



Appeal Decisions

Hearing Held on 6 December 2022

Site visit made on 6 December 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 DECEMBER 2022

Appeal A Ref: APP/Z5630/W/22/3300875

Glanmire Farm, Rushett Lane, Malden Rushett, Epsom KT18 7TR

- 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 & Mrs Earnshaw against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 21/04089/FUL, dated 24 December 2021, was refused by notice dated 28 February 2022.
 - The development proposed is demolition of existing stables and barn and erection of a single dwelling and replacement stables together with associated parking and landscaping.
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Appeal B Ref: APP/Z5630/W/22/3294859

Glanmire Farm, Rushett Lane, Malden Rushett, Epsom KT18 7TR

- 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 & Mrs Earnshaw against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 21/02237/FUL, dated 8 July 2021, was refused by notice dated 16 September 2021.
 - The development proposed is demolition of existing stables and barn and erection of two dwellings and replacement stables together with associated parking and landscaping.
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Decisions

1. Appeal A is allowed and planning permission is granted for demolition of existing stables and barn and erection of a single dwelling and replacement stables together with associated parking and landscaping at Glanmire Farm, Rushett Lane, Malden Rushett, Epsom, KT18 7TR, in accordance with the terms of the application, Ref 21/04089/FUL, dated 24 December 2021, subject to the conditions in the attached schedule.
2. Appeal B is dismissed.

Preliminary Matters

3. Appeal B was refused for a number of reasons, including one pertaining to the absence of an archaeological assessment. As this matter has since been addressed, it has not formed a main issue in either appeal.
4. Due to there being some commonalities between the schemes, I have combined my findings on some main issues together.

Main Issues

5. The main issues, germane to both appeals are:
- whether the proposal would be inappropriate development in the Green Belt and whether it would affect openness;
 - the effects of the proposal on employment opportunities;
 - whether the proposal would be located so as to minimise the dependency on private vehicles;
 - whether the proposal would represent an efficient use of land, having regard to the scale of the dwelling/s; and
 - if relevant, 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 proposal.

Reasons

6. The appeal site is located on the southern side of Rushett Lane, Epsom. The red line site area comprises the barn, stable block, sand school and associated grazing land extending in both southerly and westerly directions that formed part of the former commercial livery yard at Glanmire Farm. The dwelling and annexe, still known as Glanmire Farm, are outside of the site edged red but are also owned by the appellants within land outlined in blue. Both proposals seek the demolition of the stable block, barn, and a small farm office building. The occupancy-tied dwelling and annexe would remain.
7. Appeal A seeks to demolish the stable block and barn and replace them with a single storey, four bed dwelling in a broadly similar position. There would also be a replacement stable block, with 4 loose boxes and storage space, located within the existing sand school area. External landscaping as part of Appeal A would include the planting of trees and creation of a pond.
8. Under Appeal B, the demolished buildings would be replaced on similar footprints with two dwellings, one with 3 bedrooms and one with 4 bedrooms. The replacement smaller stable building and same landscaping measures are also proposed under Appeal B.

Green Belt Inappropriateness

9. The appeal site is within the Green Belt as defined in the Council's Core Strategy (adopted 2012). The National Planning Policy Framework (the Framework) (2021) sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
10. In terms of what is inappropriate, and what is not, paragraphs 149 and 150 of the Framework set out that new buildings and a range of other forms of development are considered to be inappropriate development in the Green Belt, unless it would be a building or type of development that falls into one of the specified exceptions. Relevant to this appeal, paragraph 149 (g) sets out that limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) is not inappropriate development, provided it would not have a

greater impact on the openness of the Green Belt than the existing development. Paragraph 150 also sets out that engineering operations are not inappropriate provided that they preserve openness and do not conflict with the purposes of including land within the Green Belt.

