

Appeal Decision

Hearing held on 7 June 2017

Site visits made on 6 & 7 June 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 28 July 2017

Appeal Ref: APP/Y3940/W/17/3166946

Former Griffin and Fudge Premises, Whiteheads Lane, Bradford on Avon, Wiltshire BA15 1JU

- 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 D Whittingham (Juniper Homes (South West) Ltd) against the decision of Wiltshire Council.
 - The application Ref 16/03879/FUL, dated 21 April 2016, was refused by notice dated 21 October 2016.
 - The development proposed is redevelopment of site including demolition of workshop and erection of 6 dwellings; conversion and extension of office building to provide 2 apartments and 1 B1a office unit with associated ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of site including demolition of workshops and erection of 6 dwellings; conversion and extension of office building to provide 2 apartments and 1 B1a office unit with associated ancillary works at Former Griffin and Fudge Premises, Whiteheads Lane, Bradford on Avon, Wiltshire BA15 1JU in accordance with the terms of the application Ref 16/03879/FUL, dated 21 April 2016, subject to the attached schedule of conditions.

Application for costs

2. At the hearing an application for costs was made by Juniper Homes (South West) Ltd against Wiltshire Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The appeal form indicates that the description of development was changed from that stated in the original planning application form as the proposal was modified during the course of the application process. I have used the agreed amended description in the banner heading above which reflects that in the Council's decision notice. However, in the decision I have made 'workshop' plural to more accurately describe the proposal as it involves the demolition of a number of workshop buildings on the site
 4. At the request of the appellant, and with the knowledge of the Council, I conducted an unaccompanied site visit with full access the day before the hearing in order to better understand the layout of the site, its relationship with neighbouring properties and to see the condition of the existing buildings. A
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further accompanied site visit was conducted with representatives from the main parties and other interested parties after the hearing, which included a visit to an adjoining property at 22a Coppice Hill.

5. Although the Council could not demonstrate a 5-year Housing Land Supply (HLS) at the time of their original decision, the Statement of Common Ground (SOCG), agreed by the main parties, accepted that the Council could now demonstrate a 5-year HLS. However, it also noted that the Council's HLS position was being challenged in another appeal relating to Land at Forest Farm, Chippenham.¹ It was suggested in the SOCG and confirmed at the hearing that the main parties would be given the opportunity to revisit the matter should that appeal decision be issued prior to the decision in this appeal. The relevant appeal decision was issued on 22 June 2017. Both main parties have subsequently been given the opportunity to comment on it and have done so. As it essentially supports the Council's position that it can demonstrate a 5-year HLS, I have considered this appeal on that basis.

Main Issues

6. The main issues are:

- the effect of the proposal on the provision of employment floor space; and,
- the effect of the proposal on the living conditions of future occupiers, with particular regard to garden space, outlook and light, and on the living conditions of occupiers of neighbouring properties, with regard to privacy, outlook and light.

Background

7. The proposal is a revised version of a previous planning application² submitted in 2015 but subsequently withdrawn. The appellant advises that the appeal proposal was designed to address concerns expressed by the Council with regard to the previous proposal.

Reasons

Employment floor space

8. The appeal site comprises a number of industrial buildings and a former office building set around a central courtyard. It is largely self-enclosed with an access off Whiteheads Lane, a narrow road rising off Silver Street in the historic market town of Bradford on Avon. The site was in use by an engineering firm, Griffin and Fudge, a specialist mould and tool maker, but has been vacant since 2010.
9. It is approximately 0.12 hectares and its lawful use is B2. The Council submits that the proposed 8 residential dwellings, comprising a terrace of 6 houses and 2 apartments, with one employment unit for B1a use, would result in a significant reduction in employment floorspace.
10. As it is within the town and on previously developed land the principle of further housing on the site is accepted by the Council, in accordance with policy

¹ APP/Y3940/W/16/3150514

² 15/04061/FUL

CP2 of the Wiltshire Core Strategy (WCS)³, which includes a presumption in favour of sustainable development in the 'market towns'. The spatial strategy for Bradford on Avon, set out in WCS policy CP7, acknowledges, in paragraph 5.33 of its supporting text, that the town is not identified as a strategic location for employment. However, it notes that the high levels of out-commuting indicate that development for business and employment use should be encouraged to meet local needs. Paragraph 5.35 advises that the economic self-containment of Bradford on Avon is to be achieved by, amongst other things, retaining all existing employment sites, in accordance with policy CP35.

