



## Appeal Decision

Hearing Held on 22 October 2019

Site visit made on 22 October 2019

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

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

**Decision date: 17 December 2019**

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**Appeal Ref: APP/P2365/W/19/3226493**

**Tanpit Farm, Broad Lane, Downholland, Ormskirk L39 7HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Mark Atkinson (Upward Ltd) against the decision of West Lancashire Borough Council.
  - The application Ref 2017/1265/FUL, dated 28 November 2017, was refused by notice dated 19 October 2018.
  - The development proposed is demolition of 6 former agricultural buildings, conversion of 6 former agricultural buildings to create 12 dwellings with associated garaging and car ports, improvements to the existing access and associated landscaping works.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of 6 former agricultural buildings, conversion of 6 former agricultural buildings to create 12 dwellings with associated garaging and car ports, improvements to the existing access and associated landscaping works at Tanpit Farm, Broad Lane, Downholland, Ormskirk L39 7HS in accordance with the terms of the application, Ref 2017/1265/FUL, dated 28 November 2017, subject to the conditions set out in the attached Schedule of Conditions.

### Procedural Matters

2. I heard at the commencement of the hearing that the application was revised during the course of the Council's consideration of the proposal. The building referred to as 'building 17' in the appellant's structural appraisal report<sup>1</sup> was removed from the proposal and the description revised to reflect the reduced quantum of existing buildings and proposed dwellings. I am satisfied that this is an agreed matter between the parties and I have amended the development description accordingly.
3. There was some confusion at the hearing as to whether the Council had submitted, or whether the appellant had received, a copy of Lancashire County Council's 'Education Contribution Assessment'<sup>2</sup> (ECA). A signed and dated Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) to make a financial contribution an education contribution was submitted following the hearing (having first submitted an unexecuted version to the hearing) and upon receipt of the ECA. The UU sets out an education contribution and the trigger points for the payment of that contribution. I will return to this matter below.

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<sup>1</sup> REFA Consulting Engineers 'Structural Appraisal Report' dated June 2017

<sup>2</sup> Dated 29 August 2019

## Main Issues

4. The main issues are:

- Whether or not the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- Whether the appeal site is an appropriate location for residential development, having regard to development plan policy and the Framework and the effect of the proposed development on the character and appearance of the surrounding countryside;

## Reasons

### *Whether inappropriate development*

5. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt. Such development should not, it states, be approved except in very special circumstances. Paragraph 145 states that the construction of new buildings should be regarded as inappropriate development in the Green Belt but sets out exceptions to this. Paragraph 146 goes on to set out other forms of development that are also not inappropriate in the Green Belt, provided that they preserve its openness and do not conflict with the purposes of including land within it.
6. The proposal seeks to convert 7 former piggery buildings to create 13 dwellings, in addition to which a further 6 former piggery buildings would be removed to facilitate the conversion scheme. It was agreed at the hearing that, in terms of the Framework, the proposal fell to be considered against the provisions of paragraph 146.
7. The buildings are principally of brick construction. A structural survey<sup>3</sup> submitted with the application appraised the buildings within the appeal site and concluded that the 7 buildings identified for the scheme of conversion were of permanent and substantial construction. Although the second of the Council's refusal reasons was worded in broad terms, I heard that there is no objection to the conversion of 4<sup>4</sup> of the buildings within the appeal site.
8. Of the remaining buildings, and despite the conclusions of the appellant's structural survey, the Council considered the proposals for buildings 8, 9 and 10 to go beyond 're-use' of the buildings. Furthermore, works such as external cladding systems, new elevations and works to internal structure indicated to the Council that the buildings were not capable of conversion without substantial rebuilding to facilitate the proposed residential use.
9. An addendum<sup>5</sup> to the initial structural survey persuaded the Council to revise their conclusions regarding the suitability of building 9 for conversion to residential but the suitability of buildings 8 and 10 remains a contested matter. Unlike a number of the other buildings proposed for retention and conversion, I saw that buildings 8 and 10 are principally of steel-framed construction. Much