11. Given the discord between the approach to Green Belt development set out in Core Strategy Policy DM5 compared to that advocated in the Framework, likely explained by the age of the former, I give more weight to the Framework. Policy G2 of the London Plan (2021) better encapsulates the Framework's approach to protecting the Green Belt from inappropriate development, and ensuring that proposals that would harm it should be refused except where very special circumstances exist, but the Framework is clearer on what is inappropriate by definition and where judgement needs to be exercised.
12. In this case, the parties agree that the part of the site to be redeveloped is previously developed land (largely redundant, but with a few stables in continuing use). Therefore, either proposal could fall under the exception under Paragraph 149 (g), provided that there would not be a greater impact on the openness of the Green Belt than the existing development. As the schemes are materially different from one another in this regard, i.e. in terms of scale, mass, siting and visibility, considerations as to the effects on openness are considered separately for each scheme hereafter.
13. At the hearing, the Council clarified that its reason for refusal focussed on the effects on the Green Belt and that it did not consider it necessary to separately address the effects on the character and appearance of the area. I have assessed the appeal on this basis. The written evidence of the Council did, however, contain information about Landscape Character Area LW3: Clay Woodland¹, which the appeal site was subsequently found not to be within. Nevertheless, where relevant, I have had reference to the evidence on this facet of the appeal from both sides, including the appellant's Landscape and Visual Impact Assessment (LVIA).

Openness – Appeal A

14. The parties both acknowledged the Court of Appeal's finding that the openness of the Green Belt has a spatial as well as a visual aspect². In a spatial sense, Appeal A would largely be contained to an area covered by the existing buildings. As I do not regard that the extrinsic landscape features, such as the pond or orchard tree planting, would have an effect on the spatial dimension of openness, I consider that Appeal A would not be harmful in this sense.
15. In a visual sense, Appeal A would be limited to a single dwelling which would be far shorter in length and modestly narrower than the existing stable block. It would also be modestly lower. With the removal of the workshop and the containment of the proposed garden area within its footprint, the dwelling under Appeal A would appear to have more undeveloped space around it, thus resulting in an increased perception of openness. The form, design and materials to be used in the construction of the dwelling would adequately resemble the simple rural qualities of the existing buildings. Due to this and the recessed rear glazed elevation, it would be similarly unobtrusive when viewed from the footpaths on neighbouring farmland.

¹ As set out in the Surrey Landscape Character Assessment 2015

² Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

16. The construction of the replacement stable block within the existing sand school area would result in additional built mass, but it would be in a location that would not be spatially harmful. The building would only protrude modestly above the boundary fence, but from here the site is perceived from the footpath as being largely open. This would represent a minor harm to the visual dimension of openness.
17. The demolition of the existing farm office at the entrance to the site would marginally increase the visual openness of the site in views from Rushett Lane. The reduction in the extent of the hardsurfacing on the site would also be a negligibly positive factor in this regard.
18. The Council also claimed that the visual openness would be harmed by the extrinsic landscape measures, such as the orchard planting and the creation of a pond with a bund. Given that these are landscaping features, not individually detailed within the description of development, they are not specifically fixed components of the scheme. However, I accept that the appellant's LVIA relies on them insofar as they are expected to enhance landscape character and that the pond may be needed for reasons relating to drainage in any event.
19. In terms of the proposed orchard, I agree with the Council's point that these are less common in the landscape than wooded areas or grouped trees that form hedgerows. However, the specific tree species, their density and their precise arrangement cannot be accurately determined from the plans and further detail secured by condition could enable a modest number and informal arrangement to be specified, which would be more in keeping with the surrounding landscape and generally open character of the site. Through a planning condition, the Council could have a degree of control over such landscaping measures, whereas currently, the appellants could plant trees without the need to seek permission.
20. The pond itself would obviously be a low-lying feature, and despite being an engineering operation, it was agreed between the parties that a pond would be unlikely to interfere with openness. However, the need for a deliberately-engineered bund to contain the pond on the lower side has been raised as an issue, as it could be of a form and height that interferes with visual openness.
21. Whilst there may be some suggestion in the written evidence as to the height of the bund, its intended siting is not shown and nor is there a cross-section or elevation plan showing its height. Whilst it would still need to be high enough to serve its intended function, a planning condition could ultimately determine this aspect to prevent it from harming openness. Similarly, such a condition could ensure that it were planted with vegetation so that it would not form an incongruous feature within the green and gently rolling surrounding landscape.
22. Drawing together all of the aspects of the proposal, some of which pull in different directions, in my view, the proposal would not result in a materially greater impact on openness than the existing development and therefore accords with Framework paragraph 149 (g). Consequently, the proposal is not inappropriate development and would not conflict with Policy G2 of the London Plan or Policy DM4 of the Core Strategy.