11. Paragraph 6.16 of the supporting text of WCS policy CP35 states that '*it is important to acknowledge that some older employment areas may no longer be fit for purpose or that their role has changed, for example, from a primarily employment site to a trade centre site. Changes of use within sites can invigorate an area and act as a positive catalyst for change. The overall employment land target includes an allowance for the replacement of some sites. Therefore, in some circumstances it may be appropriate to allow for the redevelopment (in whole or part) of existing employment sites for an alternative use, particularly where the site is not required to remain in its current use to support the local economy in the area.*' That indicates that it is intended that the policy can be interpreted pragmatically depending on the particular characteristics of the site.
12. The body of policy CP35 states that within the Market Towns proposals for the redevelopment of land or buildings last used for activities falling within use classes B1, B2 and B8 must demonstrate that they meet, and will be assessed against, a number of criteria specified in parts i-vi of the policy. I will consider those criteria which are most relevant to the appeal proposal in turn.
13. Criterion i says that the proposed development will generate the same number or more permanent jobs than could be expected from the existing, or any potential employment use. Although the Council contends that the retained employment element would represent a significant reduction in floorspace and that the whole site has a lawful B2 use, it is relevant to consider that the site as a whole does not currently contribute to employment in the town and has not done so for some 7 years.
14. Furthermore, in relation to criterion iv, as the Council acknowledges, given that the site is in close proximity to residential properties and has not been in B2 or indeed any use for some years, the resumption of unfettered B2 industrial activities would be likely to harm the living conditions of nearby occupants and generate significant complaints. Moreover, as Whiteheads Lane forms a narrow, steep access to the site, it would be unsuitable for heavy goods vehicles likely to be associated with B2 use. That was confirmed at the hearing by the former operators of the site. However, it is acknowledged that B1 or residential use would not be incompatible with the location.
15. Criterion v, in many respects, represents the crux of the disagreement between the parties on this issue. Amongst the matters to be considered is '*the ability of the site to meet modern business needs, as well as its strategic value and contribution to the local and wider economy both currently and in the long term*'. The Council Officer's report states that the condition of the site and

³ Adopted January 2015

inherent costs of redevelopment are likely to be a significant constraint to a wholesale redevelopment for employment uses.

16. Whilst various estimated costs of redevelopment for employment use were referred to at the hearing, there was no detailed evidence or document breaking down or quantifying the actual costs involved. Notwithstanding that, and from what I saw on my site visits, I see no reason to disagree with the general view that such costs, given the condition and nature of some of the existing buildings, would be significant.
17. The Council's position appears to be that a mixed use scheme, where any residential development was used to fund the delivery of employment space would be potentially viable, but that the current proposal does not represent a reasonable balance between C3 and B1 use. The appellant's original application was for wholly residential use but, in recognition of the Council's concerns, they latterly incorporated a B1a office use for the ground floor of the retained building. My role, however, is to consider the proposal before me.
18. Criterion v also requires that it must be shown that the site is no longer viable for its present or any other employment use and that, in addition, it has remained unsold or un-let for a substantial period of time (at least 6 months), following genuine and sustained attempts to sell or let it on reasonable terms for employment use, taking into account prevailing market conditions.
19. The property was originally marketed by a local estate agent, between approximately 2010 and 2013. The appellant advises that that it also involved joint marketing with a Chartered Surveyors based in Bath. The Council and others have suggested that the price at £900,000, later reduced to £795,000, was unrealistic and that, although the agency was well established in the local area, it specialised in residential sales.
20. Although I appreciate the concerns about aspects of that marketing, it seems likely that an established local estate agent would have local knowledge and connections in the town and area. It is not uncommon for independent local estate agents, even if predominantly dealing with residential property, to engage in some commercial work. With regard to the marketed price, it may have deterred some but the potential remained for genuine interested parties to make lower offers, if they considered that the price was unrealistic. Indeed, I understand that a party who expressed an interest in the more recent marketing campaign advised that they had made an offer during the previous marketing period. Therefore, I do not entirely discount the validity of that marketing process.
21. However, the subsequent marketing by Alder King, a recognised commercial agent, is of more contemporary relevance. Its initial period ran from September 2015 to April 2016, prior to the submission of the planning application, although enquiries were received and responded to beyond that point. Enquirers were advised of a guide price of £500,000 which was considered realistic in the context of the site and prevailing market conditions. The Council Officer's Report describes Alder King as one of the market leaders in commercial sales and lettings and a national firm. Alder King advises that marketing consisted of a sale board, sales particulars put on their web site and mailed to potentially interested parties on their database. An advertisement was also placed in the leading commercial property journal, the Estates Gazette.

