

ATLAS

PLANNING GROUP

PLANNING STATEMENT

Land at Elms Farm, Elms Cross, BA15 2AL

October 2025

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INTRODUCTION

- 1.1 This Statement has been produced by Atlas Planning Group in support of a full planning application seeking permission for a self-build residential dwelling, parking, hard and soft landscaping and associated works, following demolition of the existing barn at Elms Farm, Elms Cross, BA15 2AL.
- 1.2 The Statement will assess the development proposal in the context of adopted national and local planning policy, found within the National Planning Policy Framework (NPPF) and the Wiltshire Core Strategy.

SITE DESCRIPTION

- 2.1 The application site measures approximately 0.15 hectares and is located in Elms Cross to the east of Westwood and south of Bradford on Avon. It is agricultural land currently occupied by an agricultural barn and associated fields.
- 2.2 The site is bounded by Westwood Road to the south, agricultural fields to the west and north, and a dog daycare facility to the east (WestWoofs) which is operated by the applicant. The boundaries of the site to the south and west are formed of mature trees and hedgerows.

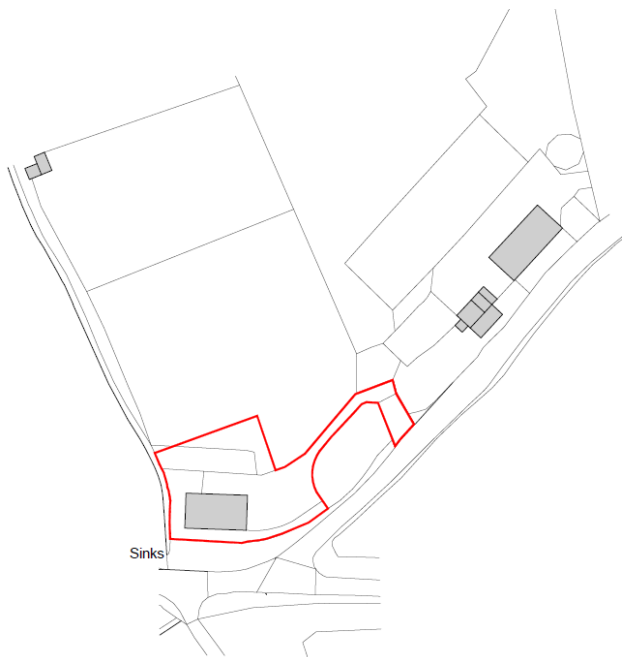


FIGURE 1: SITE LOCATION PLAN

- 2.3 Access is provided to the site from Elms Cross which leads to Westwood Road in the south and the B3109 to the north.
- 2.4 According to the Environment Agency the site is located in Flood Zone 1, which is at lowest risk of flooding. It is also not within an area at risk of surface water flooding.
- 2.5 There are no listed buildings within or immediately adjacent to the site. It is not located within a Conservation Area. The nearest listed buildings are located to the west of the site within Westwood. Due to the mature vegetation along the boundary of the site there is unlikely to be intervisibility with these heritage assets.

- 2.6 The site is located within the Western Wiltshire Green Belt, which covers areas of the countryside near to Bath, Bradford on Avon and Trowbridge.
- 2.7 The nearest public rights of way are located south of the road, to the south of the site. They lead from Westwood Road towards the settlement in the west, or further south into the agricultural areas near to Trowbridge.

PLANNING HISTORY

- 3.1 The agricultural barn at the site was approved through application W/11/02028/FUL which was a retrospective planning application for an agricultural building to store animal fodder and farm machinery.
- 3.2 This application, approved in January 2012, confirmed that the building was first in use at the site in October 2010.
- 3.3 In September 2022 an application to vary Condition 1 of this consent was approved (Ref: PL/2021/09419). This change sought to allow animals to be stored at the barn.
- 3.4 In September 2024 prior approval was granted for the change of use of the agricultural barn to a Use Class C3 dwelling under Class Q permitted development, together with the building operations necessary to convert the building (Ref: PL/2024/02742).

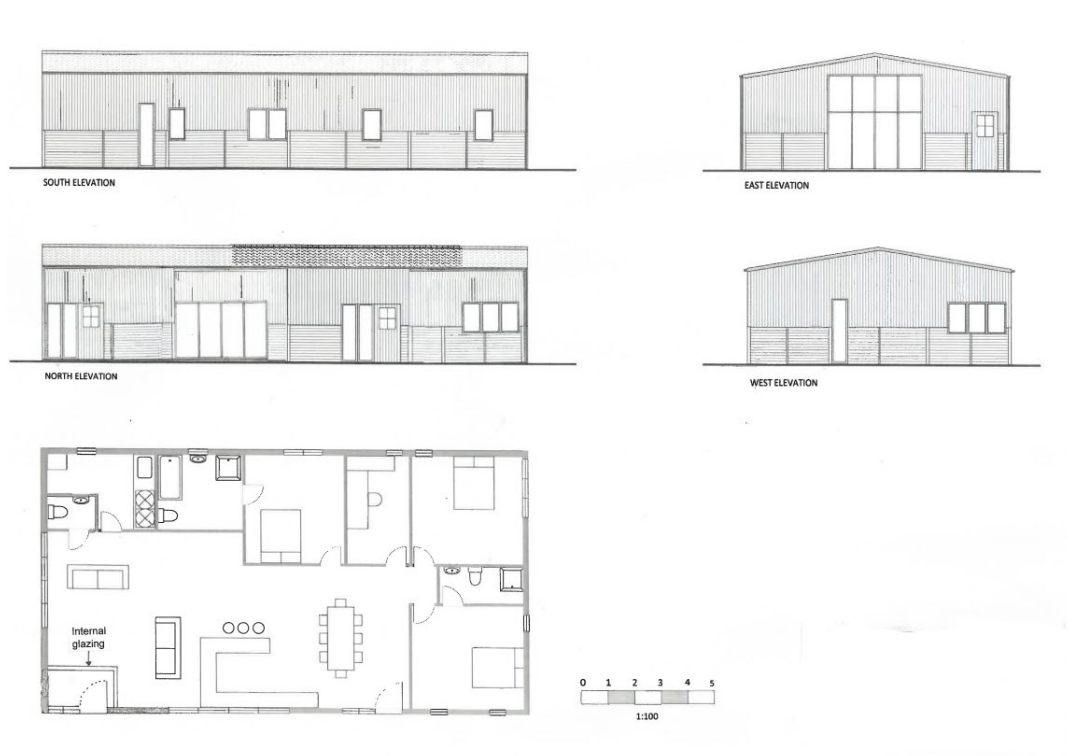


FIGURE 2: APPROVED FLOORPLANS AND ELEVATIONS

THE PROPOSAL

- 4.1 This application seeks full planning permission for the demolition of the existing agricultural barn and erection of a single dwelling. The description of development is:
- “Erection of a 4-bedroom self-build dwelling with hard and soft landscaping, parking and associated works following demolition of the existing agricultural barn”*
- 4.2 The proposed development is a two storey dwelling that has been carefully designed to take into account the characteristics of the site and the surrounding area. It will be located close to the western site boundary and will ensure retention of all of the boundary vegetation to screen the proposal from the road and the public rights of way to the south of the site, as well as retain this as an important landscape feature of the area.
- 4.3 The existing access from Elms Close will be retained, providing access to parking spaces within the site. New boundary features including soft landscaping are proposed to ensure there is a clear separation between the proposed dwelling and the adjacent agricultural land.

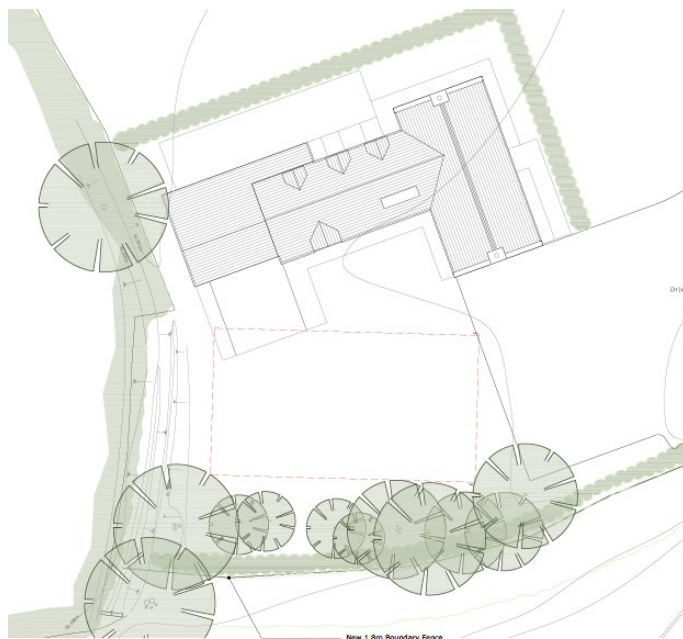


FIGURE 3: PROPOSED SITE PLAN

- 4.4 The dwelling will provide family accommodation, with a kitchen, utility, living room, sitting room and other living accommodation on the ground floor, and four bedrooms, some en suite facilities, on the first floor. The proposal will include a residential garden to the south of the property.

- 4.5 Externally, the elevations will include a number of materials found within the local vicinity of the site, including stone, timber, clay and slate. The property features a variety of ridge heights which step down from the entrance of the dwelling to the boundary of the site, providing interest and reducing its visual impact. The roof form also ensures that the massing has been broken up to avoid a bulky appearance, with the design minimising the sense of scale.
- 4.6 Overall, the proposal has been designed to provide a family dwelling in this location, with a style that reflects the rural nature of the surrounding landscape.



FIGURE 4: PROPOSED FRONT ELEVATION

PLANNING CONSIDERATIONS

- 5.1 The Wiltshire Core Strategy is the Council's primary Development Plan Document (DPD), and the starting point for determining planning decisions within Wiltshire, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 5.2 The National Planning Policy Framework (NPPF) provides a national tier of policy and decision-making guidance for the planning system and forms a material consideration for all planning decisions. The NPPF was most recently updated in December 2024.
- 5.3 The policies and guidance contained within the statutory DPD and all other relevant material considerations have informed the design process to ensure that the proposed dwelling is an appropriate form of development for the area.
- 5.4 Wiltshire Council adopted its Design Guide in 2024 and this has been used to prepare the application scheme.

PRINCIPLE OF DEVELOPMENT

- 5.5 Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the county and identifies four tiers of settlement - Principal Settlements, Market Towns, Local Service Centres, and Large and Small Villages. Only the Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development/settlement boundaries.
- 5.6 Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier, stating that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns and Local Service Centres. The site is located outside the settlement boundary, and therefore is seen as being within the countryside in planning policy terms.
- 5.7 Whilst development plan policies seek to resist new dwellings in the countryside unless there is an essential overriding need and the proposal conflicts with Core Policy 2, Section 38(6) of the Planning and Compulsory Purchase Act 2004 also states (emphasis added):

*“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan **unless material considerations indicate otherwise.**”*

- 5.8 In this case, the most important material consideration is the extant Class Q prior approval for the conversion of the existing agricultural barn at the site to a residential dwelling. As such, there is a realistic fallback position of a dwelling occupying the site in this countryside location, along with the associated travel movements and residential paraphernalia.
- 5.9 A Court of Appeal judgement (Ref: Michael Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314) clarifies that, in considering proposals for new development, decision-makers should have regard to the fallback position of lawful development which has a real prospect of taking place in the alternative. Appeals and planning decisions both in Wiltshire and other Local Planning Authority areas also confirm the existence of a realistic fallback position is an extremely important material consideration that should carry significant weight within the decision-making process (for example: APP/D3830/W/16/3156030, APP/C1760/W16/3154235, APP/W1850/W/17/3171828, and APP/Z1510/W/17/3189624) and is capable of outweighing conflict with the development plan.
- 5.10 Within Wiltshire, there have been a number of relevant Appeals which confirm the weight that should be given to a fallback position.
- 5.11 Firstly, Appeal APP/Y3940/W/20/3262812 at Hambrook Farm, where the Inspector stated:

The site benefits from an approval as required under permitted development rights that allow the barn to be converted to a dwelling house. Also, planning permission has been granted for various amendments to the approved conversion scheme.

