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## Appeal Decision

Site Visit made on 13 July 2021

**by J Bowyer BSc(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 August 2021**

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**Appeal Ref: APP/Q5300/W/21/3269222**

**7B Golf Ride, Enfield EN2 9DA**

- 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 M Newport against the decision of the Council of the London Borough of Enfield.
  - The application Ref 20/03678/FUL, dated 10 November 2020, was refused by notice dated 6 January 2021.
  - The development proposed is redevelopment of the site by the erection of three dwellinghouses.
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### Decision

1. The appeal is allowed and planning permission is granted for redevelopment of the site by the erection of three dwellinghouses at 7B Golf Ride, Enfield EN2 9DA in accordance with the terms of the application Ref 20/03678/FUL dated 10 November 2020 subject to the conditions in the attached schedule.

### Application for Costs

2. An application for costs was made by Mr and Mrs M Newport against the Council of the London Borough of Enfield. This application is the subject of a separate Decision.

### Procedural Matters

3. The Council's decision notice describes the development as 'redevelopment of site and erection of 3 x single storey detached family bungalows, with accommodation in roof space, together with detached garages and associated works'. While providing additional information, these details are illustrated on the plans, and I have no confirmation that the appellants agreed to the change from the description contained within the planning application. I have therefore used this original description of development in the banner heading and my formal decision above.
4. The appeal must be determined in accordance with the development plan as it exists at the time of my decision unless material considerations indicate otherwise. Since the Council issued its decision, the London Plan 2021 (LP) was published and became an operative part of the development plan, superseding policies of the London Plan 2016 cited within the reasons for refusal. Both main parties referred within their evidence to policies of the then emerging LP, and have been able to comment on the implications of the LP as it relates to the appeal. I am therefore satisfied that no prejudice would be caused by my considering the appeal against the relevant policies of the LP, and I make no further reference to the previous London Plan.

5. In the period since the appeal was submitted, the Government published a revised National Planning Policy Framework 2021 (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am therefore satisfied that no prejudice would be caused by my consideration of the appeal against the revised Framework.
6. The access to the appeal site runs between 7a and 7 Golf Ride, with the main part of the site extending to the rear of 3, 5 and 7 Golf Ride. The Council's fourth reason for refusal and the evidence of both main parties refer to the effect of the development in proximity to the rear boundaries of 3, 5 and 7a Golf Ride which I note reflects the labelling of neighbouring dwellings on the submitted drawings. With regard to the described relationships, it appears that it is Nos 3, 5 and 7 to which the Council's concerns particularly relate. Nevertheless, I have also considered the relationship with No 7a in reaching my decision.
7. The appeal submission provides details of Sustainable Drainage Systems (SuDS) as part of a 'SUDS Report' which was not before the Council at the time of its decision. I am conscious that the appeal process should not be used to evolve a scheme, and it is important that what I consider is essentially what was considered by the Local Planning Authority, and on which interested people's views were sought. However, and not unreasonably, the SUDS Report seeks to address the Council's second reason for refusal. It provides additional technical information relating to drainage on the site, and does not materially change the nature of the scheme proposed. As such, it does not raise additional issues. I further note the appellants advise that the Council did not raise drainage matters as a concern prior to its decision, and therefore it had not been possible to provide this information earlier. The Council also had the opportunity to comment on the SUDS Report in its response to the appeal. In these circumstances, I am satisfied that my consideration of the SUDS Report would not unfairly prejudice the interests of any party, and I have taken it into account in determining the appeal.
8. The evidence before me includes a Unilateral Undertaking (UU) by the appellants under the provisions of section 106 of the Town and Country Planning Act 1990. The UU includes obligations relating to the making of an application for, and implementation of, a Traffic Management Order as well as payment of associated financial contributions and I return to this matter below.

