



Appeal Decision

Hearing held on 26 April 2022

Hearing adjourned on 26 April 2022

Site visit made on 26 April 2022

Hearing closed on 6 June 2022

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 November 2022

Appeal Ref: APP/E2001/W/21/3280919

Main Street, Everingham, East Riding of Yorkshire YO42 4JA

Easting: 480421, Northing: 442382

- 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 Mark Fisher against the decision of East Riding of Yorkshire Council.
 - The application Ref: 19/02315/PLF, dated 2 July 2019, was refused by notice dated 15 February 2021.
 - The development proposed is external and internal alterations to barn to allow use as dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for external and internal alterations to barn to allow use as dwelling, at Main Street, Everingham, East Riding of Yorkshire YO42 4JA, Easting: 480421, Northing: 442382, in accordance with the terms of the application, Ref: 19/02315/PLF, dated 2 July 2019, and the plans and information submitted with it, subject to the conditions set out in the schedule attached.

Application for Costs

2. An application for costs was made by Mr Mark Fisher against East Riding of Yorkshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. During the determination of the application the proposal was revised and the description of development was changed¹. The Council's decision was based upon the revised proposal. I have determined the appeal on the same basis and used the revised description in the heading and formal decision above. This was agreed by the main parties at the Hearing.
4. In relation to the Council's second reason for refusal, under Regulation 5A(3) of the Town and Country Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended) (the Regulations) Historic England must be

¹ Description of the proposal as stated in application form: Conversion of existing barn to dwelling, erection of a single storey extension to rear and associated works. Changed to: External and internal alterations to barn to allow use as dwelling.

notified on development which the local authority think would affect the setting of a Grade I or Grade II* listed building. The Council confirmed prior to and at the Hearing that this notification had not been undertaken.

5. Consequently, to adhere to the requirements of the Regulations and with the agreement of the main parties, the Planning Inspectorate carried out the appropriate notification. To allow for this process, the Hearing was adjourned on 26 April 2022. The Planning Inspectorate then notified Historic England on 4 May 2022 and a response was received on 24 May 2022. The main parties were then given the opportunity to respond to Historic England's reply, with the Appellant having the final comment. Following this, the Hearing was formally closed in writing on 6 June 2022. In determining the appeal I have had regard to Historic England's notification response and the parties' comments on it. I am satisfied that neither of the parties have been prejudiced by this approach.
6. Prior to the Hearing, the Appellant submitted an 'Additional Statement' on 5 April 2022 which was copied to the Council. At this stage prior to the Hearing, there is no provision in the Procedural Guide² for the Appellant to make comments on the Council's Statement of Case or representations made by interested parties. Nevertheless, given that the matters would be raised and discussed at the Hearing and to help make good use of time during the event it was, exceptionally, accepted. In the interests of fairness, the Council was invited to comment on the Statement, but it confirmed that it would discuss the matters which the Statement raised at the Hearing.
7. Hornsea Mere Special Protection Area (HM SPA), which is located within the boundary of East Riding of Yorkshire Council, is one of the additional habitats sites identified as being in an unfavourable condition due to excessive nutrients which require a Habitats Regulations Assessment and where nutrient neutrality is a potential solution to enable development to proceed. Upon my request, the main parties confirmed that the appeal site is not located within the HM SPA, lying approximately 37km to the west of that designation³. Therefore, I have not considered this matter any further.
8. The appeal site (the site) lies near to a number of listed buildings⁴ and is located within the Everingham Conservation Area (the ECA). Nonetheless, the Council's case in relation to heritage assets focuses on the effects of the proposal on the settings of the Grade II* listed building, 'Church of Saint Everilda'⁵ (the Church) and the Grade II listed building, 'Chapel about 60 metres east of Church of Saint Everilda'⁶ (the Chapel), and the character and appearance of the ECA. This approach is reflected in the Appellant's Heritage Statement. Having regard to the evidence before me, the discussion at the Hearing and my observations on site, I have no reason to take a different approach to the main parties in this respect. I have therefore concentrated my considerations of the effects of the proposal on the designated heritage assets set out above and, in line with sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the buildings' setting and paid special attention to the desirability of preserving or enhancing the character or appearance of the ECA.