The appellants’ submissions highlight construction methodology issues with the approved developments. Nevertheless, contrary to the Council’s claim, there is no substantive evidence that demonstrates insurmountable economic or other problems exist that would prevent the approved works from taking place. Indeed, correspondence indicates that a new dwelling would be provided regardless as to the outcome of this appeal. As such, there is a greater than theoretical possibility that the conversion would be carried out even if I dismiss the appeal. Therefore, the approved schemes represent a fallback position.

The proposal would be very similar to the approvals in terms of its size and internal layout. As such, it would have almost identical impacts in terms of its usage, the need to travel and its effects on the visual qualities of the area.

The approved schemes involve various alterations to the barn, although elements would be retained. In contrast, the proposal would include complete demolition and the erection of a new building. However, I am unclear from the submissions as to the harm that would arise as a consequence of this difference. The particular circumstances in respect of this case are unusual and so I am satisfied allowing this appeal would not set a precedent that is bound to be followed in the determination of all future planning applications.

Overall, the effects of the development would be almost identical to the approved schemes. As there is a real prospect they would be implemented, the fallback position attracts significant weight which outweighs that attributed to the harm identified under the first main issue.

[Appeal Decision, Paragraphs 10-14]

- 5.12 Secondly, Appeal APP/Y3940/W/24/3348926, at Upper Farm in Wexcombe, where the Inspector stated:

Planning law requires that application for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the fallback position of the extant permission is a significant material consideration. Like the appeal scheme, this would also result in a new dwelling in a countryside location with poor access to facilities and services and heavy reliance upon the private motor car.

However, there are no mechanisms in place to require the extant scheme to deliver the substantial landscaping, biodiversity, and sustainability benefits of the appeal scheme that I have identified above. Whilst the appellant may choose at a later date to incorporate some of these measures, this cannot be relied upon and could further be affected by factors such as time delays, cost, or need to seek further consent to amend the scheme.

As such, I therefore conclude that, having regard to the particular circumstances of this case, the harm I have identified in association with conflict with the development plan in respect of the location of the proposal is outweighed by the substantial environmental benefits that the appeal scheme would provide, which would significantly outweigh those associated with the fallback position of the extant scheme. On this basis, I conclude that the appeal site is a suitable location for the appeal scheme.

[Appeal Decision, Paragraphs 59-61]

- 5.13 This is particularly relevant to the application proposal, as the Class Q consent provides no details of landscaping or ecological enhancements, which can be secured through this full planning permission.
- 5.14 Furthermore, the NPPF requires each Local Planning Authority (LPA) to identify and update annually a supply of specific deliverable sites to provide five years' worth of housing against their housing requirement.
- 5.15 The latest Housing Land Supply Report published by Wiltshire Council had a base date of April 2024 and stated a supply of only **2.42 years** against local housing need.
- 5.16 As the Council is only able to demonstrate 2.42 years of housing land supply the tilted balance of the NPPF is engaged, which states: *"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination"* (Paragraph 11 d).
- 5.17 As the housing policies are out of date in accordance with Paragraph 11 of the NPPF, the tilted balance is engaged, setting a presumption in favour of sustainable development in determining the proposed development.
- 5.18 As set out above, the NPPF notes that this should not be applied where the policies that protect areas or assets of particular importance provide a strong reason for refusing the development proposed. Footnote 7 of the NPPF clarifies that this includes areas within the Green Belt. It is therefore necessary to establish whether Green Belt policies would provide a "strong reason" for refusing this planning application.
- 5.19 Chapter 13 of the NPPF relates to protecting Green Belt land and states that the Government attaches great importance to the Green Belt, which is fundamental to prevent urban sprawl by keeping land permanently open. Paragraph 143 of the NPPF confirms that the Green Belt serves five purposes:
- a) to check the unrestricted sprawl of large built-up areas;

- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.20 The Core Strategy notes that applications for development within the Green Belt will be determined in accordance with national planning policy.

5.21 Paragraph 153 of the NPPF states that, when considering planning applications within the Green Belt, Local Planning Authorities (LPAs) should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness, except in cases where development is proposed on previously developed land, or grey belt land.

5.22 It continues by stating that inappropriate development is, by definition, harmful to the Green Belt and should not be approved unless there are “very special circumstances”, which will not exist unless the potential harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.23 Paragraph 155 of the NPPF relates to new dwellings within the Green Belt and states that these should not be regarded as inappropriate where all the following apply:

- a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b) There is a demonstrable unmet need for the type of development proposed;
- c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
- d) Where applicable the development proposed meets the ‘Golden Rules’ requirements set out in Paragraphs 156-157

- 5.24 For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of the purposes (a), (b) or (d) of Paragraph 143 (listed above).
- 5.25 The land does not strongly contribute to a, b, or d of Paragraph 143. The site is not located adjacent to a settlement, either a large built-up area or a town. This therefore means that it cannot be relevant to preventing the unrestricted urban sprawl of a large built-up area, nor to prevent neighbouring towns to merge into one another. Furthermore, it cannot be relevant to preserve the setting and/or special character of historic towns. Therefore, the site can be classified as grey belt land.
- 5.26 With regards to the remaining criteria of Paragraph 155, there is a clear demonstrable unmet need for the type of development proposed as the Council is currently unable to show the required five-year housing land supply as per Footnote 56 of the NPPF.
- 5.27 For Criterion c the proposal is in a sustainable location close to the applicants place of work (WestWoofs dog day care) and the facilities of Westwoods to the west and Bradford-on-Avon to the north.
- 5.28 As the proposal is not for major development, it is not necessary to apply the 'Golden Rules' of Paragraph 156.
- 5.29 Therefore, the proposal for a dwelling in this location can be seen as appropriate in the Green Belt.
- 5.30 However, even if the Council were to consider the proposed development inappropriate within the Green Belt location, this should not preclude its approval. It is relevant to consider the impact of the proposals and its benefits:

OPENNESS AND PURPOSES OF THE GREEN BELT

- 5.31 Openness is an essential Green Belt characteristic, with spatial and visual aspects. Its consideration is a matter of planning judgement.
- 5.32 The site currently contains a large agricultural barn of 178 sqm, with surrounding areas of hardstanding.



FIGURE 5: EXISTING BARN



FIGURE 6: EXISTING BARN

- 5.33 The development of a residential dwelling at the site, which is set slightly further from the boundary than the existing barn to retain, conserve and protect the boundary trees, will have an impact on the openness of the site in spatial terms.

- 5.34 However, any impact would be very contained in visual terms as only limited views of the house would be available from the public realm, and this would be an improvement on the existing visual impacts of the building at the site as it would be set back from the boundaries. As such, the site would be very well-contained.
- 5.35 Therefore, whilst there will be an impact on the Green Belt in terms of openness, it would be minimal and limited.
- 5.36 As already set out, the site does not serve to support purposes (a), (b) or (d) of the Green Belt. Furthermore, as it includes an existing building and area of hardstanding, it will not serve to protect the countryside from encroachment (c).

BENEFITS OF THE PROPOSAL

- 5.37 The NPPF seeks to significantly boost the supply of homes, and it recognises that small and medium sites can make an important contribution to the overall housing delivery of an area (Paragraph 73). In a time when the Council cannot demonstrate the required five-year housing land supply, and has a significant deficit compared with the requirement, the delivery of even a single dwelling can deliver benefits in relation to overall housing supply.
- 5.38 Furthermore, there is an un-met need for self-build housing in Wiltshire, as expressed by the self-build register and recent planning approvals (for example Reference: PL/2024/10536). Therefore, the delivery of a self-build dwelling within this development is a clear benefit of the proposals which should be attributed weight.
- 5.39 Finally, as already set out, there is a clear fallback position which is a realistic prospect of being delivered should the replacement dwelling not be approved. Therefore, the principle of development of a residential dwelling at the site is already established. However, in addition, the current proposal now includes site enhancements such as soft landscaping and a defensible boundary to the agricultural fields to the north (which can assist with preventing the spread of residential paraphernalia), as well as ecological improvements. All of these are benefits over and above the Class Q fall back position, and should be given weight in consideration of the application.
- 5.40 Therefore, against the minor impact on the openness that would be felt as a result of the proposal, there are a number of benefits that should be given weight and outweigh the harm of the proposal, providing the required very special circumstances.

- 5.41 Similar conclusions for Green Belt proposals were determined in recent appeals for dwellings including in Thorpe Audlin (Wakefield Council, Appeal Ref: APP/X4725/w/25/3362280) where the Inspector stated that the proposal would be inappropriate development in the Green Belt, but that there were a number of benefits of the proposal, including delivery to the housing land supply and the prospect of a fallback position:

Overall, I find these other considerations to be cumulatively sufficient such that they amount to the very special circumstances which clearly outweigh the harm to the Green Belt and any other harm, and thus justify the proposal in this instance. It therefore follows that as the LP Policies SP3 and SP5 refer that development in the Green Belt should conform to local and national Green Belt planning policy, and the proposal would be in accordance with such national policy by virtue of having demonstrated very special circumstances, there would be no development plan conflict.

[Appeal Decision, Paragraph 32]

- 5.42 The full similarities between this case and the application can be seen within the Appeal Decision included in **Appendix A**.

- 5.43 In Bean (Dartford Borough Council, Appeal Ref: APP/T2215/W/25/3359417) similarly the Inspector found that despite the harm on the openness of the Green Belt, the fact that the proposal was a preferable option against the fallback position was given weight and that this was a clear benefit of the proposal:

I consider that the other considerations do clearly outweigh the harm, and the very special circumstances necessary to justify the development do exist. I conclude that the proposal would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this.

[Appeal Decision, Paragraph 27, included in **Appendix B**]

- 5.44 Finally, in Marlow (Buckinghamshire Council, Ref: APP/K0425/W/24/3356793), the fallback position was the only consideration that provided very special circumstances in relation to the Green Belt:

The appeal proposal would be of a similar volume to the fallback position and, albeit providing one building of a larger footprint than the footprint of either of the existing buildings, would reduce the overall spread of the buildings across the site.

The existing landscaping and trees would minimise the effect of the proposal on the visual aspect of openness. The new building, by being spread over a lesser area and of a lower height, would have less of an effect on the spatial aspect of openness than the approved scheme. The appeal proposal which is designed to respect other dwellings in the immediate area, the dwelling at Coppice, and the agricultural history of the site, therefore, represents betterment over the fallback position. The existence of the extant permission is a significant material consideration to which I give significant weight.

The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the proposal would comprise inappropriate development in the Green Belt. Substantial weight is given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt, and any other harms, are clearly outweighed by other considerations.

The fallback is a significant material consideration, and, for the reasons detailed, I find that the appeal proposal before me would be less harmful than the fallback position.

For the above reasons I find that the fallback position represents other considerations that clearly outweigh the harm that I have identified to the Green Belt. Consequently, there are very special circumstances that justify the development.

[Appeal Decision, Paragraphs 12-16, included in **Appendix C**]

- 5.45 Therefore, the fallback position at the site, and the benefits of the proposal which include defensible boundaries and the ability to secure landscaping and enhancements beyond the Class Q conversion, should be considered sufficient to provide very special circumstances for development in the Green Belt.

