



## Appeal Decisions

Inquiry held on 4-6, 10-11 and 16 May 2022

Site visit made on 4 May 2022

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

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

**Decision date: 28<sup>th</sup> June 2022**

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### **Appeal A Ref: APP/R0660/W/21/3287606**

#### **Great Moreton Hall, New Road, Moreton CW12 4RY**

- 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 Ms G Shaw against the decision of Cheshire East Council.
  - The application Ref 20/3059C, dated 15 July 2020, was refused by notice dated 1 June 2021.
  - The development proposed is demolition of three existing buildings together with the construction of three dwellings together with the repair and reinstatement of the garden walls and associated original lean-to structures within the Walled Garden.
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### **Appeal B Ref: APP/R0660/Y/21/3287607**

#### **Great Moreton Hall, New Road, Moreton CW12 4RY**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Ms G Shaw against the decision of Cheshire East Council.
  - The application Ref 20/3060C, dated 15 July 2020, was refused by notice dated 1 June 2021.
  - The works proposed on the application form are the same as Appeal A.
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### **Appeal C Ref: APP/R0660/W/21/3287609**

#### **Great Moreton Hall, New Road, Moreton CW12 4RY**

- 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 Ms G Shaw against the decision of Cheshire East Council.
  - The application Ref 20/3057C, dated 15 July 2020, was refused by notice dated 1 June 2021.
  - The development proposed is demolition of three existing buildings within the Walled Garden at Great Moreton Hall and reinstatement as a formal landscaped garden, and their replacement with three dwellings at another location within the estate fronting New Road. Repair and reinstatement of the garden walls and associated original lean-to structures within the Walled Garden.
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### **Appeal D Ref: APP/R0660/Y/21/3287613**

#### **Great Moreton Hall, New Road, Moreton CW12 4RY**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Ms G Shaw against the decision of Cheshire East Council.
  - The application Ref 20/3058C, dated 15 July 2020, was refused by notice dated 1 June 2021.
  - The works proposed on the application form are the same as Appeal C.
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### **Decision Appeal A**

1. The appeal is dismissed.

### **Decision Appeal B**

2. The appeal is allowed and listed building consent is granted for the repair and reinstatement of the garden walls and associated original lean-to structures within the Walled Garden at Great Moreton Hall, New Road, Moreton CW12 4RY in accordance with the terms of the application Ref 20/3060C dated 15 July 2020 and the plans submitted with it, subject to the 4 conditions set out in Annex 1.

### **Decision Appeal C**

3. The appeal is allowed and planning permission is granted for the demolition of three existing buildings within the Walled Garden at Great Moreton Hall and the reinstatement as a formal landscaped garden, and their replacement with three dwellings at another location within the estate fronting New Road, and the repair and reinstatement of the garden walls and associated original lean-to structures within the Walled Garden at Great Moreton Hall, New Road, Moreton CW12 4RY in accordance with the terms of the application Ref 20/3057C dated 15 July 2020, subject to the 23 conditions set out in Annex 2.

### **Decision Appeal D**

4. The appeal is allowed and listed building consent is granted for the reinstatement of the Walled Garden at Great Moreton Hall as a formal landscaped garden and the repair and reinstatement of the garden walls and associated original lean-to structures within the Walled Garden at Great Moreton Hall, New Road, Moreton CW12 4RY in accordance with the terms of the application Ref 20/3058C dated 15 July 2020 and the plans submitted with it, subject to the 4 conditions set out in Annex 3.

### **Preliminary Matters**

5. The draft Cheshire East Site Allocations and Development Policies Document (SADP) is currently at examination. The parties concur that it should only be afforded limited weight in decision making.
6. A completed unilateral undertaking (UU) was submitted after the Inquiry closed. Its purpose was to prevent the proposals in Appeals A and C from both being implemented in the event that both appeals are allowed. Given my findings on Appeal A, it has not been necessary to consider the UU any further.
7. Appeals B and D relate to listed building consent matters only, principally the repair and reinstatement of the walls and associated outbuildings within the walled garden. By the end of the Inquiry, the parties were in agreement that there was no reason to withhold listed building consent for either appeal. Nevertheless, both appeals need to be determined and so I have considered them as part of my decisions.
8. The description of works in Appeals B and D was the same as Appeals A and C respectively on the original application forms. However, in the event that Appeals B and D are allowed but Appeals A and/or C are dismissed, the listed building consent would refer to elements of works that would not have planning

permission (demolition and construction of dwellings). For the avoidance of doubt, the parties during the Inquiry agreed amended descriptions for Appeals B and D to only refer to repair and reinstatement works. Given the nature of these works, no prejudice is caused to any party. Thus, the amended descriptions are used in the formal decisions above.

## **Main Issues**

9. The appeal sites are located within the North Staffordshire Green Belt that surrounds Stoke-on-Trent and Newcastle-under-Lyme. The parties disagree on whether the Appeal A proposal would be inappropriate development in the Green Belt. Conversely, it is common ground between the appellant and the Council that the proposal in Appeal C would represent inappropriate development in the Green Belt. Therefore, the main issues are as follows:

### For all four appeals:

- 1) whether the proposals would preserve the special interest of the Grade II\* listed Great Moreton Hall and the Grade II listed walled garden and outbuildings;

### For Appeal C only:

- 2) the effect of the proposal on the character and appearance of the surrounding landscape;

### For Appeal A only:

- 3) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and any relevant development plan policies;

### For Appeals A and C only:

- 4) the effect of the proposals on the openness and purposes of the Green Belt;
- 5) whether the proposals would be in an appropriate location having regard to the development plan and national policies; and
- 6) whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposals.

## **Reasons**

### ***The sites and the proposals***

10. Great Moreton Hall is situated in the countryside to the south of Congleton. To the west is the A34 with an access drive to the hall. To the north and east is a country lane known as New Road with another driveway to the hall from the east. Both driveways have historic lodges at their entrances. A historic stone wall runs north from the eastern lodge along much of New Road.
11. The appellant owns both access drives and land around the hall as well as land along the west/south side of New Road. The Appeal A/B site comprises the walled garden to the east of the hall. The Appeal C/D site is both the walled garden and part of the broadly triangular field on the south side of New Road.

12. The Appeal A/B proposal seeks to replace existing buildings within the walled garden with three detached dwellings, along with the repair and reinstatement of historic walls and structures. The Appeal C/D proposal seeks to demolish the same buildings within the walled garden and carry out the same repair and reinstatement of structures, along with the reinstatement of a walled garden and the erection of three detached dwellings on the New Road site.

***Listed buildings (all appeals)***

13. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) require decision makers to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
14. NPPF paragraph 199 states that great weight should be given to the conservation of a designated heritage asset when considering the impact of a proposal on such an asset. This is irrespective of the level of harm. NPPF paragraph 200 confirms that any harm to the significance of a designated heritage asset should require clear and convincing justification. NPPF paragraph 202 states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

*Overview of the listed buildings and the history of the estate*

15. The Grade II\* listed Great Moreton Hall was designed by the architect Edward Blore and built in the 1840s for the industrialist George Ackers. It is a substantial Gothic Revival building constructed from local Mow Cop stone. Its character and appearance evokes a medieval castle with castellated parapets, angled turrets, and a large central tower. There are a number of spacious reception rooms including the Great Hall with its high hammerbeam roof. A service wing leads to a stable courtyard where the castle design continues, although using slightly rougher stone. On the south side of the hall is a scheduled and Grade II listed tower icehouse, along with a terrace and formal garden, all of which are contemporary with the hall.
16. A short distance to the east of the courtyard is the Grade II listed walled garden and outbuildings constructed from red brick. The structures are a similar age to the hall and functioned as a kitchen garden and horticultural showpiece for the family and guests. Records indicate that a fountain and glasshouses once stood within the walls and the space was divided into quadrants by paths. There is a surviving fernery in the north-west corner, the remains of a cineraria house in the south-west corner, and a vaulted mushroom house along the northern wall. Some of the walls are double-skinned and previously incorporated heating supplied by a boiler house situated below ground. There are entrances of varying sizes and purposes into the walled garden on all four sides.
17. The space within the walled garden today is mostly laid to grass and grazed by donkeys. Three buildings dating from 1967 are located on the western side with a section of wall removed. The condition of the walls and outbuildings is poor in places. There has been vegetation growth between sections of walls, along with poorly pointed, bonded and/or fragmented brickwork. Coping stones have been lost or poorly maintained allowing root and moisture intrusion. The

fernery is missing most of its glass and timber roof. The cineraria house has few surviving features and the barrel vaulted basement below needs rebuilding. The northern range of outbuildings including the mushroom house requires complete reroofing and other repairs.