Openness – Appeal B

23. Appeal B would involve the construction of two dwellings which would be sited in broadly similar positions to the existing stables and workshop. The larger dwelling (House 1) would have an inverted 'C' shape with a courtyard in the central space, similar to the existing stable block, but would extend further south than the existing buildings. Though House 1 would be a degree shorter and lower than the existing stable block, it would only be negligibly narrower. House 2 would be very similar in scale to the existing workshop building, save for a small reduction in overall height.
24. Due to the combined scale, mass, siting and form of both Houses 1 and 2, despite a modest numerical reduction in floorspace and volume compared to the existing buildings, there would still be harm to openness. This would be particularly attributable to the increased spread of development further south than the existing buildings, the more domestic character of the dwellings with a series of glazed elevations facing in a south-westerly direction, in addition to their respective garden areas with domestic paraphernalia. Overall, the development would be more visually prominent in both close range and longer views, would appear as urban sprawl in character compared to the existing development, and would thus harm the openness of the Green Belt.
25. As part of Appeal B, the replacement stable block would also add to the collective mass of buildings proposed by the scheme which would be more visible from where the site is currently perceived as open above the boundary. Whilst these effects would be partially offset through the removal of the existing farm office, this further indicates that the proposal as a whole would be harmful to the visual dimension of openness.
26. Though my findings on the landscaping proposals are the same as for Appeal A, they would not offset the harm to openness that would result from the key components of Appeal B, i.e. the buildings themselves.
27. For the above reasons, Appeal B would have a greater impact on the openness of the Green Belt than the existing development and therefore fails to accord with Framework paragraph 149 (g). It would therefore constitute inappropriate development within the Green Belt.

Employment opportunities

28. The Council has raised an issue with the net loss of employment floorspace as the existing stable block is 420 sqm and would be demolished as part of both Appeals A or B. The absence of sound or rigorous marketing that might otherwise prove a need, or lack thereof, has also been raised as an issue, based on the requirement to do so in Core Strategy Policy DM17. The Policy says that all employment land and premises will be protected in locations specified under A – D, including Strategic Industrial Locations (SILs), but the appeal site is stated by the Council to fall under criterion E):

“Other Employment Locations - all employment premises not set out in A-D above will be protected for employment uses to meet business needs and provide employment”.
29. Policy DM17 appears to focus on locations such as town and district centres, the SILs, business parks and basically other premises and areas that offer a

range of employment uses falling under use classes B1, B2 and B8³. By contrast, criterion E) is relatively vague. Yet, the accompanying Figure 21 of the Core Strategy's 'Economy and Employment' chapter (6), appears to show the named locations set out in A – D of the Policy, and a substantial number of pinpointed positions of 'Other Employment Locations'. The parties agreed that the appeal site was not one of the pinpointed locations in Figure 21.