² Procedural Guide: Planning appeals – England, 12 April 2022.

³ Para 6.12 and Figure 5, Agreed Statement of Common Ground, dated 8 April 2022.

⁴ Two Grade I, one Grade II* and three Grade II Listed Buildings. Section 1.1 Heritage Statement, Archaeological Services Limited Report 2019/98, dated June 2019.

⁵ List Entry Number: 1310669.

⁶ List Entry Number: 1084131.

Main Issues

The main issues are:

- Whether the appeal proposal would constitute an acceptable form of development, having regard to i) the provisions of local and national policy in respect of the location of development, ii) the intrinsic character of the surrounding area and iii) nearby trees
- Whether the appeal proposal would i) preserve the settings of the adjacent Grade II* and Grade II listed buildings and ii) preserve or enhance the character or appearance of the Everingham Conservation Area.

Reasons

Appeal Site and Background

9. The appeal site (the site) is located on the east side of Main Street, outside the designated limits of the village settlement of Everingham⁷. It is bordered along Main Street by a brick boundary wall and mature trees. A combination of post and wire fences, vegetation and mature trees provide an informal boundary along parts of the site's perimeter to the south and east.
10. To the north of the site is the core of Everingham village, to the south are the Grade II* listed Church and the Grade II listed Chapel, and opposite on the other side of Main Street is low density residential development. The site is also located within the ECA.
11. A roughly rectangular parcel of land, the site was formerly part of the estate and gardens of Everingham Hall, but was cleared for agricultural use in the 1980s, and has since become disused and at the time of my site visit was overgrown. Access into the site is from Main Street via an existing break in the brick boundary wall.
12. Dating from the 1980s, the existing barn (the barn) was originally constructed under agricultural permitted development rights and is now disused. It is an architecturally plain structure, constructed of brick with a pitched tiled roof, and possessing a single large double-height opening in the eastern elevation.
13. The appeal proposal comprises the conversion of the barn to form a residential dwelling with associated access and landscaping works. It is a varied resubmission of a previous application⁸ which was refused for similar reasons.

First Main Issue: Whether an Acceptable Form of Development

Provisions of local and national policy in respect of the location of the development and the intrinsic character of the area

14. The site lies outside of the development limit land of the village of Everingham and, as such, is regarded as the countryside. In this respect and having regard to the proposed development, it was agreed at the Hearing that the most relevant policy within the East Riding Local Plan 2012–2029, Strategy Document, April 2016 (the ERLP) for the proposal to be assessed against is Policy S4: Supporting development in Villages and the Countryside.

⁷ As shown in Fig 12, p 35 'Local Plan Proposals Map Extract' Design an Access Statement. DLP Planning. July 2019.

⁸ Application Ref: 18/03271/PLF. Refused 12 December 2018.

15. Part A of Policy S4 advises that, Outside of the settlements listed in Policy S3, development will be supported to help maintain the vibrancy of Villages (listed in Appendix B) and the Countryside where it: 1. Is of an appropriate scale to its location taking into account the need to support sustainable patterns of development; 2. Encourages the re-use of previously developed land where appropriate; and 3. Does not involve a significant loss of best and most versatile agricultural land. It goes on to state that, Development in Villages and the Countryside should also accord with the specific provisions of parts B or C of this policy.
16. The specific provisions within Part C which were agreed by the main parties at the Hearing to be relevant to the appeal proposal are C, 1, ii. These state that, Outside of a development limit land will be regarded as the Countryside and the following forms of development supported, where proposals respect the intrinsic character of their surroundings: 1. Conversions for new housing will be supported where the preservation of the building would enhance the immediate setting and where it: ii. would re-use a redundant or disused building without significant alteration or significant extension.
17. Policy S4 reflects national planning policy guidance as set out in Paragraphs 79 and 80 of the National Planning Policy Framework, 2021 (the Framework) which state that, To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities; and that, Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply, including (c) the development would re-use redundant or disused buildings and enhance its immediate setting.
18. There is some disparity in the Council's submitted evidence as to whether the proposal would comply with part A of Policy S4. However, it was confirmed at the Hearing that the Council considers that the proposal would not conflict with parts 1, 2 and 3 of part A.
19. On this basis, it was agreed at the Hearing that the proposal falls to be assessed against Part C of Policy S4. Having regard to the specific provisions of Part C, 1, ii and the policy's supporting text, the proposal would result in the re-use of a disused building which is confirmed as being structurally sound⁹.
20. There are some inconsistencies within the Council's evidence as to whether the alterations to the building would be 'significant', with concerns raised about the new openings, fenestration, roof lights and flue, but the decision notice stating that the proposal involves no major extensions or alterations. Policy S4 does not expand on what constitutes 'significant alteration.' Given the building's original form and bearing in mind the fairly limited number of new openings and changes proposed to facilitate a residential use, particularly those which would be visible from adjacent public routes, the alterations would not be so extensive or conspicuous to be 'significant' and would not result in an overly domestic property.
21. The principal dispute between the main parties relates to Part C, 1, namely whether the preservation of the existing barn in being converted for new housing would enhance its immediate setting as well as respect the intrinsic character of its surroundings.

