beyond this point, there is a clear gap in development on both sides of the road. This absence continues on the eastern side, whilst the western side is populated by a small number of detached properties with spaces between them creating a rural character. Although there is a large property on the corner of Ascot Road and Sturt Green, it is concealed by trees which visually separate development on the two roads, adding to the impression of Sturt Green being detached. Although not decisive, I noted that the speed of traffic along Ascot Road was quite fast and did not give the impression of being part of the village, but rather a main road in the countryside.
19. The appellant points to the Council's Landscape Character Assessment (2004) (LCA), not before the previous Inspector, as acknowledging that there has been a coalescence of Holyport with Moneyrow Green, Forest Green, Stud Green, Touchen End and Paley Street along the B3024. However, whilst there is reference to 'Stud Green' I was told at the hearing that both 'Sturt' and 'Stud' have been used interchangeably over time to refer to the lane itself and the surrounding area. Having regard to the names listed, and their order, it seems to me the LCA is referring to linear development along Moneyrow Green, continuing along the B3024 and then south along Ascot Road, not north, where the gap between Holyport College and Sturt Green is largely absent development with the exception of the polo club buildings. Consequently, I am not persuaded that this assessment is firm evidence of Sturt Green being part of the village.
20. Having regard to all of the evidence before me, I conclude that Sturt Green does not lie within a village, but rather forms a separate cluster of rural residential development. Therefore, the proposal does not meet with the relevant exception at Paragraph 149(e) of the Framework or Policy QP5 and is therefore inappropriate development in the Green Belt.

Openness and Green Belt Purposes

21. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
22. The appeal site does not contain any permanent structures. Recent works have taken place to lay hardstanding and other materials across parts of the site to create a parking area, seating area, clothesline and space for a trampoline. I understand these works are associated with the residential use of the dwelling to the rear of the site, but there was no certainty expressed at the hearing as to the planning status of these works.
23. This aside, the proposed four dwellings, under either proposal, would result in substantial and permanent built form where there presently is none. In spatial terms, this would result in a substantial loss of openness.
24. In visual terms, I note the arguments from the appellant that the site is surrounded by development on three sides and is not contiguous with the wider

expanses of the Green Belt beyond Sturt Green. However, whilst I accept that the proposals would not have the same visual impact as a development of housing in an open landscape, the absence of development on the site does continue directly opposite and beyond to the north. Consequently, I consider that the site does contribute to the openness of the Green Belt, and there would be a loss of openness in visual terms as a result of the proposals.

25. Having regard to the physical characteristics of the site, the only relevant Green Belt purpose in this case is to assist in safeguarding the countryside from encroachment. Although I accept that the proposal would not result in development extending beyond the outer edge of built form on Sturt Green and Rolls Lane, it would still represent an intensification of development along the lane and within the Green Belt. In these respects, the proposal would offend the aforementioned Green Belt purpose, albeit in a limited manner.

Other Considerations

Self-Build and Custom Housebuilding (SBCH)

26. The Self-Build and Custom Housebuilding Act 2015 introduced a duty on local authorities to keep a register of individuals, and associations of individuals, who wished to acquire serviced plots of land to bring forward for SBCH projects. Councils are required to have regard to those registers when carrying out planning functions. The Housing and Planning Act 2016 further provides that local planning authorities must give suitable planning permissions to meet the demand for SBCH. The Planning Practice Guidance adds that these registers are likely to be material considerations in decisions involving proposals for SBCH.
27. The Council's data in respect of SBCH covers 12-month base periods starting in April 2016³. At the end of each base period, the local planning authority has three years to permit an equivalent number of suitable permissions for SBCH, as there are entries for that base period. As of October 2022, the Council has recorded seven base periods, of which the first four have passed the three year time period for permissions to be granted. The Council's own figures show that the total number of entries on the register across the four base periods from April 2016 to October 2019 is 429. In that time, the Council has granted permission for 111 units, a shortfall of some 318 units.
28. The Council offers some pushback to these numbers, pointing to the potential for double counting in some instances. However, it concedes that the number may also underestimate the actual demand, a point made by the appellant when pointing to secondary sources of demand for SBCH. However, any minor effect these considerations would have on the figures set out are ultimately not determinative as the Council has accepted that the shortfall would still be of a similarly significant magnitude.
29. I enquired at the hearing as to the Council's intent in addressing this shortfall. The Council pointed to Policy HO2(4) of the BLP which requires proposals for 100 or more net new dwellings (on greenfield sites) to provide 5% of the market housing as fully serviced plots for custom and self-build housing, whilst on other allocated and windfall sites, the Council will encourage the provision of custom and self-build plots. However, the Council did not dispute the appellant's figures that allocated sites within the development plan would