30. The preamble to Policy DM17 also refers to its relatively limited supply of industrial/business land and individual industrial employment sites which are important due to their ability to support small, flexible and affordable premises to meet the needs of Small and Medium sized Enterprises that provide local employment and support for local businesses through supply chains. It is on this basis that individual employment premises are to be safeguarded under Policy DM17 from higher value uses. Following the discussion at the hearing, the Council's Employment Land Review (ELR) of 2008 was provided to me to aid the understanding of the Policy.
31. Whilst the wording of the Policy does not explicitly refer to Figure 21, I consider that the Figure shows a spatial representation of the same. The preamble also aids the understanding of the Policy and the evidence base that underpins it. On the basis of the wording of the Policy, I do not consider that it is capable of applying to the appeal site which is, or at least was, a sui generis commercial livery yard and associated dwelling. Whilst these types of businesses may provide some valuable employment opportunities and indirect support for other local businesses, the Policy cannot have intended to mean that such businesses would be protected alongside any premises that has sustained a level of employment falling under any use class or sui generis use. A review of the ELR does not lead me to an alternative conclusion and neither does the appeal decision⁴ that was provided to me by the Council at the hearing which, for case-specific reasons, did not need to question the relevance of Policy DM17.
32. In view of the above, I do not consider that the proposal is in conflict with Core Strategy Policy DM17. Notwithstanding, I have considered the evidence put forward by the appellants about the number of years prior to its winding up in 2016 that the business was making losses, the mismatch between the capacity of the stable block and the associated grazing land, the range of local competitor businesses of a similar nature and the numerous avenues explored to reopen some form of viable business at the site. These factors suggest to me that the site is no longer a commercial livery yard that offers direct employment opportunities and will not reopen as such in any event.

Location of development

33. The Council indicate that the site would be isolated when considered in context with Paragraph 80 of the Framework and the Braintree judgement⁵, and that consequently, future occupiers would be highly dependent on the use of private vehicles. In support of this, the Council also indicate that there would be an over-provision of parking for both schemes, which would undermine the desire to minimise car ownership and usage.

³ Under the Town and Country Planning Use Classes Order 1987 (as amended)

⁴ Appeal decision Ref APP/Z5630/W/22/3295062

⁵ Braintree District Council v SoS CLG & Ors [2018] EWCA Civ 610

34. Curiously, the Council did not seek to allege that the schemes were in conflict with the spatial strategy of the development plan in relation to the location of housing. Despite that the site is in an area of countryside in the Green Belt and likely to be in one of the most rural positions in the Borough, I do not regard it as strictly isolated, given its relationship with nearby dwellings and farmsteads, the development at Noble Park and its relatively close proximity to the settlement of Malden Rushett, which has a modest range of facilities.
35. I accept that future occupiers would be likely to have a higher degree of dependency on private vehicles than many in the Borough, given the distances involved in walking to the bus stops which unsurprisingly results in the site falling into an area with the 'worst' Public Transport Accessibility Level (PTAL) rating of '0'⁶. Linked trips involving driving to a nearby train station offer a reasonably attractive option for longer journeys, but would not entirely avoid the use of a vehicle. Furthermore, walking and cycling are limited to ambulant individuals and/or those prepared to navigate the basic pedestrian and cyclist infrastructure on Rushett Lane, which, unlike many local roads, includes relatively narrow footway widths, lack of designated cycleways, and, despite streetlighting, a degree of enclosure by woodland which could be perceived by some as unsafe, especially after daylight. However, where journeys by private vehicle to nearby settlements were unavoidable, they would be relatively short and given the limited scale of the schemes, would not be of such a volume that could be held to worsen any existing congestion issues.
36. In terms of the parking provision, Policy T6 of the London Plan sets out that maximum car parking standards should be applied to development proposals and should be used to set local standards within development plans. There are no local standards to apply so the maximum standards in Policy T6.1 and accompanying Table 10.3 are for 1.5 spaces per dwelling in Outer London areas with a PTAL rating level of 0 – 1. The text to the Policy also says that Boroughs should consider standards that allow for higher levels of provision where there is clear evidence that this would support additional family housing. However, as indicated, the Council has not yet sought to apply its own standards so the ratio of 1.5:1 spaces per dwelling is to be applied.
37. In Appeal A, the dwelling would be provided with 3 spaces. In Appeal B, both dwellings would each have 3 spaces. In both appeals, there would be a provision of spaces for the retained livery yard. Though it was suggested a condition could be used to prevent the number of spaces exceeding the maximum standards, I consider that this would be unlikely to adequately suppress car ownership as there are other locally available spaces to where such cars would be displaced, including on other areas of hardstanding on site. Taken at face value, the plans suggest that 3 spaces per dwelling/s would be sufficient for the respective occupiers. On this basis, both Appeals A and B would conflict with Policies T6 and T6.1 of the London Plan 2021.
38. Drawing together this main issue, whilst I do not consider that the dwelling would be isolated, nor its occupiers entirely reliant on private vehicles, and thus compliant with the aims of the Framework and Policy DM9 of the Core Strategy, there would be a conflict with the relevant maximum parking standards as set out in Policies T6 and T6.1 of the London Plan.

