



Appeal Decision

Site visit made on 14 April 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2021

Appeal Ref: APP/T4210/W/21/3266223

Higher Ash Barn, 12 Hawkshaw Lane, Tottington BL8 4LD

- 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 and Mrs Jake Packun against the decision of Bury Metropolitan Borough Council.
 - The application Ref 66085, dated 16 October 2020, was refused by notice dated 11 December 2020.
 - The development proposed is the change of use/conversion of barn to form one dwelling, with associated single storey, 2 storey and roof extensions, external alterations (including new/replacement doors and windows), external works associated with access/parking/hardstanding areas, new pond and hard/soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use/conversion of barn to form one dwelling, with associated single storey, 2 storey and roof extensions, external alterations (including new/replacement doors and windows), external works associated with access/parking/hardstanding areas, new pond and hard/soft landscaping at Higher Ash Barn, 12 Hawkshaw Lane, Tottington BL8 4LD in accordance with the terms of the application, Ref 66085, dated 16 October 2020, subject to the conditions in the attached schedule.

Procedural Matters

2. On 24 November 2020, before the Council had determined the planning application, the appellants submitted a revised "Proposed Site Plan" (drawing reference JP-PROP-12 Revision E). Compared to the earlier Revision D of the same drawing, it showed a smaller area as the "dwelling curtilage" of Higher Ash Barn, and reduced the cobbled areas of the proposed driveway and parking area. The Council did not accept the revised proposed site plan and made its decision on the basis of the Revision D version. While it is not necessary for me to delve into the minutiae of the exchanges between the parties on this matter, the Council's approach is understandable in the light of a message from the appellants on 10 November 2020 asking that it "determine the application as it stands today".
3. Notwithstanding this, the revised plan is before me and forms part of the appeal submission. I am mindful of advice in Annexe M of the *Procedural*

*Guide*¹ that “if an applicant thinks that amending their application proposals will overcome the local planning authority’s reasons for refusal they should normally make a fresh planning application”, and that “if an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people’s views were sought”. However, it does not follow from this advice that I accept the Council’s assertion that the appeal *cannot* (my emphasis) be assessed on [the revised plan].

4. I have given consideration to the “Wheatcroft Principles”² and whether any prejudice would occur to any party’s interests if I were to determine the appeal on the basis of the amended drawing. In this case, the revised plans make relatively limited changes in respect of the curtilage and proposed area of hard landscaping, and I do not consider that they fundamentally alter the nature of the scheme. Furthermore, the Council has had an adequate opportunity to comment on the implications of the revised proposed site plan (although it has essentially chosen not to do so), and interested parties notified of the appeal were able to consider the amended drawing. I am therefore satisfied that no party’s interests have been prejudiced by my determining the appeal on the basis of the revised plan, and I have proceeded accordingly.

Main Issues

5. The main issues are:

- Whether or not the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework “the Framework”) and any relevant development plan policies, and its effects on the openness of the Green Belt and the purposes of including land in the Green Belt;
- The effect of the proposal on the character and appearance of the appeal building and the wider landscape; and
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

6. The appeal relates to a barn and surrounding land, formerly associated with Higher Ash Farm which lies just to its north. It is within the Green Belt, the West Pennine Moors, and a Special Landscape Area. The appeal site and the Higher Ash Farm house are accessed by a track from Hawkshaw Lane, a narrow lane which connects them (along with several other dwellings and farms) to the village of Hawkshaw a little over half a mile or so to the south.
7. The barn is a large building with a T-shaped plan, built of stone with a slate roof, set within an open gravel area connecting to the driveway. Planning permission was granted in 2016 for the conversion of the barn to a dwelling,

¹ Procedural Guide: Planning appeals – England (<https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>)

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

including a roof extension³, and although the appellant indicates that implementation of that permission has commenced it has clearly not been completed.

8. The land generally falls from north to south across the site, and there are long views to and from the site over the open fields to the south and south east. Higher Ash Farm house, the trees in and around its garden, and the topography of the area mean that views to and from the north and west of the site are much more constrained.
9. The proposed development is the conversion of the barn to form a 4 bedroom dwelling, with various works which I summarise as being several single storey, two storey and roof extensions, external alterations to the building, and the formation of a hardstanding, domestic garden, and landscaping. I will return to look more closely at some of the details of the proposal below in considering matters of character and appearance.

