



Appeal Decisions

Site visit made on 12 April 2013

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal A Ref: APP/K0235/W/22/3302658

Land to the rear of Brookfield, 105 High Street, Sharnbrook MK44 1PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr R Voller against the decision of Bedford Borough Council.
- The application Ref 21/02808/CPNQ, dated 18 October 2021, was refused by notice dated 28 February 2022.
- The development proposed is change of use from an Agricultural building to a dwellinghouse(s) (Use Class C3) including associated building operations reasonably necessary to convert the building.

Appeal B Ref: APP/K0235/W/21/3286097

Land to the rear of Brookfield, 105 High Street, Sharnbrook MK44 1PE

- 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 R Voller against the decision of Bedford Borough Council.
- The application Ref 21/01399/FUL, dated 13 May 2021, was refused by notice dated 20 August 2021.
- The development proposed is Demolition of an agricultural building and erection of a new dwelling house and garage.

Appeal C Ref: APP/K0235/W/22/3297359

Land to the rear of Brookfield, 105 High Street, Sharnbrook MK44 1PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Mr R Voller against Bedford Borough Council.
- The application Ref 21/02601/FUL is dated 23 September 2021.
- The development proposed is Demolition of an agricultural building and erection of a new dwelling house.

Decisions

Appeal A

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for 'change of use from an Agricultural building to a dwellinghouse(s) (Use Class C3) including associated building operations reasonably necessary to convert the building' at Land to the rear of Brookfield, 105 High Street, Sharnbrook MK44 1PE, in accordance with the details submitted with application reference 21/02808/CPNQ, dated 18 October 2021. The approval is subject to the conditions set out under Class Q, including that the development must be

completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3)

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is allowed and planning permission is granted for demolition of an agricultural building and erection of a new dwellinghouse at Land to the rear of Brookfield, 105 High Street, Sharnbrook MK44 1PE, in accordance with the terms of the application, 21/02601/FUL, dated 23 September 2021, subject to the conditions in the attached schedule.

Applications for costs

4. Three applications for costs have been made by Mr R Voller against Bedford Borough Council. These applications are the subject of a separate decision.

Preliminary Matters

5. With regard to Appeal A, the Council has referred to several development plan policies in the reasons for refusal¹. Paragraph W(10) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (The 'GPDO') outlines that, in considering such proposals, local planning authorities must have regard to the National Planning Policy Framework (the Framework). However, the GPDO does not require consideration of the development plan policies. Nonetheless, in considering Appeal A, I have had regard to the Framework and have taken the development plan policies into account insofar as they may be relevant to the main issues.
6. The description of development provided on the application form for the Appeal A proposal does not refer to the number of dwellings proposed. However, it is clear from the plans and supporting information submitted that the proposal is for the conversion of the existing building to provide three dwellings. I have considered the Appeal A proposal on that basis. This matter is further addressed under 'conditions' later in this decision.
7. The appellant submitted a flood evacuation plan and structural report with Appeal A. In respect of Appeal B and C, a Flood Risk Assessment was submitted with the appeals. None of these documents materially alter the proposals that were considered and consulted on by the Council. Furthermore, the appeal process has afforded the Council sufficient opportunity to make representations on these documents. I have therefore accepted them and considered the appeals on that basis.
8. The Sharnbrook Neighbourhood Plan was 'made' on 24th November 2021, which was after planning permission for the Appeal B proposal was refused by the Council and after the appellant submitted the planning application in respect of Appeal C. The latter is an appeal against the Council's failure to determine the planning application as addressed under 'background'. The main parties have had sufficient opportunity to make representations on the policies

¹ Bedford Borough Local Plan 2030 – Adopted January 2020: Policies 29, 31, 32 and 92

contained within the Neighbourhood Plan and I have had regard to it in determining these appeals.