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<sup>3</sup> 'Structural Appraisal Report' – Report No: 17105/SS by REFA Consulting Engineers (June 2017)

<sup>4</sup> Buildings 3 & 4, 12 and 15

<sup>5</sup> REFA Consulting Engineers REF/ST/17105 dated 5 June 2018

of the lower portions of the elevations of these two buildings are comprised of block or brickwork walls between the steel-framed portals, with the upper portions clad in vertically hung timber boarding. The concrete floor slabs and steel frame appeared on visual inspection to be in sound and reasonable condition, supporting the findings and conclusions of the structural survey and addendum. The brick and blockwork too, appeared likewise with localised areas of cracking or weather-related deterioration.

10. The Council maintained their view that these buildings were not capable of conversion and so do not benefit from the 're-use' principal established by Framework paragraph 146. This conclusion is not, however, supported by further technical assessment or survey on the Council's part. Thus, I have not been presented with any further detailed evidence to support the Council's conclusion that the buildings are not capable of 're-use'. Nor, despite the broad concerns regarding the structural integrity of these two buildings, have I been presented with any compelling evidence to challenge the findings of the appellant's surveys regarding the condition of the steel frame, existing brick / blockwork infill and floor-slab.
11. Instead, the Council rely on the removal of existing internal sub-divisions from within building 8, measures to address the sloping floor-slab in that building and the replacement of external cladding on external elevations as examples of the building's unsuitability for conversion. So too with regard building 10, where the existing blockwork base to the wall would be over-clad and would continue to form the upper portions of the elevations.
12. I find nothing unusual with such measures as part of a scheme of conversion of former agricultural buildings. It has not been demonstrated that the buildings are not of permanent or substantial construction, and the recladding of existing elevations does not, go beyond the 're-use' of the buildings as required by Framework paragraph 146(d). In the same respect, nor would the insertion of door and window openings in the manner proposed for buildings 8 and 10. These interventions would be inserted within the structural steel framework in the case of both buildings, and neither this nor the removal of non-structural sub-divisions from the buildings' interiors would prejudice the appellant's ability to 're-use' the buildings in the Framework's parlance.
13. Thus, I am satisfied that the proposal would 're-use' buildings of a permanent and substantial construction. In this respect the proposal would satisfy the provisions of Framework paragraph 146(d). However, the Council's '*Development in the Green Belt*' Supplementary Planning Document (GBSPD) goes beyond the Framework's 'permanent and substantial construction' requirement and further states that buildings should be capable of conversion without 'major change, demolition or extension'.
14. The GBSPD does not however define those terms, although the justification to GBSPD policy GB2 does give examples of buildings, or building condition, which may render them unsuitable for conversion. I have not however been directed towards any thresholds for the extent of rebuilding so as to constitute major change, whilst the Framework does not address demolition within its position on the re-use of buildings.
15. In any event, the Council have not set out any objections to the demolition of the 6 buildings identified to be removed as part of the scheme. Nor are there any demolitions or extensions proposed to those buildings to be retained. The

works of removal of internal walls (in the case of building 8) and the insertion of large window and door openings would not in my judgement amount to major change nor would it, for the reasons I have set out above, mean that the proposal would fail to 're-use' the buildings in the Framework's parlance.