Inappropriate development in the Green Belt, and effect on openness and purposes of including land in the Green Belt

Relevant national and local policy

10. Paragraph 133 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and their permanence. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very specific circumstances.
11. Paragraph 145 of the Framework states that, other than for listed exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. Paragraph 145(d) allows for "the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building". Paragraph 146(d) indicates that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, including "the re-use of buildings provided that [they] are of permanent and substantial construction". The Framework is a material consideration which carries significant weight in determining this appeal.
12. The most relevant development plan policies in respect of the Green Belt are Saved Policies OL1/2 and OL1/4 of the 1997 Bury Unitary Development Plan ("the UDP"). The adoption of the UDP pre-dates the publication of the Framework by many years, but although the appellants have commented on "the outdatedness of the development plan", having regard to advice in Paragraph 213 of the Framework it does not follow that these policies should automatically be considered out-of-date for the purposes of determining this appeal.
13. Saved Policy OL1/2 outlines circumstances in which the Council considers the construction of new buildings in the Green Belt to be not inappropriate, including limited extensions which would not result in disproportionate additions to the existing building. However while OL1/2 is broadly consistent with the Framework, its "limited extensions" exception refers only to extending

³ LPA ref 59866

existing dwellings. Saved Policy OL1/2 is therefore more restrictive than the Framework in respect of this appeal, and consequently I give it limited weight in my decision. OL1/2 is supported by advice in the 2007 Development Control Policy Guidance Note 8 "New Buildings and Associated Development in the Green Belt" ("PGN8"). PGN8 also pre-dates the Framework and reflects the more restrictive policy stance of OL1/2, and I therefore give it very limited weight in my decision.

14. Saved Policy OL1/4 addresses the conversion and re-use of buildings within the Green Belt, and indicates (among other things) that this will not be inappropriate where the buildings are of permanent and substantial construction, and the development would not have a materially greater impact on the openness of the Green Belt and the purposes of including land within it. While there are differences of wording, the aims and effect of OL1/4 are consistent with the Framework, and accordingly I give this policy full weight in my decision. OL1/4 is supported by advice in the 2007 Development Control Policy Guidance Note 9 "Conversion and Re-use of Buildings in the Green Belt" ("PGN9").

Proposed extensions

15. The proposed extensions would be relatively modest when considered against the size and scale of the existing barn. The main parties agree that the proposal would result in a 20.77% increase on the volume of the original building. This falls well below the one third threshold which the PGN8 indicates is typically the point beyond which an extension is likely to be considered disproportionate.
16. Other concerns which the Council has expressed about the design, position and size of parts of the proposed extensions relate primarily to their effect on the character and appearance of the barn and the surrounding area, and these are addressed below. However, I consider that the proposed extensions are not disproportionate in size to the original building, and they therefore fall within the exception described in Paragraph 145(d) of the Framework. The proposed extensions would therefore not be inappropriate development in the Green Belt. However, Saved Policy OL1/2 of the UDP only addresses extensions to existing dwellings rather than all existing buildings, and the proposed development is not therefore one of the exceptions permitted by that policy.

Re-use of a building

17. A structural assessment was submitted with the planning application, although this had originally been prepared in respect of the 2016 planning permission. However, notwithstanding the passage of time, the Council considers that the assessment's conclusions, that the building appears largely structurally sound with substantial and well-aligned stonework walls, remain valid. Although a large part of the roof would need to be replaced and other remedial work would be necessary, the Council concluded that the existing building is permanent and substantial, and capable of conversion without major restructuring or rebuilding works. Based on the evidence before me I agree, although my findings in respect of openness will determine whether or not the proposed development falls within the exceptions described in Paragraph 146(d) of the Framework and Saved Policy OL1/4.