Background

9. There are three separate appeals all relating to proposed development involving the existing agricultural building situated at the appeal site. By way of background, in allowing another appeal on 21 May 2019, an Inspector granted prior approval for the change of use of the agricultural building to three dwellinghouses (Class C3) and for associated operational development (the 'Previous Appeal')². The evidence before me indicates that this permission is no longer extant, as it was not implemented in time. Indeed, a subsequent application was made for approval required under Schedule 2, Part 3, Class Q of the GPDO for an identical development. This application was refused by the Council and is now the subject of Appeal A.
10. After the Previous Appeal was allowed, the appellant also sought planning permission for demolition of an agricultural building and erection of a new dwelling and garage. The evidence indicates that the appellant largely relied upon the Previous Appeal establishing a fallback position for three dwellings on the appeal site. Nonetheless, the Council refused the planning application and this decision is now the subject of Appeal B.
11. The appellant subsequently submitted a planning application for demolition of the agricultural building and erection of a dwellinghouse. The appellant's aim was to address the Council's reasons for refusal in relation to the Appeal B scheme. The appellant appealed against the council's failure to determine the planning application. This is the subject of Appeal C. The main difference between the Appeal B and Appeal C schemes are that the latter excludes the garage proposed under Appeal B and would utilise different building materials.
12. I have considered the Appeal A scheme first. This is because whether this appeal is allowed has implications for the Appeal B and C schemes.
13. Whilst Appeal C relates to the Council's failure to determine the planning application, the Council has indicated in its statement of case that planning permission would have been refused for very similar reasons to those given in refusing the Appeal B scheme. Indeed, the purported reasons for refusal are almost identical to those contained on the Appeal B decision notice. However, the Appeal B decision notice includes an additional separate reason for refusal in relation to surface water drainage. Nonetheless, the main issues are identical, given that drainage and flood risk are interrelated. As such, I have considered these two appeals together with appropriate consideration given to the differences between the schemes proposed.

Appeal A - Main Issues

14. Class Q (a) of Part 3 of Schedule 2 to the GPDO permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q (b) permits building operations reasonably necessary to convert the building referred to in (a) above.

² PINS Ref: APP/K0235/W/18/3216729

15. The Council contends that the building operations would not comprise a conversion. Whilst the Council has referred to paragraph Q.1(i)(i), the question of whether a proposal comprises a conversion for the purposes of Class Q precedes any consideration of matters set out under this paragraph.
16. Indeed, the Council has cited the judgement in *Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin) (hereafter referred to as the 'Hibbitt Judgement'). Paragraph 26 of that judgement states:

'First, the concept of "conversion" is found in the overarching provisions of Class Q (not in Q.1) and it thereby introduces a discrete threshold issue such that if a development does not amount to a "conversion" then it fails at the first hurdle and there is no need to delve into the exceptions in Q.1. It is thus a freestanding requirement that must be met irrespective of anything in Q.1...'
17. The Council also refused the application on the basis of issues pertaining to highway safety, flood risk, access for emergency vehicles and the provision of means for collection of household waste and recycling.
18. Therefore, the main issue in respect of Appeal A is whether the proposed change of use and building operations would be permitted development under Schedule 2, Part 3, Class Q of the GPDO and in particular:
 - Whether the proposed development would comprise a conversion.
 - The effect of the proposed development on highway safety.
 - The effect of the proposed development with regard to flood risk.
 - Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, with particular regard to waste/recycling collection and access for fire services.

Appeal A - Reasons

Conversion

19. Whether the proposed development comprised a conversion was not a main issue in the consideration of the Previous Appeal. The Council has indicated that it only became aware of the Hibbitt Judgement after the Previous Appeal was allowed. For clarity, the Hibbitt Judgement was made in 2017, before the previous planning application was refused (in May 2018) and long before the appeal decision was issued in June 2019.
20. The existing building comprises of an apparently fully intact traditional agricultural building with a steel frame and metal cladding. During my site visit there were no obvious signs of any structural weakness or damage. Indeed, the Appellant has submitted a Visual Structural Inspection & Subsequent Assessment³.
21. The appellant's survey concludes that there are no signs of any misalignment, deformation or deflection of the structural framing and associated perimeter

³ Visual Structural Inspection & Subsequent Assessment (David Smith Associates, April 2022)

cladding. It also concludes that only minor works are required to convert the building. These include installation of a damp-proof membrane above the existing layer of concrete, localised enhancement of cladding and roof rails, reduction of ground levels around the building as well as priming and painting of the cladding (to prevent corrosion).