IMPACT UPON RESIDENTIAL AMENITY

- 5.46 Core Policy 57 states that development should have “regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)”. Paragraph 135 of the NPPF also requires development to provide a high standard of amenity for existing and future users.

- 5.47 The application site is not bounded by residential dwellings, with the nearest properties located to the west of the site in Westwood (approximately 230m away).
- 5.48 Owing to this separation distance, intervening landscaping and boundary treatments, and position of the proposed dwelling is not considered likely to harm the amenity of these occupiers.
- 5.49 The site is bounded by WestWoofs dog daycare to the north, which is operated by the applicant, and is currently running under a temporary consent (Ref: 18/11885/FUL and PL/2023/01777). The principle of a residential dwelling at the application site is already established through the Class Q conversion consent, and therefore any applications at the WestWoofs site must take this into account, for example ensuring appropriate noise levels. Therefore, there will be no harm to future occupiers from the adjacent commercial premises.
- 5.50 The proposed dwelling will be served by both front and rear garden space, with the rear garden enclosed on all sides therefore providing private space for future occupiers. The spaces have been designed to avoid irregular pointed corners and narrow strips so that they are useable.
- 5.51 The Design Guide states that for two storey houses, a garden should be a minimum area equal to the footing of the dwelling, and a minimum length of 10m. The proposal has been designed to ensure that the proposed garden exceeds these requirements.
- 5.52 Overall, the development will not affect the living conditions of nearby occupiers, and the proposal will provide high-quality accommodation and outdoor space for future residents. The proposal, therefore, accords with Core Policy 57.

HIGHWAYS IMPACT

- 5.53 NPPF Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.54 The Wiltshire Car Parking Strategy (2011) highlights that a 4 bedroom property requires 3 car parking spaces. As demonstrated on the proposed site plan, there is ample space to provide 3 off-street parking spaces with room for vehicles to manoeuvre so that they can enter and leave in a forward gear. As such, it is considered that the proposed parking arrangement is acceptable.

- 5.55 The proposed dwelling is not likely to have a significant impact on the highway network, especially considering the fallback position of a residential dwelling in this location.
- 5.56 Therefore, the proposal accords with the requirements of local and national planning policy in highway terms.

ECOLOGY

- 5.57 Paragraph 174 of the NPPF requires decisions to contribute to and enhance the natural and local environment. Core Strategy Policy 50 'Biodiversity and Geodiversity' requires proposals to demonstrate how they protect features of nature conservation and geological value as part of the design rationale. Policy 50 also requires proposals to incorporate appropriate mitigation to avoid and reduce disturbance of sensitive wildlife species and habitats.
- 5.58 A Preliminary Ecological Appraisal was prepared by Pro Vision in May 2025. This confirmed that the building within the site, proposed for demolition, has a negligible potential to support roosting bats, and that the wider landscaping within the site has limited potential for protected species other than the tree lined hedgerow boundaries which may provide opportunities for nesting birds.
- 5.59 All of the site hedgerows and the majority of trees will be retained. The only tree proposed for removal is an Ash tree which is already showing significant signs of decline, and should be removed regardless of the current planning application. Therefore, the nesting bird habitat at the site will remain unaffected by the proposals.
- 5.60 The site is within the area designated for the Bath and Bradford on Avon Bats Special Area of Conservation (SAC), therefore external lighting at the site will adhere to the requirements set out within the PEA.
- 5.61 The proposal will also include Ecological Enhancements in the form of an integrated bat brick, placed on the southern elevation, an integral swift brick under the eaves, and bee bricks, along with native planting within the soft landscape proposals.
- 5.62 Since early 2024 there has been a national requirement for developments to provide a 10% biodiversity net gain (BNG). However, as the proposal is for a self-build dwelling it is exempt from this requirement.

- 5.63 The proposal therefore accords with the requirements of Core Policy 50, including the necessary mitigation and enhancement measures set out within the supporting documents submitted alongside the planning application.

BENEFITS

- 5.64 Paragraph 11 of the NPPF details the presumption in favour of sustainable development, which lies at the heart of both plan-making and decision-taking. Footnote 7 clarifies that planning policies relevant to the supply of housing may be considered out-of-date where a Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
- 5.65 Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, a tilted balance should be engaged. This means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 5.66 Wiltshire Council currently cannot demonstrate a 5-year housing land supply as required by the NPPF. As such, it is therefore necessary to consider the other benefits arising from the development. This is also relevant to demonstrate the very special circumstances required for a Green Belt proposal.
- 5.67 In economic terms, the proposal would provide a contribution to the local economy during the construction stage, and subsequently from the expenditure of future occupiers of the dwelling. A further economic contribution would also be derived through Council Tax. This should be afforded moderate weight in the planning balance
- 5.68 In environmental terms, the proposed dwelling would be located in a sustainable, suitable location for residential development, within close proximity to the applicant's business, as well as the nearby settlements of Westwoods and Bradford on Avon.
- 5.69 In terms of environmental enhancements, those such as the provision of invertebrate, bat and swift bricks can be provided and could be secured by an appropriately worded condition.
- 5.70 Furthermore, the proposed dwelling is set further away from the existing trees than the fallback position. This allows for retention of all of the boundary features, which are important features of the surrounding character of the area. It will also reduce pressure on these trees compared with a residential dwelling placed immediate adjacent to the site boundary (Class Q fallback position), which in time may have necessitated severe lopping, thinning, or perhaps even removal. These trees can now

be retained and enhanced as part of the setting of the proposed residential garden, complemented by the soft landscaping scheme.

5.71 Socially, the proposal would contribute to the much-needed supply of housing in the area. Indeed, Paragraph 73 of the NPPF highlights that *“small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly”*. The applicant has sought the most efficient use of the land which will contribute to the identified shortfall in land for housing, in line with Paragraph 129 of the NPPF. Furthermore, the applicant is keen to begin work upon grant of planning permission and therefore it is likely that the dwelling will be built out quickly.

5.72 Paragraph 73 of the NPPF further highlights that Local Planning Authorities should *“support the development of windfall sites through their policies and decisions”*. The Housing Land Supply Statement (June 2025) highlights that there is a deliverable supply of 8,945 between 2024-2029. Of this, 1,292 dwellings will be from windfall sites, equating to over 14% of deliverable sites across Wiltshire. The provision of a new dwelling in this location would therefore be a benefit to the housing supply of the area and small windfall sites should not be discounted as they make up a significant portion of the overall supply.

5.73 Indeed, in the appeal decision at Appendix D it is established that a single dwelling will still have an impact on the land supply position:

“Whilst the proposal would not make a significant difference to overall supply, nor represent strategic development, recognition must also be given to the important contribution small sites can make to meeting housing requirements highlighted in paragraph 68 of the Framework.

Furthermore, there would be economic benefits associated with the construction of the proposal as well as the activity of future occupants. Even so, the extent of benefits accruing from a single dwelling would be proportionate to its modest scale. Therefore, overall, I attribute moderate weight to the benefits of the proposal.”

[Appeal Ref: APP/Y3940/W/20/3261201; Paragraphs 31 and 32]

5.74 The occupiers of the proposed dwelling would help support and sustain local services and facilities. Future occupiers are also likely to participate in activities and events within the local community, which would also provide a social benefit. These social benefits should be afforded moderate weight in the planning balance.

5.75 Overall, in sustainability terms, it is clear that the proposal fulfils the social, environmental and economic objectives set out within the NPPF when read as a whole.

PLANNING BALANCE & CONCLUSIONS

- 5.1 This application seeks full planning permission for the erection of a self-build dwellinghouse, following demolition of the existing agricultural barn, along with parking, hard and soft landscaping and associated works.
- 5.2 This Planning Statement has demonstrated how the proposal complies with relevant national and local planning policies. Moreover, as Wiltshire cannot currently demonstrate a 5-year housing land supply, their policies for the supply of housing are rendered out of date and the tilted balance becomes engaged. This means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 5.3 As highlighted above, the benefits of the scheme, and consideration of the realistic fallback position, are sufficient to allow for the very special circumstances that support development of new dwellings within the Green Belt.
- 5.4 No new access is proposed, therefore the scheme is considered to have minimal impact on the highway. Given that the additional number of vehicle movements from the access would not be significant, it is not considered that there will be an impact on highway safety.
- 5.5 There is a realistic fallback position at the site for conversion of the existing barn to a residential dwelling through Class Q permitted development. Therefore, the principle of residential use at the site has already been established.
- 5.6 As demonstrated above, there are also many benefits associated with the scheme and in the absence of any clear demonstrable harm that would outweigh the benefits, the balance lies in favour of the scheme meaning planning permission should be granted without delay.



Appeal Decision

Site visit made on 9 September 2025

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/X4725/W/25/3362280

Land off Causeway Garth Lane, Thorpe Audlin, Pontefract WF8 3HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr K Lister against the decision of Wakefield Council.
 - The application Ref is 23/01558/FUL.
 - The development proposed is for demolition of existing buildings and the erection of 1 self-build dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and the erection of 1 self-build dwelling, at Land off Causeway Garth Lane, Thorpe Audlin, Pontefract, WF8 3HD, in accordance with the terms of the application, Ref 23/01558/FUL and the plans submitted with it, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The application form description of development was '1no dwelling'. I have instead used the more precise description from the decision notice and the appeal form, except that for better clarity I have referenced that more than one building would be demolished.

Main Issues

3. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework ('the Framework') (2024) and any relevant development plan policies;
 - the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it; and
 - whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

Reasons

Inappropriate Development in the Green Belt

4. The appeal site comprises part of Manor Farm, on land defined as Green Belt by the Wakefield District Local Plan 2036 - Volume 1 (LP). The proposal is for the demolition of 5 existing derelict chicken sheds, and the erection of a detached, two storey self-build dwelling.

5. The Framework paragraph 142 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. This guidance is reiterated by the LP Policies SP3(f) and SP5(f), which identify that development in the Green Belt will confirm to local and national Green Belt planning policy.
6. The Framework Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. The LP Policy LP1 also identifies exceptions whereby housing proposals in the Green Belt will not be regarded as inappropriate, although none would apply in this instance.
7. A potential exception falls under the Framework paragraph 154(e), being limited infilling in a village. Neither the Framework nor the LP define what can constitute a village. The Policies Map provides a defined settlement boundary for Thorpe Audlin, with the appeal site lying approximately 410m away. Although case law has established that development plan boundaries may not reflect the position on the ground, I find this a significant distance. Furthermore, the intervening fields provide clear visual and functional separation. This is experienced as leaving the village, travelling through a stretch of open countryside on either side, and then arriving in what I find to be a separate hamlet of approximately 20 houses with no services or facilities.
8. That local residents may consider themselves within the village in terms of community identity, does not alter this physical relationship. The appeal decisions suggested as precedents are not determinative due to their sufficiently different physical and historical contexts. As such, even though I class the proposed development as infilling due to the layout of the surrounding dwellings and other buildings, it is not within a village, and thus would not meet this exception under the Framework paragraph 154(e).
9. Another potential exception could fall under the Framework paragraph 155, whereby the development of homes in the Green Belt should not be regarded as inappropriate if all its criteria apply. Its criterion (b) requires a demonstrable unmet need for the type of development proposed. Footnote 56 explains that for new housing, this means the lack of a 5 year supply of deliverable housing sites, or where Housing Delivery Tests fell below 75% over the previous three years. It is undisputed that the Council can demonstrate more than a 5 year housing supply, and has not fallen below this threshold. I therefore find no demonstrable unmet need, and so no exception under paragraph 155, regardless of whether the site may comprise grey belt under 155(a). The proposal would thus be inappropriate development in the Green Belt, and so would conflict with the Framework Section 13, and the LP Policies SP3 and SP5.

