
Appeal Decisions

Site visit made on 23 January 2018

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 16 March 2018

Appeal A

Ref: APP/Y3940/W/17/3180109

**E V Naish Ltd, Crow Lane, and 51/53 North Street, Wilton, Salisbury
SP2 0HB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by E V Naish Ltd against the decision of Wiltshire Council.
 - The application Ref S/2003/1016, dated 2 May 2003, was refused by notice dated 16 January 2017.
 - The development proposed is a mixed use redevelopment of the site to provide 61 residential units, two commercial units of B1 use, one retail unit, and associated car parking, with all matters being reserved, except for access.
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Appeal B

Ref: APP/Y3940/W/17/3180110

**E V Naish Ltd, Crow Lane, and 51/53 North Street, Wilton, Salisbury
SP2 0HB**

- 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 Geoff Naish, E V Naish Ltd against the decision of Wiltshire Council.
 - The application Ref 16/07192/FUL, dated 22 July 2016, was refused by notice dated 16 January 2017.
 - The development proposed is demolition of existing buildings and the mixed use development of the site to provide 61 residential units, two commercial units of B1 use, one retail unit, and associated car parking.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for mixed use redevelopment of the site to provide 61 residential units, two commercial units of B1 use, one retail unit, and associated car parking, with all matters being reserved, except for access at E V Naish Ltd, Crow Lane, and 51/53 North Street, Wilton, Salisbury SP2 0HB in accordance with the terms of the application, Ref S/2003/1016, dated 2 May 2003, subject to the conditions in Schedule A to this decision.

Appeal B

2. The appeal is allowed and planning permission is granted for demolition of existing buildings at E V Naish Ltd, Crow Lane, and 51/53 North Street, Wilton, Salisbury SP2 0HB in accordance with the terms of the application, Ref 16/07192/FUL, dated 22 July 2016, subject to the conditions in Schedule B to this decision.

Background and procedural matters

3. The application that has become Appeal A was originally submitted in 2003 along with an application for conservation area consent¹ for the equivalent of what is now Appeal B. In 2004 the former Salisbury District Council resolved to grant planning permission for the application for planning permission subject to the completion of a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) (the TCPA). However, this agreement was never completed and the application was held in abeyance. Salisbury District Council granted conservation area consent to allow for the demolition of the buildings on site in 2004, but this consent lapsed in line with the normal arrangements three years later.
4. Under the Enterprise and Regulatory Reform Act 2013 the need for conservation area consent was abolished, to be replaced with a requirement that the relevant demolition of a building in a conservation area would, instead, require planning permission.
5. In 2016 the then applicant decided to pursue the outstanding application. However, in light of the passage of time and various changes since then, it wished to amend the proposal to reduce the number of dwellings from 62 to 61 as well as the other development applied for. The formal description of that applied for was amended to "a mixed use redevelopment of the site to provide 61 residential units, two commercial units of B1 use, one retail unit, and associated car parking, with all matters being reserved, except for access". I have used this in the heading above.
6. Revised plans were submitted along with various supporting documents which Wiltshire Council (the Council) as successor local planning authority consulted and notified upon. These include an illustrative layout and various other drawings. I am satisfied that all those with an interest in the proposal will have been able to make comments based on these amended plans and accompanying documents and consequently I will use them in my decision.
7. This amended application did not include any works of demolition. Therefore a second application for planning permission was made at this time. This used the application form for a relevant demolition rather than one for any construction works. This has become Appeal B. This is, in effect, a full application, but there are no details for construction work; this being the Appeal A proposals. In light of this the codicil set out in the heading² "and the mixed use development of the site to provide 61 residential units, two commercial units of B1 use, one retail unit, and associated car parking" in respect of Appeal B is nugatory and I have not included it within the formal decision.

¹ Under the then pertaining provisions of Section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

² Taken from the application form

8. The appeal was accompanied by a Planning Obligation by agreement under Section 106 of the TCPA dated 12 February 2018 dealing with affordable housing, public art, a contribution towards the imposition of a Traffic Regulation Order (TRO), education, waste and off-site highway works. I will discuss this later in the decision.

Main Issues

9. Both applications were refused for the same reasons. Consequently the main issues are:
- whether the proposals are appropriately located in sequential terms in respect of flooding;
 - the effect on the living conditions of the occupiers of nearby properties in terms of noise and disturbance from traffic; and
 - whether the proposals make adequate provision in respect of affordable housing, on-site and off-site infrastructure and highway matters.

