



Appeal Decision

Hearing Held on 10 December 2019, 21 December 2019 and 20 January 2020

Site visit made on 10 December 2019

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 26 May 2020

Appeal Ref: APP/P1560/W/19/3226387

Land adjacent to Cliphedge Farm, Harwich Road, Little Bentley CO7 8SZ

- 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 N Naphthine of BrandArt Ltd against the decision of Tendring District Council.
 - The application Ref 17/02014/FUL, dated 13 November 2017, was refused by notice dated 9 October 2018.
 - The development proposed is construction of office buildings, including ancillary site works (car parking, landscaping, surface water management pond, new vehicular access points off Harwich Road and stopping up of existing access).
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Decision

1. The appeal is allowed and planning permission is granted for construction of office buildings, including ancillary site works (car parking, landscaping, surface water management pond, new vehicular access points off Harwich Road and stopping up of existing access) at Land adjacent to Cliphedge Farm, Harwich Road, Little Bentley CO7 8SZ in accordance with the terms of the application, Ref 17/02014/FUL, dated 13 November 2017, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are;
 - (i) Whether the site is in a suitable location having regard to the development plan strategy for development in the countryside;
 - (ii) The effect of the proposal on the character and appearance of the area;
 - (iii) The effect of the proposal on the living conditions of neighbouring occupiers; and
 - (iv) The effect of the proposal on biodiversity.

Reasons

The Development Plan and National Planning Policy Framework (the Framework)

3. Some time was spent at the Hearing discussing which are the most important policies for determining the application and whether they are out of date.
4. Paragraph 11 of the Framework states that decisions should apply a presumption in favour of sustainable development. Paragraph 11 goes on to say, in its "decision-taking" section in d) that *"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*
5. Paragraph 213 of the Framework identifies that policies should not be considered out-of-date simply because they were adopted or made prior to the Framework. Due weight should be given to them, according to their degree of consistency with the Framework.
6. The Tendring Local Plan 2007 (the Local Plan) predates the Framework. Policy QL1 of the Local Plan sets out the spatial strategy for the district, which identifies that development will be directed towards the larger urban areas, and within the smaller towns and villages where consistent with local community needs. The policy lists the settlement development boundaries and states that outside these, and other specific land allocations in the plan, only development that will be consistent with countryside policies will be permitted.
7. There is no subsequent direction to 'countryside policies' in Policy QL1, however the explanative text to Policy QL1 identifies that for the purposes of countryside policies the countryside is defined as all those parts of the Plan area that are not within the settlement development boundaries of towns and villages as identified on the Proposal Map. Chapter 13 of the Local Plan is titled 'The Rural Area' and addresses development outside of the settlements. The Local Plan directs development of employment sites within the district to those identified in Policy QL5(b) and Policy ER1, or those identified specifically within Chapter 13 the Local Plan.
8. Policy ER7 (Chapter 3) deals specifically with businesses located in rural areas. It allows for the establishment, expansion or change of use to business, industrial or warehousing sites subject to eight criteria. The policy goes on to state that *"in rural locations permission may exceptionally be granted for extensions to existing businesses where new employment opportunities would be generated providing the criteria above can be met and the proposals can be accommodated without an adverse impact on the landscape character of the countryside."* Therefore, the policy appears to have two differing approaches, with the establishment of employment being restricted to existing settlements. In rural areas only extensions to existing sites would be permitted, and in those cases only in exceptional circumstances.
9. This approach to development for employment purposes in rural areas is not consistent with the Framework. Chapter 6 of the Framework identifies that decisions should help create the conditions in which business can invest and that significant weight should be placed on the need to support economic

growth taking into account both local business needs and wider opportunities for development. Paragraph 83 advises that decisions should enable sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Paragraph 84 makes it clear that decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements and in locations that are not well served by public transport.