Openness and Purposes of the Green Belt

10. Openness is an essential Green Belt characteristic with spatial and visual aspects, and is a matter of planning judgement. Spatially, although the site contains former chicken sheds, the erection of a taller and larger dwelling and its associated domestic paraphernalia would result in additional built development and massing. It would therefore result in a loss of openness in spatial terms.

11. Visually, the site would change from containing small-scale wooden agricultural buildings, to a wholly domestic plot with the increased presence of a 2-storey dwelling. As such this would affect visual openness. However, existing 2-storey dwellings lie directly adjacent to the north, west, and south, and there are clusters of sizeable agricultural buildings to the north east and south east. A further single storey barn lies adjacent to the appeal site boundary to the east, within a wider agricultural field. As such, the site would be very well-contained, and a domestic plot with a dwelling of this scale and position would not be untoward in this context.
12. Overall therefore, I find the proposal would result in harm to the spatial and visual openness of the Green Belt, but this would be small-scale and minor in extent. Nonetheless, the Framework requires that I give this harm substantial weight.
13. The Framework also identifies five essential purposes of the Green Belt at paragraph 143. The appeal site does not lie within a large built-up area (a), or in a gap between towns (b). As identified above, its positioning surrounded almost entirely by existing and substantial built form indicates no encroachment into the countryside (c). It does not form part of the setting of a historic town (d), and I see no reason why it would prevent the recycling of derelict and other urban land (e). I therefore find, as did the Council, no conflict with any of the Green Belt purposes.

Other Matters

14. I note the local resident objections, including the proximity of the access drive to other dwellings, construction traffic, and potential impact on amenity. However, for the same reasons as set out in the Officer Report, and in light of there being no objection from the Highway Authority, I find these matters to be satisfactory.

Other Considerations

15. The Framework seeks to significantly boost the supply of homes. Paragraph 73 identifies that small and medium sized sites can make an important contribution to meeting an area's housing requirement. Paragraph 73(d) further supports windfall sites, whereby decisions should give great weight to the benefits of using suitable sites within existing settlements for homes. Meeting the Council's identified rural housing targets relies on such windfall sites. Nonetheless, the provision of one dwelling on the appeal site would make a very small-scale contribution, and the Council can demonstrate more than a 5 year housing land supply. There would also be very small-scale social and economic benefits from local construction, and increased local expenditure and demand for local services.
16. The Framework paragraph 73(b) supports small sites coming forward for self-build housing. The development description identifies that the dwelling would be self-build, and the appellant intends to be its initial owner and occupier for a minimum of 3 years. They have clearly had primary input into its final design and layout, suggested by the Planning Practice Guidance (PPG) as indicative of such development¹. However, this status needs to be further secured through the planning permission, in order that I can give self-build due weight in the planning balance. It is also required to comply with the absence of Biodiversity Net Gain (BNG), as allowed for in the 'Interim Guidance for Developers to Achieve Net Gain for Biodiversity through Development Supplementary Planning Document' (SPD). I address this weight in my Planning Balance.

¹ Paragraph: 038 Reference ID: 57-038-20210508; Revision date: 08 02 2021

17. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the proposal's impact on the special architectural and historic interest of listed buildings and their settings. The Framework Paragraph 212 requires great weight to be given to the conservation of designated heritage assets. The LP Policies LP63 and LP64 broadly align with this approach.
18. The site lies within the settings of two Grade II listed buildings to the north; 'Threshing Barn at Manor Farm' which is being converted to a dwelling, and the already converted '3 Storey Farm Building at Manor Farm'. They have significance as well-preserved examples of pre-1840 vernacular architecture, and their additional group value along with the Grade II listed Thorpe Manor further northwest, as being part of its manorial home farm. They are both nationally rare surviving examples of pre-Agricultural Revolution farm buildings. Thorpe Manor itself may be pre-C16 in origin, with remodelling and enlargement in the C17 and further C19 alterations. The appeal site was historically an orchard, likely associated with this farm grouping along with other land.
19. The Threshing Barn's form and construction includes the scale and style of the massive timber lintel for the cart opening, and the lack of a corresponding opposite opening. Carts could not have passed through, as was more typical with the improved farming practices developed in the later C18. The 3 Storey Farm Building was multifunctional, being a pigeon loft above a granary above stabling or livestock housing. Materials predominantly comprise coursed squared limestone rubble, and stone slate roofs.
20. The Council considers that the appeal proposal's visual impact would cause less than substantial harm to the setting of these listed buildings, albeit at the lower end of harm due to the dwelling design sitting comfortably within the plot and the agricultural setting, and the separation distances. The Council further considers this harm would be outweighed by the public benefits of the new dwelling.
21. However, despite the site's current agricultural character forming a historical link to the significance of the listed buildings, it contains negative elements which do not positively contribute to their settings. A couple of the existing chicken sheds are partially collapsed, and the southern boundary wall is dilapidated. Their condition would worsen over time. The proposed new dwelling and appropriate boundary treatment would thus be a positive benefit to the streetscene. I therefore find the appeal proposal would provide a minor positive visual impact, and thus the listed buildings' significance would be enhanced. Support would therefore be drawn from the LP Policy LP63, with no development plan conflict in this regard.
22. I also find there to be a fallback of resurrecting chicken farming, which while appropriate in terms of historic agricultural use, could introduce a plethora of buildings across the site with limited control over their appearance. There would also be no requirement to improve the site boundaries. This lends minor support in favour to the appeal proposal.

Conditions

23. I have imposed the Council's suggested conditions, subject to slight amendment to reflect the tests for conditions in the Framework paragraph 57 and the PPG. The statutory condition would limit the lifespan of the planning permission (1). Specifying approved plans would provide clarity for the terms of the permission (2).

24. For brevity and clarity I have incorporated hard and soft landscaping into a single condition, alongside details of existing and proposed site levels (3). These details are required pre-commencement as that would allow consideration against the site's current character. In combination alongside specification of external finishes (5) and boundary treatments (6), these multiple conditions are necessary in order to protect the character and amenity of the area, improve biodiversity, and ensure no undue impact on neighbouring amenity. Control over construction working hours (4) would also help protect the amenity of neighbouring residents. Provision of cycle parking (7) would help to minimise private vehicle travel, and bird and bat boxes (8) are necessary in the interests of improving biodiversity.
25. I have amended the Council's proposed self-build condition, as I find naming the appellant to be unreasonable as this would effectively be a restriction to a personal planning permission. This would be beyond the parameters sought, with no personal circumstance need put before me. It would also not be reasonable or enforceable for a condition to require the first occupants to live in the dwelling for 3 years. My alternately worded condition (9) based on the evidence before me in this instance, would ensure compliance with the operative description of development as determined, and with the SPD to ensure appropriate BNG.
26. The Council proposed a condition for a crime prevention scheme, because the LP Policies SP23(3) and LP60 require new development to create safe and secure environments that reduce the opportunities for crime, through taking into account aspects such as natural surveillance and defensible space. However, there appears nothing unusual about this proposal which would indicate a particular risk of crime, or that it has not been designed in accordance with these policies. Crime prevention measures would normally be implemented by a homeowner depending on their perceived need. The imposition of this condition would therefore be unreasonable.
27. I have not imposed the suggested condition for an electric vehicle charging point, as this is addressed by the Building Regulations. I have also not required on-site washing equipment for all vehicles, as this would be unreasonable for construction of a single dwelling in the absence of any specific issue raised in this regard.

Planning Balance

28. The Framework Paragraph 153 makes clear that substantial weight should be given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The proposal would reduce the openness of the Green Belt. It would be inappropriate development in the Green Belt, which is harmful by definition. I therefore attach substantial weight to that harm as required by the Framework paragraph 153, albeit in this instance I find the harm would be minor.
29. Against the totality of this harm, there are several benefits. I am directed by the Framework paragraph 210(a) to take account of the desirability of sustaining and enhancing the significance of heritage assets, and by Paragraph 212 to give this great weight. The slight enhancement to the settings of the two listed buildings therefore attracts great weight, and development plan support.
30. The Framework paragraph 73(d) advises giving great beneficial weight for windfall sites. I temper this weight because the appeal site is not a fully suitable site due to

its Green Belt status, and I acknowledge that its future residents would likely rely heavily on the private car to undertake short journeys. However, it would only be a single dwelling, would lie within an existing hamlet, and would not cause harm to the purposes of the Green Belt. The Framework paragraph 110 also identifies that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and there are bus stops within Thorpe Audlin and on the Doncaster Road. Overall, as a single dwelling I give minor weight to the proposal's contribution to the housing supply, and to its general economic and social benefits.

31. In the absence of a legal agreement to provide full certainty that the proposal comes forward and is maintained as a self-build plot, and in the context that no specific information on self-build demand and supply has been put before me, I attach only very limited weight to the potential benefit of the proposal providing a self-build dwelling. I attach very limited weight to the site's fallback position.
32. Overall, I find these other considerations to be cumulatively sufficient such that they amount to the very special circumstances which clearly outweigh the harm to the Green Belt and any other harm, and thus justify the proposal in this instance. It therefore follows that as the LP Policies SP3 and SP5 refer that development in the Green Belt should conform to local and national Green Belt planning policy, and the proposal would be in accordance with such national policy by virtue of having demonstrated very special circumstances, there would be no development plan conflict.

Conclusion

33. For the reasons given above, and having regard to all other matters raised, the other material considerations amounting to the very special circumstances cited in this case indicate that permission should be granted, and that the development accords with the development plan taken as a whole. I therefore allow the appeal.

L N Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following plans:
 - Site layout and Location 2307/100 Rev A
 - Proposed Site Layout 2307/110 Rev B
 - Proposed Site Footprint 2307/111 Rev C
 - Proposed Layouts 2307/112 Rev C
 - Proposed Elevations 2307/113 Rev C
3. No development shall take place until a detailed landscaping scheme including details of hard and soft landscape works and implementation programme for the development has been submitted to and approved in writing by the local planning authority. These details shall include:
 - (a) Existing and finished ground levels within the site and adjacent to the site boundaries, and details of the finished floor levels for the dwelling;
 - (b) Construction and surfacing of the driveway and vehicle parking area, including details of directing water run-off;
 - (c) Planting plans and written specifications of species, plant sizes and proposed numbers and densities;
 - (d) A landscape maintenance schedule for a minimum period of five years;

The hard and soft landscaping works shall be carried out in accordance with the approved details and the agreed implementation programme. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or shrub, or plant of the same species and size as that originally planted, shall be planted at the same place.
4. During demolition and construction works, any operation of machinery, carrying out of processes, and construction traffic entering or leaving the site, shall take place only between 0730 to 1800 on Mondays to Fridays and 0800 to 1300 on Saturdays, and shall not take place at any time on Sundays or on public and bank holidays.
5. No development above ground level shall take place until details of all materials and colour finishes to be used on the external surfaces of the dwelling have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, and maintained as such thereafter.
6. Notwithstanding condition 2, the development hereby permitted shall not be occupied until details of the boundary treatments of the site have been submitted to and approved in writing by the local planning authority, and fully implemented. The approved boundary treatments shall be retained as such thereafter.
7. The development hereby permitted shall not be occupied until a scheme for the provision of cycle parking has been submitted to and approved in writing by the local planning authority. The cycle parking shall be carried out in accordance with the approved details, and maintained as such thereafter.