18. The Ackers family owned a large estate surrounding the hall beyond the formal and walled gardens. Historic map regression reveals how by the 1870s the turnpike that now forms the A34 was moved to the west away from the location of the previous hall, while New Road was created with the same intention of diverting traffic away from the hall. Ordnance Survey (OS) maps<sup>1</sup> between the 1870s and 1910s denote a large area of parkland between the hall and the newly aligned roads with woodland and tree belts and an ornamental lake known as the fish pond. There are also estate buildings known as Home Farm on the north-east side of New Road.
19. The hall and estate remained in private ownership until the 1930s when it was sold at auction and broken up into smaller parcels. Much of the parkland was converted to agricultural use. By the 1960s, the hall and a much smaller area of parkland along with the formal and walled gardens were in the ownership of the Manchester Corporation. The Corporation used the hall and grounds as a special school and in 1967 erected the three aforementioned buildings in the walled garden. By the 1980s, the hall and grounds were used for hotel and conferencing purposes, before the appellant and her husband purchased the land for residential purposes in 1993. They have subsequently acquired and restored parts of the parkland and the west drive and lodge and carried out various restoration works to the hall.

*The special interest and significance of the listed buildings*

20. Both the hall and the walled garden have considerable architectural and historic interest as structures purpose-built for a wealthy Victorian family by a renowned national architect. Both listed buildings utilise high quality materials and a consistency of design, along with evidence of 19<sup>th</sup> century technological and horticultural innovations in the walled garden.
21. There is a strong physical and functional relationship between the two buildings, with a procession of spaces between the hall and walled garden via the stable courtyard, terrace, and icehouse. The walled garden is ancillary to the hall and was intended to support and complement the hall from its inception. Views of the hall are possible from within the walled garden. Thus, the listed buildings contribute positively to each other in terms of their special interest and significance.
22. The current condition of sections of the walled garden and associated outbuildings detract to some extent from the special interest and significance of this listed building. The absence of any formal planting within the garden further undermines its qualities as a heritage asset. The 1960s buildings dominate the approach to the walled garden from the hall and have caused the loss of wall fabric. Their presence diminishes the open and green qualities within the walled garden by truncating views, even though an east-west axis across the garden survives between two of the buildings. Therefore, the 1960s

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<sup>1</sup> The maps provided by the parties vary slightly, but the first edition OS dates from the 1870s and the second edition OS from the late 1890s. The next available edition is dated around 1911.

buildings negatively affect the significance and special interest of the walled garden, notwithstanding that the building was listed in 1993 with these structures in situ.

23. Of particular relevance to the Appeal C proposal is the contribution the wider surroundings make to the significance of the hall, including the appeal site on New Road. The original Ackers' estate has fragmented in terms of ownership and land use. Nevertheless, it is still possible to discern historic features such as the fish pond, the lodges, and the wall along New Road, along with former estate buildings from both public and private locations. The hall is located within the surviving parts of a parkland landscape and its countryside setting makes a clear positive contribution to its significance and special interest.
24. The rationale of the Ackers moving roads to the west and north appears to have been to create a more private family home with no apparent designed view from any public location. Both driveway approaches are private accesses and it is only on the west drive where one experiences a dramatic sense of arrival at the hall across a parkland landscape. From New Road, the hall is largely hidden apart from across the field in which the Appeal C site is situated. The hall's front elevation can be seen above the New Road wall approximately 600 metres to the south, particularly the turrets and main tower.
25. The extent of the New Road view depends on the mode of transport and the elevation of the viewer. The view is only glimpsed for a few seconds from a passing car and is dependent on the height of the vehicle. It is possible to appreciate the view of the hall at a more leisurely pace on foot or by bike, but New Road is narrow with no pavement, increasing the risk of conflict with motorised vehicles. Planting, both recent and mature, also obscures visibility, but there remains a public view of the hall from New Road, including from the appeal site frontage, which is not possible anywhere else.
26. From the hall, views to the existing New Road site are mostly screened by vegetation even from the first floor, while it is hard to see the site from the approach along the east drive due to trees and topography. Nevertheless, it is possible to identify existing properties on New Road either side of the site, particularly in winter months when foliage is absent.
27. The parties generally accept that the original estate went beyond the historic parkland as well as to the north of New Road but disagree as to whether the New Road site forms part of the historic parkland. Historic maps are not conclusive on this matter. The first and second edition OS maps indicate that the appeal site was outside the grey shading of the parkland, but by the 1911 OS map it was within the shaded area. Policy BH1 of the Congleton Borough Local Plan 2005 (CBLP) identifies Great Moreton Hall as a Park and Garden of Historic Interest with the boundaries running up to the A34 and New Road including the site in Appeal C. However, this is also not conclusive proof of historic parkland as the CBLP clarifies that the boundaries are based on current knowledge and may be refined in the light of subsequent research.
28. Regardless of the extent of historic parkland, the New Road site lies within the historic wall along New Road and was evidently part of the Ackers' estate even if it was only agricultural land. It is possible to see the hall across the site albeit in a distant and limited way given planting and the nature of the road. Travelling along New Road there is a sense that you are on the edge of an

historic estate due to the wall and hall views. Thus, the New Road site and the remaining part of the field form part of the surroundings in which the hall is experienced. Consequently, they make a moderate positive contribution to the significance and special interest of the hall.

*The effect of the Appeals A/B proposal*

29. The design approach to each new dwelling would be contemporary yet simple and understated, with red brick detailing and grey tile roofs. There would be a consistency of architecture with variations in each building to create visual interest. Along with the glazed links, the character and materials would be sympathetic to the architecture of the walled garden.
30. However, there would be built form across three quadrants of the walled garden compared to two at present, while the footprint and volume of built development would increase. This would be offset to some extent by a greater dispersal of buildings to allow for more views across the garden. Nevertheless, the buildings would dominate more of the garden than at present. It would also be possible to see more roofline from outside the garden due to the overall height and siting of each dwelling.
31. The proposal would also fragment the ownership of the walled garden and wider hall estate. There is no mechanism before me to secure property tenure. Nevertheless, even if the dwellings were only rented or leasehold, allowing the appellant to retain some control over future occupants, it would be difficult to prevent some domestic paraphernalia such as bins, cars or garden furniture being visible outside. This would reinforce the sense of separate domestic spaces within the walled garden, contrary to its historic role and function as ancillary to the hall.
32. It is possible that fragmentation could occur with the existing 1960s buildings as there is an undetermined planning application to convert them into three separate dwellinghouses. However, due to the very close siting and cramped arrangement of the three buildings, it seems unlikely that they would function satisfactorily as three separate units with regard to living conditions. The buildings can lawfully be used as ancillary residential accommodation by guests or staff, which would generate some paraphernalia, but this would be confined to one part of the garden. Therefore, while it is likely that the buildings would remain if the appeals were dismissed given that they have a capital value, it does not seem likely that this would lead to similar negative effects in terms of fragmentation or paraphernalia that would be caused by the proposal.
33. While Historic England did not formally object to the Appeal A/B proposal, it did express concerns with the impact of residential development within the walled garden. In my view, the harm to the significance of the listed buildings would be less than substantial but nevertheless significant due to the fundamental changes to the walled garden and its relationship with the hall. The public benefits to consider in the NPPF paragraph 202 balance include a number of heritage-related ones.
34. Regarding heritage benefits, the proposal would reinstate the four quadrants of the historic walled garden with paths creating clearly defined axes. The landscaping and planting would be enhanced including a communal garden in one quadrant. The intrusive 1960s buildings would be demolished and the