10. When reading Policy QL1 alongside Chapter 3, with specific regard to Policy ER7 and Chapter 13, the policy is unduly restrictive regarding the establishment of business outside of settlement boundaries, compared with the approach advocated in the Framework. Accordingly, insofar as Policy QL1 identifies sites for employment as per the matter before me, I find it to be inconsistent with the Framework.
11. My attention has been drawn to appeal decisions where Policy QL1 was found to be consistent with the Framework¹, however these appeals related to proposals that included residential development, rather than simply employment development and whilst I acknowledge that the overarching approach of directing development towards existing settlements accords with the Framework, for the purposes of this appeal it is necessary to consider the latter part of Policy QL1 in respect of rural employment development. As such the appeals are materially different to the scheme before me, in any event I have determined this appeal on the basis of its own merits.
12. Policy QL2 of the Local Plan identifies that proposals should be located and designed to avoid reliance on the use of the private vehicle and promote travel choice, the policy states that permission will not be granted for development if it is not accessible by a choice of means of transport. The explanatory text to Policy QL2 recognises that in rural areas a lack of public transport and essential services means that for many journeys using the private car is the only realistic transport choice. However, this is not specifically acknowledged in the wording of the Policy.
13. The principle of encouraging different modes of transport is reflected in the Framework, however the Framework also states at paragraph 103 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making. Taking into account the location of the appeal site, I find that Policy QL2 is inconsistent with the Framework insofar as it relates to developments beyond the settlement boundaries.
14. Policies EN1 and QL9 of the Local Plan both advise that development should protect, and where possible enhance, local character. This is broadly consistent with the Framework which advises that decisions should contribute to and enhance the natural environment. This would include not only protecting valued landscapes, but also recognising the intrinsic character and beauty of the countryside.
15. Policies EN6 and EN6a relate to the protection of biodiversity, and accord generally with the aims of the Framework in seeking to take opportunities to enhance biodiversity through development.

¹ APP/P1560/W/18/3197441, APP/P1560/W/18/3213141

16. The Council referred to policies within the emerging local plan in its decision notice. At the hearing it was confirmed that the emerging local plan is currently at examination stage, therefore whilst I have had some regard to the direction of travel that it represents in terms of being at a relatively advanced stage, I attach limited weight to it as the inspector is yet to issue their conclusions and recommendations on the soundness of the plan.
17. The relevant policies for determining the appeal are QL1, QL2, ER7, EN1 and QL9, EN6 and EN6a. Of those policies the most important for determining this appeal are QL1, QL2, ER7, EN1 and QL9 as they govern the strategic approach to the location of development and the provision of business use within the district and the effect on the character of the area. I have considered each of the most important policies to determine whether each policy is consistent with the Framework. I am satisfied that Policies EN1 and QL9, which are policies to ensure development protects the character of an area, are consistent with the Framework. However, Policies QL1, QL2 and ER7 are unduly restrictive regarding business development beyond settlement boundaries and are not in this respect consistent with the Framework. As such, I find that when the most important policies are taken as a whole insofar as they apply to the scheme before me the basket of policies is out of date.

Whether the site is in a suitable location for the development having regard to the development plan strategy for development in the countryside