22. The findings of the structural report are all consistent with my visual observations during the site visit. None of the works set out within the structural report indicate that the development would comprise a new building. Indeed, the evidence demonstrates that the building is capable of being converted. The existing building would be largely retained in terms of its structural form and that would be reflected through the appearance of the proposed development, which would be very similar to the existing building.
23. The Council has criticised the survey for not including a trial pit inspection. The need for structural surveys and their scope should be proportionate, based on the extent of construction work proposed, whether there is any realistic likelihood of structural weakness or dilapidation, or where there are clear visual signs that the proposal may amount to a re-build as opposed to a conversion (for example where the structure is open-sided). In this case, the existing building does not exhibit any characteristics which necessitate a structural survey, let alone a more intrusive trial pit inspection. Furthermore, even if structural improvements were required to facilitate the proposed mezzanine floor, the vast majority of the building would remain intact and its appearance, scale and proportions would also be similar, if not identical, to the existing building.
24. For these reasons, the proposal would not be a complete or even partial re-build. The substantive evidence before me demonstrates that the proposal comprises a conversion. As such, the provisions of Class Q apply to the proposed development, with those in contention addressed under the subsequent main issues.
25. In asserting that the proposal does not comprise a conversion the Council referred to paragraph Q.1(i)(i). As explained earlier, whether a proposal comprises a conversion precedes consideration of the exceptions under Class Q (such as Q.1(i)(i)). This exception deals with whether a proposal consists of building operations other than — the installation or replacement of — windows, doors, roofs, or exterior walls, water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.
26. For the avoidance of doubt, the proposed building operations as described, including those outlined within the submitted structural inspection do not encompass anything that goes beyond what is necessary for the building to function as three dwellings. In particular, the Planning Practice Guidance makes clear that building operations comprising interior alterations do not amount to development. As such the insertion of additional floors as referred to by the Council would not breach the requirements of Paragraph Q1.1(i)(i).

Highway Safety

27. The existing building is accessed via a relatively long single lane access track, which crosses the Sharn Brook and leads to the High Street, where a narrow access with limited visibility is situated. The evidence before me indicates that,

- as a minimum, the access track currently serves the office development, stables and menage to the south of the agricultural buildings.
28. This issue was fully addressed within the Previous Appeal decision. Clearly, the conclusions reached by the Inspector in reaching that decision are a material consideration. Given that there is no evidence to indicate any change in circumstances since the Previous Appeal was allowed (in terms of highway safety), the conclusions reached by the Inspector are even more pertinent.
29. In concluding that the previous proposal would not lead to an adverse impact on highway safety, the Inspector reasoned that whilst the access is substandard, the conditions are such that vehicle speeds along it are likely to be low.
30. Indeed, the access track is narrow and undulating. The vast majority of those using the access (as a result of the proposed development) would be very likely familiar with these constraints given that they would mainly comprise of residents of the proposed dwellings. Vehicle speeds on the High Street are also likely to be lower than the 30mph limit, given the built-up residential nature of the area and the likely prospect of a proliferation of parked vehicles along the highway (as I noted during my site visit). For these reasons, I concur with the Inspector's conclusions with regard to vehicle speeds. This is also consistent with the findings of another Inspector who considered these issues in relation to an appeal⁴ for the nearby office development, served by the same access.
31. There are unlikely to be conflicts between pedestrians using the footways on the High Street and vehicles using the private access. This is because the vehicular speeds of those using the access are very likely to be extremely low for reasons already given. Furthermore, concealed driveways with limited visibility adjacent to the footway are a prevalent feature on this part of the High Street. Finally, I concur with the previous Inspector that only a small number of dwellings are served to the west of the access on the northern side of the highway. As such, pedestrian movements are likely to be more limited in the vicinity of the access.
32. In considering conflicts between vehicles using the access road (as opposed to the access point), the previous Inspector also concluded that there would only be a small increase in vehicle movements and that conflicts between those entering and exiting the access could be addressed through the imposition of a condition requiring implementation of a priority system.
33. The evidence before me, including two Transport Notes submitted by the appellant, indicates that the proposal would likely generate 2 two-way trips during the AM peak period (0800-0900) and 1 two-way trip during the PM peak hour (1700-1800)⁵. The evidence indicates that the existing office use results in 7 one-way trips in during the AM peak Period and 7 out during the PM Peak Period. The Transport Notes also state that the existing neighbouring stable generates 1 two-way trip during each of the peak hours.
34. The Highway Authority (the HA) considers that the development would generate 2 'vehicle movements' (1 trip in and 1 trip out being 2 movements) in each of the peak hours. However, the HA has also asserted that the 'traffic generated by the development would be in the order of 20 vehicle movements

⁴ PINS reference: APP/K0235/W/15/3140277

⁵ Based on TRICS database (v 7.5.1),

a day'. Despite this assertion, no explanation has been provided to demonstrate how this figure has been arrived at. I consider that the figures provided by the appellant (based on a referenced data source) are likely to be more accurate.