Reasons

10. The appeals site is located to the north of the main crossroads in the centre of Wilton. It is set behind the development fronting North Street and West Street, although extending through to North Street at the east end of the site. It is accessed by Crow Lane, which provides a link between North Street and West Street, and along Castle Lane from North Street, although this latter access is not currently in active use. The appeal site lies within the Wilton Conservation Area (the WCA).
11. The appeals site has an area of 1.3 ha and consists in the majority of an industrial manufacturing enterprise, located in a number of buildings ranging in size, form, height, architectural style and age. It also consists of a two storey building, 51/53 North Street, on the junction of Castle Lane with North Street which is currently vacant.
12. The site falls gently from northwest to southeast. There are a number of leats³ from the River Wylye running through the site, which, historically, used to provide water to a mill which has long been removed.
13. The proposals are to demolish all the buildings on site and construct 61 dwellings on the main portion of the site, and a new building for retail use on the ground floor with two B1 (business) use units above on the site of 51/53 North Street. There would be two access points, with around four-fifths of the development accessed via North Street and Castle Lane and the remainder accessed from Crow Lane, although the illustrative layout does show that it would be possible to drive across a bridge (shown to be gated) and there would be a number of pedestrian bridges linking the two sides of the site.
14. Core Policy (CP) 1 of the Wiltshire Core Strategy (the CS) sets out the settlement strategy. This sets four tiers of settlements ranging from principal settlements, through Market Towns, to Local Service Centres, including Wilton, and then to Large and Small Villages. CP1 indicates that Local Service Centres will provide for modest levels of development in order to safeguard their role and to deliver affordable housing.

³ Open watercourses taken from the main flow of a river to a mill

15. CP2 sets out the Delivery Strategy and includes the indicative housing requirements for both the Housing Market Areas (HMAs) and the Community Areas within those HMAs. Wilton falls within the South Wiltshire HMA with an indicative requirement of 255 dwellings for "Wilton remainder". The policy indicates that sites for development in line with the Area Strategies will be identified through subsequent Site Allocation Development Plan Documents and by supporting communities to identify sites through neighbourhood planning.
16. Under CP2 within the defined limits of settlements there is a presumption in favour of sustainable development at, *inter alia*, Local Service Centres, but outside these defined limits development will not be permitted except within circumstances set out in the plan. The appeal site lies outside the defined limit of Wilton as defined in the development plan and the proposal does not fall within any of the circumstances which would permit development in such a location.
17. However, the site is located in an accessible location close to the town centre and close to facilities, and would involve the re-use of previously developed land. As CP2 also makes clear, housing will be delivered in a sustainable pattern in a way that prioritises the release of employment land and the re-use of previously developed land to deliver regeneration opportunities. The site is close to Wilton town centre in a location where the use of non-car modes of transport can be maximised. On balance, in line with the Council as it did not constitute a reason for refusal, I am satisfied that the redevelopment of the site would be acceptable as a matter of principle. Whether there are other material considerations to conclude that the proposal is not acceptable I will explore below.
18. As foreseen in the CS the Council is producing the Wiltshire Site Allocations Development Plan Document (the WSAP) to provide for site allocations in the Wilton area. Under this plan the appeals site is to be located within the defined limits of Wilton. However, this plan is at an early stage of preparation and can only be given limited weight in line with paragraph 216 of the National Planning Policy Framework (the Framework).

Flooding

19. The appeals site lies mainly in Flood Zone 2 but partially in Flood Zone 3 of the Environment Agency's maps. My reading of the Environment Agency's maps is that the Flood Zone 3 area relates to the area of 51/53 North Street, where the commercial units are proposed, and a small section of the main part of the site towards the northern end, which has existing flood defences. Upon consultation the Environment Agency indicated that it had no objection to the proposal subject to conditions. However, it reminded the Council "that the Sequential Test will be applicable to the application".
20. CP67 of the CS states that development in Flood Zones 2 and 3 will need to refer to the Strategic Housing Land Availability Assessment (the SHLAA) when providing evidence to the local planning authority in order to apply the sequential test in line with national requirements of national policy and established best practice.
21. The Framework indicates in paragraph 100 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe

- without increasing flood risk elsewhere. Paragraph 101 of the Framework makes it clear that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding and states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in area with a lower probability of flooding.
22. Paragraph 103 of the Framework states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere, and only consider development in areas at risk of flooding where, informed by a site specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated, in two bullet points that, firstly, within the site the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location, and development is appropriately flood resilient and resistant, including safe access and escape routes where required, and, secondly, that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.
23. The effect of the Environment Agency's comments, which are not disputed by the Council, is that subject to conditions the Exception Test is passed, and that flood risk would not be increased elsewhere. Within the site the lesser vulnerable development (the commercial) would be located in Flood Zone 3, and sustainable drainage systems could be delivered by a planning condition. However, the Council considers that there are sequentially preferable sites available, particularly as it considers it is able to demonstrate a five year supply of housing land and thus the proposal would fail the Sequential Test. The Council has not, however, indicated any specific alternative sites, relying on the five year supply of housing land to indicate that these do exist. The appellant does not dispute the Council is able to demonstrate a five year supply of housing land.
24. The national Planning Practice Guidance (the PPG) gives guidance⁴ on how the Sequential Test should be applied to planning applications and thus appeals. In the circumstances of these appeals the PPG indicates that the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed and gives examples. It continues that when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken, again giving an example.
25. In support of the appeals the appellant submitted a revised "Sequential Test" document. This looked at a number of sites in the Salisbury and Wilton Community Areas identified in the Council's SHLAA and in the WSAP of a comparative capacity and concluded that no sequentially preferable sites exist. The Council has not disputed this but looked beyond these Community Areas to the South Wiltshire Housing Market Area to demonstrate that a five year housing land supply exists, and therefore takes the view that there is no need to release the site.
26. The appellant makes the point that the site is physically constrained, particularly by the accesses to the site, which make it less than suitable for the existing use, particularly as the business wants to expand. I would agree that the nature of Crow Lane, and Castle Lane were it to be used, makes them entirely unsuitable for large Heavy Goods Vehicles (HGVs). This requires

⁴ Reference ID: 7-033-20140306

materials in and product out of the site in its existing use to be “decanted” to smaller goods vehicles at a location away from the appeals site; this is not efficient. Even then, the roads are not entirely suitable for these smaller vehicles which are still HGVs. At the site visit I saw that 17 North Street has a metal strip on its corner to protect the building and that there is a pinch point outside Russell Terrace on Russell Street than means that even the smaller goods vehicles used mount the narrow pavement.

27. Pragmatically, if the existing operation is to expand it needs to relocate from the appeals site. It would be possible to improve or replace the existing buildings, but this would not improve the access arrangements. This would also apply to any alternative employment provider. The Council has not indicated that the appeals site needs to be specifically retained for employment use. It is impractical to suggest that the very significant benefits of redeveloping this area of previously developed land could be achieved in some other way.
28. In addition, CP2 of the CS makes clear that the housing figures for the various HMAs are minima and that housing will be delivered in a sustainable pattern in a way that prioritises the release of employment land and the re-use of previously developed land to deliver regeneration opportunities, and to limit the need for development on Greenfield sites. The development of this site would comply with all these criteria. That the Council can demonstrate a five year supply of housing land therefore does not mean that further sites should not be delivered if suitable.
29. Taking all the evidence together, I conclude on this issue that as the appeals site is located in Flood Zones 2 and 3 it would not be directed to an area of lowest flood risk. This weighs against the development, but because, equally as there are no sequentially preferable sites, and no realistic alternative to bring forward the regeneration benefits of the proposal, the proposal passes the Sequential Test. As already identified, and I agree, the proposals would pass the Exception Test. As such the proposal would comply with CP67 of the CS, the relevant policies of the Framework and the guidance in the PPG all as set out above.

Living conditions

30. Currently the appeal site predominantly operates during conventional working hours, although information from the appellant is that occasionally double shifts are worked meaning that operations start very early in the morning and continue later in the evening. When operational there are vehicle movements associated both with deliveries and operatives travelling to and from work.
31. The Council and local residents are concerned that if permitted for residential use, then there would be movements on a 24 hour seven day a week basis, and this would give rise to noise and disturbance to those living in the properties on the access roads. It is appropriate to look at each of the access routes in turn.
32. At present the existing access to the site from Castle Lane is not utilised, but there is nothing to stop this taking place. The illustrative layout shows that around four-fifths of the proposed properties would gain their access this way. The existing properties facing Castle Lane between the junction with North Street and the appeal site are generally set back from Castle Lane behind a

leat and a small front garden. For 49 North Street, the property is again set back behind the leat. In all cases, while there would be an increase in noise and disturbance from vehicles accessing the appeals site I am satisfied there would be sufficient separation to the adjoining properties so that the occupiers would still have a good standard of amenity whatever the hour or day of the week those accessing the appeals site were to travel.