⁹ Structural Appraisal Report. MCA masonclarkassociates 16715-Y-RP-001-R1. September 2018.

22. The terms 'enhancement' and 'immediate setting' are not described or defined within Policy S4's supporting text or the Framework. Using their ordinary meaning, it could reasonably be concluded that they refer to some degree or element of physical and/or visual improvement in the quality, value, or extent of the area which is directly adjacent to the building in question. Furthermore, it is a matter of legitimate planning judgement, taking all relevant factors into account, in determining whether a proposal would achieve this.
23. The barn is currently vacant and disused and the land directly adjacent to it forming the site is overgrown and not maintained. In basic terms, the refurbishment and re-use of the building and the associated maintenance of the land around it, would bring about a degree of physical and/or visual enhancement in the quality of the barn and the adjacent land. To my mind, this would reasonably constitute an enhancement to the immediate setting of the barn as a consequence of the barn's preservation.
24. In relation to the intrinsic character of the proposal's surroundings, Everingham is a modest rural settlement set within a wider expansive pastoral/agrarian landscape, which includes the historic grounds of the Everingham Hall estate. The core of the village is focused around the junction of Thorpe Le Street and Everingham Road/Main Street, with residential development radiating out from it in a, mostly, informal linear pattern. Dwellings generally face and are set back from the main routes through the village. This, combined with wide grassed verges, landscaped gardens and mature trees, engender an open feel and pleasing verdant appearance to this area. The historic grounds of the Everingham Hall estate are bound by distinctive brick walls and high hedges, with the wider expansive pastoral/agrarian landscape delineated by field boundaries and interspersed by tree belts and wooded areas.
25. The site's location, close to the defined settlement of the village and on the periphery of the Everingham Hall estate's historic grounds, results in the 'proposal's surroundings' maintaining characteristics of both the village settlement and the wider expansive landscape. While I acknowledge that, of itself, the site displays an open character and natural appearance, it is not contextually, physically or visually immediately identifiable as agricultural land and/or open countryside, and is more an area of transition between the defined village settlement and the wider landscape.
26. The proposal would lead to a permanent change of the use of the barn and the site from agricultural to residential. However, as outlined above, the building's reuse as a dwelling would be in keeping with residential development in the surrounding area. Moreover, the barn's proposed minimalist and straightforward conversion would sustain the building's form and general character as well as the site's defined openness. Additionally, the proposed natural boundary treatment, retention of the mature trees, modular plastic cellular grass road (grass road) and informal garden landscaping, would result in the site maintaining its natural and sylvan appearance, particularly when viewed from adjacent public routes. This would also be reinforced by the proposed additional planting including native species which are appropriate to the site.
27. I recognise that the re-use of the building and the site for residential purposes would introduce new elements and features into the land, such as cars and domestic paraphernalia. However, these would essentially be temporary in

their presence and, given the site's identified location within an area of transition, they would not be wholly incongruous when viewed from Main Street.