22. The agent has provided logs of enquiries received during the marketing period and subsequently. Three offers were made but, according to Alder King, two were substantially below the guide price and it was considered that a third offer may not have related to a commercial scheme. The agent states that although the site was marketed for commercial use the majority of interest was from residential developers. Common concerns expressed by commercial parties related to the limitations of the site in terms of size, layout, condition and the access, along with its lack of commercial use for a number of years in a partly residential environment.
23. Concerns have been expressed about the integrity of that marketing exercise by the Council and some third parties. In an email responding to an enquiry in December 2015, the agent indicated that the property had been removed from the market. At the hearing and in correspondence submitted with the appeal, the agent stated that his clients were reviewing the position in December due to the low level of offers and predominant non-commercial nature of enquiries. The Council also contacted the agent anonymously in June 2016 but were advised that the property was not currently available. However, at the hearing, the agent and the appellant questioned the genuineness of some those enquiries, particularly those after the planning application had been submitted.
24. There is a reasonable level of detail provided in letters from Alder King and associated records of enquiries along with accounts of site visits undertaken with interested parties. For example, an experienced developer, specialising in conversions to small units, ultimately felt there was insufficient floorspace to make such a scheme viable. Alder King advises that there was only one offer which they were confident was of a solely commercial nature that it was well below the asking price. More recently, Alder King reported interest from an advertising company, currently based at The Glove Factory in Holt, who expressed concern about renovation costs and suggested demolishing the non-designated heritage asset to increase parking space.
25. Although I acknowledge the concerns, overall I consider that the marketing conducted by Alder King represents a credible exercise. I also attach weight to the professional advice of Alder King, as an experienced commercial sales and lettings agent, that, for example, small occupiers, even if they could be secured for separate units or parts of the site, would typically seek short flexible leases or licences which would present additional risk for any speculative investor or enterprise willing to revitalise the site.
26. I understand the concern of representatives of Bradford on Avon Town Council and BOA Futures, who appeared at the hearing, and other third parties about the loss of potential employment space. I also note the various alternative business models that have been suggested as potentially viable alternatives to the proposed scheme. However, given that site has been vacant since 2010 and has been marketed for two periods by local and national agents, albeit with the provisos previously discussed, there would appear to have been a reasonable opportunity and period for any realistic proposals to have been pursued.
27. The Council point to successful and expanding employers such as Antony Best Dynamics (ABD) and sites at Kingston Farm and Holt Road and suggest that Moulton Cycles may need to seek additional premises. However, these appear

to be larger bespoke sites on the outskirts of the town. Work hubs in the wider Bradford on Avon community area have been cited, such as the Glove Factory in Holt, which the Council say illustrates the local demand for employment space. However, Alder King advises that the Glove Factory comprises 39 studios, is home to 49 businesses and covers approximately 11,000 square feet whilst benefitting from a large restaurant/cafeteria providing informal meeting space on a 32 acre site. I also understand that it benefited from a financial subsidy, which has not been disputed in evidence. Therefore, whilst I recognise the Glove Factory no doubt offers attractive employment spaces, it is on a different scale and not, in my view, comparable with what could realistically be offered within the appeal site, even if the necessary initial investment were available.