33. There are two exits from the Crow Lane access to West Street and North Street. I will describe them respectively as Crow Lane West and Crow Lane North. The illustrative layout shows that approximately one-fifth of the development would access the site via these routes. The application was supported by a Transport Assessment, and this shows that there would be a reduction in the amount of traffic on these routes overall when compared to the current situation, although there would be more than at present during the weekends and at night.
34. The properties on Crow Lane West close to the appeals site do front Crow Lane, but are set back, and there is sufficient separation so that traffic generated by the development would not harm the living conditions of the occupiers of those properties. At the western end of Crow Lane West No 20A West Street⁵ does face the street, and there would be an increase in noise and disturbance, but this property appears to be in commercial use, even if vacant as it appeared at the time of my site visit. It would therefore not affect living conditions. The property on the north side of Crow Lane West faces West Street and I consider that the increase in noise and disturbance would not have a material effect when added to the existing traffic on West Street. This would also apply to any other property in the vicinity in West Street.
35. For Crow Lane North the properties are located on the back edge of the narrow pavements. This means that traffic would affect the living conditions of the occupiers. However, there would be less traffic than that currently utilising this road. Although this would be on a 24 hour basis the quantum of traffic during night hours would not be significant. I am therefore satisfied that the living conditions of the occupiers would not be adversely affected, and over the 24 hour period would be improved. This would also apply further to the south along Russell Street.
36. While there would be more movements at the weekends, and thus an increase in noise and disturbance, this must be considered in the context of the location close to a town centre and of normal daytime noise levels. I am satisfied that this increase would not be harmful to the living conditions of the occupiers of properties in either Crow Lane or Russell Street.
37. Local residents have expressed concerns about potential loss of light and overlooking from the development. I am satisfied that these concerns could be satisfactorily resolved through detailed design at the reserved matters stage. This would include the effects on the amount of light that the occupiers of 31 North Street receive, and for any light emitting from the new buildings.
38. As such the proposal would not be harmful to the living conditions of the occupiers of any property in the vicinity of the appeals site and would, in some locations, enhance them. The proposals would therefore comply with CP57 of the CS which requires development to make a positive contribution to the

⁵ I have taken the address off the Site Location Plan reference 71092-24 Rev P1

character of Wiltshire having regard to the impact on the amenities of existing occupiers. It would also comply with paragraph 17 of the Framework which indicates planning should always seek a good standard of amenity for all existing occupants of land and buildings.

Affordable housing, infrastructure and similar matters

39. CP3 of the CS indicates that all development will be required to provide the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. The supporting text separates infrastructure into two hierarchical themes; theme 1 dealing with essential infrastructure and theme 2 dealing with place-shaping infrastructure. Both are subject to viability with priority being given to theme 1 infrastructure.
40. CP43 of the CS requires on sites of five or more dwellings affordable housing provision. This is either 30% or 40% depending on the zone in which the site is located. Wilton falls in the 40% zone.
41. The Planning Obligation makes provision for the provision of affordable housing, a contribution towards the delivery of a TRO, contributions towards primary and secondary school provision, waste and recycling, public art and a covenant not to commence the development until the appellant has completed an agreement under either Section 38 or 278 of the Highways Act 1980 (as amended) to complete the highway works, as so defined, in accordance the Obligation. Of these only the provision of affordable housing and public art are subject to later viability consideration.
42. Planning decisions should follow the development plan unless material considerations indicate otherwise, and following CP3 and CP43 infrastructure and affordable housing should be provided, and as set out above are subject to viability. Given the uncertainties of developing the site, particularly as at present it is operational and may or may not be contaminated and be in need of remediation, it is not possible to be sufficiently certain as to the values of the development, the review mechanism set out in the Planning Obligation to deal with how much affordable housing and whether public art are delivered, seems a pragmatic approach.
43. In respect of all the elements I am satisfied that they are necessary to ensure that the development provides the appropriate and necessary infrastructure and would comply with the provisions of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraphs 50 and 204 of the Framework dealing with the provision of affordable housing and infrastructure in that they are necessary to make the development acceptable in planning term, directly related to the development and fairly and reasonably related in scale and kind to the development.
44. In respect of affordable housing and public art the Obligation makes provision for me to determine how much of the surplus, as so defined, goes to the Council and how much to the developer, over and above the agreed percentage of developer profit. The appellant seeks to split the surplus 60:40 between the Council and the developer, until such time as the required obligations are met in full. However, in default, the percentage to the Council is given at 100%.
45. Given that a percentage is given in default the Obligation is not uncertain. However, I do not have any detailed information upon which to make a

decision. Planning decisions should be based on evidence, and the only thing in front of me is an assertion that a 60:40 split would encourage the developer to maximise profit. However, I have no evidence that another percentage split would not be as, or more, appropriate. In the absence of such evidence I specifically am not going to make any further finding in this area.