18. The appeal site lies on the south side of Harwich Road, within 200 metres of an upgraded access onto the A120. It is adjacent to an existing dwelling, Cliphedge Farm. The neighbouring villages of Frating, Greta Bentley and Little Bentley are classed as smaller rural settlements with limited shopping and service opportunities. Elmstead Market is approximately 5 kilometres away, and Great Bentley is some 3 kilometres away from the site. These are classed as Rural Service Centres, with Great Bentley providing a railway station.
19. The appeal site is within the countryside for the purposes of the Local Plan. The Local Plan takes a strategic approach to development, directing it within the settlements, and seeking to retain town centre uses within the town centre or on an allocated employment site. As such I find that the proposal would conflict with Policy QL1 of the Local Plan due to its location. However, as I have found that Policy QL1 is inconsistent with the Framework insofar as it applies to development outside of the settlement, I attach reduced weight to this conflict.
20. The positioning of the A120, and the smaller villages a slight distance to either side of the appeal site, means that spatially the site is set within a small cluster of development and infrastructure. This is replicated through-out the district, and to my mind the A120 is fundamental in providing an infrastructure link that connects these small clusters to the wider area. The fact that the appeal site is within such a close distance to the main highway reinforces this concept of connectivity. Therefore, although there is limited built form within the immediate setting of the appeal site, it is visible from the site, and whilst the site is beyond a settlement boundary I do not consider it to be isolated.
21. The appellant put forward a sequential test within their evidence considering the assessment of alternative sites for the proposal. Paragraph 86 of the Framework identifies that a sequential test should be applied for schemes for main town centre uses which are neither in an existing town centre nor in

accordance with an up-to-date plan. The suitability of these alternative sites was discussed at the hearing.

22. The alternative sites identified would not be suitable for a number of reasons relating specifically to the ability for the business to have a site with a road frontage, and to allow the use of office space and exhibition space. Of those that may offer a road frontage, there was no specific evidence as to when the sites may be available, or if it would match the remaining criteria. Only one of the sites was available with a freehold interest, however that did not meet other criteria. Due to the nature of the appellant's business requiring large exhibition spaces to replicate client retail spaces, and supporting office space, I am satisfied that the alternative sites would not be appropriate, and therefore there are no sequentially preferable sites and the sequential test is passed.
23. The Framework is clear that decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
24. Bus services run near the site on an hourly basis, with two bus stops being located within walking distance at present. Those stops provide service to a number of villages and to the larger towns of Colchester and Walton-on-the-Naze. There was some discussion at the hearing regarding the use of these services, and whether they could be used to provide a service for users of the appeal site. Whilst I accept that the services may not be heavily used, these services nevertheless were scheduled. I have no evidence to suggest that the bus services are at risk of being ceased, and the timetables would provide an opportunity to travel to or from work by bus.
25. Whilst part of the route to the bus stops would be over the highway verge this should not significantly deter use of the service. The road offers good visibility and pavements are provided in some sections. Furthermore, the proposal would incorporate a bus stop outside of the site and opposite. This would encourage the use of public transport in a location convenient to the site and may encourage wider usage of the bus service.
26. Opportunities to maximise sustainable transport solutions inevitably varies between urban and rural locations. This scheme would promote alternative modes of transport including bus and cycling. It was also agreed that a Travel Plan could be secured to promote future sustainable transport for employees to include car sharing.
27. As such I find that the appeal site would be accessible via modes of transport other than the private vehicle and has good existing links to transport infrastructure. It would therefore comply with Policy QL2 of the Local Plan which identifies that permission will not be granted if it is not accessible by a choice of means of transport. The scheme is however contrary to the development plan strategy for development in the countryside as set out in Policy QL1.
28. With regards to the emerging plan, policy SPL2 of the emerging plan identifies that development should be focused within settlement development boundaries, and therefore the proposal would conflict with Policy SPL2 due to

its location. It would also conflict with Policy PP13 of the emerging local plan which identifies four situations that would lead to permission, none of which applies to the proposal.