28. Within the historic environment of the town, the Council cites Kingston Mills as an example of a redevelopment of an existing site for employment use. However, two buildings on that site, offering the kind of levels of commercial space which the Council, the emerging Neighbourhood Plan (NP) study and third parties say that there is high demand for, are, according to the appellants and Alder King, currently unlet. Alder King also provided details, in their letter of 17 March 2017, of other available employment space at sites at 2 St. Katherine's Court, 5 St. Margaret's Street, Treenwood House, The Old Brewery and Elm's Cross Business Park. Therefore, given that the NP study was published in 2015, identifying 57 business potentially seeking premises over a 5 year period, there seems a reasonable level of office space and units available to satisfy it. It is also reasonable to suppose that further units will become available over time at other more obviously suitable sites identified by the Council in the wider area.
29. A significant, though admittedly unquantified, initial investment would be necessary to redevelop or refurbish the appeal site and its existing buildings to bring them up to modern standards. Furthermore, given the types of premises being sought, the difficulty of finding investors willing to accept the risks associated with providing premises on flexible or short term leases, make it, according to Alder King, an unlikely proposition for commercial or indeed mixed use schemes with a greater commercial component.
30. Currently the site makes no contribution to the local or wider economy and has not done so since 2010. Letting is not a realistic option, given the amount of investment that would be required to make the space usable. Therefore, I find that I am more persuaded by the submissions of the appellant, supported by Alder King and the responses to the marketing of the property, that the site is not viable for the more extensive employment use envisaged by the Council and other parties. Consequently, I consider that there is sufficient evidence that there is no long term strategic necessity for this particular site to remain in full employment use.
31. The emerging NP also contains a policy, E4, which refers to existing employment sites. It would allow for change of use where it can be independently demonstrated that ongoing use of the building or site for commercial use is no longer viable, taking full account of market and economic conditions. In some ways it appears less restrictive than policy CP 35 of the WCS. However, the Council refers to the longer period of marketing suggested by policy E4 of 18 months. Whilst I have considered that and other aspects of the NP, as it is still emerging, it cannot be given full weight.

32. It is also significant that some B1a employment floor space is being provided on the ground floor of the office as part of the scheme, which would make a contribution to the supply of employment space in the area. Therefore overall, I consider that the proposal would comply with policy CP35 and CP7, which refers out to policy CP35, insofar as they seek to safeguard existing employment sites, subject to various criteria which include an assessment of their viability, suitability and contribution.
33. I am also conscious that paragraph 22 of the National Planning Policy Framework (the Framework)⁴, a significant material consideration in all planning decisions, advises that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of the site being used for that purpose. In such circumstances, it advises that applications for alternative uses of land or buildings should be treated on their merits having regard to market signals. In this case, I consider that the market signals indicate that the change of use in the proposed scheme is reasonable.

Living conditions

34. The proposed terrace of three-bedroom houses would have courtyard gardens with patio areas. Units 5-8 would have relatively square gardens of about 6 metres in depth. From the plans, they appear to have a similar width. Unit 9 also has an additional area to the north. Whilst Unit 4 has a smaller area to the immediate rear, it is compensated for by further outdoor space to the south. Access to the gardens in units 5-8 would be through the home.
35. The Council refer to the Building for Life 12 (BfL 12) industry standard, which suggests that rear gardens should be at least equal to the ground floor footprint of a dwelling and that residents should have the opportunity to access their gardens without have to walk through their home. However, neither the relevant policies in the WCS or any of its supplementary planning guidance refer to that standard. In any case, those standards are intended to be used as a design tool box and it is recognised that, although desirable, it may not be possible for each suggested criteria to be met in every case.
36. Private outdoor amenity space of the size proposed is not, in my view, unreasonable in the context of a fairly dense surrounding built environment and taking into consideration the particular constraints of the site. Given that the houses also have small private front gardens and that arrangements have been made for bins, recycling provision and bicycle storage with an open courtyard setting to the east I consider that, on balance, the design and outdoor space is acceptable.
37. The outlook from the gardens would be affected by the proximity of the wall which varies in height along the western boundary. However, the 6 metre garden depth provides some distance from the wall and it is reasonable to consider that its effects could be softened and mitigated by appropriate planting and landscaping. The open plan ground floor design of the houses and the more open aspect to the east would help to maximise natural light penetration. Overall, I find that the outdoor space and proximity of the boundary would be acceptable having regard to the living conditions of future