Openness and purposes of including land in the Green Belt

18. The proposed development involves the reuse of an existing building and the construction of new extensions. The principle of the conversion of the barn to a dwelling has been established by the 2016 planning permission. In this case however, the Council is concerned in particular that the use of part of the external space as a domestic garden would be likely to have a harmful effect on the openness of the Green Belt arising from the introduction of domestic paraphernalia into the countryside.
19. The proposed extensions would increase the bulk of the barn, but having found above that they would not be disproportionate it is implicit in Paragraph 145 of the Framework that they would not be harmful to the openness of the Green Belt. The building as a whole is visible from Hawkshaw Lane, but generally seen in public views (either from the road or from public rights of way crossing the area) against trees or the hills rising to the north. The proposed garden area is somewhat larger than that permitted in 2016, and I consider that the introduction of domestic paraphernalia and parked cars would be inevitable to some degree. However, this would affect a relatively small part of the site and there is no substantive evidence which indicates to me that this would be more harmful to openness – either in spatial or visual terms – than the parking of vehicles and storage of equipment and material which might be associated with the use of the appeal site as a functioning agricultural barn. All but the closest views of the site would remain substantially the same as now, and the visual impact of the development would therefore not be significant. I am therefore of the view that the proposal would have a neutral effect on the openness of the Green Belt.
20. While in some circumstances the introduction of domestic paraphernalia can result in an encroachment of development into the countryside, based on the evidence before me and my observations during my site visit it seems to me that any equipment associated with the use of the building as a dwelling, or the use of part of the site as a domestic garden, would be likely to be confined to a small area. As with my assessment of the effect on openness, from most viewpoints the development would be seen, if at all, against a backdrop of trees or the barn building. Much of the domestic curtilage would also adjoin land which already forms the garden of Higher Ash Farm, and which I saw at the time of my site visit contained various items such as garden furniture. In these circumstances, I do not consider that the proposal would represent an encroachment of suburbanisation into the wider countryside setting.
21. The Council suggested also that the proposal would also conflict with the Green Belt purpose of checking the unrestricted sprawl of large built-up areas. However, the appeal site, and the neighbouring residential site of Higher Ash Farm, are some considerable distance from the nearest large built up areas, and would remain entirely separate. I am not therefore persuaded that a change to a residential use arising from the re-use of an existing building would conflict with this Green Belt purpose. Other matters raised by the Council in respect of the design of the proposed scheme are more relevant to an assessment of effects on the character and appearance of the building and the area, rather than an assessment of the effects on openness.

Findings in respect of inappropriate development in the Green Belt and openness

22. For the reasons given above, I conclude that the proposed development would preserve the openness of the Green Belt. It would not conflict with the five purposes of including land within the Green Belt set out in Paragraph 134 of the Framework. The proposal therefore falls within the exceptions set out in Paragraphs 145(d) and 146(d) of the Framework, and would comply with Saved Policy OL1/4 of the UDP in this regard. The development would not fall within the exceptions described within Saved Policy OL1/2 of the UDP. However, for the reasons I have already set out I afford limited weight to conflict with that policy, and very substantial weight to compliance with national policy as set out in the Green Belt. I therefore conclude that the proposal would not be inappropriate development in the Green Belt.

Character and appearance

23. Although I have found that the proposed development would be “not inappropriate” in Green Belt terms, it still remains to be appraised against the other requirements of the development plan. The Council considers that as a result of the proposed fenestration, the size, position and design of the proposed extensions, and the use of part of the site as a domestic garden, the development would be harmful to the character and appearance of the barn itself, and to the character of the surrounding Special Landscape Area. I shall consider these matters separately in turn.
24. Higher Ash Barn is included on the Council’s “draft Local List” of heritage assets, along with Higher Ash Farm house. While that list has not been formally adopted, I have no reason to disagree with the Council’s view that the barn is a Non-Designated Heritage Asset (“NDHA”), the significance of which lies in its age and its legibility as an historic agricultural building. The appellants point out that the heritage value of the farmstead as a whole has been somewhat eroded by numerous alterations over the years, as well as the barn’s poor physical condition. I also accept the appellants’ observations in this respect, but nonetheless note that they broadly accept the status of most of the barn as an NDHA.

Fenestration

25. At present, the barn has a relatively limited number of mostly small window and door openings. The appellants propose to introduce several new window and door openings of various sizes and types to facilitate the use of the building as a dwelling. These would include a dormer at first floor level, a full height window opening (replacing two smaller openings), and a single storey extension with large glazed doors on the southern elevation, a new full height glazed door/window on the western elevation, a two-storey glazed extension (replacing an existing full height opening) on the northern elevation, and four new windows (replacing two existing garage door openings) on the eastern elevation. There would also be new rooflights on all sides of the barn.
26. The barn is a big building, and the limited number and small size of windows and doors at present means that it would be a very dark and oppressive space. Without a considerable increase in daylight entering the building it would be quite unsuitable for use as a dwelling. The appellants therefore wish to create several new window and door openings, to an extent which the Council

suggests is excessive. However, the submitted drawings indicate that each main elevation would continue to be formed much more of wall than of window, and nowhere would windows or doors be clustered to an extent which to my mind would appear discordant or odd. I therefore consider that the number of window and door openings proposed would not fundamentally change or domesticate the character of the barn.