## **Main Issues**

9. The main issues are:
  - i) the effect of the proposal on the character and appearance of the area;
  - ii) the effect of the proposal on the living conditions of the occupiers of 3, 5, 7 and 7a Golf Ride with particular regard to outlook and privacy;
  - iii) the effect of the proposal on flood risk with particular regard to surface water drainage; and
  - iv) the effect of the proposal on the safety and convenience of users of the adjacent highway network with particular regard to the adequacy of the access arrangements for delivery, servicing and emergency vehicles.

## Reasons

### *Character and Appearance*

10. For the most part, Golf Ride and the nearby residential streets are lined by a mix of detached bungalows and two-storey dwellings which are set back from the street on strong building lines with reasonably generous gardens to their rear. However, the spacing between dwellings is in many cases fairly limited, tempering the overall sense of spaciousness in views along the street scene. In addition, the pattern of development is not uniform including at the appeal site where the existing dwelling is positioned behind and on a different orientation to buildings fronting the street. Dwellings at 42-54 Cypress Avenue nearby are also positioned around a turning head resulting in a more irregular building line and shorter gardens than are typical in the area, with Nos 50-54 also set back relative to the rear of neighbouring dwellings on Golf Ride.
11. The main parties disagree over whether the appeal proposal would comprise 'backland' development, but I have not in any case been directed to any relevant policy or guidance which would specifically preclude such a development. It would however involve development of part of the existing garden to 7B Golf Ride, and I have therefore had particular regard to Policy DMD 7 of the Development Management Document 2014 (DMD) which lists criteria to be met for development of garden land to be found acceptable.
12. The Council has not objected to the design or appearance of the dwellings in themselves. Given the diversity in the street scene, I see no reason to take a different view and I am satisfied that they would be sympathetic to other development in the vicinity of the site. The position of the dwellings to the rear of 3, 5 and 7 Golf Ride would be somewhat unusual, but would reflect the relationship of the existing dwelling. I further note that both parties refer to planning permission granted for 2 bungalows on the site<sup>1</sup> ('the previous permission'). In this context, I find that the siting and presence of dwellings to the rear of Nos 3, 5 and 7 would not be an alien or incongruous feature in this location. Their orientation would also be consistent with Nos 3, 5 and 7 as well as the 2 dwellings that would result under the previous permission.
13. The proposal would increase the density of development on the site. However, that fact in itself is not evidence of harm. I note that the site is within an area considered to have very poor access to public transport. Nevertheless, I saw a nearby bus route at my visit offering some provision. It is also within an existing residential area, and there is no substantive evidence before me to demonstrate that the density would be inappropriate with regard to the accessibility of the site, nor with regard to provision of local infrastructure.
14. There would be an increase in the footprint and floor area of development on the site in comparison to both the existing situation and the previous permission. Be that as it may, the Council's officer report confirms that the proposal would meet or exceed specific standards for residential development and garden sizes outlined at Policies DMD 8 and DMD 9 of the DMD. I acknowledge that the plots and rear gardens would be relatively small, but the gardens would be of comparable depth to those that would result from the previous permission, and there is already some diversity in the size and depth of plots and gardens to other dwellings in the vicinity of the appeal site. The

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<sup>1</sup> Application reference 19/01724/FUL

separation of around 5m between the dwellings would also be greater than the spacing that I saw between many others nearby, balancing the more limited space to their rear and providing for a suitable setting to the buildings. Given these factors, the plot sizes and relationship of the dwellings with their boundaries, each other and surrounding buildings would not be incongruous and I find that the dwellings would sit comfortably on their plots. Accordingly, I am satisfied that the development would not be unduly cramped or out of keeping with its surroundings, and would not lead to a striking or unacceptable intensification of built form or dwellings on the site.

15. In my view, the proposal would make effective use of the site without harmfully undermining the pattern of development nearby, or detracting meaningfully from the character or appearance of the area or from the contribution that the site makes to this. I therefore see no reason that the density of the development would be inappropriate in this location.
16. For these reasons, I conclude on this main issue that the proposal would assimilate well with its surroundings and it would not cause unacceptable harm to the character or appearance of the area. Accordingly, I find no conflict with Core Policy 30 of the Enfield Plan Core Strategy 2010 (CS) or Policies DMD 6, DMD7, DMD 8 or DMD 37 of the DMD. Together, these policies broadly require high quality design and development which is appropriate to its context and which does not harm local character or distinctiveness.