⁴ Published 2012

- occupants. It is also noted that the height of the boundary wall, according to the submitted plans, is lower in relation to Unit 4.
38. The two apartments do not have private amenity space but that is not unusual in itself. Balconies or roof terraces would not be acceptable at this location due to the historic value of the office building and the proximity of neighbouring properties. There is also a small communal outdoor space with planting that could be used by occupants of the apartments. I note that the Council's Statement of Case does not specifically object to the lack of outdoor space in relation to the flats.
39. A specific concern does exist in relation to the living conditions of occupants for unit 4. The appellant has sought to address concerns, expressed in relation to the previous application about overlooking of a neighbouring garden, by removing one window from the master bedroom and obscure glazing part of the remaining window in unit 4. The Council suggest that this would be detrimental to future occupants of the dwelling in terms of outlook. I note that some other bedrooms in the houses would have one window. Therefore, the principle of one window in a bedroom cannot of itself be at issue. As only the lower pane of the window would be obscure glazed, I consider that, in this particular case, it would not have a significant adverse effect on the outlook of future occupiers in what would be a reasonably sizeable three bedroom house.
40. Turning to the effect of the development on the living conditions of adjoining occupiers. Although a number of adjacent properties are considered in the Council Officer's report, it concludes that the proposal would *'to a lesser degree impinge on the amenities of existing occupiers'*.
41. In the Council's statement of case and at the hearing, it was apparent that the main concern related to alleged overlooking, from the first floor window of unit 4 towards the garden and dwelling at 22a Coppice Hill, to the west. The first floor window of unit 4 would be above the lower section of wall and proposed trellis. Therefore, if someone were to stand at that window and look through the upper pane, there would be a view in the direction of No 22a and its garden.
42. However, as I saw on my site visit to No 22a, the garden is long and the house itself would be a significant distance from the west elevation of unit 4. It would not be possible to see into habitable rooms of 22a. The garden also benefits from significant planting and any views through the upper pane of the first floor window of unit 4 would be likely to be filtered by existing vegetation. Other areas of the garden would be out of site, screened by planting, and if a perception of overlooking persisted, it would be possible to create further private areas, if necessary, via planting or other screening. Therefore, I consider that the limited overlooking or possible perception of being overlooked would not have a significant adverse effect on the living conditions of occupants of No 22a.
43. Neither do I find that the outlook from No 22a would be unduly affected by the change of view, which would, though again filtered by planting, include the upper storey and roof of a new building at the end of a long garden. That view would also be in the context of other built forms in the backdrop. Therefore, I consider that it would not be overbearing.

44. The Council suggests in its Statement of Case that there would also be intervisibility at ground floor level. However, I disagree and see no valid reason why the proposed trellis together with the plants likely to be grown on it would not provide sufficient screening. That would be supplemented by the existing planting within the garden of No 22a itself. Although vegetation is not necessarily a permanent feature, it seems to me that it is reasonably likely that it would remain in some form, as it would help to ensure the privacy of existing and future occupants of No 22a and, in terms of the trellis, the privacy of future occupants of Unit 4.
45. With regard to possible overlooking from the first floor windows of the apartment in the existing office building, towards 6 Whiteheads Lane, that could be satisfactorily dealt by a condition requiring those windows to be obscure glazed in perpetuity. There is no clear evidence to indicate that the addition of one extra floor would have a significant impact on light reaching adjacent buildings on Whiteheads Lane.
46. The proposed design of Unit 9, revised from the previous proposal, so that its dormer window would be on the western slope of the roof, combined with the lack of a first floor window facing east from its bedroom, should avoid any significant overlooking of the Quaker Meeting House and its garden. The gardens of Coppice House, which are additionally protected by a Leylandii hedge in excess of the height of the already substantial boundary wall, would not be not be subject to significant overlooking or adverse effects on outlook.
47. The above factors lead me to conclude that the proposed development would provide satisfactory living conditions for future occupiers, with regard to outdoor living space, outlook and light and would not harm those of adjoining occupiers, with regard to privacy, outlook or light. It follows that it would not conflict with policy CP 57 of the WCS, which, amongst other things, seeks to ensure that the impact of proposals on the living conditions of existing occupants of adjoining buildings and future occupants of developments is considered.

