



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.