#### *Living Conditions*

17. Separation between the dwellings and the rear of neighbouring properties at 3, 5 and 7 Golf Ride would exceed the minimum distance between two-storey buildings sought by Policy DMD 10 of the DMD to provide privacy. The appellants suggest new fencing could be provided along the boundary of the site with Nos 3, 5 and 7 and I am satisfied that a boundary of appropriate height could be secured by a planning condition and would restrict views from ground-floor level fenestration and space to the front of the dwellings. Windows at first-floor level would also be of fairly limited extent, and given the relationship and that separation would accord with standards, I do not consider that there would be unacceptable overlooking to Nos 3, 5 or 7, either actual or perceived.
18. The proposal would increase the bulk and spread of development on the site from the existing situation. Nevertheless, there would be reasonably large gaps between the dwellings. There would be garages between them, but these would be of modest height and scale and would not significantly diminish the spacing provided, particularly at roof level. As a result, there would remain open views between the dwellings breaking up the impression of mass and bulk as seen from neighbouring properties, and I cannot agree with the Council that it would appear as a 'wall' of development. Taken together with the separation that would be provided, I am satisfied that the proposal would not unduly enclose or dominate outlook for the neighbouring occupiers.
19. Given the separation between the development and No 7a and that mutual views would be oblique rather than direct, I am also satisfied that outlook and privacy for occupiers of this dwelling would not be harmfully diminished.
20. I therefore conclude on this main issue that the development would not unacceptably harm the living conditions of the occupiers of Nos 3, 5, 7 or 7a

Golf Ride in respect of outlook or privacy. Accordingly, I find no conflict with DMD Policy DMD 8 which requires, amongst other things, that development preserves amenity including in terms of outlook, privacy and overlooking.

#### *Flood Risk*

21. Policies DMD 60 and DMD 61 of the DMD set out that development proposals should provide a sustainable drainage strategy to demonstrate how surface water will be managed as close to its source as possible and in accordance with the drainage hierarchy in the London Plan. LP Policy SI 13 further outlines that development should aim to achieve greenfield run-off rates.
22. The SUDS Report considers the drainage hierarchy and identifies how surface water will be managed within the site using SuDS where possible and with consideration for the principles of a SuDS Management Train. It includes calculations of pre- and post-development surface water flows, and indicates that with implementation of the identified measures the proposal will result in a significant reduction in surface water peak flows leaving the site, reducing flood risk at the site and elsewhere. It also includes an outline maintenance strategy for the drainage works.
23. The Council suggests that details of SuDS and flood risk submitted with the application were assessed and found to be unacceptable, but has offered no cogent challenge to the soundness or credibility of the SUDS Report submitted as part of the appeal. Nor has it identified any clear grounds that might lead me to find that the identified method of surface water disposal would be unlikely to be feasible or adequate to meet the needs of the development in this case. As a result, there is no compelling evidence before me to counter the appellants' contention that suitable and adequate provision for drainage can be accommodated as part of the development, reducing the risk of flooding both at the site and elsewhere including towards the adjacent railway. I am therefore satisfied that final details of provision for drainage on the site and confirming how this will be managed and its implementation can in this case appropriately be secured by planning conditions.
24. On this basis, I conclude on this main issue that there would be satisfactory provision for drainage as part of the development and I conclude that flood risk would not be unacceptably increased. I therefore find no conflict with Core Policy 21 or Core Policy 28 of the CS, Policies DMD 60 or DMD 61 of the DMD or Policy SI 13 of the LP insofar as they include requirements for development to demonstrate how surface water and flood risk will be managed appropriately, minimised and mitigated as part of development.