missing section of wall reinstated. This would improve the approach to the walled garden from the hall, although there would be vehicular access through the wall to one of the houses. Views towards the hall would be improved from some parts of the garden across the north-west quadrant, although the dwelling in the south-west quadrant would intrude on views to some extent. The repair of walls and outbuildings would address a wide range of current defects and decay.

35. It is common ground that this proposal is not an enabling development case given that all of above benefits can be secured by condition. Other than the Appeal C/D proposal, there are no alternative schemes before me. The repair and reinstatement works have been costed at around £500,000 and the appellant has already spent over £2 million restoring and reassembling the estate and its buildings without seeking permission for development to fund such work. There is no financial incentive for the appellant to simply demolish the 1960s buildings and no evidence that funding for the proposed works can be secured via any other means.
36. Therefore, I consider that significant weight can be afforded to the heritage-related public benefits as they would achieve a number of enhancements to the significance of the listed buildings. Other public benefits are minor with regard to the provision of 3 new houses (where the Council can demonstrate a 5 year housing land supply) and economic investment at construction and occupation stages. However, the public benefits are set against the significant less than substantial harm that the proposal would cause. Overall, the public benefits would not be sufficient to outweigh the less than substantial harm and provide the clear and convincing justification for the harm.

*The effect of the Appeals C/D proposal*

37. The proposed dwellings on New Road would introduce three large buildings plus double garages into a currently undeveloped plot of land. Notwithstanding the spacing and layout of the dwellings, their form, height, and massing would obscure views towards the hall from this section of road. A proposed area of woodland planting immediately to the west of the dwellings intended in part to screen the buildings from the road would further obscure views of the hall. The perception of travelling along the edge of an historic estate would be reduced.
38. However, the hall would still be visible further to the west on New Road. The appellant proposes to carry out works to emphasise a view cone by planting trees and removing scrub and saplings. The view cone would cross an arable field in separate ownership and there is some uncertainty about whether the appellant would be able to remove all scrub and saplings on the boundary or prevent the neighbouring landowner from planting trees on the edge of his field. However, the works would help to offset the loss of the view across the site and can be secured by condition.
39. The view of the hall from the New Road appeal site is fortuitous rather than designed and is dependent on the extent of planting that can be altered by the appellant and/or neighbouring landowners without planning permission. It is also experienced only briefly by car and to a limited extent by walkers and cyclists. Therefore, the loss of the view and the reduced perception of the historic estate would only cause moderate harm to the significance of the hall.

40. It may be possible to see the proposed dwellings from the hall, but these views would be distant glimpses through existing and proposed vegetation and seen within the context of existing housing on New Road. Therefore, such views would have a minor effect on the significance of the hall.
41. The dwellings would likely end up in separate ownership and so there would be a fragmentation of the estate. However, even if it is regarded as parkland, the site is peripheral and not a major component of the hall and its significance. Therefore, there would be limited harm to the significance of the hall as a listed building arising from any fragmentation of the estate and the park and garden of historic interest.
42. The harm to significance would be less than substantial and no more than moderate. The public benefits include similar heritage-related ones to Appeals A/B with the demolition of the 1960s buildings and the repair and reinstatement of walls and outbuildings. There are notable additional benefits too. Firstly, the western access into the walled garden would only need to serve pedestrians and so would be narrower and more sympathetic to the original design than the Appeal A/B proposal. Secondly, the walled garden would be fully reinstated as a designed horticultural space, divided into quadrants with a central water feature and associated glasshouse/s. This would be comparable to its original layout and function and the optimum viable use. All of the heritage benefits can be secured via condition and so can be afforded considerable weight.
43. As set out above, the other public benefits of housing provision and economic investment are minor. Nevertheless, the public benefits as a whole would be sufficient to outweigh the less than substantial harm to the significance of the hall and provide clear and convincing justification. Great weight can be given to the benefits and the conservation of the listed buildings in Appeals C/D.

#### *Conclusions on listed buildings issue*

44. The proposal in Appeal A would not preserve the special interest of the listed buildings and the public benefits would not outweigh the harm to significance. Therefore, the proposal would not accord with Policies SD1, SD2, SE1 and SE7 of the Cheshire East Local Plan Strategy 2010-2030 (CELPS), CBLP Policies BH1, BH4 and BH5, and Policies P4 and P18 of the Astbury and Moreton Neighbourhood Plan 2015-2030 (NP). Amongst other things, these policies seek to protect and enhance the historic environment, ensure the sensitivity of design in proximity to heritage assets, respect the character and appearance of the area and parks and gardens of historic interest, and preserve the interest and setting of listed buildings.
45. The Appeal A proposal would not accord with the above heritage paragraphs of the NPPF along with NPPF paragraph 130 which, amongst other things, requires proposals to be sympathetic to local character and history and maintain a strong sense of place. It would also not adhere to characteristics 1 and 2 of the National Design Guide (NDG) which relate to matters of context and identity.
46. The proposal in Appeal C on the other hand would preserve the special interest of the listed buildings, where the public benefits would outweigh the harm to significance. Therefore, the proposal would accord with CELPS Policies SD1,

SD2 and SE7, CBLP Policies BH1, BH4 and BH5, and NP Policy P18, as well as the above heritage paragraphs of the NPPF.

47. The proposals in Appeals B and D are limited to the repair and reinstatement works to the walled garden and outbuildings. These works would have an acceptable and beneficial effect on the special interest and significance of the listed buildings, having regard to the development plan and the NPPF.

***Character and appearance (Appeal C only)***

48. New Road is a rural lane that passes between fields and woodland from the A34 to Ackers Crossing. There is a scattering of properties on either side of the road from the New Road site to the south of the east lodge. They vary in age, style and materials from a white rendered 18<sup>th</sup> century cottage known as Tall Trees adjacent to the site, to red brick mid-20<sup>th</sup> century houses opposite the site at Audley House and Heathfields. Most of the properties are detached and bespoke designs, although there is a pair of interwar semi-detached houses near to the eastern lodge.
49. The New Road site and surrounding area are situated within Cheshire East Landscape Character Area (LCA) 11d (Little Moreton), part of a wider area of higher wooded farmland. It is a gently undulating landscape with agricultural fields, historic estates, and parkland. Settlement is mainly low density and comprises dispersed farms and hamlets. The LCA overlaps with the Peak Fringe Local Landscape Designation (LLD) to the east, although the appeal site and New Road are not within this landscape designation. The LLD encapsulates steep slopes and distinctive skylines such as Mow Cop and is afforded greater protection in planning policy terms as a valued landscape.
50. The parties generally concur that the appeal site and adjoining land on New Road are characteristic of the LCA. However, there is disagreement as to whether they constitute a valued landscape for the purposes of NPPF paragraph 174(a). New Road is verdant and tranquil, with mature trees and hedgerows enclosing rolling fields and parkland but there are few landscape features that are particularly rare or distinctive. Views of the Peak Fringe to the east as well as Great Moreton Hall to the south highlight scenic and conservation interests, but these are fleeting and distant vistas.
51. The NP notes the view of the hall from New Road and highlights that the location is popular with tourists and recreational cyclists and walkers, with various attractions nearby. It is evident from photographs and my own site observations that cyclists use New Road, while there is a public footpath that connects the road to the north (footpath 26). However, New Road is not a designated recreational route and I have little information about the number of cyclists or walkers. The road is narrow with no speed limits, footways, or lighting, which makes it less attractive to non-motorised users.
52. Therefore, while the landscape along New Road is clearly valued locally, it has not been demonstrated that it represents a valued landscape. Nevertheless, there remains a need in policy terms to recognise and conserve landscape character. In addition, the Cheshire Historic Landscape Characterisation (HLC) identifies the wider parkland at Great Moreton Hall as post-medieval ornamental parkland where proposals should be sympathetic to historic landscape features through its design and planting.