⁶ As defined in the London Plan

Efficiency of use of land

39. Policy D6 of the London Plan sets out the quality and standards expected of new housing and in respect of private internal areas, sets out that dwellings must provide at least the gross internal floor area (GIA) and built-in storage area set out in accompanying Table 3.1. For 3 bedroom single storey dwellings (for 6 people) the minimum GIA is 95 sqm. For 4 bedroom single storey dwellings (for 8 people) the minimum GIA is 117 sqm.
40. Paragraph 3.6.2 in the text following the Policy says that “...*the space standards are minimums which applicants are encouraged to exceed*”. But it also goes on to say that “*Boroughs are encouraged to resist dwellings with floor areas significantly above those set out in Table 3.1 for the number of bedspaces they contain due to the level of housing need and the need to make efficient use of land*”.
41. In Appeal A, the single dwelling would have a GIA of 197 sqm. In Appeal B, one of the 3 bed houses would have a GIA of 175 sqm and the other 102 sqm, though issue is only taken by the Council with the larger one. The Council otherwise consider that the living conditions for future occupiers would be satisfactory and I have no reason to reach a different conclusion in this regard.
42. For reasons identified in relation to the Green Belt, and its location, despite the available space, this is not a site where density could realistically be optimised to achieve a more efficient use of land in any event. As the supporting text does not carry the same weight as the Policy and rigid application of the Policy would lend to an unnecessarily contrived outcome, I do not consider it decisive. Consequently, neither Appeals A or B conflict with Policy D6 of the London Plan or the Framework on this particular matter.

Other Matters

43. I have had regard to the submissions of interested parties, both for and against the schemes, and consider that the points made are addressed above.
44. I note that both schemes would provide for the continued keeping of horses on the land, albeit of a low intensity as the evidence suggests been the case for numerous years. This would not generate any new benefits or employment opportunities, and whilst the quality of grazing land is promoted as a positive attribute of the scheme, this is not likely to directly result from either appeal schemes and is therefore not counted as a benefit.
45. In terms of whether the dwelling would represent a ‘Self-Build’ dwelling, I note the appellants’ desire to build a home to occupy themselves, and in the case of the second dwelling under Appeal B, to house Mrs Earnshaw’s mother.
46. The definition in the glossary of the Framework of self- or custom-build housing does not suggest that a planning condition or legal obligation is necessary to qualify as such. However, there can be no strict guarantee that the any permission given will be implemented by the applicants or that they will be the initial occupiers of the dwelling. Whilst consideration could be given to the relevance of the Self-build and Custom Housebuilding Act 2015, it does not appear to me that the appellants are on any particular register for plots for opportunities to build a home, there is no mechanism to secure the dwelling as a self-build dwelling, and, in the absence of such, I do not consider that any weight should be given to this aspect as a benefit of the scheme.