Other Matters

48. The appeal site is located within in the Bradford on Avon Conservation Area (CA). A submission from the Bradford of Avon Preservation Trust refers to some matters already discussed but also suggests that the proposal would fail to enhance the CA and would significantly harm the character and setting of adjacent Grade II* and Grade II listed buildings.
49. It is suggested that the proposed terrace would not reflect the topography of the hillside location where existing terraces are stepped as they descend the hillside. However, the site itself is flat and would not lend itself to such a design. As it is also a backland development and largely enclosed, public views would be limited. It is also significant that both the Council's Conservation team and Historic England agree that there would be no harm to the CA or the setting of nearby listed buildings, such as Silver Street House and Sundial House.
50. In fact, the Council's Conservation team considers that the proposal would have a positive effect on the CA, by restoring an additional storey on the non-designated heritage asset building, which was at one time believed to be four storeys but is now two, and re-introducing a more historic mullion window

pattern. It is also noted that the remnants of a stone archway, near the Grade II* Listed Silver Street House, would be retained and reinstated as part of the scheme. Therefore, I do not agree that the proposal would fail to preserve the character and appearance of the CA or fail to preserve the settings of nearby listed buildings.

51. With regard to highway safety and parking, as already established, Whiteheads Lane is a narrow steep road, which would make the resumption of its lawful B2 use undesirable. The proposal is for a predominantly residential use and the parking spaces have been reduced from the previous proposal. Although traffic movements would increase as a result of the site being brought back into use, the impact of cars associated with residential use would be less of a threat to highway safety than the larger vehicles or HGVs which would be likely to result from B2 use. As the number of parking spaces is below that recommended, the central and accessible location should encourage trips by foot, train or other sustainable modes of transport. The submitted plans demonstrate that the parking layout is usable and the Council has raised no objection regarding that aspect.

Conditions

52. The conditions agreed in the SOCG were discussed at the hearing. It was identified that condition 16, as drafted, would mean that the whole of the window (both panes) on the first floor of unit 4 would have to be obscure glazed and remain so in perpetuity. However, the appellant's intention was that only the lower pane should be obscure glazed, in accord with the submitted plan, Drawing No 2592/10. The Council recognised the discrepancy but would not formally agree to the modification of the condition, on the basis that it was opposed to the scheme and believed that there would be overlooking via the top pane. For the reasons already given, I am satisfied with the intended proposal that only the lower pane should be obscure glazed. I have therefore amended the condition accordingly, to strike a balance between protecting the privacy of adjoining occupiers without having a significant adverse effect on the living conditions of future occupiers of unit 4.
53. At the hearing, I noted that there was no similar condition regarding the obscure glazing of the east facing windows of unit two, the first floor apartment. The submitted plans, Drawing No 2592/6, show the windows obscure glazed to prevent any overlooking of adjacent properties on Whiteheads Lane. The Council advised that they had intended such a condition to be included to ensure that the windows remained obscure glazed in the future. Therefore, it was agreed that, should the appeal be allowed, a suitable condition would be included, similar in wording to condition 16. Therefore, I have included such a condition.
54. In addition, a condition setting a time limit for the commencement of the development is a statutory requirement. For certainty, a condition requiring the development to be carried out in accordance with the approved plans is appropriate. Conditions regarding materials, rainwater goods, external window and door joinery and hard and soft landscaping are necessary to safeguard the character and appearance of the development, the conservation area and nearby listed buildings. Conditions relating to the absence of vehicular access gates, the access and turning areas, parking spaces and cycle storage are required in the interests of highway safety and to encourage the use of

sustainable modes of transport. A condition pertaining to screen walls and/or fences and use of the roof area over unit 2, along with conditions restricting permitted development rights, are appropriate to protect the outlook and privacy of future and adjoining residents.