16. I am satisfied therefore that the proposal would re-use the existing buildings, which are of permanent and substantial construction, in a manner compliant with paragraph 146(d) of the Framework. It would also do so in a manner in line with GBSPD policy GB2(1)(a) insofar as its provisions reflect the Framework. Although the further provisions of this part of the policy go beyond the terms expressed in the Framework, I nonetheless consider such factors to be useful in considering the extent to which a proposal would amount to re-use. However, I attribute reduced weight to these factors as they do not fully align with the Framework in this respect but I am content that, for the reasons I have set out, the conversion would not entail the major change, demolition or extension that the second element of GBSPD policy GB2(1)(a) seeks to resist.
17. However, the forms of development set out at Framework paragraph 146 (a) to (f) are qualified in that they must preserve the openness of the Green Belt and must not conflict with the purposes of including land within the Green Belt. Thus, Framework paragraph 133 sets out both the fundamental aim of Green Belts and their essential characteristics. Openness is referred to in both respects.
18. As set out above, the proposal would remove a total of six existing buildings from the site. It is common ground that the proposal would result in a substantial reduction in both building volume and building footprint within the site and the appellant's calculations in this respect have not been challenged by the Council. Thus, an approximate 47% reduction in building volume and approximate 41% reduction in building footprint would have a significant influence on assessing the openness of the site and Green Belt pre-, and post-, development.
19. In any assessment, these figures are not inconsequential. In addition to the removal of buildings, the space around the buildings is dominated by concrete hardstanding. In some cases, I saw that these concrete aprons extend some distance beyond the existing buildings, for example buildings 10 -12, between and around buildings 13 and 14 and beyond buildings 15 and 16. Building 16 projects further southwards than other buildings along the site's southern side and would be removed in any event. However, the proposed residential garden plots would be drawn reasonably tightly around the southern elevations of buildings 10, 12 and 15, with grazing pasture opened up between buildings 12 and 15.
20. Although the Council are concerned about the introduction of domestic paraphernalia, it is accepted that the proposal would result in a more open site and such matters would not materially compromise the increase in openness that the removal of buildings proposed would bring about. I agree. The proposal would increase openness and would therefore go beyond the Framework's requirement to merely preserve openness.
21. However, the introduction of such domestic paraphernalia would, the Council state, result in an urbanising influence across the site and the proposal would therefore conflict with one of the purposes of the Green Belt; to assist in

- safeguarding the countryside from encroachment. But the proposal would not encroach into the countryside. Rather, the extent of the residential garden plots would be pulled back from the existing areas of hard stand, aprons and buildings and buildings would be removed. And, of those buildings to be removed, three of them could be considered as somewhat outlying towards the site's periphery and their removal<sup>6</sup> would reduce the physical spread of the proposal when compared with the spread of the existing buildings.
22. I accept that the proposal would introduce residential use where once an extensive, intensive piggery operated. However, the appeal site and its surrounds are not without an element of existing residential context with existing residential properties immediately to the north, a short distance further to the north across a small paddock and at the entrance to the access lane from Broad Lane. Indeed, the area is characterised by clusters of residential properties within the open and largely flat agricultural countryside that provides the setting for the appeal site.
23. Neither the Framework nor the GBSPD preclude the re-use of buildings for residential purposes, and nor are such proposals specifically cited as being a target for the five purposes of the Green Belt. For the reasons I have set out above, I am satisfied that the proposed development, both when taken as a whole and when focused on the areas of dispute between the parties<sup>7</sup> would amount to the re-use of buildings which are of a permanent and substantial construction, as required by Framework paragraph 146(d).
24. I am also satisfied, for the reasons set out, that the proposal would go beyond preserving the openness of the Green Belt and would increase openness at the appeal site. Any domesticating factors such as garden paraphernalia potentially arising from the scheme of conversion would be limited by the manner and extent of plot demarcation within the development and would be more than offset in any event by the reductions in both building footprints and volumes, associated existing hardstanding, and the consequential increase in openness that would follow. Nor, finally, would the proposal be in conflict with the purpose of including land within the Green Belt.
25. The Framework states that inappropriate development within the Green Belt is, by definition, harmful to it and should not be approved except in very special circumstances. Substantial weight should be given to any Green Belt harm and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
26. For the reasons I have set out, I conclude that the proposal would not be inappropriate by virtue of the provisions of Framework paragraph 146(d). as such, there would be no conflict with West Lancashire Borough Council Local Plan (WLLP) policy GN1 as this requires Green Belt development proposals to be assessed against national policy. Nor would there be conflict with WLLP policy GN3 or GBSPD policy GB2(1).
27. The proposal also incorporates enhancements to the existing access track, including improvements to visibility at the junction with Broad Lane. The Council consider these works the minimal necessary to effect the necessary

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<sup>6</sup> Buildings 1, 2 and 16

<sup>7</sup> In relation to buildings 8 and 10

improvements. The appellant, naturally, does not disagree and nor do I have any reason to deviate from this point of agreement. These other works would preserve openness and should also be considered cumulatively with the increased openness arising elsewhere within the scheme.