The Tilted Balance

47. The agreed Statement of Common Ground sets out that the Council can only demonstrate a 2.32 year's supply of housing against the requirement in the Framework to demonstrate a five year supply, with the appropriate buffer. Where an authority cannot demonstrate a five year supply of housing land, footnote 8 of the Framework specifies that policies of a development plan should be considered out of date for the purposes of assessing housing proposals.
48. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development, otherwise known as the 'tilted balance'. In the context of decision making, this requires that development proposals that accord with an up-to-date development plan should be approved without delay, or where the policies which are most important for determining the application are out-of-date, permission should be granted unless either of two scenarios is relevant.
49. The first is that permission should be granted unless (i) policies of the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed, and the second is that permission should be granted unless (ii) where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 7 details that specific policies of the Framework can extend protection to areas including Green Belts and to designated heritage assets.
50. In Appeal A, the Green Belt designation would not be harmed by the proposal and thus no conflict with the Framework policies would arise in this regard. This leads to weighing the adverse impacts against the benefits in the context of the tilted balance under Paragraph 11 d)(ii).
51. In Appeal B, the Green Belt would be harmed. As a consequence, the Framework policies that protect the Green Belt result in the disengagement of the tilted balance.

Very Special Circumstances – Appeal B

52. At the hearing, the appellants indicated that the thrust of both cases were that the schemes were not inappropriate development within the Green Belt when considered in the context of paragraph 149 (g) of the Framework, and that on that basis, no very special circumstances were advanced.
53. In respect of Appeal A, I have not found that the scheme would be inappropriate development in the Green Belt, and thus, very special circumstances do not need to exist.
54. For Appeal B, I have found that the scheme would represent inappropriate development in the Green Belt, contrary to the development plan and Framework. The Framework explains that the Government attaches great importance to Green Belts and thus, this harm attracts significant weight in the planning balance. The other identified harm is in respect of the technical conflict with the overprovision of parking when considered against London Plan Policies T6 and T6.1.
55. Though the tilted balance is disengaged in Appeal B, there would still be a benefit from the provision of additional housing to the Borough which attracts

modest positive weight relative to the scale of the scheme. The dwelling itself would be highly sustainable through design and features of its construction, which would represent a minor benefit. There would also be a limited boost to the local economy through the construction phase and minor biodiversity benefits. However, these considerations clearly do not amount to the very special circumstances necessary to justify harm to the Green Belt and other identified harm from the overprovision of parking.

56. It is on this basis that the Appeal B should be dismissed.

Overall Balance – Appeal A

57. Appeal A results in a conflict with the development plan in respect of the overprovision of parking. However, in my view, this does not amount to a conflict with the development plan when taken as a whole.

58. In any event, assuming a conflict with the development plan, I have considered the tilted balance. The promoted benefits of the scheme would result from the creation of an additional dwelling to boost the local supply, sustainability credentials of the dwelling itself, the aforementioned economic benefits of a limited scale and the and minor biodiversity benefits. Considered in the round, the adverse impacts of granting permission would not significantly or demonstrably outweigh these benefits when considered in the context of the Framework as a whole.

59. The tilted balance therefore forms a consideration of such materiality that it dictates that Appeal A should be allowed.

Conditions – Appeal A

60. I have considered the suggested conditions against the tests for planning conditions set out in the Framework and Planning Practice Guidance. With permission, I have made alterations in order to avoid duplication and ensure robustness. Where the imposition of pre-commencement conditions has been unavoidable, permission has been sought from the appellants.

61. In addition to the statutory timescales for implementation, a condition is necessary stipulating the approved plans in the interests of certainty.

62. In the interests of the free flow of traffic and safety of users of the highway, a construction management plan is necessary. Given the need for such to be agreed prior to works being undertaken, this condition is a pre-commencement condition.

63. In order to prevent any effects on the nearby Site of Specific Scientific Interests and advised by Natural England, a pre-commencement condition is necessary to ensure that mitigation measures are detailed and secured at the appropriate juncture during and following construction activities.