³ The first base period covers a seven month period from 1 April 2016 to 30 October 2016

- collectively only be expected to contribute 197 plots for SBCH, some of which may take the length of the plan period to 2033 or beyond to come to fruition.
30. In short, therefore, the projected SBCH delivered on large scale sites under Policy HO2 falls significantly short of meeting the outstanding demand for SBCH plots, let alone the demand coming forward to be met at the moment from base periods 5, 6 and 7 and future base periods. It is therefore highly likely that demand for SBCH will have to be met in large part through smaller allocated and windfall sites. Given that 83% of the Royal Borough is covered by Green Belt, it seems inevitable that some of the demand for SBCH will have to be met on sites within the Green Belt.
 31. In such a scenario, and against a very substantial and acknowledged shortfall, the proposals for four SBCH plots, which would be secured through the submitted UUs, must merit very significant favourable weight in the planning balance. In reaching a view, I have had regard to the weight afforded to SBCH by Inspectors in several appeal decisions put to me, and to the Council's questioning of their equivalence to the current appeals. Ultimately, differences in terms of the scale of development, the policy context, the Council's SBCH position and whether Green Belt is a material consideration mean they are not directly comparable to the proposals before me. Thus, my conclusions have been reached on the case-specific evidence put to me.
 32. In addition, the submitted UU for Appeal B would further secure one of the SBCH plots as a discounted market sale plot, to be used for the construction of an affordable housing dwelling. The Council has questioned the need for this type of affordable housing, but it is nevertheless a further benefit of Appeal B, albeit one of limited weight as it would deliver only a single unit.

Fall-Back Position

33. The appellant argues that, should the appeals fail, they are likely to sell the site to the owners of the dwelling at the rear, Lovelace House, with the intention being to make use of the land as residential garden and to erect a number of outbuildings and other ancillary works under permitted development.
34. I have heard and read in evidence details of the planning and usage history of the site. Of note is a 1988⁴ permission for '*two storey side extension and change of use of field to domestic garden*' at Pondview, the dwelling to the side of the appeal site. There is some dispute between the main parties as to the extent of the appeal site to which this change of use applied. However, the pertinent point is that in 2005, the appeal site was severed from Pondview when the dwelling was sold, with a later transaction in 2008 selling a further piece of land to the new owners of Pondview. On this basis, the appeal site was no longer in use after 2005 as residential garden in connection with a dwelling and, on the evidence before me, has not been used as such since that time as it has not been associated with any other dwelling.
35. As of the date of the hearing, the neighbouring owners have not acquired the appeal site, and notwithstanding that I saw some level of domestic activity on the land, no evidence has been put to me to suggest that the appeal site should be regarded as lawfully falling within the curtilage of Lovelace House. Moreover, although the neighbouring owners have sought pre-planning advice in respect of potentially erecting outbuildings on the land, this is no more than an informal request and no substantive evidence, such as a lawful development

⁴ Council Ref 421558, dated 16 December 1988

certificate, has been put before me to indicate that such works could be undertaken. As such, I am not persuaded that permitted development rights to erect outbuildings⁵ in fact apply at the time of writing and could be exercised.

36. Furthermore, under the rights in question, there are notable limitations on the height, position and form permitted structures can take, in particular that they are limited to a single storey in height. Therefore, even if such rights did apply, or were to be subsequently gained by the neighbouring owners, the extent of built form which could accrue under permitted development is likely to be substantially smaller in overall scale than the proposed four dwellings under either scheme.
37. In summary, the evidence does not indicate that a tangible fall-back position exists, or even if it did that it would be comparable or larger in scale than the development proposed. Therefore, the argued fall-back position does not merit positive weight towards granting either proposal, as it would not have a more harmful effect in terms of Green Belt openness.

Other Potential Benefits

38. The appellant points to potential highway safety improvements at the junction of Rolls Lane and Sturt Green. I saw there was some restricted visibility for vehicles emerging from Rolls Lane, but any improvements in this respect would be down to re-landscaping of the site and the continued maintenance of vegetation on the corner. Although no landscaping proposals are before me at this stage, the reserved matters would be prepared in accordance with the appellant's proposed design code, which includes measures to ensure landscaping is maintained.
39. However, Rolls Lane is a small lane serving a limited number of dwellings, and traffic on it and on Sturt Green is low. Therefore, despite the limitations to visibility, the risk of conflict between vehicles is low, and whilst improvements in this respect through proposed landscaping are positive, the overall benefit to highway safety would be modest at best.
40. The appellant initially argued that the proposals would be a form of community-led development. However, it was accepted at the hearing that the proposal would not fall within any of the examples of community-led housing approaches, namely co-housing, community land trusts or co-operatives, set out at Policy HO2(5). Consequently, this is not a factor attracting any additional weight in favour of the proposal.
41. There would be economic benefits associated with the construction of the dwellings and from use of local services by future occupants, though given the scale of development, and the temporary nature of construction works, such benefits would attract limited weight in favour of the proposal.