#### *Highway Safety and Convenience*

25. The access to the site from Golf Ride is fairly narrow, but the Council does not dispute that emergency and servicing vehicles would be able to access the development or turn within the site subject to the provision of yellow lines on Golf Ride. These lines would prevent obstruction to turning vehicles by parking and are indicated on the submitted plans, but at the time of the Council's decision there was no legal mechanism to secure these works.
26. However, the UU includes obligations requiring an application to be made for the implementation of a Traffic Management Order for the painting and enforcing of double yellow lines at the access. It also provides for the payment

of financial contributions towards consultation necessary prior to making a Traffic Order, implementation of an Order and monitoring. From the evidence before me and having reviewed the UU, I have no reason to consider that it would fail to achieve what is intended and I consider that the obligations within the UU would be necessary to make the development acceptable in planning terms and would be directly and reasonably related to the proposal. The UU would therefore meet the tests set out at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) and reflected at paragraph 57 of the National Planning Policy Framework (the Framework).

27. Interested parties have raised concerns regarding the access for servicing vehicles and the possibility of implementing parking restrictions. However, given the scale and nature of the development, I do not consider that it would be likely to result in significantly different impacts from that approved under the previous permission (where it was found subject to a completed legal agreement that access would be suitable) so as to cause unacceptable harm.
28. I therefore conclude on this main issue that there would be adequate access to the site for delivery, servicing and emergency vehicles and that the safety and convenience of users of the adjacent highway network would not be unacceptably harmed. As a consequence, I find no conflict with Policies DMD 8, DMD 45 or DMD 47 of the DMD or Policy T4 of the LP. Amongst other things, these policies together require that development does not harm highway safety or the flow of traffic and that it provides appropriate access and manoeuvring including for service and emergency vehicles. For the same reasons, it would accord with the Framework which sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

### **Other Matters**

29. The Council confirms that parking for the dwellings would be in accordance with standards. Given the small scale of the development and likely levels of movements, I see no reason that the proposal would result in unacceptable levels of traffic, or that pedestrian or cycle access to the rear part of the site would be inadequate or unsafe and there is no substantive evidence before me to the contrary. Any disturbance during construction would be for a temporary period only and could be mitigated by careful construction management, and damage to property during or after construction would be a private matter between the parties involved. I note comments that the site adjoins Green Belt, but that fact does not introduce a presumption against residential development.
30. While I have taken into account representations by interested parties, I am satisfied that none of the other matters raised, either individually or collectively, would result in a level of harm that would justify dismissal of the appeal, and they do not alter my findings on the main issues.

### **Conditions**

31. I have considered suggested conditions having regard to the tests set out at paragraph 56 of the Framework. As a result, I have amended some where necessary, or for the sake of consistency, brevity or clarity.



32. In addition to the standard time limit (1), I have imposed a condition specifying the approved plans (2) for the avoidance of doubt and in the interest of certainty. Details of how construction will be managed (3) are necessary in the interests of the living conditions of neighbouring occupiers and highway safety. Although not suggested by the Council, I consider in view of my findings on the main issues that conditions similar to those imposed on the previous permission to secure final details of provision for drainage on the site and how this will be managed (4) and to verify implementation (5) are also necessary to ensure suitable provision. Conditions 3 and 4 are pre-commencement conditions as details need to be agreed before any works take place to ensure that they are satisfactory, and the appellants have agreed to this.
33. Details of external materials (6) and provision for landscaping (7) are required to ensure a satisfactory appearance and in the interests of biodiversity and to protect the adjacent railway. I have also included conditions relating to provision of boundary treatment (8), measures to protect future occupiers from noise (9) and submission of an energy statement and details of any solar panels (10) in the interests of the living conditions of future and neighbouring occupiers, the character and appearance of the area and to secure compliance with policies of the development plan. However, from the information before me I see no reason it would be necessary to require these details prior to any works taking place above ground level, and I have amended the suggested conditions accordingly.
34. Conditions to require implementation of tree protection measures (11), provision for parking and turning and works to ensure suitable access to the site (12, 13 and 14) and provision for cycle storage (15) are necessary in the interests of the character and appearance of the area, highway safety and to promote sustainable travel. However, I have amended the conditions to avoid unnecessary prescription. I do not consider that a suggested condition purporting to prevent loading or unloading of goods by vehicles other than within the curtilage of the site would be enforceable, or necessary given the relationship of the site with Golf Ride and I have not imposed it. The Council has also suggested a condition to require that the applicant seeks with the Council provision of yellow lining to Golf Ride to facilitate access. However, this is no more than would be achieved by the UU, and I do not therefore consider that a separate condition is necessary.
35. I have included a condition to require provision for refuse storage (16), although I have altered the suggested condition to avoid unnecessary prescription given that the Council will be able to assess whether submitted details were appropriate with regard to relevant guidance. In the interests of fire safety and to safeguard the living conditions of future occupiers, I have included conditions relating to provision of a hydrant (17) and to require the use of obscure glazing to windows to the sides of the dwellings (18).
36. Finally, I am mindful that paragraph 54 of the Framework indicates that planning conditions should only restrict national permitted development rights where there is clear justification to do so. Given the relationship of the dwellings with their plots and surrounding development though, I consider it would be necessary in this case to control the construction of extensions, outbuildings and hard surfaces (19) in the interests of the living conditions of neighbouring occupiers and the character and appearance of the area.