27. The Council has described some of the fenestration as “strident” and “unsympathetic”, but even the larger openings proposed would not dominate their frontages and, while I accept that the full height barn windows are not authentic inasmuch as they would be installed into new openings created as part of the conversion, they are of a type and appearance which are not uncommon in barn conversions in the surrounding area. Although the positioning of windows and doorways would be less “random” than on the barn as it currently stands they would not be arranged on a rigid grid pattern, and there would remain sufficient variation in their placement that the evolution of the building could still be followed. Taken as a whole, I consider that the proposal represents a reasonable and sympathetic approach to fenestration, the extent of which would be necessary to introduce adequate daylight into the building, and which would not be at odds with the barn or its surroundings.

Extensions

28. A single storey extension with flat roof would be added to the south-facing elevation, a full height (approximately 2 storeys) conservatory would be added to the northern elevation, and a further small single storey extension with pitched roof would be added to the eastern elevation. The Council considers the last of these to be acceptable (and I concur), but it considers that the other two extensions would be domesticating and discordant features. In my view the proposed extension on the southern elevation would be a simple and relatively lightweight addition which would present a modern contrast to the barn in form, while complementing the rest of the building in material and colouring. The proposed conservatory on the northern elevation would have a different treatment, with the stone wall to its western end ensuring that it would be well integrated into the building as a whole, while the aluminium frame and stone quoins at the end of the original wall would discreetly acknowledge it as a contemporary addition. In my view neither of these features would detract from the character or appearance of the barn.
29. The proposed dormer extension on the southern elevation would be broad and shallow, and therefore in my view would not be especially “domestic” in appearance. As with the full height barn windows, while it would not be “authentic” inasmuch as it is not an original feature, it is also not totally alien to converted buildings in the wider area. The combined rooflight and window feature would indicate the status of the dormer as a modern addition and would provide a small degree of visual interest. I therefore do not consider that the dormer would be detrimental to the character and appearance of the barn.
30. A proposed roof infill extension with zinc cladding would infill the space between the existing east-west and north-south arms of the “T”. The Council considered that this would be a “disjointed” connection which would take the eye away from the traditional roofline. It did suggest that it would be supportive of a “lightweight touch” here, such as a glazed link which it considered would “define and separate the ‘old from the new’”, a stance which

appears somewhat at odds with its view of the proposed use of glazing elsewhere in the scheme. However, it seems to me that, with the lower ridge height and the patina which the zinc would take on as it weathered, the roof infill would be a modest feature which in fact would put the traditional line of the restored main roofs in the foreground. Again, I consider that the infill roof as proposed would not be harmful to the character and appearance of the barn.

Use of part of the site as a domestic garden

31. In its officer report the Council summarised its objection in this respect as “excessive garden”. I have for the most part addressed the Council’s objections to the use of part of the site as a domestic garden in considering the effects on the openness of the Green Belt above. Beyond its concerns about the Green Belt, I note the Council’s observation that an extended residential site would change the character of the Special Landscape Area from one of openness to one of a formalised and domestic character. The surrounding area is one where the agricultural fields to the south and west give way to the open moorland of the West Pennine Moors to the north and east. However, it is also an area interspersed with farmhouses and other dwellings, which crop up reasonably frequently either individually or in small clusters, along with their gardens of various sizes. In this context, the use of part of the site to provide a reasonably sized domestic garden, in keeping with the size of the proposed dwelling, would not be an alien or harmful development, nor in my view would it change the character of the surrounding countryside in any significant way.

Findings in respect of character and appearance

32. In terms of both the fenestration and extensions, I note the Council’s view that it could be supportive of a conversion “where there is little or minimal interference to the existing façade as far as possible”, which echoes the advice in PGN9 that new openings should be kept to “an absolute minimum”. However, as I have explained above converting the barn to residential use, and indeed probably any other viable use, would require the creation of several new window openings. While it may be difficult to define the “absolute minimum”, in this case I am satisfied that the arrangement proposed is not excessive or harmful given the scale and intended purpose of the building. The proposed extensions meanwhile are relatively limited in scale, clearly subsidiary to the original building, and for the most part ensure that the original character of the barn is retained and remains legible. The relatively limited introduction of a residential use into this area of the countryside would be accommodated without causing any significant harm to the surrounding countryside or landscape.
33. Taking all of this together, I find that the proposal’s effects on the character and appearance of the appeal building and the wider landscape would be acceptable. A long-term use for the barn would be found which would prevent further decay to its fabric, and the proposed alterations and extensions would be carried out in a way which would allow original parts of the building to be appreciated. The age and agricultural origins of the barn building would remain instantly apparent to any observer passing along the public rights of way which criss-cross the site. I am thus satisfied that such significance that the building carries as an NDHA would be preserved. The proposed conversion would be designed to a good standard, and the character of the West Pennine Moors and

the Special Landscape Area would be protected from unsympathetic development.