The effect of the proposal on the character and appearance of the area

29. The appeal site is relatively flat and has a substantial frontage onto Harwich Road, with the A120 visible beyond that. The site is bordered on three sides by well established leylandii, and to the front by a hawthorn hedgerow. To one side of the appeal site is a residential property (Cliphedge Farm).
30. The area has a rural feel to it with villages and business sites (a number of which appear as farm clusters that have evolved) interspersed with large fields and open landscapes, delineated by the various trunk roads.
31. The proposal would incorporate two buildings. Building 1 would face towards the front of the site. At its tallest building 1 would be the same height as the large adjacent farmhouse, however for the majority of its length it would be smaller in scale with a pitched metal roof. The proposed materials would include brick for external surfaces with metal framed openings for doors and windows. Building 2 would be set behind building 1 and would be smaller in scale whilst utilising the same palette of materials. Therefore, whilst the building would have a B1a use, the overall shape and form of the proposal would be similar to agricultural buildings which are commonly found within the area.
32. The front boundary would be landscaped with the existing hawthorn hedge retained and additional trees would be planted within the site and along the boundaries. The soft landscaping element would assist in settling the building into the landscape and when viewed from the public realm the built form would appear as a comfortable addition to the area, with building 2 largely hidden behind building 1.
33. The hard landscaping elements such as internal roadways and parking would be constructed in light colour permeable block paving with differing patterns to add visual interest. Extensive areas containing trees, shrubs and perennial planting would be interspersed within the parking area which would break up the hard surfaces and add visual interest to the site.
34. Accordingly, I find that the proposal would sit comfortably within the landscape and would protect the rural character. It would comply with Policies EN1 and QL9 of the Local Plan which, amongst other things, require new development to protect, and where possible enhance, local character. It would comply with Policies SPL3 and PPL3 of the emerging plan which amongst other things require development to make a positive contribution to the local character and prohibits development that would cause overriding harm to the character of the rural landscape.

The effect of the proposal on the living conditions of neighbouring occupiers

35. Cliphedge Farm is a substantial farmhouse set within a generous garden, with a detached outbuilding located towards the front of the site. The proposal would be located in excess of 60 metres from the farmhouse, and between the two buildings a substantial level of soft landscaping would be incorporated. This would include the creation of three bunds, ranging from 1.5metres to 2metres

in height. The bunds would form part of an informal area of the site incorporating additional trees and planting. The boundary planting was discussed at the hearing and on the site visit. The existing boundary trees are not native to the area, however they are well established and provide a significant level of screening.

36. The building would not be in use during the evenings or on a Sunday, exact timings could be secured by way of condition. Whilst some external lighting may be necessary for security purposes, a condition could be secured to ensure that the local planning authority agree such a scheme to ensure that it would not be detrimental to the living conditions of neighbouring occupiers. Car parking for users would be located on the other side of the built form, and the access to the site would be located significantly further away from Cliphedge Farm than the existing access. The external space between the built form and the boundary with Cliphedge Farm would be utilised to encourage biodiversity on the site, and not for amenity for the users of the office.
37. Whilst I appreciate that the development would change the view from the windows on the side of Cliphedge Farm and the outbuilding to the front of the property, I do not consider that it would be oppressive or result in a loss of privacy. There is an element of noise from the A120 and Harwich Road, and I do not consider that the proposal would result in an increase in traffic and activity that would be detrimental to the living conditions of those occupying Cliphedge Farm due to noise or disturbance.
38. As such I find that the proposal would comply with Policy ER7 in general terms which requires the scale of development to be appropriate and to avoid unacceptable impact on amenity. It would comply with Policy SPL3 of the emerging local plan which requires buildings and structures to designed and orientated to ensure adequate daylight, outlook and privacy for existing residents.

The effect of the proposal on biodiversity

39. Having had regard to the Ecological Impact Assessment (EIA) I am satisfied that the habitats within the appeal site predominantly comprise fallow agricultural land that supports improved grassland within a single field which is of negligible nature conservation value, and unlikely to provide valuable habitat for protected species or species of conservation concern. The habitats of most value are associated with the hedgerow along the northern boundary of the site, which provides potential habitat for breeding birds and small mammals, and provides habitat connectivity to hedgerows to the north of the site, as well as to the gardens adjacent to the north of the Site.
40. The EIA includes an assessment for great crested newts. Whilst interested parties refer to newts being present in the area, I note that there is no record of great crested newts within 2 km of the appeal site. Whilst there is an established pond in the garden of Cliphedge Farm it was not possible to undertake a survey of that pond. However, on the basis of observations made from a distance the EIA concludes that the pond is unlikely to provide a habitat for great crested newts. On the balance of evidence, I consider that there is not a reasonable likelihood of great crested newts being present. However the possibility of the presence of the species cannot be completely ruled out and Accordingly the EIA includes a number of proposals that would enhance the biodiversity of the appeal site and provide mitigation for great crested newts,

through a non licenced method statement as a precautionary approach should they subsequently be found.