8. The development hereby approved shall not be occupied until one bat box and one bird box have been fully installed as identified in Section 6.3 of the Bat Survey Report (MBE/BAT/2023/064/1, Middleton Bell Ecology, 30 June 2023). The bat and bird boxes shall be retained thereafter for the lifetime of the development.
9. The development hereby approved shall only be constructed as a self-build dwelling within the definitions of self-build and custom build housing in the Self-Build and Custom Housebuilding Act 2015 (as amended). The first occupation of this dwelling shall be by a person or persons who had a primary input into the design and layout of the dwelling, and the Council shall be notified of the persons who intend to take up this first occupation at least two months prior to first occupation. If the property is sold or leased to any other party within the 3 year period following its first occupation, then prior to the property's secondary occupation a scheme to demonstrate a minimum of 10% Biodiversity Net Gain through appropriate on-site or off-site provision, and a programme of implementation and maintenance, shall be submitted to and approved in writing by the local planning authority. The agreed Biodiversity Net Gain shall be implemented and maintained in accordance with these approved details.

END OF SCHEDULE

Appeal Decision

Site visit made on 24 April 2025

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 May 2025

Appeal Ref: APP/T2215/W/25/3359417

Bean Cottage, Shellbank Lane, Bean, Kent DA2 8AX

- 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 S Haider against the decision of Dartford Borough Council.
 - The application Ref. is DA/23/01286/FUL.
 - The development proposed is for the demolition of the existing detached dwelling and outbuildings and the erection of a replacement dwelling and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing detached dwelling and outbuildings and the erection of a replacement dwelling and associated works at Bean Cottage, Shellbank Lane, Bean, Kent DA2 8AX in accordance with the terms of the application Ref. DA/23/01286/FUL, subject to the conditions in the enclosed schedule.

Preliminary Matters

2. My attention has been drawn to a previous appeal at the site that involved a proposal for a replacement dwelling (reference APP/T2215/W/22/3306040). I shall have regard to this background when considering the merits of this scheme.
3. The application was accompanied by a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (the Planning Act). The Council has been given the opportunity comment on this document and so I have taken it into account in my decision.

Main Issues

4. The main issues are:
 - whether the proposal constitutes inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness and purposes of the Green Belt;
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. Bean Cottage is a detached dwelling with outbuildings; the property appears vacant and I saw at my site visit that the grounds are somewhat overgrown. Shellbank Lane to the front
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is lined by a number of other houses in the direction of the village, set in wider countryside of fields and woodland.

6. Paragraph 154 of the Framework states the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. Paragraph 154 (d) permits the replacement of an existing building, provided the new building is in the same use and not materially larger than the one it replaces. I consider this to be the relevant criterion in determining this appeal; paragraph 154 (g) pertains to limited infilling or complete redevelopment which is not proposed in this instance.
7. The current modest bungalow is to be replaced by a large house set over two floors; I appreciate the appellant's contention that there is extant additional floorspace and return to this below under other considerations. Taking into account the footprint and volume calculations pertaining to existing and proposed built form, the existing and proposed elevations on the submitted plans, and from what I observed on my visit, I consider that the scale and extent of the scheme would be materially greater than that of the dwelling to be replaced.
8. In addition, paragraph 143 of the Framework advocates that the Green Belt serves five purposes: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
9. Paragraph 155 then states the development of homes should not be regarded as inappropriate where (a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) there is a demonstrable unmet need for the type of development proposed; (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and (d) where applicable the development proposed meets the 'Golden Rules' requirements set out in Framework paragraphs 156-157. For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143.
10. The Council concedes in its statement that purposes (a), (b), or (d) in paragraph 143 would not be undermined in this instance. Whilst there is argument that purpose (c) would be compromised, there is no requirement to assess this criteria on grey belt grounds. I am satisfied that the site can be considered grey belt land as defined in the Framework.
11. The Council states that it can demonstrate a five-year supply of housing, and this is not disputed by the appellant. For the purposes of criterion (b) of Framework paragraph 155, there is no unmet need for the type of development proposed.
12. The appeal plot already accommodates an existing residential use. The scheme only proposes a one-for-one replacement, and I am therefore mindful that vehicular movements generated by the new development would not significantly exceed those which might already occur. As such, I am drawn to conclude that the proposal would be in a sustainable location as required by paragraph 155 (c) of the Framework.
13. The appeal scheme is not major development, and therefore the requirement of criterion (d) of Framework paragraph 155 to satisfy the 'Golden Rules' is not applicable in this instance.
14. The proposal would therefore fail criteria (b) of paragraph 155 of the Framework. Taken together with my findings under paragraph 154, the scheme would constitute inappropriate

development within the Green Belt, contrary to Policy M12 of the Dartford Local Plan to 2037 (LP) and paragraph 154 of the Framework.

Openness

15. Openness can be perceived spatially and visually. The new house would provide a quantum of built development that does not currently exist on site, which would have a substantial adverse impact in spatial terms.
16. Visually, the new proposal would be seen from the public highway, despite the presence of existing vegetation and boundary treatments adjacent to Shellbank Lane. Its mass, bulk and height would also restrict appreciation of openness across the landscape, especially at first floor level. Overall, I find there would be considerable harm on visual grounds.

Other considerations

17. The previous Inspector's decision acknowledged that the approval of various applications under permitted development (PD) represents a potential fallback position, which should be compared with the appeal proposal; I agree that there is the theoretical possibility that this scheme could be implemented in full. I have been provided with the plans relating to the previous appeal, together with drawings that broadly illustrate the extent of the fallback position. Moreover, the appellant refers to an obligation under Section 106 of the Planning Act to prevent the implementation of the outbuilding granted under Council reference DA/21/01484/LDC, which would otherwise result in further built form on the land.
18. It is clear that the proposal has been repositioned and considerably reduced in scale in order to address the Inspector's concerns. The resultant dwelling would be located closer to the siting of the existing bungalow, whilst the development would not necessitate extensive changes to landform or the construction of retaining walls, areas of hardstanding and other built features, which my colleague judged would have an urbanising effect across the site.
19. The submitted calculations indicate that the cumulative floorspace and volume of the PD scheme would significantly exceed the new dwelling, inevitably causing adverse spatial and visual impacts to Green Belt openness. The largest section of the main dwelling would be substantially higher than the appeal house, and whilst certain elements would be single storey in nature, the outbuilding would be set back onto an elevated, more prominent, position within the site, resulting in extensive encroachment into areas of the site which are presently undeveloped.
20. Taken in the round, I am satisfied that development would be acceptably consolidated into one part of the land, and its overall effect on the surrounds would be less than that which could otherwise be constructed.
21. I consider that the measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the tests for planning obligations set out in the Framework and I have taken account of them in reaching my decision.

Conditions

22. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the Framework. I have altered some of the Council's suggested conditions for clarity and conciseness. In addition to the standard implementation condition, the approved plans are listed for certainty. Conditions requiring external materials, hard and soft landscaping details and site contours/levels to be submitted would provide for a satisfactory appearance.

23. A condition relating to car parking would ensure the provision and retention of space for turning and parking on site, and one requiring complete demolition of existing buildings is necessary as per the description of development and the appellant's intentions. Conditions in respect of front boundary treatment and visibility splay information, together with a restriction on further boundary treatments, are imposed in the interests of visual amenity and highway safety.
24. A condition to limit water consumption rates for the dwelling would be necessary to protect the environment and ensure the efficient use of resources. Given the Green Belt considerations outlined previously, removing Classes A, B and E permitted development rights is both reasonable and necessary to protect openness. A condition in relation to archaeology would ensure that features of interest are properly examined and recorded.
25. Works in accordance with ecological recommendations and mitigation measures, and further enhancements would prevent adverse impacts upon protected species and encourage biodiversity; this can include details in respect of external lighting, bat and bird boxes, insect hotels and so on. A management plan would minimise the effect of construction on local amenity. Accessibility to and within the dwelling is a matter covered by the Building Regulations and so a condition in this regard is unnecessary.

Conclusion

26. The proposal would be inappropriate development, which by definition is harmful to the Green Belt and should not be approved except in very special circumstances. There would be a detrimental impact upon openness. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
27. I consider that the other considerations do clearly outweigh the harm, and the very special circumstances necessary to justify the development do exist. I conclude that the proposal would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this.
28. Having regard to the above and all other issues advanced, the appeal is allowed.

C Hall

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: 3914-01, 3914-03A, 3914-04A, 3914-05A, 3914-06, 3914-07B, 3914-08A, 3914-09, 3914-10, 3914-11B.

- 3) No development above the damp proof course shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 4) Prior to the first occupation of the new dwelling, a scheme of hard and soft landscaping shall submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

The approved hard landscaping scheme shall be implemented prior to the occupation of the development hereby approved and maintained thereafter. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 5) Before commencement of the development hereby approved (apart from demolition), details of existing and proposed levels of the land and buildings, shall be submitted to and approved by the Local Planning Authority. The details shall include a contoured site plan. Development shall be carried out in accordance with the approved details.
- 6) The development shall not be occupied until car parking spaces have been laid out within the site in accordance with the approved plan 3914-03A. The parking area shall be used and permanently retained exclusively for its designated purpose.
- 7) Prior to occupation of the dwelling hereby approved the existing dwelling and outbuildings on site as identified on drawing number 02 (existing block plan) and 03 (existing ground floor plan) and any new buildings or structures that are on site which may have been erected prior to the implementation of this planning permission, shall be demolished in their entirety and all materials removed from site to the satisfaction of the Local Planning Authority.
- 8) Prior to occupation of the dwelling hereby approved, details of the front boundary treatment, including any gates or fencing, facing Shellbank Lane and appropriate resulting visibility splay details for the access way onto Shellbank Lane shall be provided to and approved in writing by the Local Planning Authority. The approved works shall be fully installed prior to first occupation of the new dwelling hereby approved and the visibility splays maintained thereafter.
- 9) Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and e-enacting that Order) no erection of fences, walls, gates or other means of enclosure shall take place on site within 3 metres of the access to the highway (Shellbank Lane) without the prior written permission of the Local Planning Authority.
- 10) The dwelling hereby approved shall be designed such that internal water usage shall not exceed 110 litres per person per day.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B and E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 12) Prior to the commencement of development the applicant, or their agents or successors in title, will secure:

- i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority;
 - ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority; and
 - iii) a programme of post excavation assessment and publication.
- 13) No development shall commence until an Ecological Enhancement Management Plan has been submitted to and approved in writing by the Local Planning Authority. The statement shall be based on the recommendations provided on 06/03/2024 by the Kent County Council Ecological Advice Service, and shall provide detailed mitigation measures and ecological enhancements to be carried on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details and retained thereafter.
- 14) Prior to the commencement of the development, including demolition, details of a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following details: the routing of construction and delivery vehicles to and from the site; parking and turning areas for construction and delivery vehicles, plant, machinery and site personnel; timing of deliveries; provision of wheel washing facilities; details of proposed working and delivery hours; a site waste management plan; and details of how noise, vibration and dust shall be controlled during the construction period. The approved CEMP shall be adhered to throughout the construction period for the development.



Appeal Decision

Site visit made on 10 June 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2025

Appeal Ref: APP/K0425/W/24/3356793

Coppice, Frieth Road, Marlow SL7 2JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Matthew Evans against the decision of Buckinghamshire Council.
 - The application Ref is 23/08004/FUL.
 - The development proposed is demolition of existing buildings and erection of replacement dwellinghouse, including landscaping and all other associated works.
-

Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing buildings and erection of replacement dwellinghouse, including landscaping and all other associated works at Coppice, Frieth Road, Marlow SL7 2JQ, in accordance with the terms of the application, Ref 23/08004/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Mr Matthew Evans against the decision of Buckinghamshire Council. This application will be the subject of a separate decision.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - whether, if the development is inappropriate, any harm by reasons of inappropriateness would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal; and
 - the effect of the proposal on biodiversity, particularly bats.