34. I therefore conclude that the proposal would comply with Saved Policies EN1/1, EN9/1, and H2/2 of the UDP, which together seek to ensure that new development, including residential development and conversions, is well designed, and respects and protects the character and quality of Special Landscape Areas and the West Pennine Moors. I also find no conflict with those elements of Saved Policy OL1/4 of the UDP, or advice in PGN9, which seek to ensure that the conversion and re-use of buildings in the Green Belt is carried out in a way which is in keeping with their surroundings. The Council's decision notice also indicated conflict with Saved Policy OL1/2, although (and notwithstanding my earlier comments about this policy) as it does not specifically address matters relating to character and appearance I find no conflict in this regard.

Other considerations

35. As I have found that the proposal would not be inappropriate development in the Green Belt, it is not necessary for me to consider whether or not there are "very special circumstances" which would otherwise be required to justify the proposal in Green Belt terms.

Conditions

36. I have considered the conditions suggested by the Council, though these were presented as "headings" only, having regard to the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance. I have also taken into account comments made by the appellants.
37. In addition to the standard time limit condition (1), in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans (2).
38. Having regard to safety on the narrow Hawkshaw Lane which accesses the appeal site, and to living conditions for occupiers of Higher Ash Farm and other dwellings served by Hawkshaw Lane, I consider that a Construction Traffic Management Plan is necessary (3). A condition requiring a surface water drainage scheme (4) is necessary to secure proper drainage and to manage the risk of flooding and pollution.
39. A condition requiring the submission and approval of facing and roofing materials (5) is necessary to protect the character and appearance of the barn and the surrounding area.
40. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so, and the PPG advises that conditions restricting the future use of permitted development rights or changes of use "may not pass the test of reasonableness or necessity"⁴. I note also the appellants' comments in this respect. In this case, I consider that it is necessary to remove certain permitted development rights including those in respect of extensions, roof alterations, outbuildings and hard surfaces, in order to protect the character and appearance of the barn as an NDHA, and in order to control the effect of

⁴ Paragraph: 017 Reference ID: 21a-017-20190723

the development on the Special Landscape Area. As such, a condition restricting the permitted development rights of the dwelling (6) would be in accordance with the Framework and the PPG.

41. I have not included a condition in respect of the provision of on-site parking ahead of occupation, as the submitted plans and my observations on site suggest that ad hoc parking could, if necessary, be accommodated within the appeal site until such time as the external works to provide parking spaces were complete. I have also not included a suggested condition relating to the provision of sprinklers as such measures are covered by separate legislation and not therefore necessary.

Conclusion

42. The proposed development would not be inappropriate development in the Green Belt, and no other harm has been identified which would justify refusing planning permission. The appeal is therefore allowed.

M Cryan

Inspector

Schedule 1: 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 approved plans set out in the attached Schedule 2: Schedule of Approved Plans.
- 3) No development shall take place, including any works of demolition, until a Construction Traffic Management Plan has been submitted to, and approved in writing by the local planning authority. The approved Construction Traffic Management Plan shall be adhered to throughout the construction period for the development.
- 4) The development hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 5) No development involving the use of any facing or roofing materials shall take place until details or samples of the materials to be used in the construction of external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development of the types described in the following Classes of Schedule 2 Part 1 shall be undertaken without the express consent in writing of the local planning authority other than those expressly authorised by this permission: Part 1, Class A, B, C, D, E, F, G.

--End of Schedule of Conditions--

Schedule 2: Schedule of Approved Plans

- JP-PRO-14 B – Location Plan
- JP-EX-01 A – Existing Site Plan
- JP-EX-02 – Existing Ground Floor Plan
- JP-EX-03 – Existing First Floor Plan
- JP-EX-04 – Existing Elevations 1 of 2
- JP-EX-05 – Existing Elevations 2 of 2
- JP-PROP-12 E – Proposed Site Plan
- JP-PROP-06 B – Proposed Ground Floor Plan
- JP-PROP-07 B – Proposed First Floor Plan
- JP-PROP-13 A – Proposed Elevations 1 of 2
- JP-PROP-09 B – Proposed Elevations 2 of 2
- JP-PROP-010 A – Proposed Sections 1 of 2
- JP-PROP-011 A – Proposed Sections 2 of 2
- JP-PROP-14 A – Proposed Fire Plan
- JP-PROP-16 – Existing and Proposed Ground Floor Plans (overlying details)