46. In light of all the above, the proposal in front of me makes adequate provision in respect of affordable housing, on-site and off-site infrastructure and other necessary matters. As such it would comply with CP3 and CP43 of the CS. It would also comply with paragraphs 50 and 204 of the Framework as set out above.

Other matters

47. The appeal site lies in the WCA, a designated heritage asset. As with the issue of principle, the Council did not object to the proposal on heritage grounds. However, as a number of local residents particularly object to the demolition of one building it is appropriate to consider this. The building in question, known as Building 4, was listed in 1999 but was delisted upon appeal some six weeks later. However, the Council considers it to be a non-designated heritage asset in the terms of the Framework and the PPG.
48. Paragraph 135 of the Framework indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in the determination. In weighing applications that affect directly non-designated heritage assets a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset.
49. Clearly by demolishing Building 4 the loss would be total. In support of the application both a 'Heritage Assessment' and 'Report on the Viability of Conversion' were submitted. These describe the building at "Late 19th Century two-storey red brick building with stone dressings, former felt carding and wet processing warehouse". As well as the original building it has been extended over the years.
50. The building makes a positive contribution to the WCA, but its significance is predominantly from its age and this has been compromised by the extensions. In addition it does not sit within an overall historic industrial environment. Set against this would be the benefits of the development of the appeals site. Any harm to the WCA from the loss of this building would, as agreed with the main parties and I concur, be less than substantial. In line with paragraph 134 of the Framework where there is less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I will do this in the planning balance below.
51. There are various other buildings on site varying in age and quality. Building 4 positively adds to the WCA, Building 2 is neutral, but the majority are harmful to the WCA and detract from its significance. As an outline application with only means of access for consideration, and taking into account the illustrative layout and other information, I am satisfied that overall the proposal would be positively accommodated on the appeals site, enhancing the WCA to which great weight and special attention should be given in line with paragraph 132 of the Framework and legislation⁶.

⁶ Section 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

52. Local residents expressed concern about the effects of the traffic on highway safety in the vicinity, and whether there would be sufficient parking. In respect of these issues I note that the Highway Authority has not objected to the proposal subject to conditions and the delivery of a TRO to restrict parking on site. In light of this, particularly as layout is not for consideration at this stage, I am satisfied that appropriate provision can be secured.
53. Concerns were also expressed about the quantum of development proposed. Predominantly this related to the amount of traffic which would be generated by the proposals which I have discussed above. In addition, there were concerns that the illustrative layout showed a building of four storeys on the site. Other than to note that this is in the same approximate location as the existing Building 2 which has three storeys and a high pitched roof, this is a matter which should properly be considered at the reserved matters stage.
54. As I understand it there are a number of listed buildings around the site and adjacent to the access roads. I am satisfied that the setting of these buildings would be either preserved or enhanced, depending on location, by the proposal.
55. Local residents have emphasised the local opposition to the proposals and I have taken this into account. However, public opposition of itself will be of little weight when compared to the main planning considerations I have identified elsewhere.
56. In addition, concern was expressed that there would be nothing to prevent the applicant, if permission were granted, from relocating away from Wilton. However, this could occur in any event, and again does not affect the planning merits of this appeal.
57. Whilst not downplaying the concerns of residents I am satisfied that both the environmental and traffic effects of the construction of the development could be satisfactorily dealt with through the implementation of a Construction Management Plan by way of a planning condition.
58. The Council undertook an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 in respect of the effects of the development on the River Avon Special Area of Conservation (the SAC), being a Site of Special Scientific Interest. As I am now the competent authority this falls for me to consider. On the basis of the information provided to me I am satisfied that subject to appropriate conditions the proposal would not, either on its own or in combination with other plans or projects, have a significant adverse effect on the integrity of the European site. This therefore does not represent an impediment to the grant of planning permission.

Planning Balance

59. The appeal site lies outside the limits of development of Wilton, but the site lies in an accessible location close to the town centre and close to facilities. I therefore have concluded that the principle of development is acceptable. The location of the site, while in Flood Zones 2 and 3, passes the Sequential and Exception Tests. There are a number of benefits, particularly delivery of 61 dwellings, a shop on North Street between other retail units, and two commercial units. The proposal would involve the loss of a significant number of buildings and overall would positively enhance the WCA. Collectively, I give

these benefits very significant weight. The loss of buildings would be beneficial, or the other benefits would outweigh the harm to Building 4 as a non-designated heritage asset, including the less than substantial harm to the WCA.