41. The proposal would provide significant opportunities to integrate ecological enhancements. Design features would include the retention of the existing hedgerow along Harwich Road where possible, with the hedgerow supplemented with planting of native broadleaved trees as standards at intervals along the Site boundary. Native trees would be planted within the site as an integral component of the landscape design. A wildlife pond would be located on the site which would link with a garden water channel and create a significant aquatic habitat that could provide habitat for aquatic plants, invertebrates and amphibians. A wildflower meadow using an appropriate seed mix of local provenance around the pond and a woodland wildflower area over-planted with native broadleaved trees and shrubs would be incorporated into the scheme. A hibernaculum using material sourced from the piles of debris present on the site would provide habitat enhancement for amphibians, and also potentially for small mammals and reptiles.
42. Discussion regarding the replacement of the leylandii was explored at the hearing. However, having regard to the concerns of the neighbouring occupiers, I consider that the replacement of the leylandii is not necessary to secure the enhancement of the biodiversity on site or the protection of protected species.
43. I find that the implementation of these habitat creation measures would provide significant benefits and as such the proposal would accord with Policies EN6 and EN6a(biodiversity) which collectively seek to protect and enhance the existing local biodiversity. The proposal would comply with Policy PPL4 of the emerging local plan which seeks to protect biodiversity.

Other Matters

44. There was a previous appeal on the site in 2009 which was dismissed². Whilst I am mindful of the comments made by that Inspector, the proposal before me is a fundamentally different scheme. Furthermore, the previous appeal predated the Framework. I have found the most important policies for determining the appeal to be inconsistent with the Framework, which the 2009 appeal predates. Therefore, I attach limited weight to the previous appeal decision.
45. Residents have concerns over an increase in traffic in the area due to the proposal. Whilst there would be a modest increase in traffic, I have very limited evidence to suggest that this would be an increase that would overwhelm the network. The business is not associated with large freight and the increase would be vehicles associated with commuting or those visiting the site. As such I am satisfied that the proposal would not have an adverse effect on highway safety.
46. I understand the concerns regarding establishing a precedent. However, each development proposal must be considered on its own merits. Whilst I have found this scheme to be acceptable it does not follow that further schemes would be permitted.
47. Whilst the land was historically used for agricultural purposes it is clear from the ecological survey that the land is now fallow and has not been in

² APP/P1560/A/09/2097421

agricultural use for a considerable period of time. I therefore do not consider that loss of the land for agricultural purposes would justify dismissing the appeal on those grounds.

Planning Balance

48. I have found that the proposal would conflict with Policy QL1 of the Local Plan, and whilst I reduce the weight given to conflict with Policy QL1 the proposal would nevertheless conflict with spatial strategy of the plan and the development plan as a whole. The legal position is clear that proposals should be determined in accordance with the development plan unless other material considerations justify a different conclusion.
49. I have found that, for the purposes of this appeal, the policies which are most important for determining the appeal are out-of-date and inconsistent with the Framework. The Framework is a material consideration which carries significant weight and advises that in these circumstances permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
50. The proposal would create an attractive hub for a growing business with approximately 36 people being employed. A number of these people live within Tendring and the use of the site would encourage staff to live and invest in the local area. This would be a positive boost for the local economy, supporting the growth of a local business and encouraging further investment in the area. This is actively supported by the economic strategy for the district and I attach significant weight to the proposal in its efforts to encourage staff to live and work in the area. The site would provide an opportunity for a net gain in biodiversity which would also be a benefit of the development. The proposal would encourage a range of modes of transport to avoid reliance on the private vehicle and is in an accessible location, a matter to which I also attach substantial weight. The proposal would not result in harm to the character of the area or living conditions of neighbouring occupiers, I consider these matters to be neutral.
51. I conclude that the harm that would be caused through conflict with the spatial strategy which directs employment development to defined settlements would not significantly and demonstrably outweigh the benefits of the scheme. Accordingly the presumption applies.
52. Overall I find that the proposal would represent sustainable development, and material considerations outweigh the conflict with the development plan