#### *Location*

28. The appeal site does not lie within any defined settlement boundary within the settlement hierarchy for the Borough. It is, therefore, a countryside location. However, the buildings within the appeal site together with the dwellings immediately to the north of the site and, to a slightly lesser degree, the house at Owen's Farm, form a discernible group.
29. Notwithstanding noting the absence of a definition of 'settlement' in the development plan or Framework, it would nonetheless be stretching matters to describe the appeal site as lying within, or not remote from, a settlement. The form of development in the vicinity of the appeal site is characterised by sporadic groups of buildings, often one or two houses and, or having been converted from former, agricultural buildings. Indeed, a walk along Broad Lane and Formby Lane in either direction from the appeal site lane entrance shows there to be a number of such sporadic groups.
30. The appeal site and the small group of houses immediately to the north of it do not differ significantly from these other examples in this respect. It is, as they are, typical of the dispersed and sporadic groups of buildings dotted around the surrounding flat agrarian landscape.
31. Where the appeal site does differ, is that it does not have a direct road frontage onto Broad Lane or Formby Lane. Instead, it lies at the end of a rough surfaced country track, surrounded by fields. The track is narrow, uneven and potholed, with no lighting or verges. There is a footpath which runs alongside Broad Lane and Formby Lane providing links to, and towards, more readily discernible settlements; along the former to Downholland Cross and part way along the latter towards, but not in a continuous form to, Ormskirk. A more direct route, along a footpath across fields, to Downholland Cross is also possible, and is pleasant enough for a stroll, but the nature of that route reinforces a sense of the site's relative isolation from services, facilities, and connections thereto.
32. None of the sporadic groups that I saw in the vicinity of the appeal site would, in my judgement, constitute a settlement and nor does the aggregation of buildings comprised in the appeal site, Owen's Farm and the dwellings between the two. Furthermore, the nature of the links between the appeal site and the nearest facilities and connections are such that occupiers would, in all reality, be reliant on private transport to access them. In this respect, and having regard to the Braintree judgement<sup>8</sup>, the proposed dwellings that would arise from the scheme of conversion would be physically remote or separate from an identifiable settlement, albeit not isolated by virtue of existing dwellings close to the appeal site.
33. I accept that a settlement may be capable of being comprised of a hamlet or cluster of dwellings, as was considered in the Braintree case, but I am not persuaded that the buildings at or around the appeal site, whilst forming a

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<sup>8</sup> Braintree DC v SSCLG, Greyread Ltd & Granville Developments Limited [2018] EWCA Civ 610 – Appellant Appendix EP3

discernible group, amount to a settlement for the purposes of Framework paragraph 78. However, as Framework paragraph 79 considers at (c) that isolated homes in the countryside should be avoided unless the development would re-use redundant or disused buildings and enhance their immediate setting, proximity to services and facilities, and how (and how frequently) they are accessed is only one factor in the broad consideration of the Framework's provisions.