28. Having regard to the above, as a modest conversion of an existing building within the site, the proposal would respect the intrinsic dual character of its surroundings and would not be a harmful encroachment into the countryside.
29. In assessing the proposal I have had regard to the decision of the Court of Appeal in the case of *Tate*¹⁰ referred to by the Appellant. While I acknowledge the point being made in terms of the site's context and the position or circumstances 'on the ground', the details of the *Tate* case are different to the appeal before me and I am not persuaded by the assertion that the defined settlement boundary is an 'arbitrary line' drawn on a plan. The site lies outside of Everingham's development limit land and the assessment of any proposal on the site should be on that basis. In any event, Policy S4 and the Framework allow for the conversion of existing disused buildings subject to certain criteria, which I have concluded that the proposal would comply with.

Nearby Trees

30. A number of mature trees are located throughout the site, positioned mainly towards the south and west of the barn. The Arboricultural and Landscape Report (the A&L Report) identifies the mature species, including, Sycamore (T1, T3 and T7), Beech (T2) and Oak (T4, T5, T6 and T8), all of which are in good condition (category B and C)¹¹. These trees positively contribute to the general character and amenity of the area, including the character and appearance of the ECA.
31. The proposal would not involve the loss of any of the identified mature trees. Additionally, the conversion of the barn as submitted, would not directly affect the adjacent trees T5 and T6, including their root protection areas. I am aware of the Council's concerns regarding the potential overshadowing of the converted barn by the mature trees on the southern boundary of the site which, it asserts, would lead to pressure to allow extensive pruning, crown lifting or removal of these trees to improve the living conditions of any future occupants.
32. In the above respects, I have had regard to the proposed locations of the patio doors and patio area, and the submitted Google Earth aerial photographs¹². However, given the size of the associated private garden area and the limited evidence presented, I am not persuaded that any overshadowing would have a materially harmful effect on the living conditions of any future occupants, which would then lead to justified requests to prune or fell the trees.
33. The proposed access route and driveway into the site would cross over the root systems of the mature trees either side of the access (trees T1 and T2), with the potential to endanger their future health, particularly tree T2. The Appellant submits that the proposed access route and driveway follows the line of an existing hard surfaced track, over which agricultural vehicles travelled following the construction of the barn in the 1980s, and which would have led to some

¹⁰ *R(Tate) v Northumberland CC* [2018] EWCA Civ 1519 which agreed with *Wood v Secretary of State for Communities and Local Government* [2015] EWCA Civ 195.

¹¹ Arboricultural and Landscape Report (Ver 8). Mark S Feather. Dated February 2020.

¹² Council Reference: Google Earth aerial photographs dated 7 May 2020 and 3 October 2021.

historic compaction of the trees' root systems. This is disputed by the Council and interested parties.

34. No substantive or robust evidence has been provided by any party on this issue. Notwithstanding the lack of a formal crossing from Main Street to the access, I consider it reasonable to conclude that, at the very least, some agricultural vehicles would have traversed this route, with some consequent effects on the root systems of trees T1 and T2. Given this, along with the proposed grass road that would be installed using a 'low invasive method of construction', and what, in all likelihood, would be fairly low comings and goings from the single property, I am content that the future health of the trees adjacent to the site access, particularly tree T2, would not be endangered as a result of the proposal.
35. Additionally, having regard to the Arboricultural Method Statement as outlined in the A&L Report, I am content that the existing mature trees would be adequately protected during the implementation of the development, including the introduction of services to allow the residential use, by suitably worded conditions. Moreover, the protection afforded by the conservation area status of the land would allow the Council to control any future works, if proposed, to the trees.

Conclusion on the First Main Issue

36. Drawing all of the above together, I conclude that the appeal proposal would constitute an acceptable form of development, having regard to i) the provisions of local and national policy in respect of the location of development, ii) the intrinsic character of the surrounding area and iii) nearby trees. As such, it would not conflict with Policy S4 of the ERLP set out above and Policy ENV1 of the ERLP which requires development proposals to safeguard and respect the diverse character and appearance of the area through their design, layout, construction and use. It would also accord with Paragraphs 79 and 80 of the Framework outlined above and Paragraphs 130 and 134 of the Framework which seek developments to be sympathetic to local character and well-designed.