Conditions

53. At the hearing the Council's suggested conditions were considered in turn with all parties given the opportunity to comment. It was agreed that some of the conditions were duplicated, and others could be amended to deal with relevant issues. Conditions securing the plans are necessary in the interest of certainty. Conditions relating to materials, landscaping, lighting, external storage and design of bus stops are necessary in the interest of protecting the character of the area and living conditions of neighbouring occupiers. Conditions securing a construction method statement and requiring details relating to vehicular access and parking are necessary to protect amenity of neighbouring occupiers

and in the interest of highways safety. A condition restricting the hours of use of the development is necessary to protect the amenity of the neighbouring occupiers. Conditions securing cycle parking, electric charging points and a travel plan are necessary to promote alternative and sustainable methods of transport. A condition securing low carbon energy is necessary to ensure the development is environmentally sustainable. Conditions relating to surface water management and foul drainage are necessary to ensure the site can be suitably drained and does not lead to an increase in flooding elsewhere. A condition securing compliance with the Ecological Strategy is necessary to promote biodiversity, however an agreed scheme based on the principles would need to be agreed with the Council to ensure that the appropriate measures are taken with specific reference to the leylandii and retaining the boundary with Cliphedge Farm.

Conclusion

54. For the reasons above, and subject to the conditions set out in the attached schedule, I conclude that the appeal is allowed.

J Ayres

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Planning Statement, Design and Access Statement, Ecological Impact Assessment (and update), Topographical Survey, Ground Investigation (infiltration testing for soakaway provision), Flood Risk Assessment and Drainage Strategy, drawing ref 6534/1101 – Block plan and site location plan, drawing ref 6534/1102 – site plan, drawing ref 6534/004 – site plan, drawing ref 6534/1201 – office 1 – floor plans, drawing ref 6534/1301 – office 1 – elevations and 3D views, drawing ref 6534/1202 – office 2 – floor plans, drawing ref 6534/1302 – office 2 – elevations and 3D views.
- 3) No development other than other than works of site survey and investigation shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels, the accessway, parking and turning areas, boundary treatments and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained with particular regard to the front boundary, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 - Trees in relation to design, demolition and construction." The development shall be carried out in accordance with the approved scheme.

- 4) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to occupation the following infrastructural improvements shall be provided entirely at the Developer's expense;
 - The 2m wide footways including dropped kerb crossing points
 - 2 No. bus stops
- 6) Prior to completion of the built form on site details of the bus stops including materials and design shall be submitted to and approved in writing by the local planning authority. The bus stops shall be erected in accordance with the approved details prior to occupation of the development.
- 7) No development other than other than works of site survey and investigation shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - Safe access to/from the site
 - The parking of vehicles of site operatives and visitors
 - The loading and unloading of plant and materials
 - The storage of plant and materials used in constructing the development
 - The erection and maintenance of security hoarding
 - Wheel and underbody washing facilities
 - Measures to control the emission of dust and dirt during construction
 - A scheme for recycling/disposing of waste resulting from construction works
 - Details of hours of deliveries relating to the construction of the development
 - Details of hours of site clearance or construction
 - A scheme to control noise and vibration during construction, including details of any piling operations
 - A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution

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

- 8) Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway in accordance with drawing number 6534/004 Rev B. Following this the existing access shall be suitably and permanently

closed incorporating the reinstatement to full height of the highway verge and kerbing in accordance with drawing number 6534/004 Rev B

- 9) The proposed development shall not be occupied until such time as the vehicle parking and turning areas indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
- 10) The cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times
- 11) No development other than other than works of site survey and investigation works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
 - Following further infiltration testing if this is found to be viable, limiting discharge via infiltration for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change. If following further testing it is found infiltration is unviable, run off should be limited to the 1 in 1 year greenfield rate for all storm events up to and including the 1 in 100-year rate plus 40% climate change.
 - Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100-year plus 40% climate change event.
 - Final modelling and calculations for all areas of the drainage system.
 - The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
 - Detailed engineering drawings of each component of the drainage scheme.
 - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

- 12) No development other than other than works of site survey and investigation shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of surface water drainage system and the maintenance activities/frequencies has been submitted to and agreed in writing by the Local Planning Authority. The applicant or any successor in title shall maintain yearly logs of maintenance which should be carried out in

accordance with the approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

- 13) The buildings hereby permitted shall not be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 14) No floodlighting or other external lighting shall be installed until details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Such scheme should seek to comply with the hours of use as governed by condition 17. Development shall only be carried out in accordance with the approved details.
- 15) No development other than other than works of site survey and investigation shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.
- 16) At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning prior to commencement of development. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- 17) Use of the premises as hereby permitted shall be confined to the following hours:
Mondays to Fridays – 7am – 6pm
Saturdays – 9am – 4pm
Sundays and Bank Holidays - Closed
- 18) No development, other than other than works of site survey and investigation, shall take place until a scheme for the enhancement of the site for biodiversity purposes, based upon the recommendations in paragraph 5.3.7 of the submitted Ecological Impact Assessment, dated June 2017, and the Updated Ecological Impact Assessment letter dated 9th January 2019, to include timescales for implementation and future management, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of enhancements shall be implemented in accordance with the approved details and retained at all times.
- 19) Prior to occupation of the development a detailed Travel Plan shall be prepared in accordance with current best practice and guidance and

submitted for written approval of the Local Planning Authority in conjunction with the Local Highway Authority. The approved Travel Plan and obligations therein shall be implemented and complied with upon occupation of the development, and the Travel Plan shall be retained thereafter, unless otherwise agreed in writing by the Local Planning Authority.

- 20) The buildings hereby permitted shall not be occupied until works to accommodate charging points for electrical vehicles have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

END OF SCHEDULE

APPEARANCES

ON BEHALF OF THE COUNCIL:

Martin Carpenter
Cathy Fishenden

ON BEHALF OF THE APPELLANT:

Matthew Green
Neil Naphine
Robert Edge
Dave Watson
Keeley Hazelhurst
Jeremy Newman
Councillor Carlo Guglielmi
Jon Huckle

INTERESTED PARTIES:

Philip Suarez
C Hibbert
Mark Rodgers
Councillor Lynda McWilliams
B King
R Naphine
Judith Dean
Julian Foynes
Ant Dean
Eve Dean
Amanda Pharez
Barris and Brond Merridew

DOCUMENTS SUBMITTED AT THE HEARING:

Statement of Common Ground
Appeal notification letters
Statement of Councillor Carlo Guglielmi read to planning committee
Alternative Site Assessment and accompanying plan
Signed witness statement of Neil Naphine
Information relating to development of south of Thorpe Road, Weeley (Policy SAMU5)
Information relating to land south of Long Road, Mistley (Policy SAE2)
Plan identifying land at Horsley Cross
Plan identifying proposed site plan for land at Ipswich Road
Chapter 13 of the Local Plan – The Rural Area
Official Labour market statistics
Breakdown of staff employed across BrandArt/Carole/Cargostop 2020/21
BrandArt merchandising brochure