## **Conclusion**

37. For the reasons given above, I find that the proposal would accord with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be allowed.

*J Bowyer*

**INSPECTOR**

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans and documents: NWA-18-004-LOC Rev A, NWA-18-004-SURV Rev B, NWA-18-004-11, NWA-18-004-12, NWA-18-004-13 Rev A, NWA-18-004-14 Rev A, NWA-18-004-15, Arboricultural Impact Assessment and Method Statement Report (ref jwmb/rpt2/7Bgolfride/AIAAMS dated 23 October 2020), Habitat Survey and Protected Species Assessment (dated 2018) and Transport Statement (dated 27 October 2020).
- 3) The development, including demolition of the existing structures on site, shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall be written in accordance with London Best Practice Guidance and contain:
  - i) a photographic condition survey of the public roads, footways and verges leading to the site;
  - ii) details of construction access including HGV access to the site, and associated traffic management;
  - iii) arrangements for the loading, unloading and turning of delivery, construction and service vehicles;
  - iv) arrangements for the parking of contractors' vehicles;
  - v) arrangements for the storage of materials;
  - vi) hours of work;
  - vii) measures to reduce danger to cyclists;
  - viii) dust mitigation measures; and
  - ix) membership of the Considerate Contractors Scheme.

The development shall be carried out in accordance with the approved construction management plan.

- 4) Notwithstanding the SUDS Report (ref C2483-R1-Rev-A, dated February 2021), the development, including demolition of the existing structures on site, shall not commence until a revised Drainage Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include:



- i) details of the final total post-development storage amount provided by the permeable paving and attenuation tank;
  - ii) details of the application of source control SuDS measures to be incorporated into the ground surface water systems;
  - iii) full details of the raingarden planter system and rainwater harvesting tanks; and
  - iv) a management plan for future maintenance.
- 5) Prior to first occupation of the development hereby permitted, a Verification Report demonstrating full implementation of the drainage systems and measures approved pursuant to condition 4 shall be submitted to and approved in writing by the Local Planning Authority. The Verification Report shall include:
  - i) as built drawings of the sustainable drainage systems including level information (if appropriate);
  - ii) photographs of the completed sustainable drainage systems;
  - iii) any relevant certificates from manufacturers/suppliers of any drainage features; and
  - iv) a confirmation statement of the above signed by a chartered engineer.
- 6) No development above proposed ground level shall take place until samples of the external finishing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 7) No development above proposed ground level shall take place until full details of the landscape proposals have been submitted to and approved in writing by the Local Planning Authority. The details shall include:
  - i) planting plans;
  - ii) written specifications (including cultivation and other operations associated with plant and grass establishment);
  - iii) schedules of plants and trees, to include native, wildlife friendly species and large canopy trees in appropriate locations (noting species, planting sizes and proposed numbers / densities);
  - iv) implementation timetables;
  - v) wildlife friendly plants and trees of local or national provenance;
  - vi) biodiversity enhancement features; and
  - vii) details of all hardstanding materials.