Reasons

Whether inappropriate development

4. The appeal site comprises an agricultural storage building, a stable building, and the associated access and hard standing. The proposal is to demolish the existing buildings and replace them with a new dwelling. The appeal site lies within the Green Belt.

5. Paragraph 154 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent the replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces (154(d)), or they represent partial or complete redevelopment of previously developed land (PDL) which would not cause substantial harm to the openness of the Green Belt (154(g)).
6. Policy DM42 of the Wycombe District Local Plan, August 2019 (the LP) is generally consistent with the Framework in providing exceptions to inappropriate development in the Green Belt. The exceptions include, amongst other matters, replacement, or extension, of dwellings. However, the appeal before me is not for a replacement of an existing dwelling. Furthermore, Policy DM42 does not include either of the exceptions in paragraph 154, noted above. On this main issue I have, therefore, considered the appeal against the Framework.
7. Although I saw evidence that the first floor of the storage building has been used as a workshop, I do not have compelling evidence that the use of the whole of both buildings was either a lawful commercial use or ancillary to the dwelling. Unlike other buildings within the same ownership, where a certificate of lawfulness has confirmed that the use was ancillary to the dwelling. The existing buildings on the appeal site have been used for storage for a number of years. However, I have no compelling evidence that the storage use was not agricultural, even if the wider site is no longer in a commercial agricultural use. There is insufficient evidence that the buildings have been demonstrably used by Coppice for ancillary residential purposes for ten years. The use of the proposed development, as residential, would not be the same as the previous use. The appeal would, therefore, not fall within the exception under 154(d) of the Framework.
8. Annex 2 of the Framework sets out the definition of previously developed land as land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land. Previously developed land excludes, amongst other matters: land that is or was last occupied by agricultural or forestry buildings. Therefore, the agricultural use of the buildings would also mean that they would not constitute previously developed land and the proposal would, therefore, also fail to comply with the exception set out in 154(g) of the Framework.
9. For the above reasons, the proposed new dwelling would be inappropriate development in the Green Belt, would conflict with DM42 of the LP and would not comply with any of the exceptions set out in paragraph 154 of the Framework.

Other considerations

10. The appeal site has an extant planning permission for extension and conversion of the existing buildings to form one dwelling. As a conversion scheme it would not constitute inappropriate development in the Green Belt. Although the appellant has not yet applied to discharge any of the conditions on that consent, this is not an indication that they would not be likely to implement the permission.
11. Moreover, the appellant's comments in the submitted Planning Statement, relating to why a new build dwelling would be visually and environmentally beneficial, are putting forward an argument for a new dwelling. Having regard to the caselaw

quoted by the appellant, there does not have to be documented evidence that the implementation would proceed, just a greater than theoretical possibility that the development permitted would take place. The appellant's statements are not clear evidence that they do not intend to proceed should the appeal before me fail. In my judgement the previous permission represents a valid and realistic fallback position, and the appellant would be likely to implement the works if the appeal before me was dismissed.

12. The appeal scheme would have a lower height than the fallback position and would include a hipped roof, which would also reduce the overall massing of the building. The appeal proposal would be of a similar volume to the fallback position and, albeit providing one building of a larger footprint than the footprint of either of the existing buildings, would reduce the overall spread of the buildings across the site.
13. The existing landscaping and trees would minimise the effect of the proposal on the visual aspect of openness. The new building, by being spread over a lesser area and of a lower height, would have less of an effect on the spatial aspect of openness than the approved scheme. The appeal proposal which is designed to respect other dwellings in the immediate area, the dwelling at Coppice, and the agricultural history of the site, therefore, represents betterment over the fallback position. The existence of the extant permission is a significant material consideration to which I give significant weight.

Green Belt Balance

14. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the proposal would comprise inappropriate development in the Green Belt. Substantial weight is given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt, and any other harms, are clearly outweighed by other considerations.
15. The fallback is a significant material consideration, and, for the reasons detailed, I find that the appeal proposal before me would be less harmful than the fallback position.
16. For the above reasons I find that the fallback position represents other considerations that clearly outweigh the harm that I have identified to the Green Belt. Consequently, there are very special circumstances that justify the development.

Effect on biodiversity

17. The submitted Bat Report¹ identifies the presence of night roosts, day roosts and feeding perches of several species of bat in the existing buildings. As the buildings would be demolished the proposal would adversely affect a European Protected Species.
18. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) requires the competent authority to have regard to the requirements of the associated Directive so far as it may be affected by the exercise of its functions. This includes any proposal that might lead to the

¹ Ecologybydesign Bat Report, dated March 2024

deterioration or destruction of the breeding sites and resting places of European Protected Species (EPS) under Article 12(1). This includes bats and the places that they roost.

19. The judgment of *Morgue v Hampshire County Council [2011] UKSC2* established that planning permission should ordinarily be granted save only in cases where a proposed development would either be likely to offend Article 12(1) or unlikely to be licensed pursuant to the derogation powers. The duty to have regard to the requirements of the Directive, as set out in Regulation 9(1), remains but the judgment established that there is no need to carry out a detailed assessment as to whether there would be a breach of Article 12(1) or whether derogation from that article would be permitted.
20. Nevertheless, I am still required to consider whether or not the proposed development is likely to be licensed and to ensure that any potential harm to an EPS would be adequately mitigated.
21. The appeal proposal is for a new dwelling and would help to boost the supply of housing in an area where the Council's position on the appeal was a substantial shortfall in the five year housing land supply. The appeal proposal would have environmental benefits due to its lesser effect on the openness of the Green Belt than the fallback position. It would also have better environmental performance. I find that these are reasons of overriding public interest.
22. The alternative of converting the buildings would have the same effect on the bat habitat and, given the extant consent, the "do nothing" position is not a realistic alternative.
23. Bearing in mind the details in the Bat Report I am satisfied that the mitigation hierarchy has been followed and that mitigation measures are proposed that would ensure no significant harm to the long-term conservation status of the bat species that are present. I am also satisfied that conditions would provide the necessary detail and certainty to secure the required mitigation.
24. For the above reasons, I find that the appeal proposal, subject to conditions, would not adversely affect biodiversity, particularly bats. Consequently, the proposal would not conflict with policy DM13 of the Wycombe District Council Adopted Delivery and Site Allocation Plan for Town Centres and Managing Development, July 2013, which gives the highest level of protection to sites and species of international and national importance and only permits development which would harm protected species where there is no suitable alternative site, where the impact can be mitigated or compensated, and where it has been clearly demonstrated that the benefits outweigh the harm.

Other Matters

25. The appeal site also lies within the Chilterns National Landscape (the NL) (formerly the Area of Outstanding Natural Beauty). In determining this appeal, I am required to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
26. The special qualities of the NL include, amongst other matters, the steep chalk escarpment, and chalk streams, broadleaved woodlands, tranquil valleys, and

villages built of brick and flint. It has areas of tranquillity and visibly sensitive skylines.

27. There are already buildings on the appeal site, and it is well screened from any public vantage points by existing woodland and landscaping. The existing buildings make a neutral contribution to the special qualities and the beauty of the NL. The woodland makes a positive contribution. Subject to the retention of the trees, the proposed new building, albeit a different size and design, would not have a greater effect than the existing buildings and would, therefore, conserve the special qualities and beauty of the NL. The Council did not raise any concerns with regard to this matter and I have no reason to disagree.

Conditions

28. The Council has provided a list of conditions that it considers would be appropriate and the appellant has had an opportunity to comment on this. I have considered the Framework and the Planning Practice Guidance, and I have undertaken some minor editing and rationalisation, in the interests of precision and clarity.
29. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
30. The appeal has been submitted with a BS5837:2012 Tree Survey and Arboricultural Impact Assessment and a tree constraints plan. However, the submitted information does not provide a plan indicating the protective fencing to ensure the trees are not damaged during construction. Neither does it provide details of the services and utilities or any areas for “no-dig” construction methods. For these reasons, I find it is necessary to impose a condition to require this information to be submitted to the Council prior to the commencement of any development, including site clearance works.
31. It is also necessary and reasonable to require a plan to be submitted to detail the position of the ecological enhancements. However, this can be prior to any work above slab level. It is also reasonable to require the development to be implemented in accordance with the submitted Bat Report, including requiring the development to apply for a European Protected Species Licence.
32. In the interests of the character and appearance of the area, including the NL and the Green Belt, I have imposed a condition to require the details of the materials to be used in the construction of the dwelling to be submitted. So that the development is provided with appropriate parking and manoeuvring areas, and in the interest of highway safety, I have imposed a condition to require that such space be provided in accordance with the approved details and retained as such.
33. To ensure that the development does not increase flood risk on the site, or elsewhere, I have imposed a condition to require the development to be provided with a drainage system that either re-uses surface water or disposes of it through infiltration methods. If these methods are not achievable the condition allows for an alternative scheme to be submitted. To reduce demand on water, given the District is in an area of water stress, and to comply with Policy DM41 of the LP, it is reasonable to require the development to meet the higher standard of water efficiency, as a minimum.

34. The Council also suggested a condition to remove permitted development rights, in the interests of the character and amenity of the locality, which I have taken to refer to the site being within the NL and Green Belt. The Planning Practice Guidance advises that conditions should not be used to restrict such rights unless there is clear justification to do so. Such rights have not been removed in the Town and Country Planning (General Permitted Development) (England) Order, 2015, for land in the Green Belt or within the NL, albeit there are limited rights in the NL. Even though the condition has been agreed by the appellant, there is no compelling evidence that alterations and extensions permitted under the rights would harm the NL or the Green Belt. I, therefore, find that there is no compelling reason to remove the permitted development rights from the scheme.

Conclusion

35. The appeal proposal would constitute inappropriate development in the Green Belt. However, the appeal proposal would provide betterment over the fallback position of the extant consent to convert and extend the buildings. I have given this benefit significant weight and find that this comprises other considerations that would clearly outweigh the harm to the Green Belt. Overall, the appeal complies with the development plan and the Framework when considered as a whole and should, therefore, be allowed, subject to the conditions set out below.

K Townend

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing no's 23 CBFR SL01, 23 CBFR PE01 and 23 CBFR SP01.
- 3) Prior to the commencement of development, including any site clearance works, a revised Arboricultural Method Statement (AMS), including a Tree Protection Plan (TPP), in accordance with the British Standard 5837:2012 Trees in relation to construction – Recommendations shall be submitted to and approved in writing by the Local Planning Authority. The AMS shall include:
 - a) Detailed plans showing the location of the protective fencing including any additional ground protection whether temporary or permanent;
 - b) Details as to the location of proposed and existing services and utilities including drainage, where these are close to Root Protection Areas (RPAs);
 - c) Details as to the method, specification, and materials to be used for any "no dig" surfacing, and the area within the development to which it applies;
 - d) All phases and timing of the project in relation to arboricultural matters and details of supervision by a qualified arboriculturist.The development shall thereafter be carried out strictly in accordance with the AMS.
- 4) No development shall take place above slab level until an Ecological Enhancement Plan with details of native trees and hedgerows to be planted, 1 integrated swift box, 1 bee brick, and 'Hedgehog highways', have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved biodiversity features, which shall have been installed prior to the first occupation of the development, and shall thereafter be retained.
- 5) Prior to their first use the details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) The development hereby permitted shall not be occupied until the vehicle parking and manoeuvring spaces have been provided in accordance with the approved drawings. Thereafter those spaces shall be retained for the parking and manoeuvring of vehicles only.
- 7) The development shall be implemented in accordance with the agreed mitigation and compensation measures for roosting bats as detailed within Section 5 and Appendix 5 of the Bat Report (Ecology by Design, August 2024), including the requirement for an application for a European Protected Species (EPS) licence. A written statement from the ecologist acting for the developer testifying to the plan having been implemented correctly shall be submitted for approval by the Local Planning Authority.