Other Matters

42. As referred to above, the Council withdrew its reasons for refusal relating to protected species following the submission of additional evidence by the appellant, and subject to a condition specifying working practices on site. From all that I have seen and read, I am satisfied that the proposal is capable of avoiding harm to protected species, in particular the great crested newt.

⁵ under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

43. The signed UUs make provision for the delivery of the proposed SBCH units and, separately, would secure the assessment and delivery of required contributions towards offsetting carbon emissions in line with the Council's aims under Policy SP2 of the BLP to mitigate climate change. The UU for Appeal B further secures one discounted market sale plot. I am satisfied that each undertaking meets the three tests set out in Paragraph 57 of the Framework for planning obligations. As a result, I have taken the completed UU into account, though as the carbon reduction provisions are required to mitigate the impact of the development, they are a neutral factor in the planning balance.
44. I have had regard to other concerns raised, including those by interested parties both at the hearing and in writing, beyond those I have already addressed. Ultimately, the Council does not oppose the proposal on grounds other than those set out in the main issues, and taking account of the evidence before me, I have not identified other matters of such significance as to result in further material benefits or harms to be factored into the planning balance.

Planning Balance

45. The proposal would amount to inappropriate development as set out in the Framework, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the proposal would lead to a significant loss of openness to the Green Belt. The Framework directs that substantial weight should be given to the harm to the Green Belt.
46. The benefits in respect of additional housing, economic activity and highway safety, and in the case of Appeal B, affordable housing, would each attract limited weight given the scale of the development proposed in each case. However, for the reasons set out, the provision of four SBCH dwellings in the face of a substantial shortfall in delivery of such housing against statutory requirements is a matter of overriding weight in each case.
47. Taken as a whole, therefore, the other considerations in each case clearly outweigh the totality of the harm identified to the Green Belt. Consequently, I conclude that the very special circumstances necessary to justify the proposal exist in each appeal.
48. Given this conclusion, the proposal would accord with national policy set out in the Framework and the general approach to development in the Green Belt under Policy QP5 of the BLP. There are no other material considerations which indicate that decisions should be made other than in accordance with the development plan in either appeal. Therefore, both appeals should succeed.

Conditions

49. The parties have agreed lists of conditions for each appeal. Having considered these and sought clarification at the hearing, I am satisfied that the conditions set out below are applicable to both appeals.
50. Conditions relating to the timing of reserved matters applications, implementation of the development and the relevant approved plans, are all necessary to provide certainty.
51. Conditions are further necessary in respect of external materials to ensure a satisfactory appearance. The parties agreed to a condition requiring details of hard and soft landscaping works; however, such details would fall under the

reserved matter of landscaping. Consequently, I have amended the condition to relate only to the implementation of the approved landscaping and its ongoing maintenance and/or replacement. This is to ensure a satisfactory appearance.

52. A condition requiring the approved access to be constructed prior to occupation of the development is required in the interest of highway safety. Details of measures to deliver biodiversity net gain on the site, and a timescale for their implementation, are necessary to accord with the aims of the Framework and BLP to enhance biodiversity. In a similar vein, details of external lighting are required to limit the effects of light pollution on wildlife.
53. A condition is also required for the submission, approval and implementation of a Construction Environmental Management Plan, to include in particular details of reasonable avoidance measures to be employed during the construction phase to protect great crested newts and other species.

Conclusion

54. For the reasons set out, I conclude that both Appeal A and Appeal B should be allowed.

K Savage

INSPECTOR

Schedule of Conditions

Appeal A Ref: APP/T0355/W/22/3309281

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Unnumbered Site Location Plan, Unnumbered Site Plan (1:200).
- 5) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones."
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including a Reasonable Avoidance Measures (RAMs) method statement for great crested newt, reptiles, and common amphibians, measures to protect badgers and other mammals during works, a pre-commencement walkover survey to ensure that no badger setts have been created on or immediately adjacent to the site, measures to protect nesting birds and stag beetle, a wildlife-sensitive lighting strategy during works, and the procedures to follow should any protected species be encountered on the site during works.
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