53. The appeal site can be viewed from New Road in both directions between the accesses to Tall Trees and Keepers Farm. The site and views of the hall are more prominent heading eastwards due to the location of vegetation, with the majority of road users travelling by motor vehicle. Heading south on footpath 26, it is possible to see Tall Trees and vegetation on the site boundary with New Road with a glimpse in winter months of the hall behind trees.
54. The three proposed dwellings would reflect the pattern, size and materials of existing properties as large, detached houses with brick and rendered facades. There would be a uniform appearance across the three dwellings in contrast to the eclectic mix along much of New Road. The buildings would have a rectangular form without much articulation. However, the design would be simple and uncluttered, with sufficient variation in terms of materials and window openings. Moreover, the layout of the dwellings would be staggered. These features would help to break up the bulk of each dwelling and avoid suburban linear development.
55. There would be an erosion of landscape character from the loss of part of a pastoral field to residential development, albeit that the extent of change would be limited to three buildings. They would be prominent in views along New Road and the upper parts would be visible from footpath 26. Vegetation screening to the road and along the western side of the site would help to soften their impact. New planting would not be incompatible with the LCA or the HLC which includes trees and woodland and would seek to enhance views of the hall further to the west. However, even when established the dwellings would remain visible from the road and footpath. As noted above, the buildings and new vegetation would also partly obscure views of the hall.
56. The extent of change to landscape and visual character would be limited and efforts have been made to provide a suitable design and mitigation. The appellant has provided a site options appraisal to demonstrate that there are no more suitable locations for new housing with their land ownership which is not disputed by the Council. Nevertheless, there would still be moderate harm to landscape character.
57. Concluding on this main issue, the proposal in Appeal C would result in harm to the character and appearance of the landscape. Therefore, it would conflict with CELPS Policies SE1 and SE4 which require development to make a positive contribution to their surroundings and conserve landscape character. It would also conflict with NP Policies P4, P11, P13 and P26 which require proposals to respect character and appearance of the surrounding area, as well as the countryside and local landscape quality, and protect existing open views from unnecessary or inappropriate development.
58. The proposal would also not accord with NPPF paragraphs 130 and 174 which, amongst other things, require development to be sympathetic to local character including landscape setting, and recognise the intrinsic character and beauty of the countryside. Finally, it would not adhere to NDG characteristics 1 and 2 relating to context and identity.

***Whether inappropriate development in the Green Belt (Appeal A only)***

59. NPPF paragraph 149 regards the construction of new buildings as inappropriate development in the Green Belt unless it relates to a number of listed

- exceptions. One of the relevant exceptions for Appeal A is (d) the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. The other relevant exception is (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development.
60. CELPS Policy PG3(3) sets out a comparable list of exceptions, with identical wording on replacement buildings and very similar wording on previously developed land, but with additional reference to not having a greater impact on Green Belt purposes as well as openness. NP Policy 1 follows the approach of the CELPS and the NPPF to Green Belt development.
61. The decision notice for Appeal A also refers to Policy PS7 of the Congleton Borough Local Plan 2005 (CBLP). This policy contains a different list of exceptions for development in the Green Belt including reference to new dwellings in accordance with CBLP Policy H6 where a similar exemption is made to CELPS Policy PG3 on replacement dwellings. However, CBLP Policy H6 has been superseded by CELPS Policy PG3. Moreover, CBLP Policy PS7 makes no reference to previously developed land. Therefore, CBLP Policy PS7 has limited usefulness for the purpose of this appeal<sup>2</sup>.
62. Dealing with the first of the two possible exceptions (replacement buildings), the existing buildings have a residential use ancillary to the hall but would require planning permission for a material change of use to single dwellinghouses. The NPPF does not define what is meant by "same use" in paragraph 149(d) and whether it can be the same use class or whether a material change of use is excluded. In this instance, the buildings could be occupied by guests or staff on a regular basis, with comings and goings and domestic paraphernalia as noted above. The same level of activity and paraphernalia could occur with the proposed dwellings though with a different spatial distribution. Thus, for the purposes of NPPF paragraph 149(d), I am satisfied that the replacement buildings would be in the same use.
63. The parties agree that the replacement buildings would be larger than the existing buildings by 21% in volume and 29% in floorspace. Again, the NPPF does not define "materially larger", although case law<sup>3</sup> has confirmed that it is not just a simple mathematical comparison. Regard can be had to matters such as bulk, height, mass and prominence that could have a bearing on openness. Such matters are reflected in the draft SADP Policy RUR13 (as amended by main modification 38) even though the policy is only afforded limited weight. The 30% acceptable volume increase limit set out in CBLP Policy H16 only applies to extensions to existing buildings in the Green Belt. Essentially, each case should be assessed on its own merits.
64. One of the existing buildings is two-storey plus roof. The other two buildings are single storey with large gable roofs. While each proposed dwelling is predominantly focussed on the ground floor, they would all have a mezzanine

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<sup>2</sup> The decision notice for Appeal C refers to CBLP Policy PS6 as well as Policy PS7. Policy PS6 defines a list of specific settlements in the Green Belt where limited development is permitted. For all other Green Belt settlements, the policy simply refers to CBLP Policy PS7. Therefore, CBLP Policies PS6 and PS7 have limited utility for the purposes of Appeal C.

<sup>3</sup> Tandridge DC v SSCLG [2015] EWHC 2503 (Admin)

floor and large gabled roofs taller than the existing single storey buildings and about the same height as the existing two-storey building. The upper parts of the dwellings would be visible from outside the walled garden and prominent over a greater area given the siting of each dwelling. The bulk and mass of the dwellings would be broken up by the use of the glazed links, but overall they would be materially larger than the buildings they would replace. Thus, the proposal in Appeal A would be inappropriate development.

65. As for the second of the two possible exceptions, the parties agree that the walled garden represents previously developed land that would be partially or completely redeveloped. As to whether the proposal would have a greater impact on openness and purposes is discussed in the next main issue.