64. In the interests of the openness of the Green Belt and to ensure an outcome on which the scheme is premised, a condition seeking the demolition of all buildings to be removed is necessary prior to above ground works taking place. For similar reasons relating to the character and appearance of the area, conditions seeking details of the external materials to be used in the construction of the dwelling and boundary treatments are necessary.

65. A condition is necessary to ensure that the parking for the dwelling is provided and thereafter kept clear for its intended purpose.
66. Conditions relating to energy efficiency measures in the construction of the dwelling, water efficiency measures and its level of accessibility and adaptability are required as these are factors which have attracted positive weight in favour of the scheme.
67. For reasons relating to the character and appearance of the area, its openness and its biodiversity interests, it is necessary to secure conditions providing detail on the landscaping scheme (including pond), ecological enhancement measures, their implementation and ongoing management, as part of a Landscape and Ecology Management Plan (LEMP). As the type of tree planting could have an effect on the nearby SSSI, Natural England have specified particular tree types and these details have been required within the landscaping condition.
68. To ensure that adequate cycle parking is provided as a means to promote sustainable travel, a condition is necessary to require the provision and retention of cycle parking facilities.
69. To protect the living environment of neighbouring occupiers, a condition is necessary to prescribe the permitted construction working hours.
70. A condition is necessary in order to address any unexpected contamination if encountered on site during construction activities.
71. A condition removing permitted development rights has been suggested and agreed. Whilst such conditions are ordinarily discouraged, the acceptability of the scheme in terms of Green Belt openness relies to a large extent on a reduction in built mass and spread of buildings on site, which could be undermined if buildings were constructed without express permission.

Conclusions

72. For the foregoing reasons, Appeal A is allowed but Appeal B is dismissed.

Hollie Nicholls

INSPECTOR

FOR THE APPELLANT:

Mr Robert Williams	Barrister – Cornerstone Barristers
Ms Emily Hall	WS Planning & Architecture
Mr Spencer Copping	WS Planning & Architecture
Mr Jhonnatan Jaramillo	WS Planning & Architecture
Mr John Earnshaw	Appellant
Mrs Diane Earnshaw	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr William Flaherty	Principal Planning Officer
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DOCUMENTS SUBMITTED:

Document 1	Note on Dimensions (and accompanying plans)
Document 2	Decision notice Ref 94/0468
Document 3	Appeal decision Ref APP/Z5630/W/22/3295062
Document 4	Appeal decision Ref APP/Z5630/W/17/3182062
Document 5	Employment Land Review (2008)

APPEAL A SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - J004060-DD-01 Site Location Plan
 - J004060-DD-04 Site Block Plan As Proposed
 - J004060-DD-05-A Site Plan As Proposed
 - J004060-DD-10-A Floor Plan As Proposed
 - J004060-DD-11 Roof Plan As Proposed
 - J004060-DD-12-A Elevations As Proposed
 - J004060-DD-13-A Elevations As Proposed
 - J004060-DD-14 Stables - Plans As Proposed
 - J004060-DD-15 Stables - Elevations As Proposed
 - J004060-DD-16 Site Block Plan As Proposed (Land use)
 - J004060-DD-17-A Site Plan As Proposed (with technical info)
 - J004060-DD-18 Floor Plan As Proposed (M4 compliance)
 - J004060-DD-19 Section A-A As Proposed
 - J004060-DD-20 Section B-B As Proposed
- 3) Prior to the commencement of the development hereby approved, details of mitigation measures to prevent harm to features for which Epsom and Ashtead Commons Site of Special Scientific Interest (SSSI) has been notified shall be submitted to the Local Planning Authority for approval in writing, including:
 - details of a Construction Environmental Management Plan detailing the construction phase sustainable drainage system to ensure surface water run-off does not reach the SSSI during works on site;
 - details of the operational phase sustainable drainage system (pond) to direct run-off away from the SSSI and a timetable for its implementation;
 - details of the fixed position of the area for storage of manure and stable waste products away from the SSSI boundary to minimise the risk of nutrient enrichment within the SSSI; and
 - a timescale and method statement for the removal of the earth mounds/soil bund detailed in section 4.2.6 of the Preliminary Ecological Appraisal (David Archer Associates, December 2021).