34. As I have set out above, I am satisfied that the proposal would re-use existing buildings that are of a permanent and substantial construction. It is then a case of considering whether the proposal would enhance its immediate setting.
35. The buildings were previously occupied and operated as a part of an intensive piggery operation. The proposed residential conversion scheme would clearly alter the context of the buildings through the introduction of residential use. The buildings and their setting would, inevitably, change but that change would, in my judgement, be for the better. I accept that agricultural buildings are part of the rural setting in which the appeal site lies. However, so too, are clusters of residential properties, some resulting from schemes of conversion.
36. The retained buildings within the appeal scheme are not uniform in their appearance or character. Some are steel-portal framed buildings and, within the context of their permanent and substantial construction, present opportunities for a contemporary take on the character and appearance of agricultural buildings. Others, however, are of brick construction and present different opportunities. In both instances though, the proposals would retain the intrinsic character of the buildings as former agricultural buildings, which the Council accept.
37. The proposal would also remove much of the detritus and features typical of such an operation. I saw during the visit to the site, evidence of the previous operation of the site as a piggery such as underground tanks, clamps and other features which, together with the overgrown nature of the extensive areas of hardstanding around the buildings, reinforce a general sense of abandonment and decay. Whilst the proposal would inevitably have some impact on the context of the buildings, it would do so in a manner which would largely preserve the character of the buildings while enhancing their setting within the wider countryside surroundings of the appeal site.
38. I heard that the proposal was revised during the course of the Council's assessments of it to remove alterations, additions, fenestration or interventions that would have disrupted the architectural character and detailing of the buildings as former agricultural buildings. From all that I have seen and heard, I too am satisfied that the proposal would sensitively convert the buildings, retaining the fundamental character of the buildings within a scheme of conversion to provide appropriate residential facilities. These factors contribute to my conclusions with regard to enhancement of the appeal site's buildings and its setting.
39. For these reasons, I conclude that the proposal would re-use redundant and disused buildings and would enhance their immediate setting. Whilst I do not consider the appeal site to be physically isolated, it is distant from recognised settlements and the services and facilities that they provide. There are alternative means of accessing those services and facilities from the appeal site

but it is likely that residents would be largely reliant upon the private car to do so, rather than public transport, cycling or on foot (or a combination thereof).

40. Whilst Framework paragraph 78 seeks to promote sustainable development in rural areas, stating that housing should be located where it will enhance or maintain the vitality of rural communities, it accepts circumstances in which homes in isolated locations will be acceptable. Although not physically isolated, Tanpit Farm is some distance from services and facilities and the open, expansive rural landscape reinforces the sense of separation from those settlements and is, in that sense, isolated from recognised settlements. However, I am satisfied that the proposal would re-use redundant and disused buildings resulting in the enhancement of their setting. The proposal would, I conclude, align with the intentions of Framework paragraph 79 and would not be in conflict with those of paragraph 78. There would also be no conflict with WLLP policy GN1 in this respect as a consequence and, whilst conflict with WLLP policy RS1 is advanced by the Council, it talks about delivery of affordable housing outside settlement, whilst other policies more directly relate to the conversion of existing Green Belt buildings for residential purposes.

#### *Unilateral Undertaking*

41. The Council requested an Education Contribution in line with an 'Education Contribution Assessment' (ECA) prepared in respect of the appeal proposal by Lancashire County Council. The contribution sought is in relation to provision of a financial contribution to mitigate against the impact upon education infrastructure which the development may have. Although I have not been referred to any specific WLLP policies, the ECA draws upon the provisions of Lancashire County Council's 'School Place Provision Strategy' for support and clearly sets out the methodology behind the contribution that has been sought.
42. I note that the content of the UU is not in dispute between the parties and that the ECA is detailed in its calculation of, and justification for, the contribution sought. In this respect I am satisfied that the UU complies within the requirements of Regulation 122 of the Community Infrastructure Levy Regulations. I have not been presented with any further evidence that would lead me to conclude that the UU does not make adequate provision for education contributions and I have taken the UU into account accordingly in reaching my decision.

#### **Other Matters**

43. The Council's fourth reason for refusal cited an absence of robust evidence to demonstrate that the appeal site is not suitable for on-going viable agricultural use. In this respect I have been referred to the provisions of WLLP policies GN4 and EC2.
44. WLLP policy GN4 seeks to retain existing commercial / industrial uses<sup>9</sup> and retail uses<sup>10</sup>, together with agricultural / horticultural workers' dwellings unless it can be demonstrated that a proposal meets one of the three tests set out in the policy. However, despite the Council's insistence that they should be applied, I do not consider it appropriate to apply those tests to the appeal proposal. WLLP policy GN4 is quite clear as to the circumstances in which the tests will apply. Although the supporting text to WLLP policy EC2 seeks to

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<sup>9</sup> Uses falling within Use Classes B1, B2 or B8

<sup>10</sup> Uses falling within Use Class A1

include agricultural operations within the broad ambit of employment uses, the proposal would not result in the loss of existing B1, B2 or B8 uses, despite the Council's claims regarding the significance of agriculture to the local economy. That being the case, I do not consider it to necessary to apply the tests set out at sub-paragraphs (a) to (c) or the specific marketing requirements set out at further sub-paragraphs (i) to (iii).