***Green Belt openness and purposes (Appeals A and C only)***

66. NPPF paragraph 137 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. NPPF paragraph 138 and CELPS Policy PG3(1) set out five Green Belt purposes. The parties agree that the only purpose relevant to these proposals is to assist in safeguarding the countryside from encroachment.
67. For the Appeal A proposal, the footprint of the dwellings would be larger than the existing buildings and there would be an increase in height, volume and prominence. While less clustered into one side of the garden than the existing buildings, the spatial distribution of the dwellings across the site would erode the open qualities of the eastern side of the site. The dwellings would be visible above the walls and from the east and west vehicular entrances. The containment provided by the walled garden would limit the visual impact from outside the site, but there would still be moderate harm in terms of openness. There would only be limited conflict with regard to countryside encroachment given the contained nature of the walled garden.
68. As a consequence, in addition to the Appeal A proposal representing inappropriate development under NPPF paragraph 149(d), the effect on openness would also render it inappropriate development under NPPF paragraph 149(g). The proposal would be inappropriate development in line with CELPS Policy PG3(3), where effect on Green Belt purposes is also considered, as well as NP Policy 1.
69. For the Appeal C proposal, there are existing properties nearby along New Road, while existing and proposed vegetation would help to screen the development. Nevertheless, a currently undeveloped field would be replaced by three large and detached dwellings and garages. New Road is still predominantly rural and open on both sides. Therefore, the proposal would have a significant impact on openness in both a spatial and a visual sense. For similar reasons, there would also be clear conflict with regard to countryside encroachment.

***The appropriateness of the location (Appeals A and C only)***

70. CELPS Policies SD1 and SD2 set out the approach to sustainable development in Cheshire East. Amongst other things, they seek to ensure that development is accessible by public transport, walking and cycling, and provides access to

key services and amenities. CELPS Table 9.1 sets out appropriate walking distances to a range of services and amenities. CELPS Policy SE2 requires the efficient use of land, while CELPS Policy CO1 seeks to guide development to sustainable and accessible locations. CBLP Policies GR9 and GR10 seek development that is accessible by a range of transport modes.

71. NPPF paragraph 110(a) refers to whether appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location. At the same time, NPPF paragraph 105 acknowledges that sustainable transport solutions will vary between urban and rural areas.
72. The sites in Appeals A and C are located within the countryside. Despite the proximity of existing housing on New Road, there is no identifiable settlement until the small hamlet of Ackers Crossing. The parties concur that the proposals in both Appeals A and C would not represent isolated homes in the countryside which NPPF paragraph 80 seeks to avoid. Instead, the dispute focusses on the accessibility of services and the sustainability of the location.
73. The nearest services to the sites, such as shops and primary schools, range in distance from under a mile to the A34 to 2-3 miles in villages like Scholar Green and Astbury. Most of them are further than the distances in CELPS Table 9.1. The nature of New Road and adjoining roads with limited or no pavement or street lighting and fast traffic speeds, would discourage walking or cycling to these services. A bus service between Congleton and Alsager stops near the New Road appeal site and at the eastern lodge. However, the service is limited to once a day on weekdays outside of normal commuting times.
74. Therefore, future occupants of the dwellings in either proposal would be mainly reliant on the private car to access services and facilities. This would have negative environmental and social consequences in terms of the use of natural resources and supporting communities' well-being. The increased use of ultra-low emission and electric vehicles, along with more home working and online shopping and social connections would help to mitigate the negative consequences. Moreover, the proposals only involve three new dwellings and accessibility issues are commonplace in many countryside locations mindful of NPPF paragraph 105. They already apply to the existing housing on New Road. Thus, there would only be a minor negative effect arising from the location of the proposals.
75. I note that the local highway authority did not object to either proposal on the grounds of accessibility. However, this issue deals with wider sustainability matters and it was not unreasonable for the local planning authority to raise concerns. In conclusion, the proposals in Appeals A and C would not be in an appropriate location having regard to the development plan and national policies. Therefore, they would not accord with CELPS Policies SD1, SD2, SE2 or CO1, CBLP Policies GR9 or GR10, or NPPF paragraph 110(a) insofar as they relate to locational sustainability.

***Other considerations (Appeals A and C only)***

76. For both appeals, the appellant advances two other considerations adjusted to the circumstances of each proposal. The first relates to the heritage benefits associated with each proposal, and the second relates to alternative

development scenarios for the walled garden that would not result in these heritage benefits.

77. In terms of the first other consideration for Appeal A, there would be enhancement of the two listed buildings through the removal of the 1960s buildings and the programme of conservation works. As will be seen from my conclusion on the heritage balance above, while this carries significant weight, the public benefits would not outweigh the harm caused to the significance of the listed buildings. This limits the weight afforded to this consideration.
78. With regard to the second other consideration for Appeal A, the alternative development scenario for the walled garden relates to the conversion of the 1960s buildings into three dwellinghouses. The appellant's intention is that the existing buildings would be re-used if the appeals are dismissed. This would generate some income to support ongoing works around the estate although the appellant contends this would not be enough to undertake the conservation works to the walled garden. It would also leave the existing incongruous buildings in place, without reinstating the lost part of the west wall.
79. However, the applications for the conversion have yet to be determined and it is not clear whether approval will be given. The conversion may not be inappropriate development in the Green Belt, but this would need to be assessed against the impact on openness and purposes. There are also listed building matters to consider including the fragmentation concerns outlined above. Furthermore, there may be additional issues to overcome such as living conditions before it can be determined that the conversion would be appropriate. Therefore, there is no real prospect that the fallback position would occur and so I give little weight to the conversion scenario.
80. In terms of the first other consideration for Appeal C, the listed building enhancements would be greater for this proposal than Appeal A given the reinstatement of the walled garden to something akin to its original form and function, including the complete restoration of the west wall. As noted above, these heritage-related public benefits clearly outweigh the harm to the significance of the listed buildings, and so can be afforded great weight.
81. With regard to the second other consideration for Appeal C, the appellant puts forward three alternative development scenarios. Firstly, the Appeal A proposal (if allowed), secondly do nothing, and thirdly the conversion proposal. The do nothing and conversion scenarios would leave the existing incongruous buildings in place and not secure the conservation works. However, I have already found that there is no real prospect of the conversion scenario occurring. Doing nothing is not a long-term option as resources will need to be spent on maintaining the buildings. Therefore, it is difficult to give much weight to this scenario.
82. The Appeal A and conversion scenarios would both result in the fragmentation of ownership within the walled garden (notwithstanding the unlikelihood of the latter scenario). Fragmentation would occur under Appeal C too, but on the edge of the estate rather than within a designated heritage asset. The harm arising from the fragmentation of the walled garden would be significant and the wider conservation benefits of reinstating the original garden use would not be possible. Whilst the conversion scenario is unlikely, the Appeal A scenario

could be implemented if that appeal was allowed and Appeal C was dismissed. Therefore, this carries significant weight.

***Planning balance and very special circumstances (Appeals A and C only)***

83. NPPF paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 148 advises that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm arising from the proposal, is clearly outweighed by other considerations. LP Policy PG3(2) states that planning permission will not be granted for inappropriate development in the Green Belt except in very special circumstances.
84. The Appeal A proposal would be inappropriate development in the Green Belt and would result in moderate harm to openness and limited conflict with Green Belt purposes. This attracts substantial weight. The proposal would result in a significant degree of less than substantial harm to the significance of the listed hall and walled garden. There would also be minor harm relating to the appropriateness of the location.
85. The proposal would achieve significant conservation benefits along with minor benefits from the provision of three houses and economic spending. However, these would not be enough to clearly outweigh the harm to the Green Belt or the listed buildings. The alternative scenario of converting the 1960s buildings to single dwellinghouses carries little weight for the reasons set out above. As a consequence, the very special circumstances necessary to justify the proposal do not exist. Thus, the Appeal A proposal would not accord with CELPS Policy PG3 or NPPF paragraphs 147 or 148.
86. The Appeal A proposal would harm the Green Belt and the significance of listed building and would not be in an appropriate location in terms of accessing service and facilities. The public benefits and other considerations would not be sufficient to outweigh the harms. Therefore, the proposal would conflict with CELPS Policies SD1, SD2, SE1, SE2, SE7 and PG3, CBLP Policies BH1, BH4, BH5, and NP Policies P1, P4, P11, P13, P18 and P26. This points against the grant of planning permission.
87. For Appeal C, the proposal would be inappropriate development in the Green Belt and would cause significant harm to openness and clear conflict with Green Belt purposes. This attracts substantial weight. The proposal would also result in moderate harm to landscape character and minor harm with regard to the appropriateness of the location.
88. The moderate less than substantial harm to the significance of the listed hall would be clearly outweighed by the considerable public benefits associated with the removal of the 1960s buildings, the repair and reinstatement of walls and outbuildings, and the reinstatement of the walled garden to secure its optimum viable use. This attracts great weight. The provision of three houses and economic spending are minor benefits. Given that I have found that the proposal in Appeal A should not be granted permission, the alternative scenario of it being implemented is not relevant in the final balance.