Second Main Issue: Heritage Assets

Settings of Listed Buildings

37. The Church is stated to be the oldest surviving building in Everingham and is constructed of a combination of ashlar stone and red brick with a slate roof. The west tower dates from the early 13th century, was raised in the 15th century and remodelled in 1588. The west porch, nave and eastern apse date from circa 1763. The Church and surrounding graveyard sit elevated above the level of Main Street and form an open focal landmark. The Chapel is stated to date from the early 19th century and is constructed of red brick, stuccoed, with a slate roof. It is located within a wooded area to the east of the Church, largely hidden from public view, and is currently in a dilapidated condition.
38. The Church's special interest and significance are largely derived from its archaeological, historic and architectural interests. Important contributors in these regards are its surviving historic fabric; robust but pleasing architectural style; traditional construction and materials; symbolism of faith; and meaning to the local community as part of the collective experience of Everingham.

39. The Chapel's special interest and significance mainly stem from its historic and architectural interests. Relevant to these are its surviving historic fabric; elaborate architectural style; traditional construction and materials; and associations with the Everingham Hall estate. The asset's condition reduces its heritage merit to a degree.
40. Pertinent to the appeal, in relation to the settings of the listed buildings and the contribution they make to the special interest and significance of the assets, I have had regard to the definition of setting set out in the Framework¹³ and the guidance in Historic England's Good Practice Advice Note 3¹⁴.
41. The Church's graveyard has direct physical, visual, functional and historic links with the asset and forms its immediate setting. The elevated and unenclosed nature of this space allows the Church to be experienced and its significance appreciated. Thus, its immediate setting considerably contributes to the Church's significance. Beyond this space, the wider landscape combines areas of trees, open land and individual buildings on the periphery of the historic grounds of the Everingham Hall estate. This area, which includes the site, provides a generally spacious and verdant context that forms an integral part of the Church's wider setting, and which contributes in a positive way to its significance.
42. The setting of the Chapel mainly comprises a wooded area with open land and Everingham Hall beyond, with which it shares historic links. The historic route to the Chapel has been lost over time, altering how the building is experienced and its significance appreciated. Nonetheless, the Chapel's surroundings, including the site, provide an established sylvan environment on the periphery of the historic grounds of the Everingham Hall estate, which contributes to its significance.

Conservation Area

43. The ECA encompasses a wide area which takes in the estate village and the Everingham Hall estate. In line with the assessment of the intrinsic character of the site's surroundings set out above, and the Conservation Area Appraisal¹⁵, the special interest and significance of the ECA are based around these two areas.
44. Important characteristics of the ECA include, its surviving historic street pattern and relaxed linear pattern of development; the architectural quality and variety of its historic buildings which denote Everingham's evolution; the wide roads and grass verges, landscaped gardens and mature trees that provide a spacious feel and verdant appearance; the distinctive boundary treatments of brick walls and high hedges enclosing the Everingham Hall estate; and the general pastoral/agrarian nature of the wider area.
45. The mostly open character of the site combined with the presence of mature trees, the brick wall enclosure to Main Street and the land's associations with the historic grounds of the Everingham Hall estate, means that the site makes a positive contribution to the character and appearance of the ECA as a whole,

¹³ National Planning Policy Framework Glossary: The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

¹⁴ Historic England's Good Practice Advice Note 3, The Setting of Heritage Assets, Dec 2017.

¹⁵ Everingham Conservation Area Appraisal, East Riding of Yorkshire Council, August 2007.

and thus to its significance as a designated heritage asset. This contribution is lessened to a degree by the presence of the disused barn and the overgrown nature of the site, but is still readily perceivable.