60. The proposals would not harm the living conditions of any occupiers to an unacceptable extent, and in respect of some of the residents in Crow Lane North and in Russell Street would enhance them. I give this significant weight.
61. Subject to viability, the proposals would deliver affordable housing, other infrastructure and other matters such as the TRO and highway works necessary to make the development acceptable. The provision of affordable housing is a benefit of the development, but due to the uncertainties as to the quantum of delivery, I can only give this limited beneficial weight. The remaining elements are all required by the development to mitigate its effects, and therefore are neutral in the final balance.
62. Given the significant benefits from the re-development of the site, and the lack of any substantial harm, this outweighs the presumption of the development plan from the location of the site outside the limits of development of Wilton. As such material considerations outweigh the presumption that the proposal should be determined in accordance with the terms of the development plan, the proposal therefore represents sustainable development and Appeal A should be allowed.
63. The demolition of some of the buildings on the appeals site would of themselves enhance the WCA. That, along with the other benefits that are public benefits, outweigh the loss of the non-designated heritage asset and the less than substantial harm to the WCA. In light of this Appeal B should also be allowed.

Conditions

64. I have considered the conditions put forward by the Council against the requirements of the PPG and the Framework. The numbers given in brackets (X) refer to the condition being imposed, with the order being prescribed by the time when the condition needs to be complied with. In this respect I have sought to delay the time when details need to be submitted or the condition complied with as appropriate.
65. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Appeal A

66. As set out in in the procedural matters section of this decision, this is an outline proposal with only means of access is for consideration at this stage. A number of the suggested conditions relate to matters which are reserved, such as the materials to be used or landscaping. Similarly, whether windows or glazing should be permitted in any particular location is for later consideration as part of the reserved matters process. However, other conditions are necessary at this stage so as to ensure that the effects of the development, including those outside the site, are acceptable.

67. In addition to the standard timescale conditions (1, 2, 3), I have imposed a condition specifying the relevant approved drawings as this provides certainty (4).
68. As indicated above a Construction Management Plan is needed in order to protect the living conditions of those living in the vicinity of the site, to prevent pollution of the watercourse and ensure construction and demolition operations do not unacceptably interfere with traffic conditions in Wilton town centre (5). This can be a single condition rather than a number as suggested by the Council.
69. Because of the proximity to the watercourses in order to ensure that no pollution adversely affecting water quality, the environment and the SAC occurs a scheme for the discharge of both foul and surface water, which will include sustainable drainage systems, needs to be approved (6) before development commences on site. For the same reason the leats needs to be protected from contamination during building operations works (7) and the method of construction of buildings, roads, paths and bridges needs to be agreed.
70. Due to the nature of the existing use on site contamination of the site needs to be investigated and resolved, including measures to deal with unexpected contamination during construction works (8, 17). Given the possibility of archaeology under the site an appropriate programme for investigation and recording is necessary to ensure that any significance is recorded for future generations (9).
71. In the interests of highway safety, strengthening works to the watercourse road bridge at the junction of North Street and Castle Lane needs to be completed prior to any works commencing on site (10). For the same reason and to minimise vehicular traffic to and from the development a Travel Plan should be agreed (16).
72. I have also imposed a condition ensuring that the development takes place in accordance with the Flood Risk Assessment and the mitigation measures detailed therein to ensure that the proposal is acceptable in respect of flooding issues (13). In addition, a scheme for water efficiency is needed to ensure that the scheme is appropriate for climate change adaption (14).
73. In order to ensure that the development does not adversely affect protected species the recommendations of the ecological assessment need to be implemented (15). Because of the importance of ecology and the need to protect habitats and species an ecological conservation management plan needs to be approved and implemented (11).
74. In order to ensure the longevity of trees on site, appropriate measures for their protection during building operations needs to be put in place (12).
75. In order to allow the public a full appreciation of the leats and the area, a footpath through the site should be made available as part of the development (22).
76. The Council has suggested a condition restricting development (other than landscaping) within 4 m of the river channels in the interests of the water environment and the SSSI. The appellant points out that the illustrative layout shows some buildings in such locations. As set out above, I am satisfied that

there is sufficient space within the site to allow for the development proposed and consider that the proximity of the such development to watercourses is part of the layout and should be considered under the reserved matters.