89. The conservation benefits of the Appeal C proposal would clearly outweigh the harm to the Green Belt and other harm including harm to listed buildings. Therefore, very special circumstances exist to justify the proposal as required by CELPS Policy PG3 and NPPF paragraphs 147 or 148.
90. The Appeal C proposal would harm the Green Belt and landscape character and would not be in an appropriate location. However, the special interest of the listed buildings would be preserved and enhanced and the other considerations would be sufficient to outweigh the harms. Therefore, while there would be some conflict with CELPS Policies SD1, SD2, SE1, SE2 and SE4 and NP Policies P4, P11, P13 and P26, the proposal would accord with the development plan taken as a whole. This points towards the grant of planning permission.

### **Other Matters**

91. The appellant carried out a traffic survey in May 2020 during the first Covid lockdown, but it was measuring vehicle speeds rather than numbers to inform the design of the proposed visibility splays onto New Road for the Appeal C proposal. If anything, speeds might have increased slightly with fewer vehicles on the road, but this would add to the robustness of the visibility splays. New Road bends to the south-east of the appeal site, but adequate visibility can be provided for the typical speeds of the road. Given the limited number of trips likely to be generated by three dwellings, the new access would not impede the existing vehicular accesses on the opposite side of the road. New Road has a variety of road users and has been subject to accidents. However, based on the visibility splays and trip generation levels, I am satisfied that there would be no unacceptable effects on highway safety from the Appeal C proposal.
92. The New Road site is not within an area of high flood risk from rivers or surface water and so no flood risk assessment has been prepared or consideration given to the wider water or drainage network. Nevertheless, photographs from interested parties indicate that the site and adjoining land has been subject to flooding, with a watercourse running just to the south of the site. The appellant has indicated that finished floor levels could be increased above the level of the watercourse and road. Moreover, the drainage strategy intends to use soakaways discharging surface water on site, with an overflow pipe to the watercourse if required in wetter conditions. The management of vegetation along the watercourse is a matter for landowners to address and the detailed landscaping scheme can take flood issues into account. Thus, I am satisfied that the Appeal C proposal would have an acceptable effect on flood risk.
93. The 1960s walled garden buildings contain evidence of bat activity. A licence from Natural England would be needed before any demolition work could begin on these buildings. The licence does not need to be provided before planning permission is granted, but there must be a reasonable prospect of the licence being issued. Having regard to the three derogation tests, the Appeal C proposal would be in the overriding public interest to sustain and enhance a listed building and ensure its sympathetic re-use. Based on my consideration of these appeals, there is no satisfactory alternative to the Appeal C proposal. Finally, the appellant's bat mitigation strategy would provide compensatory habitat in the form of a dedicated bat loft in the stable courtyard and bat boxes on each of the three proposed dwellings on New Road. Subject to an appropriate condition to secure the mitigation, favourable conservation status

- of the species would be maintained. Thus, I consider there is a reasonable prospect of Natural England granting a licence for the proposal.
94. The appellant's habitat survey found no protected species on site although noted the potential for nesting birds in boundary trees. The housing could affect species' ability to traverse or hunt across the site, but a small area of land would be affected compared to the adjoining fields and parkland. Trees can be retained and additional planting provided. The installation of bird and bat boxes would further maintain and enhance roosting and nesting potential. Light levels can also be controlled by condition to minimise effects while survey work can be carried out before development to check for nesting birds.
95. The proposed dwellings would affect views from adjacent properties, but there would be sufficient gaps between buildings to avoid any unacceptable impact on outlook or privacy. Lighting can also be controlled to avoid excessive spillage into the surrounding area. Therefore, the Appeal C proposal would have an acceptable effect on the living conditions of neighbouring residents.
96. While some of the windows on the proposed dwellings in Appeal C would be narrow, they would be full height from floor to ceiling to allow reasonable light levels. The large glazed voids would reveal the occupants of the dwellings in the halls, stairs and landings, but these are circulation spaces where less privacy is expected. Occupants can also choose how to use spaces and what window hangings to use in living rooms and bedrooms. The landscaping scheme for the proposal can be designed to maintain views across the adjoining fields and tree heights can be managed. Therefore, the proposal would result in satisfactory living conditions for future occupants and would not increase the risk of crime.
97. I have little evidence that there are existing estate buildings that could be converted to residential use other than those in the walled garden. The appellant has provided evidence that there are no alternative sites for housing on land within their ownership that would be more suitable in terms of any effects. The Appeal C proposal has been very clearly linked to enhancement works within the walled garden. Any further development proposals and/or restoration projects would have to be assessed on their own merits. Thus, I am satisfied that the proposal would not automatically lead to additional development on New Road or elsewhere.

### **Conditions for Appeals B and D**

98. Similar conditions are imposed for both appeals. The formal decisions above require the works to be in accordance with the submitted plans. In addition to the standard time limit condition (1), it is necessary to require a full structural survey and repair/restoration report to ensure that the works are implemented sympathetically (2). A construction method statement is necessary to protect the listed walled garden during works (3). Finally, it is necessary for a condition (4) to address any hidden historic features that might be discovered during the works, to ensure that they are dealt with appropriately. It is not necessary to impose a condition on materials as this relates to the new dwellings rather than works to any listed structure.

### **Conditions for Appeal C**

99. Conditions 1 and 2 are necessary for clarity and compliance. Condition 3 is necessary to require a full structural survey and repair/restoration report to ensure that the works to the listed building are implemented sympathetically. Condition 4 is necessary to ensure that appropriate ground and floor levels are provided in the interests of character and appearance and flood risk. Conditions 5 to 8 are necessary to protect the listed walled garden, wildlife, and trees during construction works. Conditions 3-8 are pre-commencement conditions as they relate to matters that should be addressed before works begin on site.
100. Condition 9 is necessary to ensure that the existing 1960s buildings within the walled garden are removed before construction of the New Road dwellings begins, in order to secure the conservation benefits that have been used to justify the proposal. Condition 10, 11 and 12 are necessary to deal with any land contamination matters. Condition 13 is necessary to address drainage issues within the site. Condition 14 is necessary to secure the bat mitigation, while Conditions 15 and 16 are necessary to protect and enhance biodiversity.
101. Condition 17 is necessary in the interest of the character and appearance of the area. Conditions 18 and 19 are necessary to provide for the landscaping of both the New Road site and the walled garden and secure some of the conservation benefits that have been used to justify the proposal. Condition 20 is necessary to enhance views of the hall from New Road. Condition 21 is necessary to encourage sustainable modes of travel while Condition 22 is necessary in the interests of highway safety. Finally, Condition 23 is necessary to control changes to the new dwellings that might otherwise have negative effects on the Green Belt and the setting of the hall.

### **Conclusion Appeal A**

102. For the above reasons, and having had regard to all other matters raised, I conclude that Appeal A should be dismissed.