45. Nonetheless, with regard to WLLP policy EC2, its provisions at sub-paragraphs (i) to (v), (i) to (iii) and at (a) do not apply to the appeal site or appeal proposal. Whilst the second paragraph of this policy requires a robust demonstration that the site is not suitable for on-going viable employment uses, it goes on to state that as a general approach the re-use of existing buildings within rural areas will be supported where they would otherwise be left vacant.
46. The previous use of the appeal site and buildings ceased in 2016 when the previous operators<sup>11</sup> piggery operations were consolidated and restructured and have been vacant since then. It was not clear whether the buildings on site were constructed specifically for the purposes of an intensive piggery or whether they evolved as such over time or, indeed, a combination of both.
47. It was clear to see however that the buildings varied in their form and manner of construction, albeit that they were clearly tailored for intensive animal rearing. So too, the land around the buildings. Whilst not part of the application site, it was explained during the hearing and site visit that the land associated with the farm was drawn reasonably tightly and the quantum of accompanying land correspondingly limited. The appellant has produced evidence<sup>12</sup> which adequately demonstrates that neither the land nor buildings are suitable for continued agricultural use. Whilst I do not have details of a marketing exercise before me, I am satisfied that in the context of WLLP policy EC2's general approach to the reuse of buildings, the appellant's agricultural appraisal demonstrates that there is a strong likelihood that the buildings would remain vacant as unsuitable for continued agricultural operations.
48. I have had regard to other matters cited regarding the unsuitability of continued use of the buildings, such as the condition and form of the access road, and private matters regarding access along the track, but these have not been determinative in this instance. For the reasons I have set out therefore, I am satisfied that there is a strong likelihood that the buildings would remain vacant. In the context of the general approach to the re-use of buildings set out in WLLP policy EC2 and a proposal which I have concluded is acceptable in Green Belt, locational and character and appearance terms, there would be no material conflict with the provisions of WLLP policy EC2.
49. I heard during the course of the hearing, and have noted from the Statement of Common Ground (SofCG), that matters relating to the external appearance of the converted buildings; residential amenity and living conditions; car parking provision, access and highway safety; biodiversity and protected species; trees; the setting of the grade II listed Owens Farm; drainage and minerals safeguarding are not in dispute. I have not been presented with any further evidence that would lead me to an alternative conclusion.

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<sup>11</sup> Midland Pig Producers

<sup>12</sup> 'Agricultural Appraisal Report' for Tanpit Farm, Broad Lane, Downholland, Ormskirk produced by The Brown Rural Partnership July 2019