Effects of the Proposal

46. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
47. I acknowledge the important context of the site in heritage terms and its sensitivity to change. However, I am mindful that conservation is an active process of managing change to heritage assets in ways that sustain, reveal or reinforce their heritage interests.
48. The proposed basic conversion of the barn would retain the building's existing footprint and therefore maintain the current level of openness within the site, as well as preserve the building's plain form, character and appearance. The proposed natural boundary treatments, retention of the existing mature trees, 'grass road' and additional planting, would support and reinforce the sylvan characteristics of the site and provide informal landscaping within it, rather than a manicured garden. Additionally, while the proposal would undoubtedly result in new domestic elements and features being located within the site, primarily, these would not be permanent, nor would they be overtly incongruous given the site's wider context.
49. In the above respects, I am of the opinion that the proposal would not compromise the setting of the listed buildings, would not detrimentally alter how they would be experienced, particularly key views of the Church and surrounding graveyard, and would not adversely affect the ability to appreciate their significance. Consequently, the setting of the listed buildings and the contribution that they make to the assets' significance would be preserved.
50. Moreover, it would not fundamentally undermine the qualities of the site which contribute in a positive way to the ECA's identified character and appearance. It would assimilate into the street scene and not impinge on key views within the ECA. As such, the character and appearance of the ECA as a whole would be preserved and no harm would arise to its significance as a designated heritage asset.
51. I note the Council's assertion that the land on the eastern side of Main Street has 'purposefully been left undeveloped.' This statement was not clarified at the Hearing. Nevertheless, given the details and circumstances of the proposal, it would not result in any additional permanent built form on the land than that which is already there.
52. In coming to my decision I have had regard to the comments received from Historic England upon being notified. In this case they offered no advice, considering that the Local Planning Authority was best placed to advise on the proposal.

Conclusion on the Second Main Issue

53. Accordingly, I conclude that the appeal proposal would preserve the settings of the adjacent Grade II* and Grade II listed buildings and would preserve the character and appearance of the ECA. It would therefore satisfy the requirements of sections 66(1) and 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment. It would also accord with Policy ENV3 of the ERLP in so far as it seeks development to conserve the significance, views, setting, character, appearance and context of heritage assets.
54. In finding no harmful effects to the special interest and significance of the designated heritage assets, it is not incumbent on me to consider any public benefits that would flow from the proposal.

Other Matters

55. A number of representations on a variety of matters have been submitted by interested parties opposing the proposal. Those which have not been considered under the main issues are addressed below.
56. It is common ground between the main parties that the existing barn was originally constructed under agricultural permitted development rights. The barn's use for agricultural purposes and that it is no longer required have not been disputed or investigated by the Council¹⁶. Additionally, any alleged historic alterations to the site's boundary wall or previous works to trees within the site do not form part of the appeal and therefore are not within the remit of my considerations.
57. The Council's Nature Conservation Team have raised no objections to the proposal. From the evidence before me and the discussion at the Hearing, there is no reason for me to question their conclusions or take a different view. I am satisfied that the imposition of suitably worded conditions would protect the ecological potential and value of the site and adequately mitigate any effects which may arise from the proposal.
58. No concerns relating to the proposal regarding highway safety have been submitted by the Council's Highway Team, and there is no substantive evidence before me which would cause me to conclude otherwise.
59. I have had regard to the planning system's three overarching objectives as set out in the Framework¹⁷ and consider that, in complying with the relevant policies of the ERLP, these would be realised by the proposal.
60. Concerns have been raised regarding the precedent this scheme would set if it were allowed. Nevertheless, the lack of harm and subsequent absence of conflict with the development plan I have found are specific to this building, site and proposal. Importantly, the proposal before me is for the conversion of an existing barn and so not comparable to any assessment and determination of an application for a new building. Each application and appeal must be determined on its individual planning merits and a generalised concern of this nature does not justify withholding planning permission in this case.

¹⁶ Section 6.2, Statement of Common Ground.

¹⁷ National Planning Policy Framework 2021, Paragraph 8.