### **Conclusion Appeal B**

103. The Appeal B proposal would preserve the special interest of the walled garden and outbuildings as a listed building. There is no reason to withhold listed building consent and so I conclude that Appeal B should be allowed.

### **Conclusion Appeal C**

104. For the above reasons, and having had regard to all other matters raised, I conclude that Appeal C should be allowed.

### **Conclusion Appeal D**

105. The Appeal D proposal would preserve the special interest of the walled garden and outbuildings as a listed building. There is no reason to withhold listed building consent and so I conclude that Appeal D should be allowed.

*Tom Gilbert-Wooldridge*

INSPECTOR

## **Appearances**

### For the Appellant:

Paul G Tucker QC and Freddie Humphreys of Counsel, instructed by Caroline Payne of Emery Planning.

They called:

Caroline Payne BA (Hons) PGDip MRTPI PIEMA  
Director, Emery Planning

Colin Pullan BA (Hons) DipUD  
Head of Urban Design and Masterplanning, Lambert Smith Hampton

Laurie Handcock MA MSc IHBC  
Director, Icen Projects

Stuart Ryder BA (Hons) CMLI  
Director, Ryder Landscape Consultants Ltd

Peter Blair BEng CEng FICE FCIHT  
Head of Transport North, Tetra Tech

Victoria Alderton  
Director, Paddock Johnson

Dr Rachel Hacking  
Principal Ecologist, Rachel Hacking Ecology Ltd

### For the Local Planning Authority:

Graeme Keen QC of Counsel, instructed by the Head of Legal and Democratic Services at Cheshire East Council.

He called:

Gareth Taylerson MSc MRTPI  
Principal Planning Officer, Cheshire East Council

Dr Darren Price BA (Hons) BArch DCE  
Design Consultant

Emma Fairhurst BSc MSc MA IHBC  
Senior Conservation and Design Officer, Cheshire East Council

Lucinda Long BA (Hons) PGDip PGDip CMLI  
Landscape Officer, Cheshire East Council

### Interested Parties who participated during Inquiry:

Diane Lyne	Local resident
Andrew Lyne	Local resident
Colin Pemberton	Local resident
Cllr Patrick Redstone	Ward councillor, Cheshire East Council

## **Documents submitted during or after Inquiry**

- ID1: Transport Briefing Note dated 29 April 2022 (including spreadsheets)
- ID2: Flood Risk Briefing Note dated 3 May 2022
- ID3: Ecology Technical Note dated 29 April 2022
- ID4: Draft agreed conditions
- ID5: Site visit itinerary
- ID6: Existing Access Route Measurements Drawing 383-XX-XX-DR-L0006
- ID7: Map extract from Congleton Borough Local Plan First Review showing the boundary of Great Moreton Hall Park and Garden of Historic Interest
- ID8: Existing site plan for Somerford Booths Hall
- ID9: Appellant's opening statement
- ID10: Council's opening statement
- ID11: Court of Appeal judgment *City and Country Bramshill Ltd v SSHCLG* [2021] EWCA Civ 320
- ID12: Comments from Mrs Lyne regarding design and landscape matters
- ID13: Updated draft agreed conditions
- ID14: Flood Risk Technical Note dated 9 May 2022
- ID15: Historic map extracts from Cheshire Tithe Maps (c. 1875, 1898 and 1919)
- ID16: Extract from main modifications to Cheshire East Local Plan
- ID17: Letter from Mr Handcock and Mrs Fairhurst regarding ID15
- ID18: Further updated draft agreed conditions
- ID19: Draft unilateral undertaking
- ID20: View emphasising works plan Figure L004 Revision B
- ID21: Copy of Mrs Lyne's speech from Day 1
- ID22: Final draft agreed conditions
- ID23: Updated draft unilateral undertaking
- ID24: Email from Mrs Lyne dated 13 May 2022 regarding boundary trees
- ID25: Supplementary note from appellant on boundary trees
- ID26: Council's closing submissions
- ID27: Appellant's closing submissions
- ID28: Email from Mr Beardmore dated 15 May 2022 regarding boundary trees
- ID29: Completed and executed unilateral undertaking dated 16 June 2022

### **Annex 1: Conditions for Appeal B (APP/R0660/Y/21/3287607)**

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Prior to commencement of the works hereby approved:
  - (a) A full structural survey for the listed walled garden and associated structures as shown in the submitted walled garden survey dated 10/03/21 shall be submitted to and approved in writing by the local planning authority.
  - (b) A report detailing the repair and restoration works required in line with the approved structural survey shall be submitted to and approved in writing by the local planning authority. This shall include a timetable showing when the proposed restoration/repairs works to the walled garden and associated structures as shown in the submitted walled garden survey dated 10/03/21 are to take place. The repair/restoration works shall then be implemented in full in accordance with the approved report and timetable.
- 3) Prior to commencement of works, a construction method statement shall be submitted to and approved in writing by the local planning authority. This shall cover specifically the areas surveyed in the walled garden survey dated 10/03/21. This shall also include demolition by hand in sensitive areas of the listed walls, particularly in the south-west corner where the building abuts the listed walls. The works shall then only proceed in accordance with the approved method statement.
- 4) If during the course of the works, any hidden historic features are revealed in the walled garden which have not been considered in the programme of archaeological work, they should be retained in-situ and further works shall be halted in the relevant area and the local planning authority should be notified immediately. No works shall proceed until relevant investigation/assessment has been undertaken and agreed with the local planning authority.

## **Annex 2: Conditions for Appeal C (APP/R0660/W/21/3287609)**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

<b>Plan Name</b>	<b>Drawing Number</b>
Site Location Plan	20017-001-A
Existing Site Plan and Site Sections	20017-100-A
Plot 1 Proposed Elevations	20017-208-B
Plot 1 Proposed Plans	20017-209-C
Plot 2 Proposed Elevations	20017-210-B
Plot 2 Proposed Plans	20017-211-B
Plot 3 Proposed Elevations	20017-212-B
Plot 3 Proposed Plans	20017-213-B
Garages Proposed Elevations/Plans	20017-214-A
Proposed Site Plan and Site Sections	20017-215-B
Landscape Strategy Option 2	383-RYD-XX-XX-DR-L-002 Rev A
Landscape Strategy Option 3	383-RYD-XX-XX-DR-L-003 Rev B
Visibility Splays and Swept Path Analysis	2830-01-ATR01
Repairs and Alterations Part 1	18031-302
Repairs and Alterations Part 2	18031-303
Walled Garden Stores and Roofs	ABC/GMORETON/ALS/003 Rev 01
Walled Garden	ABC/GMORETON/ALS/004 Rev 01
Walled Garden Survey (10/03/21) by Andrews Building Conservation Ltd	n/a

- 3) Prior to commencement of the development hereby permitted:
  - a) A full structural survey for the listed walled garden and associated structures as shown in the submitted walled garden survey dated 10/03/21 shall be submitted to and approved in writing by the local planning authority.