## Conditions

50. A list of agreed conditions, with the exception of conditions to restrict permitted development rights for the construction of extensions and outbuildings and means of enclosure, the contents of which are a matter of dispute, was set out in the SofCG. I have considered those conditions in light of the Framework and Planning Practice Guidance (the Guidance).
51. I agree that time limit and approved plans conditions are necessary in order to provide certainty and I have imposed conditions accordingly. In order to ensure the satisfactory appearance of the development in keeping with the character of the buildings to be converted, a materials condition is necessary, whilst conditions regarding landscaping proposals, tree protection and the treatment of the land between buildings 12 and 15 are also necessary in the interests of character and appearance. The development should be carried out in accordance with the measures set out in the Appleton's bat survey and methodology document in the interests of biodiversity.
52. Drainage and flood risk conditions are necessary in order to ensure the proper treatment of foul and surface water and to reduce the risk of, and from, flooding. I have, as discussed during the hearing, amended these conditions to ensure that they are implemented in accordance with an agreed timescale in the interests of precision.
53. A condition requiring the carrying out of improvements to the access and junction with Broad Lane are necessary in the interests of highway safety. It is appropriate that such works be carried out prior to demolition and conversion works in the manner set out in the SofCG and I have attached this condition accordingly. I agree that a condition regarding electric vehicle charging points be imposed in the interests of providing sustainable travel options for occupiers of the approved scheme, but I have amended the wording of this condition to reflect discussion during the course of the hearing.
54. Framework paragraph 53 is clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Guidance states that such conditions may not pass the tests of reasonableness or necessary and should only be done in exceptional circumstances.
55. The Council's Supplementary Planning Document 'Development in the Green Belt' reserves the right to remove permitted development rights for development which 'may have an adverse impact upon the openness of the Green Belt. However, the Framework does not suggest that such exceptional circumstances (for the purposes of considering whether permitted development rights should be restricted) apply to development in the Green Belt, nor does the Order<sup>13</sup> withdraw these rights within the Green Belt.
56. The disputed conditions relate to permitted development rights for extensions, garages, sheds and outbuildings and to fences, gates, walls or other means of enclosure. A key consideration in respect of the proposal's impact on the Green Belt is the effect on openness. I have given significant weight to the reduction in built footprint and volume that the proposal would bring about, and thus an increase in openness of the Green Belt. The retention of permitted

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<sup>13</sup> Town and Country Planning (General Permitted Development)(England) Order 2015

development rights would potentially allow substantial extensions to the converted buildings, which would otherwise retain their simple elevations and linear form. In the circumstances, I consider the restrictions on permitted development rights to be both reasonable and necessary in order to ensure that the benefits in terms of openness can be maintained, subject to the appropriate scrutiny that removal of permitted development rights would entail, and the character and appearance of the development upon completion. I have therefore imposed those conditions with slight amendment, the amendments in the interests of precision.

**Conclusion**

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

*Graeme Robbie*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan 1525 PL 100A; existing site plan I 1525 PL 101A; existing site plan II 1525 PL 102C; existing site perspectives 1525 PL 105A; building 3 existing 1525 PL 106A; building 4 existing 1525 PL 107A; building 8 existing 1525 PL 108A; building 9 existing 1525 PL 109A; building 10 existing 1525 PL 110A; building 12 existing 1525 PL 111A, building 12 existing 1525 PL 112A; wider perspective site plan I 1525 PL 120C; wider perspective site plan II 1525 PL 121D; proposed site plan with roof plan 1525 PL 122D; proposed site plan I 1525 PL 123D; proposed site plan II 1525 PL 124D; building 3 proposed 1525 PL 131B; building 4 proposed 1525 PL 132B; building 8 proposed 1525 PL 133B; building 9 proposed 1525 PL 134B; building 10 I proposed 1525 PL 135B; building 10 II proposed 1525 PL 136B, building 12 proposed 1525 PL 137B; building 15 proposed 1525 PL 138B; boundary treatment 1525 PL 141A; boundary treatment 1525 PL 142D, estate plan 1525 PL 148A and landscape plan 2141\_03B.
- 3) No development shall take place until full details and samples of any new external wall and roofing material, including glazing, have been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details.
- 4) No demolition or conversion of any buildings shall take place until the road improvements at the junction of Broad Lane and the two passing places and footpath along the access road have been completed in accordance with approved drawing reference 1525 PL 120 Rev C.
- 5) Prior to the occupation of the new dwellings, they shall each be provided with an electric vehicle charging point which shall be retained for that purpose for the duration of the development.
- 6) No development shall take place until full details of the finished levels of all parts of the site, including the floor levels of the buildings, have been submitted to and approved in writing by the local planning authority. The development shall be implemented, carried out and retained only in accordance with the agreed details.
- 7) All new hardstanding areas shall be constructed with porous materials, which shall be retained and maintained as such at all times thereafter.
- 8) No development shall take place until details of the design, implementation and maintenance of an appropriate foul drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its provision. The development shall be carried out only in accordance with the approved scheme which shall be implemented in accordance with the agreed timetable and shall be retained, managed and maintained as such at all times thereafter.