61. The proposal is not comparable to the granted anaerobic digester development and its subsequent enlargement, located on the edge of Holme on Spalding Moor. In any event, the imposition of a condition which would remove permitted development rights regarding the addition to, extension of or enlargement of the converted barn would allow the Council to consider whether planning permission should be granted for such development.
62. It is a well-founded principle that the planning system does not exist to protect private interests. Therefore, the alleged loss of private views of the Church is not, of itself, a planning matter. Given the nature and extent of the proposal and the suggested conditions, I am satisfied that it would have no harmful effects on key views of the listed buildings.
63. At the Hearing, the Council raised the matter of the Appellant being represented by Counsel. The Appellant is free to choose who represents them. Moreover, the attendance of Counsel at the Hearing was confirmed prior to the event¹⁸.
64. Overall, having examined the evidence before me, I am satisfied that these other matters, individually or collectively, do not provide justification to withhold planning permission for the appeal proposal and therefore do not alter my conclusions on the main issues.

Conditions

65. The Council submitted a list of suggested conditions if the appeal was allowed¹⁹. The Appellant commented on these prior to the Hearing and the suggested conditions and comments were discussed at the event. Where necessary, I have amended them in line with the discussion and in accordance with the advice set out in both the Framework and the Planning Practice Guidance. The Appellant has provided written agreement to the pre-commencement conditions, subject to the changes as discussed.
66. In addition to the standard time limit condition, a condition to ensure the development is in accordance with the approved plans is necessary to provide certainty (schedule Conditions 1 and 10).
67. In the interests of the character and appearance of the area, exceptionally, it is necessary to include a condition to remove permitted development rights relating to additions, extensions or enlargements of the converted barn (schedule Condition 2).
68. To prevent an increased risk of flooding and the pollution of controlled waters, a condition concerning the provision of a satisfactory means of surface water disposal is necessary (schedule Condition 3).
69. In the interests of highway safety and to ensure the adequate provision of parking, a condition relating to parking facilities is necessary (schedule Condition 4).
70. To safeguard the ecological potential and value of the site and having regard to relevant legislation, conditions regarding bats, a construction environmental management plan (CEMP) and bird boxes are necessary (schedule Conditions

¹⁸ Confirmed in Para 1 Additional Statement 25 April 2022; and in email of 25 April 2022 (both cc'd to Council).

¹⁹ Section 8, Statement on behalf of the Local Planning Authority, February 2022.

5, 6 and 7). As suggested by the Appellant, a requirement for details of measures in respect of construction traffic has been included within the CEMP.

71. To ensure the adequate preservation of trees within the site, a condition concerning their protection during the development is necessary (schedule Condition 8). In relation to this, the necessity of suggested Condition 8 was raised by the Appellant in their comments on the conditions and debated at the Hearing. Given the requirements of suggested Condition 9(5) (schedule Condition 8(5)), it was agreed by both main parties that suggested Condition 8 should be removed and the text 'without the prior written consent of the Local Planning Authority' should be inserted at suggested Condition 9(1) (schedule Condition 8(1)).
72. The preciseness of suggested Condition 10 and whether it conflicts with suggested Condition 9 was also raised by the Appellant in their comments and discussed at the Hearing. As a result, in schedule Condition 8, I have included reference to the Arboricultural and Landscape Report Version 8 (February 2020) and incorporated parts of the suggested Condition 10 into it.
73. Following the Hearing and prior to the determination of the appeal, Approved Document S, 'Infrastructure for the Charging of Electric Vehicles', which supports Part S of Schedule 1 to the Building Regulations 2010, took effect on 15 June 2022 for use in England. Therefore, a condition relating to electric vehicle charging provision is necessary (schedule Condition 9). The main parties were given the opportunity to comment on the condition's wording and agreed to its inclusion.

Planning Balance and Conclusion

74. I have found that the appeal proposal would constitute an acceptable form of development, having regard to the provisions of local and national policy in respect of the location of development, the intrinsic character of the surrounding area and nearby trees. In addition, it would preserve the settings of the adjacent Grade II* and Grade II listed buildings and preserve the character and appearance of the ECA. As a consequence, the appeal proposal accords with the development plan.
75. There are no material considerations that indicate that the decision should be made other than in accordance with the development plan. Accordingly, for the reasons given above and subject to conditions, I conclude that the appeal should be allowed.