- b) A report detailing the repair and restoration works required in line with the approved structural survey shall be submitted to and approved in writing by the local planning authority. This shall include details of the reinstatement of openings on the east and west walls. This shall also include a timetable showing when the proposed restoration/repairs works to the walled gardens and associated structures as shown in the submitted walled garden survey dated 10/03/21 are to take place. The repair/restoration works shall then be implemented in full prior to first occupation of the development hereby approved in accordance with the approved report and timetable.
- 4) No development shall commence until full details of the following have been submitted to and approved in writing by the local planning authority:
- a) existing ground levels;
  - b) proposed ground levels; and
  - c) finished levels, above ordnance datum, of the ground floors of the proposed buildings.
- The development shall be carried out in accordance with the approved details.
- 5) Prior to commencement of the development, a construction method statement shall be submitted to and approved in writing by the local planning authority. This shall cover specifically the areas surveyed in the walled garden survey. This shall also include demolition by hand in sensitive areas of the listed walls, particularly in the south-west corner where the building abuts the listed walls. Development shall then only proceed in accordance with the approved method statement.
- 6) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing with the local planning authority. The CEMP shall include:
- A risk assessment of any construction activities that may result in the disturbance of or have an effect on wildlife.
  - Identification of any sensitive areas where invasive non-native species are present and measures to control these species.
  - Proposals to limit the effects of construction related dust, light and noise on wildlife.
  - Hours of construction activity to minimise any impacts on wildlife.
  - Details of any protective fencing, warning signs or barriers required to limit construction related impacts on wildlife.
  - Details of an ecological clerk of works to be appointed to manage the implementation of the CEMP and any other biodiversity related conditions and licences applicable to the development.
- 7) a) The development shall only take place in accordance with the Tree Protection Plan CW 9942-P-TP-1 and associated Arboricultural Statement dated 8/9/20 with measures to be implemented under arboricultural

supervision in accordance with BS 5837:2012 Trees in relation to design, demolition and construction. – Recommendations.

- b) No operations shall be undertaken on site in connection with the development hereby approved (including any demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
  - c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
  - d) Protective fencing shall be retained intact for the full duration of the construction works hereby approved and shall not be removed or repositioned without the prior written approval of the local planning authority.
- 8) No removal of any vegetation or the demolition or conversion of buildings shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. A working method statement shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the local planning authority before any further works within the exclusion zone take place.
- 9) Prior to the commencement of any construction works associated with the three new dwellings hereby approved, the existing buildings within the walled gardens scheduled for demolition shall be fully demolished (including any fixed surfacing) and all materials removed from the land.
- 10) No development (other than demolition and site clearance works) shall take place until:
- a) A proportionate risk assessment and (if appropriate) site sampling exercise is undertaken to address the risks posed by land contamination. This should be submitted to and approved in writing by the local planning authority.
  - b) Should the above indicate that remediation is necessary, a Remediation Strategy shall be submitted to and approved in writing by the local planning authority.
- The remedial scheme shall be carried out in accordance with the approved Remediation Strategy unless otherwise agreed in writing by the local planning authority. No part of the development shall be occupied prior to the submission and approval in writing by the local planning authority of a Verification Report prepared in accordance with the

- approved Remediation Strategy that covers that part of the development to be occupied or used.
- 11) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site. Prior to occupation of the development, evidence and verification information (for example, laboratory certificates) shall be submitted to and approved in writing by the local planning authority.
  - 12) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the local planning authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme submitted to and approved writing by the local planning authority.
  - 13) Prior to the commencement of any above ground works excluding demolition, an overall detailed strategy/design limiting the surface water runoff generated by the development, associated management/maintenance plan, and managing overland flow routes for the site shall be submitted to and approved in writing by the local planning authority. If surface water is discharged into a sewer, then the drainage design must also include information about the design's storm period and intensity (1 in 30 & 1 in 100 (+% allowance for Climate Change)) and any temporary storage facilities included to ensure adequate drainage is implemented on site. The development shall be implemented in accordance with the approved details/strategy prior to first occupation of the dwellings hereby approved.
  - 14) The development hereby permitted shall be in accordance with the recommendation made by the submitted '20/3057C – Bat Mitigation Strategy for Great Moreton Hall' (Rachel Hacking Ecology, 28/11/2020) Agreed features for roosting bats shall be permanently installed in accordance with the approved details.
  - 15) The proposed native species planting to compensate for the loss of grassland habitat, in the form of trees and hedgerow sections as shown in the submitted Landscape Strategy Option 3 plan (Drawing number: 383-RYD-XX-XX-DR-L-003 Rev B) shall be implemented in full during the first planting season after first occupation.
  - 16) No development involving the use of any building materials shall take place until a strategy for the incorporation of features to enhance the biodiversity value of the proposed development and a sensitive lighting scheme has been submitted to and approved in writing by the local planning authority. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow, and native species planting. The features and scheme shall be permanently installed in accordance with the approved details prior to first occupation of the dwellings hereby permitted.
  - 17) No development involving the use of any facing and roofing materials shall take place until details or samples of the materials to be used in the

construction of external surfaces of the buildings 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.

- 18) Prior to first use of facing materials, and notwithstanding the landscaping strategies submitted to date, a scheme for the landscaping of the sites (including the walled garden) shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include:
- details of reservation and re-use of site soils;
  - details of landscaping structures, both ornamental and functional;
  - details of hard-landscaping, including permeable vehicular and pedestrian hard-surfacing which incorporates re-used materials;
  - planting plans with written specifications (including both retained and proposed plants, cultivation and other operations associated with tree, shrub, hedge or grass establishment) and schedules of plants (noting species, plant sizes, the proposed numbers and densities); and
  - A schedule of landscaping maintenance for a period of 25 years starting from the date of implementation of the landscaping scheme.
- 19) The approved landscaping scheme shall be completed in accordance with the following:
- a) all hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved;
- b) all trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces);
- c) all new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations);
- d) any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted; and
- e) the landscaping maintenance shall be carried out in accordance with the approved schedule on the first implementation of the landscaping scheme.
- 20) Prior to first occupation of the development, a scheme detailing the proposed planting and felling to emphasise views of Great Moreton Hall in broad accordance with plan 383-DR-L004 Rev B shall be submitted to and approved in writing by the local planning authority. Development shall

then be carried out in accordance with the approved details and retained as such thereafter.

- 21) Prior to first occupation of the development, an Electric Vehicle Infrastructure Plan shall be submitted to and approved in writing by the local planning authority. The Infrastructure Plan shall aim to meet the following specification:
- A single Mode 3 compliant Electric Vehicle Charging Point per property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kW Fast charging or the best available given the electrical infrastructure.
  - Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to the local planning authority prior to discharge.
  - Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted.

The infrastructure shall be implemented prior to occupation of each unit and maintained throughout the use of the development.

- 22) The approved visibility splays shall be provided prior to first occupation of the development and kept clear of obstructions above a height of 1m at all times.
- 23) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) A, B & E of Part 1 Schedule 2 of the Order shall be carried out.

### **Annex 3: Conditions for Appeal D (APP/R0660/Y/21/3287613)**

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Prior to commencement of the works hereby approved:
  - a) A full structural survey for the listed walled garden and associated structures as shown in the submitted walled garden survey dated 10/03/21 shall be submitted to and approved in writing by the local planning authority.
  - b) A report detailing the repair and restoration works required in line with the approved structural survey shall be submitted to and approved in writing by the local planning authority. This shall include details of the reinstatement of openings on the east and west walls. This shall also include a timetable showing when the proposed restoration/repairs works to the walled gardens and associated structures as shown in the submitted walled garden survey dated 10/03/21 are to take place. The repair/restoration works shall then be implemented in full prior to first occupation of the dwellings hereby authorised in accordance with the approved report and timetable.
- 3) Prior to commencement of works, a construction method statement shall be submitted to and approved in writing by the local planning authority. This shall cover specifically the areas surveyed in the walled garden survey. This shall also include demolition by hand in sensitive areas of the listed walls, particularly in the south-west corner where the building abuts the listed walls. Works shall then only proceed in accordance with the approved method statement.
- 4) If during the course of the works, any hidden historic features are revealed in the walled garden which have not been considered in the programme of archaeological work, they should be retained in-situ and further works shall be halted in the relevant area and the local planning authority should be notified immediately. No works shall proceed until relevant investigation/assessment has been undertaken and agreed with the local planning authority.