77. The Council has suggested a condition to prevent any of the properties being accessed via Crow Lane until "the proposed alterations" have been completed. It is not clear what this actually means. However, in the interests of highway safety it is necessary that the works on both Crow Lane and Castle Street should be completed prior to the relevant occupations (18, 19) and the precise details can be agreed by the Council as part of the approval of conditions process.
78. Due to the proximity of the C&O Tractors site in West Street it is necessary that any properties in the northwest corner of the appeal site are protected from noise and disturbance from this source. A condition to ensure that this is dealt with is therefore necessary (20).
79. Because of the proximity of the site to the SAC any lighting scheme needs to be controlled. This goes beyond matters relating to the reserved matters involving a fundamental issue in developing the site (21).
80. Details of hardsurfacing, including roads, footways and the like, including parking, on the appeal site should properly be considered as part of the reserved matters, as well as any footpaths and bridges across the leats.
81. The Council has suggested that permitted development rights to allow the extension of the dwellings should be removed in order to ensure that any further extensions, outbuildings or walls, fences, gates or other means of enclosure do not adversely affect the visual amenities of the WCA, the water environment and increase the risk of flooding. The consideration of these matters all flow from the layout and external appearance of the final design, and these are reserved matters for later consideration.

Appeal B

82. In respect of Appeal B, the timescale condition (1) and plans condition (2) are needed for legislative and certainty reasons respectively.
83. In order to protect the living conditions of those in the vicinity and the environment a method for the demolition of the existing buildings needs to be submitted and approved, as well as a Construction Management Plan and measures to protect the leats (3, 4, 5).
84. In order to ensure that any archaeology is recorded a scheme for investigation and recording needs to be put in place (6).
85. As with Appeal A, in the interests of highway safety, strengthening works to the watercourse road bridge at the junction of North Street and Castle Lane needs to be completed prior to any works commencing on site (7).
86. In order to ensure the longevity of trees on site, appropriate measures for their protection during construction needs to be put in place (8).
87. In order to ensure that the development does not adversely affect protected species the recommendations of the ecological assessment need to be implemented insofar as they are relevant to demolition (11). Because of the importance of ecology and the need to protect habitats and species an

ecological conservation management plan needs to be approved and implemented (9).

88. Finally, in order that there is no loss of a heritage asset without the benefits of the redevelopment of the site, I have imposed a condition requiring a contract to be let for this prior to any demolition taking place (10).

Conclusion

89. For the reasons given above, and taking into account all other matters raised, I conclude that the appeals should be allowed.

RJ Jackson

INSPECTOR

SCHEDULE A

CONDITIONS APPLICABLE IN RESPECT OF APPEAL A - APP/Y3940/W/17/3180109

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 71092-24 Revision P1, 12029-005.
- 5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) pollution prevention measures;
 - ii) arrangements for dealing with the removal of waste from the site, and the delivery of goods to the site including local temporary signage;
 - iii) the parking of vehicles of site operatives and visitors;
 - iv) loading and unloading of plant and materials;
 - v) storage of plant and materials used in constructing the development;
 - vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vii) wheel washing facilities;
 - viii) measures to control the emission of dust and dirt during construction;
 - ix) a scheme for recycling/disposing of waste resulting from construction works;
 - x) delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) No development shall commence until a scheme for the discharge of surface and foul water from the buildings and hard surfaces hereby permitted has been submitted to and approved by the local planning authority, and shall be carried out as approved. Drainage of hard surfaced areas must include petrol/oil interceptors and anti-pollution devices. Foul drainage shall be designed to prevent infiltration by groundwater.
- 7) No development shall commence until the river and leat channels have been protected from materials from the development hereby permitted falling into the river in accordance with a scheme to be submitted to and approved in writing by the local planning authority and shall be retained throughout the development period. The scheme shall incorporate measures for the protection of the water vole habitat and for protection of the river corridor during construction works.
- 8) No development shall take place on site until a soil survey of the site has been undertaken and the results provided to the local planning authority. The

survey shall take place in accordance with a scheme submitted to and approved in writing by the local planning authority. A method statement for decontamination of the site shall be submitted to and approved by the local planning authority in writing and this method statement as approved shall be fully implemented and completed before any unit hereby permitted is first occupied.

- 9) No development shall take place on site until a scheme for archaeological work, including building recording, setting out a specification and written timetable has been submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved scheme.
- 10) No development shall take place until the strengthening works to the watercourse road bridge at the junction of North Street/Castle Lane has been completed in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.
- 11) No development shall take place on site until a Conservation Management Plan to cover all proposed works, and planting within the river corridor, the protection of habitats and species of flora and fauna, the timing of any works and provision for the future maintenance of the river corridor shall be submitted to and approved in writing by the local planning authority. The Plan shall then be carried out as approved.
- 12) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until tree protection measures have been erected on site in locations in accordance with details submitted to and approved in writing by the local planning authority and agreed in writing as complete by the local planning authority. The protection shall be retained until the local planning authority has confirmed in writing that the development is complete in the vicinity of the specific tree. Nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the prior written consent of the local planning authority.
- 13) The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment (ARUP, Revision A, dated February 2009 and the Supplementary Report on Flood Risk, WHS, December 2012, including the Arup Report, Job No. 207325, dated 22 November 2012 contained within Appendix 3) and the mitigation measures detailed therein:-
 - i) finished floor levels and site ground levels, including safe access routes in times of flood, as described in chapter 12 of the FRA, and shown on Figure 5 in Appendix 3 of the Supplementary Report on Flood Risk;
 - ii) provision of compensatory flood storage on the site as detailed in Chapter 3 of the Supplementary Report on Flood Risk.