- 8) The development hereby approved shall store all additional surface water runoff within the site and either reuse it or release it into the ground through infiltration. Where the additional runoff is not to be re-used, or on-site infiltration methods are not proposed, details of the surface water drainage scheme, to ensure that the risk of flooding elsewhere will not be increased, shall be submitted to, and approved in writing by the local planning authority prior to any development taking place. The approved details shall thereafter be implemented prior to the development being brought into use and thereafter managed and maintained for the lifetime of the development.
- 9) The dwelling hereby approved shall be constructed to meet, as a minimum, the higher water efficiency standard of 110 litres per person per day using the fittings approach as set out in the 'Housing: optional technical standards' guidance and prescribed by Regulation 36(2)(b) of the Building Regulations 2010 (or any guidance or change to the Building regulations that may supersede these, that set out the requirements for water efficiency).

*** END OF CONDITIONS ***

Appeal Decision

Hearing Held on 20 April 2021

Site visit made on 21 April 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal Ref: APP/Y3940/W/20/3261201

Little Kent End, Ashton Keynes, Swindon SN6 6PF

- 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 Mrs Selene Cripps against the decision of Wiltshire Council.
 - The application Ref 20/03599/FUL, dated 29 April 2020, was refused by notice dated 3 July 2020.
 - The development proposed is the erection of a dwellinghouse and garage.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwellinghouse and garage at Little Kent End, Ashton Keynes, Swindon SN6 6PF in accordance with the terms of the application, Ref 20/03599/FUL, dated 29 April 2020, subject to the conditions in the attached schedule.

Procedural Matters

2. It was clarified at the hearing that the reference to policy CSP3 of the Ashton Keynes Neighbourhood Plan 2015-2026, made May 2017 (NP) in the refusal reason on the Council's decision notice should have been policy HSP3.

Main Issues

3. The main issues are:
 - Whether the site provides a suitable location for residential development having regard to local planning policies and accessibility;
 - The effect of the proposal on the character and appearance of the area, and;
 - If harm arises, whether this is outweighed by other material considerations.

Reasons

Location and accessibility

4. Core Policies 1 and 2 (CP1 and CP2) of the Wiltshire Core Strategy, January 2015 (CS) respectively set out a settlement and delivery strategy for development in the county. Together they seek to direct residential development to settlements at a scale commensurate with their position in the hierarchy described in the CS. Large and small villages comprise the lowest

rung of the hierarchy where only limited development is supported by CP1. CP2 of the CS stipulates that residential development is not supported outside of the defined limits of development save for express exceptions in the development plan. It is not part of the appellant's case that the proposal would meet any of the express exceptions for dwellings outside of the defined limits of development in either the CS or saved policy H4 of the North Wiltshire Local Plan 2011, June 2006 (NWLP).

5. Core Policies 60 and 61 of the CS underline the spatial strategy by requiring new development to be in accessible locations in order to contribute towards reducing the need to travel, particularly by private car. Policy HSP3 of the NP is consistent with the settlement strategy in the CS in that, subject to criteria, it supports infill and windfall residential development within the settlement boundary of Ashton Keynes.
6. Taken in combination these policies broadly align with the approach to rural housing in paragraphs 77-79 of the National Planning Policy Framework (the Framework) which, amongst other things, require planning policies to identify opportunities for villages to grow and thrive whilst generally avoiding the development of isolated homes in the countryside. However, the Framework does not expressly advocate the use of settlement boundaries.
7. The appeal site lies at the periphery of Ashton Keynes, which is identified as a large village within the Malmesbury Community Area in Core Policy 13 (CP13) of the CS. Large villages are defined in the CS as settlements with a limited range of employment, services and facilities and have defined settlement boundaries. Until the beginning of last year, the appeal site lay within the settlement boundary for the village. However, it was removed following a revision to the settlement boundary as part of the Wiltshire Housing Site Allocations Plan, Adopted February 2020 (WHSAP).
8. The appellant is critical of how the Council carried out its methodology as part of the WHSAP. In addition, as the appellant was unaware of the revision, she did not make representations as part of the examination of the WHSAP. However, the scope of my determination does not extend to reviewing the procedures or outcomes of the now adopted WHSAP. Despite having misgivings regarding the process and outcome, the appellant accepts that, as a matter of fact, the appeal site now lies outside of the revised settlement boundary for Ashton Keynes. Moreover, it forms part of the development plan against which the scheme must be assessed¹.
9. The Council clarified that the main reason for the appeal site having been excluded from the defined settlement was because it was considered, together with other land nearby, necessary to remove employment development and isolated development at the edge of the large village. Accordingly, this relied upon an assessment of the character² of the land being more related to the edge of the settlement and to the open countryside beyond. I shall consider the character of the appeal site later in my decision. However, the reasoning given for the amended settlement boundary in the WHSAP did not include any reference to a material change in the accessibility of the site.

¹ Paragraph 6.12, Appellant's Statement of Case

² Paragraph 8.11, Council's Statement of Case

10. Paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. The CS describes the county as predominantly rural³. Neither CP60 nor CP61 of the CS in referring to accessible sites rely on settlement boundaries as the determinative factor. Supporting text at paragraph 6.155 explains that planning developments in locations that are accessible means that communities can access their needs (e.g. shops, schools and employment) easily and without always needing a car.
11. The local facilities at Ashton Keynes include a primary school, public house, village shop, church, some health services and recreational facilities. There is also a village hall where various community groups meet, including a pre-school. The parties generally agreed that these facilities were within reasonable walking and cycling distance from the appeal site, which is consistent with my observations. Furthermore, there are bus services that link the village to Malmesbury, although they could not be described as frequent.
12. As such, future occupants of the proposed dwelling would not always need a car to access some local shopping, recreational, social and education activities. Even so, they would be likely to rely on the private car for employment, shopping, entertainment, health and education activities located further afield. Nevertheless, cognisant of the rural context, the site would allow a genuine choice of travel mode to the limited range of local facilities in the village. Moreover, the site would perform no worse in accessibility terms than adjacent sites within the settlement boundary. Overall, the site would be reasonably accessible.
13. My attention is drawn to an appeal decision⁴ for a dwelling at 15, The Derry, Ashton Keynes in which the Inspector concluded that the site was not sustainably located in the wider context of Wiltshire's settlement strategy. However, unlike the appeal site, that decision related to a site in an enclave of development well removed from the main built-up area of Ashton Keynes, which the Inspector makes reference to in paragraph 6. In addition, the wider context of Wiltshire's settlement strategy did not, in that case, include the site in question having previously been included within the settlement boundary for the village. As such, it is of limited weight to the case before me, which, in any event I have determined on its own merits.
14. Drawing these factors together, I find that as the proposal would lie outside of the settlement boundary for the village it would conflict with the settlement and delivery strategy for the county set out in CP1 and 2 of the CS, as well as the strategy for the Malmesbury Community Area in CP13 of the CS. Although policy HSP3 of the NP does not expressly refer to development outside of the settlement boundary, its positive wording works with the wider strategic approach to housing delivery set out in the CS. Therefore, whilst the appeal proposal would not directly conflict with the wording of policy HSP3, read as a component of the wider housing strategy, it would conflict with the thrust of the NP. Furthermore, as it would fall outside of the exceptions permitted by saved policy H4 of the NWLP, it would be contrary to that policy.

³ Paragraph 4.10 of the CS

⁴ Appeal reference, APP/Y3940/W/17/3175380, Appendix 3, Council's Statement of Case

15. In addition, notwithstanding the reasonable degree of accessibility of the site, there would be limited conflict with policies CP60 and 61 of the CS which seek to reduce the need to travel, particularly by car.
16. I shall consider the weight that should be attributed to the conflict with the development plan policies I have identified as part of the overall planning balance.

Character and appearance

17. The appeal site is in a peripheral location on the north east side of Ashton Keynes and within the Ashton Keynes Conservation Area (CA). The CA covers the central part of Ashton Keynes as well as some outlying spurs of development and surrounding countryside. Its significance primarily lies in the way the mix of buildings, spaces, watercourses and countryside reflect the evolution of the village over time. I am mindful of my statutory duty⁵ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
18. Residential development at Kent End comprises a mix of pre-1900 dwellings with some limited modern infill. Many of these are traditional two storey stone cottages but there is some diversity in the architectural styles and materials in evidence. The settlement pattern is generally loose knit, irregular and with predominantly detached dwellings set within generous gardens. The prevalence of mature trees adds significantly to the verdant appearance of the area. In combination with the winding narrow lanes and proximity to fields and lakes beyond, the village has an attractive, organic rural character and appearance.
19. Until recently, the appeal site formed part of the domestic garden to 4 Little Kent End albeit in a discrete enclosed rectangular parcel separated from the main dwelling by a footpath. It is generally flat, with grass, mature trees, shrubs, raised planting beds and limited built form comprising domestic outbuildings. The most striking characteristic of the site are two tall mature lime trees, which due to their significant height are visually prominent in the local landscape. Consequently, the site respects and contributes positively to the attractive rural verdant character of the village and CA.
20. The proposal would introduce a new detached dwelling in a combination of single and two storeys. The design would employ a flat, sedum covered roof and vertical timber cladding walls. The combination of rounded corners and flat roof would be reminiscent of some 1930's architecture but the choice of materials would result in a distinctive attractive contemporary dwelling. On that basis, the building would depart from the more traditional built form nearby. However, there are factors at the appeal site which would mean the development would nevertheless remain sympathetic to the surrounding built environment and landscape setting.
21. Firstly, the arboricultural impact assessment⁶ provided shows that the two lime trees would be successfully retained as part of the development, thereby preserving their positive contribution to the CA and local landscape. In addition, the broadly central siting of the dwelling within a generous plot, away from the boundaries of the site would allow for the existing screening and

⁵ Section 72, Planning (Listed Buildings and Conservation Areas) Act 1990

⁶ Prepared by S J Stephens Associates, dated 16 April 2020

planting along the boundaries to be retained and/or supplemented. As a result, the verdant and contained appearance of the site would be preserved.

22. Furthermore, the muted tones and natural appearance of the sedum roof and timber cladding in combination with the unobtrusive siting and modest roof height would mean that the additional built form would be assimilated into the verdant surroundings. This would allow the lime trees to take precedence even when they were not in leaf. Although some glimpses of the dwelling would be possible from nearby footpaths, it would not be obvious or intrusive in the overall impression of the area, rather its distinctive attractive form, if spotted would add interest, thereby enhancing the CA. My view is reinforced by the supportive comments of the Council's Senior Conservation Officer⁷, which given her expertise attract considerable weight.
23. It follows that the balancing exercise necessary when a development proposal would lead to less than substantial harm to the significance of a heritage asset in paragraph 196 of the Framework, does not apply in this case.
24. The Council raise concerns that the additional built form would encroach into the countryside and would harmfully urbanise the landscape setting of the village. However, my observations were that the appeal site has the appearance of a domestic garden, and therefore, relates to and reads as part of the village. It possesses characteristics more in common with the nearby loose knit residential development rather than open agricultural fields, lakes or woodland. Given the sensitive nature of the proposal outlined above, it would avoid an overtly urban or suburban appearance. Furthermore, its limited scale and proximity to other buildings would prevent it from appearing to extend the settlement overall. Taking these factors together, the development would avoid appearing as harmful encroachment into the countryside.
25. Accordingly, I find that the proposal would not result in harm to the character and appearance of the area and moreover, would preserve and enhance the character and appearance of the CA. Therefore, in this regard I find no conflict with the settlement and delivery strategy for the county set out in CP1 and 2 of the CS, nor saved policy H4 of the NWLP as these policies do not expressly refer to matters of character or design relevant to the circumstances of the appeal proposal. It would comply with CP13 of the CS which sets out the strategy for the Malmesbury Community Area, which amongst other things, refers to future development in the community area attaining a high quality design. Furthermore, the character and appearance of the proposal would not conflict with the reference in policy HSP3 of the NP to additional housing development being of a scale and form in keeping with surrounding properties.