- 6) No development above slab level shall take place until details of the materials to be used on the external surfaces of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out and maintained in accordance with the approved details.
- 7) The details approved under Condition 1 for the reserved matter of landscaping shall be carried out as approved within the first planting season following the substantial completion of the development and retained in accordance with the approved details. If within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity, unless the local planning authority gives its prior written consent to any variation.
- 8) Prior to the commencement of the development above slab level, details of the biodiversity net gain which will be delivered as part of this development (including a clear demonstration through the use of an appropriate biodiversity calculator such as the Defra Metric 3.0 that a net gain would be achieved) shall be submitted to and approved in writing by the local planning authority. Details of the biodiversity enhancements including the timescales to install them, to include integral bird and bat boxes, tiles, or bricks on the new building and native and wildlife friendly landscaping (including gaps at the bases of fences to allow hedgehogs to traverse through the gardens) shall also be submitted to and approved in writing by the LPA. The agreed net gain and biodiversity enhancement measures will thereafter be implemented/installed in full as agreed.
- 9) Prior to the installation of any external lighting, a detailed external lighting scheme shall be submitted to and approved in writing by the local planning authority. The report shall include the following figures and appendices:
 - A layout plan with beam orientation
 - A schedule of equipment
 - Measures to avoid glare
 - An isolux contour map showing light spillage to 1 lux both vertically and horizontally, areas identified as being of importance for commuting and foraging bats, and positions of bird and bat boxes.

The approved lighting plan shall thereafter be implemented as agreed.

Appeal B Ref: APP/T0355/W/23/3314990

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Unnumbered Site Location Plan, Proposed Plan (with Access Visibility Splays).
- 5) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
 - i) Risk assessment of potentially damaging construction activities.
 - j) Identification of "biodiversity protection zones."
 - k) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including a Reasonable Avoidance Measures (RAMs) method statement for great crested newt, reptiles, and common amphibians, measures to protect badgers and other mammals during works, a pre-commencement walkover survey to ensure that no badger setts have been created on or immediately adjacent to the site, measures to protect nesting birds and stag beetle, a wildlife-sensitive lighting strategy during works, and the procedures to follow should any protected species be encountered on the site during works.
 - l) The location and timing of sensitive works to avoid harm to biodiversity features.
 - m) The times during construction when specialist ecologists need to be present on site to oversee works.
 - n) Responsible persons and lines of communication.
 - o) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - p) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.
- 6) No development above slab level shall take place until details of the materials to be used on the external surfaces of the development have

been submitted to and approved in writing by the local planning authority. The development shall be carried out and maintained in accordance with the approved details.

- 7) The details approved under Condition 1 for the reserved matter of landscaping shall be carried out as approved within the first planting season following the substantial completion of the development and retained in accordance with the approved details. If within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity, unless the Local Planning Authority gives its prior written consent to any variation.
- 8) Prior to the commencement of the development above slab level, details of the biodiversity net gain which will be delivered as part of this development (including a clear demonstration through the use of an appropriate biodiversity calculator such as the Defra Metric 3.0 that a net gain would be achieved) shall be submitted to and approved in writing by the local planning authority. Details of the biodiversity enhancements including the timescales to install them, to include integral bird and bat boxes, tiles, or bricks on the new building and native and wildlife friendly landscaping (including gaps at the bases of fences to allow hedgehogs to traverse through the gardens) shall also be submitted to and approved in writing by the LPA. The agreed net gain and biodiversity enhancement measures will thereafter be implemented/installed in full as agreed.
- 9) Prior to the installation of any external lighting, a detailed external lighting scheme shall be submitted to and approved in writing by the local planning authority. The report shall include the following figures and appendices:
 - A layout plan with beam orientation
 - A schedule of equipment
 - Measures to avoid glare
 - An isolux contour map showing light spillage to 1 lux both vertically and horizontally, areas identified as being of importance for commuting and foraging bats, and positions of bird and bat boxes.

The approved lighting plan shall thereafter be implemented as agreed.

APPEARANCES

For the appellant

Rosie Dinnen	Director, Tetlow King
Janet Meads-Mitchell	Appellant
Clive Mitchell	Husband of Appellant

For the local planning authority

Claire Pugh	Team Leader, Development Management
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Interested parties

Dave Bough	Local Resident
Lucy Pickering	Local Resident
Jago Pickering	Local Resident
Helena Chapman	Local Resident

Documents submitted after the hearing

- 1) Letter dated 31 March 2023 from appellant setting out ownership and usage history of the appeal site.
- 2) Council response dated 3 April 2023 to appellant's letter of 31 March 2023.