The development shall not be occupied until these works are complete.

- 14) No above ground construction work shall commence until a scheme for water efficiency has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the agreed details.
- 15) The development shall be carried out in full accordance with the recommendations of the CTM wildlife Ecological assessment 2015. Further

details of replacement bat habitats within the new buildings proposed shall be submitted to and approved in writing by the local planning authority before any above ground construction work takes place.

- 16) No development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include details of operational and monitoring proposals and shall be implemented in accordance with these agreed details. Monitoring reports shall be made available to the local planning authority on request, together with any changes to the plan arising from the Plan targets not having been achieved.
- 17) If, during construction, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing by the local planning authority) shall take place until the developer has obtained the written approval of the local planning authority for an addendum to the method statement referred to in condition 8 which shall detail how this previously unsuspected contamination shall be dealt with.
- 18) No building served from Crow Lane shall be occupied until alterations to Crow Lane have been completed in accordance with details which shall first have been submitted to and approved by the local planning authority.
- 19) No building served from Castle Lane shall be occupied until alterations to Castle Lane have been completed in accordance with details which shall first have been submitted to and approved by the local planning authority.
- 20) No dwelling to the east of the C & O Tractors site on West Street, Wilton shall be occupied until a scheme for noise insulation from noise associated with the this source has been submitted to and approved in writing by the local planning authority and full completed in accordance with the approved details.
- 21) No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage has been submitted to and approved in writing by the local planning authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.
- 22) There shall be no obstruction to the riverside footpath which shall provide a link through the site from northwest to southeast.

END OF SCHEDULE

SCHEDULE B

CONDITIONS APPLICABLE IN RESPECT OF APPEAL B - APP/Y3940/W/17/3180110

- 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: 71092-24 Revision P1, 12029-005.
- 3) No development hereby permitted shall commence until a scheme for the methodology of demolition has been submitted to and approved in writing by the local planning authority and the demolition shall be carried out in accordance with the approved scheme.
- 4) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) pollution prevention measures;
 - ii) arrangements for dealing with the demolition and removal of waste from the site including local temporary signage;
 - iii) the parking of vehicles of site operatives and visitors;
 - iv) loading and unloading of plant and materials;
 - v) storage of plant and materials used in the development;
 - vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vii) wheel washing facilities;
 - viii) measures to control the emission of dust and dirt during operations;
 - ix) a scheme for recycling/disposing of waste resulting from demolition works;
 - x) demolition working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall commence until the river and leat channels have been protected from materials from the development hereby permitted falling into the river in accordance with a scheme to be submitted to and approved in writing by the local planning authority and shall be retained throughout the development period. The scheme shall incorporate measures for the protection of the water vole habitat and for protection of the river corridor during works.
- 6) No development shall take place on site until a scheme for archaeological work, including building recording, setting out a specification and written timetable has been submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved scheme.
- 7) No development shall take place until the strengthening work to the watercourse road bridge at the junction of North Street/Castle Lane has been completed in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.

- 8) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until tree protection measures have been erected on site in locations in accordance with details submitted to and approved in writing by the local planning authority and agreed in writing as complete by the local planning authority. The protection shall be retained until the local planning authority has confirmed in writing that the development is complete in the vicinity of the specific tree. Nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the prior written consent of the local planning authority.
- 9) No development shall take place on site until a Conservation Management Plan to cover all proposed works, and planting within the river corridor, the protection of habitats and species of flora and fauna, the timing of any works and provision for the future maintenance of the river corridor shall be submitted to and approved in writing by the local planning authority. The plan shall then be carried out as approved.
- 10) No demolition shall take place until arrangements have been put in place to secure the redevelopment of the site permitted under planning permission reference S/2003/1016 and details of these arrangements have been submitted to and approved in writing by the local planning authority. The arrangements shall include details of the timescale for carrying out the redevelopment approved under planning permission reference S/2003/1016.
- 11) The development shall be carried out in full accordance with the recommendations of the CTM wildlife Ecological assessment 2015.

END OF SCHEDULE