All landscaping in accordance with the approved scheme shall be completed/planted during the first planting season following practical completion of the development hereby approved or in accordance with the implementation timetables. The landscaping and tree planting detail shall set out a plan for the continued management and maintenance of the site, and any planting which dies, becomes severely damaged or diseased within five years of completion of the development shall be replaced with new planting of similar size and species.

- 8) No development above proposed ground level shall take place until details of the proposed boundary treatment to enclose the site have been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be provided in accordance with the approved details prior to first occupation of the development and shall be retained in perpetuity thereafter.
- 9) No development above proposed ground level shall take place until an acoustic report has been submitted to and approved in writing by the Local Planning Authority providing suitable glazing and alternative ventilation to ensure the dwellings meet internal noise levels set out in BS8233:2014. For clarity the internal noise levels shall be achieved and not exceeded with the windows closed: 35dB(A) Leq 16 hours 07:00hrs – 23:00hrs in living rooms, and 30dB(A) Leq 8 hours in bedrooms and no individual noise event to exceed 45dB(A) max (measured with F time weighting) 23:00hrs – 07:00hrs. All glazing and ventilation shall be provided in accordance with the approved details prior to first occupation of the development and shall be retained in perpetuity thereafter.
- 10) No development above proposed ground level shall take place until an energy report confirming the CO<sub>2</sub>/yr (using SAP 10) savings over Part L of Building regulations (2013) and following the Be lean, Be clean, Be green reduction measures, and plans illustrating the siting and appearance of any solar panels to be utilised on the roof have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details with agreed measures installed prior to first occupation of the development and retained in perpetuity thereafter.
- 11) The development hereby permitted shall be carried out in strict accordance with the details outlined in the Arboricultural Impact Assessment and Method Statement Report (ref jwmb/rpt2/7Bgolfride/AIAAMS dated 23 October 2020).
- 12) No development above proposed ground level shall take place until parking and turning facilities have been provided in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The details shall include typical details, siting and design of plugs for electric vehicular charging points in accordance with London Plan standards. The scheme shall be implemented in accordance with the approved details prior to first occupation of the development and shall be retained in perpetuity thereafter.
- 13) Prior to first occupation of the development hereby permitted, the access road shall be resurfaced (including footpaths, access roads and parking areas and road markings) and posts and bollards shall be removed in accordance with details and materials which have first been submitted to and approved in writing by the Local Planning Authority.
- 14) Prior to first occupation of the development hereby permitted, the manhole cover on the access road shall be reinforced to sustain the weight of a 26t vehicle and full written and photographic details evidencing the reinforcement shall be submitted to and approved in writing by the Local Planning Authority.

- 15) Prior to first occupation of the development hereby permitted, cycle parking shall be provided and thereafter retained in perpetuity, kept free from obstruction and available for the parking of cycles only, in accordance with the details shown on the approved plans.
- 16) Prior to first occupation of the development hereby permitted, refuse storage shall be provided in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority including full details, location and elevation of communal refuse storage facilities. The refuse storage shall be positioned no more than 12m from the closest point that Council refuse operators can access the refuse storage.
- 17) Prior to the first occupation of the development hereby permitted, confirmation of the width of the access road leading to the site from Golf Ride shall be submitted to and approved in writing by the Local Planning Authority. In the event that the access road width is less than 3.7m, a water hydrant shall be provided within 45m of the furthest dwelling prior to the first occupation of the development in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
- 18) Prior to the first occupation of the development hereby permitted, all windows to the sides of the dwellings shall be obscured glazed and the windows shall be retained as such in perpetuity thereafter.
- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no development permitted under Article 3 and Schedule 2, Part 1, Classes A, B, C, D, E or F of that Order shall be carried out.

**End of Schedule**