The development shall be carried out in accordance with the approved mitigation measures and shall thereafter be maintained in perpetuity.
- 4) Prior to the commencement of the development hereby approved (including any works of demolition), a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The statement shall provide for:
 - i) the route to and away from site for machinery and vehicles with materials;

- ii) the storage of plant, materials and operatives vehicles;
- iii) the potential for impacts from dust and emissions during the demolition and/or construction phase upon local air quality and surrounding residents;
- iv) measures for the laying of dust, suppression of noise and abatement of other nuisance arising from development works;
- v) wheel washing equipment;
- vi) meeting the requirements of the Low Emission Zone for Non-Road Mobile Machinery (where relevant plant or vehicles are being used); and
- vii) the method of recycling and disposing of waste resulting from the demolition and/or construction phases.

The approved plan/statement shall be adhered to throughout the construction period.

- 5) Prior to the commencement of the development hereby approved, a detailed landscaping and landscape management scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall include:
 - details of trees to be planted, species, size and density. Any such details to include species such as hazel and hawthorn along the boundary of the SSSI;
 - the composition and extent of area to be planted as a wildflower meadow;
 - the size of the surface water pond and any associated bund, along with soft landscaping measures in relation to either or both.
 - details of the mix of species to be included within any hedgerows shown on the plans (forming the boundaries of the garden and along the Right of Way.
 - a timetable for implementation and a long-term management plan in respect of the same, for a period of least five years following the development.

The development shall be implemented in accordance with the approved scheme.

- 6) Prior to the commencement of the development hereby approved, details of a scheme to enhance the nature conservation interest of the site and an associated program for implementation and management of the same shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved programme.
- 7) Prior to the commencement of any above ground works associated with the development hereby approved (excluding demolition), the buildings to be removed as shown on the submitted drawings, shall be demolished. Prior to the first occupation of the dwelling hereby approved, all building waste and other materials arising from the demolition shall be removed from the site.
- 8) A sample of the facing materials to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before any above ground works on site are

- commenced. The development shall then be built in accordance with these approved samples.
- 9) The car parking accommodation shown upon the approved drawings shall be provided with a hard bound dust free surface, adequately drained before the development to which it relates is occupied and thereafter it shall be kept free from obstruction at all times and shall not thereafter be used for any purposes other than the parking of vehicles for the occupiers of the development and visitors to it.
 - 10) Notwithstanding the approved drawings and prior to any works above damp proof course level, details shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of all boundary treatment, fences and means of enclosures to be erected. The development shall be carried out in accordance with the approved details prior to the occupation of the dwellings.
 - 11) The dwelling hereby permitted shall not be occupied until evidence has been submitted to the Local Planning Authority confirming that the development has achieved the targeted reduction in CO2 emissions over Part L of the Building Regulations set out in the Energy Statement Report, Rev 4.0 prepared by Base Energy and that internal water usage shall not exceed 105 litres per person per day.
 - 12) The dwelling hereby permitted shall not be occupied until details of how the dwelling as built complies with Part M4(3) of the Building Regulations.
 - 13) The cycle parking facilities as shown on the approved plans shall be provided prior to beneficial occupation of the development to which this permission relates and shall be permanently retained for that purpose and kept free from obstruction thereafter.
 - 14) The site and building works required to implement the development shall be only carried out between the hours of 08.00 and 18.00 Mondays to Fridays and between 08.00 and 13.00 on Saturdays and not at all on Bank Holidays and Sundays.
 - 15) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 28 days of the report being completed and approved in writing by the same.
 - 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no additions or enlargements to the dwellinghouse or outbuildings on the site other than those expressly authorised by this permission, or means of enclosure or hardstanding shall be constructed.