Other Matters

26. Representations received raise concerns regarding harm to the safety of users of the footpath and highway. Nevertheless, one dwelling is likely to generate a limited amount of additional traffic over the use of the existing access, and the associated construction period and traffic would be unlikely to be extensive. The alignment and narrow width of the lane leading to the vehicular access would generally result in slow moving vehicles. Furthermore, it would affect a relatively short section of the footpath where there are also other domestic and farm accesses present. As such, walkers would be aware of the potential

⁷ Comments dated 13 May 2020

presence of vehicles accessing the premises nearby. Overall, the proposal would not materially alter the degree of safety or experience for users of this part of the footpath. At the hearing there was reference to a planning decision⁸ made for a dwelling in the grounds of Doveswell where the Highway Authority had objected. Nevertheless, that decision was made a considerable time ago and would have related to a longer stretch of public footpath. No substantive technical evidence has been provided to undermine the view of the Highway Authority who raise no objection to the appeal proposal subject to a condition to require a construction management statement.

27. Reference is made to increased pressure to fell trees on the site arising from the development. However, the arboricultural information before me demonstrates that the significant trees within the site will be protected and retained. The principal elevation of the dwelling would address the lime trees, with a usable section of garden contained in the more open northern part of the site. This arrangement would minimise the degree of overshadowing from the trees to the area of garden that is likely to be most intensively used and consequently, would reduce pressure to remove or reduce the lime trees in the future. In any event, since the site is within the CA, notification must be given to the Council of any intended tree surgery works, to allow them the option of imposing a Tree Preservation Order.
28. At my site visit I was able to observe the relationship of the appeal site with The Willows. The part of the proposed dwelling that would be closest to the boundary with that property would be single storey. Moreover, the degree of separation and configuration of the proposed building from the house, patio and annexe at The Willows would maintain an acceptable degree of privacy and outlook for the respective residents. In reaching my view I have given particular consideration to the first floor window serving bedroom 2 that would face broadly westwards. This would be a considerable distance from the boundary and when the position of the wall of the study/staircase structure is also taken into account, this would limit the range of views. As such, the development would avoid intrusive views towards The Willows.

Planning balance

29. The Council's Housing Land Supply Statement published in December 2020 states that it can demonstrate 4.56 years' supply of deliverable housing sites. In these circumstances footnote 7 of paragraph 11 of the Framework deems that the policies which are most important for determining the application are out-of-date. There is nothing otherwise before me to show that the Framework policies in footnote 6 provide a clear reason for refusing the proposal. Consequently, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
30. The main benefit of the proposal would be the provision of an additional dwelling towards the overall supply where there is unmet need. The Council highlights that Wiltshire is a large county and the Malmesbury Community Area has been delivering well, in addition to which a major residential development has been recently permitted outside of the settlement boundary for Malmesbury. Moreover, the NP has planned positively for the local need in the

⁸ Reference N97/2430/F

village. In any event, they state that the overall housing supply figure is not significantly below five years.

31. Nevertheless, the appeal site lies within the North & West Housing Market Area⁹ within the county. Of the three Housing Market Areas (HMAs) within Wiltshire it has the lowest five year housing land supply position¹⁰. Paragraph 4.33 of the CS states that the HMAs are the appropriate scale for disaggregation across Wiltshire, as they define areas within which the majority of household moves take place and that is it against them that housing supply will be assessed. Whilst the proposal would not make a significant difference to overall supply, nor represent strategic development, recognition must also be given to the important contribution small sites can make to meeting housing requirements highlighted in paragraph 68 of the Framework.
32. Furthermore, there would be economic benefits associated with the construction of the proposal as well as the activity of future occupants. Even so, the extent of benefits accruing from a single dwelling would be proportionate to its modest scale. Therefore, overall, I attribute moderate weight to the benefits of the proposal.
33. The appeal site is closely related to the village in physical terms and there would be some choice of modes of travel for future residents in accessing the facilities in the settlement, albeit their range is limited. As such there would be limited conflict with policies CP60 and 61 of the CS. Therefore, notwithstanding that it would lie outside of the settlement boundary for the village, largely due to its limited scale and proximate location, the proposal would not seriously undermine the strategic objectives of CP1 and 2 of the CS.
34. For similar reasons, it would comply with paragraph 78 of the Framework which states that rural housing should be located where it will enhance or maintain the vitality of rural communities.
35. The Council raises concerns that development at the appeal site would set an undesirable precedent for development outside the village boundary that could cumulatively undermine the spatial strategy and harm the plan-led system. It lists development proposals that it has refused in relation to two sites in 2018¹¹. However, planning applications must be determined on their own merits. Moreover, the circumstances of this case, involving a single dwelling on a site comprising garden land and bordered by a settlement boundary on three sides seems, based on the examples put forward, unlikely to recur frequently. On that basis, the concerns of a wider precedent being established attract little weight.
36. Taking these factors together, the conflict with the development plan taken as a whole attracts moderate weight, making the issues in this case finely balanced. Hence, it differs from the balance of issues in the recent appeal decision¹² to which I am referred. Unlike the case before me, it was found in that case that the development would have caused unacceptable harm to the character and appearance of the area, which in turn affected the overall planning balance.

⁹ Figure 1, Housing Land Supply Statement, Published December 2020

¹⁰ Table 3b: Housing Land Supply calculation by HMA, Housing Land Supply Statement, Published December 2020, 4.29 years

¹¹ Paragraph 7.23, Council's Statement of Case

¹² Reference APP/Y3940/W/20/3261340, Appendix 7, Council's Statement of Case

37. I have had regard to paragraph 14 of the Framework which states that in situations where paragraph 11 d) applies, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits provided all the specific criteria listed apply. However, this does not apply where the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made. As the NP was made in May 2017 it would not fulfil all the criteria specified in paragraph 14. Consequently, this has not affected the overall planning balance.
38. Therefore, in this case, I find that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It follows that the presumption in favour of sustainable development applies in this case and furthermore, represents a material consideration of considerable weight.
39. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹³. The location of the proposed dwelling outside of the settlement boundary would conflict with the spatial strategy for residential development in the development plan. Balanced against that is the presumption in favour of sustainable development. In this instance, this represents a material consideration of sufficient weight to justify that the decision should be taken otherwise than in accordance with the development plan.

Conditions

40. The three-year period in which the planning permission may be implemented is a statutory requirement. I also consider that it is necessary to specify the plans that are approved, and that the development shall be undertaken in accordance with these, as this provides certainty.
41. To ensure the quality of the appearance of the building a condition is imposed to require the external materials to be agreed, as only generic references are included with the application.
42. It is important to ensure the protection of the trees to be retained on the site during the construction process. Therefore, a condition to require the development to be carried out in accordance with the arboricultural impact assessment is imposed.
43. The parties concurred that a pre-commencement condition to agree the proposed site and floor slab levels was necessary. Although I observed the site to be reasonably flat, I accept that it is important to establish appropriate floor slab levels primarily to ensure that the final details would not undermine the tree protection measures. As such, it is appropriate in these circumstances to ensure this is the case before any works that might otherwise cause harm to trees take place.
44. Conditions to agree and implement a landscaping scheme prior to the occupation of the dwelling are necessary to ensure a high quality design.

¹³ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

45. A construction management statement should be agreed to protect users of nearby rights of way during construction. Logic dictates that this would need to be agreed in advance of construction activity commencing to be effective.
46. A condition to agree and implement a surface water drainage scheme that includes sustainable drainage measures is also imposed given the proximity of the site to watercourses. However, I am not convinced that this needs to be a pre-commencement condition and so have adjusted the wording accordingly.
47. Two conditions were suggested by the Council that would restrict permitted development rights normally afforded to householders. These conditions would limit the ability of future occupiers to enlarge or alter the dwelling, erect outbuildings, fences, walls or other means of enclosure without first applying to the local planning authority for consent. I have had regard to Planning Practice Guidance¹⁴ which states that such conditions may not pass the tests of reasonableness or necessity. The appeal site is within a conservation area. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) already takes account of such designations by reducing the extent of permitted development. I am not persuaded that there are grounds to justify a further curtailment as the context is not otherwise so sensitive that small scale proposals should be made the subject of specific consent. Hence, it would be disproportionate and therefore, unreasonable to impose such conditions.

Conclusion

48. For the reasons given above, I conclude that the appeal should be allowed.

Helen O'Connor

Inspector

APPEARANCES

FOR THE APPELLANT

Aaron Smith BA(Hons) DipTP MRTPI	Fowler Architecture & Planning Ltd
Hollie Snyder BA(Hons) MSc	Fowler Architecture & Planning Ltd
Mrs Selene Cripps	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Catherine Blow BA MSc	Senior Planning Officer, Wiltshire Council
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INTERESTED PARTIES

Clare Moran	Local Resident
Roger Britton	Local Resident

¹⁴ Paragraph:017 Reference ID: 21a-017-20190723

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, drawing number 180934-01 Revision A; Existing Site Plan, drawing number 180934-10; Proposed Site Plan, drawing number 180934-11 Revision F; Design Scheme, drawing number 180934-13 Revision D and Tree Protection Plan – Working drawing 1487-01.
- 3) Prior to the commencement of the installation of windows, walls, rain water goods or roof materials associated with the development hereby approved, details and samples of the materials to be used for the external walls, windows, doors, roof materials and rain water goods shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The development shall be carried out as specified in the approved Arboricultural Impact Assessment and Tree Protection Plan Drawing No. 1487-01 prepared by SJ Stephens Associates dated 16th April 2020.
- 5) No development shall take place until details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed buildings and structures (including finished ground level of open areas of the site), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) The dwelling hereby permitted shall not be occupied until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority, the details of which shall include:-
 - A detailed planting specification showing plant species, supply and planting sizes and planting densities;
 - Details of the planting associated with the green roof;
 - Means of enclosure, including positions, heights and materials;
 - Surfacing materials including access and parking areas;
 - Refuse storage and external lighting.
- 7) All soft landscaping in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the dwelling. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of the dwelling or in accordance with a programme to be agreed in writing with the local planning authority.

- 8) Prior to the commencement of the development, a construction management statement shall be submitted to and approved in writing by the local planning authority. This shall include details regarding:
- Routes for construction traffic,
 - Management of construction activities/vehicles along AKEY24 including notification procedures to the Council and any safety/mitigation/reinstatement measures required,
 - Working times,
 - Types of vehicles,
 - Construction staff parking requirements, management of debris/mud from the site and a program of works,
 - Pedestrian and cyclist protection,
 - The statement should also include a pre-construction photographic survey of the unclassified access road to its junction with Kent End.
- The development shall be constructed in accordance with the details so agreed.
- 9) A scheme for the discharge of surface water from the site as outlined in red on plan 180934-01 Rev A incorporating sustainable drainage measures and a maintenance schedule for those drainage systems for the lifetime of the development and arrangements for the adoption by any public or statutory undertaker and any other arrangements to secure operation of the scheme throughout its lifetime shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the dwelling hereby approved.