F Cullen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within

Part 1, Classes A, B, C, D, E, F, G and H shall take place in regard to the dwellinghouse hereby permitted without the grant of a separate planning permission from the Local Planning Authority.

- 3) No development shall take place on site until a scheme for the discharge of surface water from the site, incorporating a sustainable drainage system and associated management and maintenance plan, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme, and shall be managed and maintained in accordance with the approved plan.
- 4) No dwelling shall be occupied until the vehicular access has been provided and space has been laid out for cars to be parked and to enable vehicles to turn so that they may enter and leave the site in forward gear in accordance with the details hereby approved. The vehicle parking and turning facilities shall thereafter be retained.
- 5) No development shall take place unless in accordance with all of the recommendations for mitigation set out in section 7 of the Bat Survey (Wold Ecology Ltd, September 2018) unless otherwise varied by a European Protected Species license subsequently issued by Natural England or otherwise agreed in writing by the Local Planning Authority.
- 6) No development shall take place until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be compiled by a suitably qualified ecologist, include a timetable for implementation and a detailed plan. The scheme shall provide full details of all ecological mitigation and management measures along with a programme for implementation.

The scheme shall include:

- A risk assessment of potentially damaging construction-type activities;
- Full details of practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (including those arising from construction traffic), including action to be taken if any protected species are found during construction works;
- The location and timing of sensitive works to avoid harm to biodiversity features;
- Use of protective fences, exclusion barriers and warning signs;
- Details of a lighting strategy which secures dark corridors for foraging bats and nesting birds on the boundaries of the site;
- Details of site induction information and tool box talks for all relevant on site working practices;
- Protocols to demonstrate that the site work force will be briefed about potential ecological issues on the site prior to commencement of construction shall be provided;
- Details of the times during construction when specialist ecologists need to be present on site to oversee works;
- Details of personnel responsible for over-seeing the implementation of measures detailed in the CEMP.

Upon commencement of development all aspects of the approved CEMP shall be implemented in full, unless otherwise agreed in writing by the Local Planning Authority.

- 7) Two artificial nests for small birds such as Schwegler 1B bird box, Schwegler 1N Deep nest box or Schwegler sparrow terrace (or similar products from alternative suppliers) shall be erected on the site in accordance with the manufacturers installation recommendations prior to first occupation of the development hereby permitted and shall be retained thereafter.
- 8) No development shall take place on site (including site clearance works and any other preparatory works) until the trees shown for retention on the approved plan PAS256/012 REV C have been protected by protective fencing in accordance with the details as set out in the Arboricultural and Landscape Report Version 8 (February 2020). The protective fencing shall be maintained during the whole period of site excavation and construction.

The areas within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

1. There shall be no changes in ground levels without the prior written consent of the Local Planning Authority;
 2. No materials, vehicles or plant shall be stored;
 3. No buildings or temporary buildings shall be erected or stationed;
 4. No materials or waste shall be burnt or liquid disposed of;
 5. There shall be no excavation of services without the prior written consent of the Local Planning Authority;
 6. Any driveways and temporary hard surfaces shall comply with the guidance contained in 'APN1 Driveways Close to Trees';
 7. There shall be no cultivation or removal of topsoil; and
 8. Existing vegetation to be removed shall be cut close to ground level and killed with herbicides.
- 9) If the development hereby approved is started on site after 15 June 2023, prior to occupation, details of electric vehicle charging provision which is compliant with current guidance/advice shall be submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging provision shall be carried out in accordance with the approved details and retained for the lifetime of the development.
 - 10) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Plans PAS256/001 REV A
Existing Site Plan PAS256/010 REV A
Existing Details PAS256/003 REV A
Proposed Details PAS256/004 REV B
Proposed Site Layout PAS256/011 REV B
Landscaping Plan PAS256/012 REV C

End of Schedule of Conditions

APPEARANCES

FOR THE APPELLANT:

Mark Fisher	Appellant
Michael Fisher	Brother of Appellant
Simon P Randle	Counsel
Michael Edgar	Agent, DLP Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Peter Robinson	Senior Planning Officer
Charlotte Howe-McCartin	Conservation Officer