- 9) The development hereby approved shall be carried out in accordance with:
  - i) The drainage strategy arrangement as detailed on drawing 066089 CUR 00 XX DR D 75001 rev P05 dated 14<sup>th</sup> August 2018;
  - ii) The Curtins Flood Risk Assessment Rev V06 dated 6<sup>th</sup> September 2018; and
  - iii) The following measures detailed within the Flood Risk Assessment:
    - 1) In accordance with Section 6.3 Table 5, a full ground investigation should be undertaken to fully explore the option of ground infiltration to manage the surface water. It should be shown to work through an appropriate assessment carried out under Building Research Establishment (BRE) Digest 365 revised 2016.
    - 2) In the event that infiltration testing proves this to be an unviable method for disposal of surface water, the surface water run-off generated by the site should be shown to not exceed the run-off rate of 13.5l/s and not increase the risk of flooding off-site.
- 10) No development shall commence until details of a management and maintenance plan for the approved sustainable drainage system for the lifetime of the development, based upon sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved management and maintenance details. The plan shall be implemented in full in accordance with the approved details prior to the occupation of the first dwelling or completion of the development, whichever is the sooner. The approved drainage system shall be retained, managed and maintained in accordance with the approved details at all times for the duration of the development.
- 11) The recommendations and bat and bird enhancement measures set out in sections 5 and 6 of the Bat Surveys and Method statement dated August 2017 prepared by Appleton's shall be implemented in full in accordance with a timetable that shall first have been submitted to and approved in writing by the local planning authority.
- 12) No development shall take place until a Method Statement for the construction of the surface within the root protection area of tree G10 has been submitted to and approved in writing by the local planning authority. The measures contained in the approved Method Statement shall be fully implemented during construction.
- 13) Notwithstanding the details shown on the landscaping plan 2141\_03B received by the local planning authority on 13<sup>th</sup> August 2018, no development shall take place until a hard and soft landscaping scheme, including full details of the boundary treatments, has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall show the location, branch spread and species of all existing trees, shrubs and hedges, the location, species and number of all proposed trees, shrubs and hedges and the location of all existing and proposed grassed and hard surfaced areas. Trees and shrubs planted shall comply with BS3936 (Specification of Nursery Stock) and shall be planted in accordance with BS4428 (General Landscape Operations). With a period of 9 months from the date when any part of the

development is brought into use, the approved landscaping scheme shall be carried out in full. All planting shall be maintained and dead or dying material shall be replaced for a period of seven years from the approved date of planting.

- 14) No development shall take place until details of the land preparation and species to be planted in the areas proposed for grazing / grassland (as indicated on the proposed site plans I and II (Drwg Ref Nos: 1525 LP 1233 and 1525 PL 124D) have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the first new dwelling and retained, managed and maintained thereafter.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and / or re-enacting that Order with or without modification) no garages, extensions, enlargements, garden sheds, outbuildings, greenhouses or swimming pools, shall be erected on the site.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and / or re-enacting that Order with or without modification) no fences, gates or walls shall be erected on the site.

## **LIST OF APPEARANCES**

For the Appellant:

Mr J Easton	Counsel, Kings Chambers
Mr R Gascoigne	Emery Planning
Mr M Atkinson	Upward Ltd
Mr R Duffy	Upward Ltd
Mr J Nicholls	Monroe Summers Architects

For the Local Planning Authority:

Ms K Scanlon	Senior Planning Officer
Miss E Woollacott	Planning Appeals Officer

Interested Persons:

Councillor D Evans	Cabinet Member for Planning
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## **DOCUMENTS**

Submitted at the hearing

DOC1	Record of Attendance
DOC2	Opening Points
DOC3	Education Contribution Assessment for Tanpit Farm House

Submitted by:

Mr J Easton on behalf of the appellant
Miss E Woollacott on behalf of the Local Planning Authority

After the hearing

DOC4	Unilateral Undertaking
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