55. Conditions dealing with refuse and recycling facilities, foul and surface water drainage are necessary to ensure that appropriate arrangements are in place. Conditions requiring a Construction Management Plan and restricting working hours are appropriate in the interests of public protection and to safeguard the living conditions of adjoining occupiers, with regard to noise and disturbance. A contamination condition is required to ensure that risks of pollution are minimised and appropriately dealt with. A condition relating to recommendations in the Bat survey report is necessary to protect and enhance biodiversity. Conditions regarding the piers and archway and a programme of building recording are necessary for the preservation and enhancement of historic features and to ensure the proper recording of any historic elements that may be removed. An energy performance condition is appropriate to ensure that the development meets sustainability requirements.
56. It is essential that the requirements of conditions 3-8 are agreed prior to development commencing to ensure an acceptable form of development in respect of the character and appearance of the area and the settings of nearby listed buildings.

Conclusions

57. The proposal would make a contribution to the economy during construction and provide short-term employment whilst future occupants would also contribute to the local economy. Socially, although the Council has a 5-year HLS which it advises is being exceeded, such targets are not intended to be a cap, and the proposal would still make a contribution to the supply and diversity of housing in what is agreed to be a highly sustainable location. Future occupants would potentially participate in the local community and contribute to the viability of local services. The change of use from B2 to a combination of residential and B1a would be beneficial for neighbouring occupiers and provide some employment floorspace.
58. In environmental terms, future occupiers would not be dependent on use of the private motor car as there is access to services on foot or by bicycle and to public transport. There is also some ecological enhancement from the bat box provision. Although the scale of the development is relatively limited and some of these factors represent mitigation or would equally result from a different scheme, such contributions have a value.
59. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathan Tudor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Proposed Site Plan - 2603/2 Rev I
Existing Building Proposed Floor Plans - 2592/5 Rev C
Existing Building Proposed Elevations - 2592/6 Rev C
New Building Proposed Ground Floor Plan - 2592/7 Rev B
New Building Proposed First Floor Plan - 2592/8 Rev C
New Building Proposed Attic Floor Plans - 2592/9 Rev C
New Building Proposed Front and Rear Elevations - 2592/10 Rev C
New Building Proposed Side Elevations - 2592/11 Rev A
Proposed Site Sections - 2592/12 Rev D
Site Location Plan - 2592/13
Bat Enhancement Measures - IES/2016/062
- 3) Prior to any above-ground works associated with construction of the new terrace building hereby approved, details and samples of the materials to be used for the external walls and roofs of this building shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to any works associated with construction of the 2nd floor extension hereby approved, details and samples of the materials to be used for the external walls and roofs of this extension shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) No walls shall be constructed on site, until a sample wall panel, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.
- 6) Prior to any above-ground works associated with construction of the new terrace building hereby approved, details of all new or replacement rainwater goods for this building shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 7) Prior to any works associated with construction of the 2nd floor extension hereby approved, details of all new or replacement rainwater goods for this extension shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 8) Prior to any above-ground works associated with construction of the new terrace building hereby approved, details of all new external window and door joinery and metal framed glazing for this building shall be submitted to and approved in writing by the Local Planning Authority. The submitted

details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall be carried out in accordance with the approved details.

- 9) Prior to their insertion in the retained building and its extension, details of all new external window and door joinery and metal framed glazing for this building shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall be carried out in accordance with the approved details.
- 10) Prior to any above-ground works associated with construction of the new building hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
 - finished levels and contours;
 - means of enclosure;
 - car park layouts;
 - all hard and soft surfacing materials;
 - minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc.); and
 - proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc. indicating lines, manholes, supports etc.).
- 11) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; 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 any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.
- 12) There shall be no gates at the vehicular access to the site.
- 13) No part of the development hereby permitted shall be first brought into use or first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.
- 14) No part of the development shall be first brought into use or first occupied until the cycle parking facilities shown on the approved plans have been provided in full and made available for use. The cycle parking facilities shall

be retained for use in accordance with the approved details at all times thereafter.

- 15) The screen walls and/or fences shown on the approved plans shall be erected prior to the first occupation of the dwellings hereby permitted and shall be retained and maintained as such at all times thereafter.
- 16) Unit 4 shall not be first occupied until the lower pane of the first floor window in the west elevation has been glazed with obscure glass only, to an obscurity level of no less than level 4 and permanently fixed shut, in accordance with Drawing No 2592/10. The obscure glazing and fixing shall be maintained in perpetuity.
- 17) Unit 2 shall not be first occupied until the windows in the east elevation have been glazed with obscure glass only, to an obscurity level of no less than level 4 and permanently fixed shut. The obscure glazing and fixing shall be maintained in perpetuity.
- 18) The roof area (over unit 2) of the development hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the elevations (above ground floor ceiling level) of the terrace building hereby permitted.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the roof slopes of the terrace building hereby permitted.
- 21) The development hereby permitted shall not be first brought into use or first occupied until the refuse and recycling facilities shown on the approved plans have been provided and made available for use. These facilities shall thereafter be maintained in accordance with the approved details thereafter.
- 22) No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.
- 23) No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

- 24) No development shall commence on site until a construction management plan has been submitted in writing and approved by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:-
- i. The movement of construction vehicles
 - ii. The cutting or other processing of building materials on site
 - iii. Wheel washing and vehicle wash down facilities
 - iv. The transportation and storage of waste and building materials
 - v. The recycling of waste materials (if any)
 - vi. The loading and unloading of equipment and materials
 - vii. The location and use of generators and temporary site accommodation
 - viii. Pile driving
 - ix. The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.
- 25) No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 0730 to 1800 Monday to Friday and 0800 – 1300 on Saturdays.
- 26) No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,

- groundwater and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report (referred to in PPS23 as a validation report) must be produced. The report should demonstrate the effectiveness of the remedial works. A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage (ii) above). The verification report and signed statement should be submitted to and approved in writing of the Local Planning Authority.

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

- 27) The development will be constructed in strict accordance with the recommendations made in the Bat Survey report by IES Ecology and with drawing no 2592/11 Rev A.
- 28) No development shall commence until full details including scaled plans of the works to reinstate the existing piers and archway as indicated on the plan reference 2603/2 have been submitted to and approved in writing by the Local planning Authority. No part of the development shall be first brought into use or first occupied until the approved works have been completed in accordance with the approved details.
- 29) No works shall commence on site until an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the all existing buildings on site. This record shall be carried out by an archaeologist/building recorder or an organisation with acknowledged experience in the recording of standing buildings which is acceptable to the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has first been agreed in writing with the Local Planning Authority.
- 30) The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been issued and submitted to, and approved in writing by, the local planning authority certifying that this level or equivalent has been achieved.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Ms Rebecca Morgan	Aspect 360 (SW) Ltd
Mr Kit Stokes	Aspect 360 (SW) Ltd
Mr Rory Stracey (Solicitor)	Trowers & Hamlins Solicitors
Mr James Gregory	Alder King Property Consultants
Mr Terry Whittingham	Juniper Homes (South West) Ltd
Mr Brian Fudge	Griffin & Fudge Ltd
Mr Eric Griffin	Griffin & Fudge Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr James Taylor	Senior Planning Officer, Wiltshire Council
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INTERESTED PERSONS:

Mr Colin Johns	Bradford on Avon Town Council
Mr Gerald Millward-Oliver	BOA Futures BOA Business Bradford on Avon Development Trust

DOCUMENTS SUBMITTED AT THE HEARING

- 1) Illustration of proposed development
- 2) Timetable relating to appeal re: Land at Forest Farm, Chippenham
ref: APP/Y3940/W/16/3150514