35. As such, even taking into account the existing office and stable uses, the access only accommodates a small number of vehicle trips during peak hours. The evidence also indicates that the increase in vehicle trips associated with the proposed development is very minor when considered in proportion to the existing flows. I do accept that there could theoretically be instances of conflicts between those using the access, but these conflicts would very likely be infrequent. Furthermore, in contrast to the previous Inspector, I do not consider it necessary to impose a condition requiring implementation of a priority system. This is because I consider that any such infrequent conflicts would unlikely result in an impact on highway safety, given that there would be opportunities for vehicles to reverse towards the proposed dwellings to allow incoming vehicles to pass and given the very minor likelihood of such conflicts occurring in the first place.
36. Overall, the proposal would not lead to an adverse impact on highway safety and the transport and highways impacts of the development are therefore acceptable. The proposal therefore complies with Framework Paragraph 111 which seeks to ensure that development does not have an unacceptable impact on highway safety.

Flood Risk

37. Flood risk was also a matter which was addressed by the Inspector in the Previous Appeal decision, albeit it was not a main issue. In that case the appellant submitted a Flood Risk Assessment⁶ with the appeal. The same FRA, dated November 2018, was submitted as part of the application pursuant to this current appeal. However, the appellant has also provided additional information⁷ on flood risk with this appeal, including a Flood Warning and Evacuation Plan.
38. The existing agricultural building is located wholly within Flood Zone 1, with a low probability of flooding. However, the existing access track runs alongside, and eventually crosses, Sharn Brook. As a result, part of the access track crosses Flood Zones 2 and 3, areas at Medium and High risk of flooding respectively.
39. As part of the FRA, a hydraulic model was developed to establish the extent of flooding which might occur in various scenarios, including 1 in 100-, 50- and 20-year flood events. The model also included a 35% allowance for climate change and indicates the likely flood depth in areas within and surrounding the appeal site. The agricultural building is not shown as being at risk of flooding during any of these scenarios. However, the access track, including the bridge crossing Sharn Brook is shown as being at risk of flooding. Nonetheless, the model indicates that in the most extreme event (1 in 100 year) the flood depth along the access track would not exceed 0.3 metres. As such, the FRA concludes that in such circumstances there is a route available along the access track which allows safe access and egress from the building.

⁶ Ref: E3693-FRN Report-Rev0-Nov18

⁷ Letter from EAS dated 04 July 2022

40. The Environment Agency (EA) was consulted on the prior approval application. It considered the FRA and the Hydraulic Model. The response states in part:
'Whilst the access road and track is at risk of flooding the depth modelled is 300mm which is considered a precautionary assessment as climate change allowances have reduced from 35% to 19%. There has been no assessment of anticipate duration of flooding, but this is on a flashy ordinary watercourse and it could be considered that the duration of flooding is likely to be hours rather than multiple days.'
41. The EA also concluded that the evidence indicates that there is a route along the access where the hazard to people is low and that the route can be safely negotiated in times of flooding. The EA response was provided in November 2021 and did not raise any concerns with regard to the age of the FRA.
42. There is evidence of a flood event having occurred in 2020, after the FRA was undertaken but long before the EA response on the prior approval application. This evidence consists of various photos taken of Sharn Brook and parts of the access track by interested parties. In addition, the Flood Risk Officer's response to the prior approval application outlines that during a flood event in December 2020 the bridge over Sharn Brook was impassable, even by a four-wheel-drive vehicle. The Officer outlined that this was the case for a 'considerable period of time'.
43. As such, there is strong evidence of a flood event occurring in December 2020. However, this is hardly surprising given that parts of the access track are in Flood Zones 2 and 3, at medium and high probability of flooding respectively. Indeed, the Hydraulic Model provided by the appellant confirms this and at Figure 3-2 shows that parts of the access track would be flooded in a 1 in 20 year flood event.
44. It is unclear what evidence the Council's Flood Risk Officer was relying on when concluding that the bridge was impassable by a four-wheel drive vehicle. Indeed, no substantive evidence has been provided to demonstrate that flood depths exceeded those deemed acceptable by the EA and no specific time-frame has been provided for the duration of the flood event. The photograph of the bridge provided by the Parish Council is incredibly low quality and is not conclusive. However, even if the flood level did rise above the bridge deck, that again is consistent with the Hydraulic Model which suggests that this could occur in a 1 in 100 year flood event⁸.
45. The Council has not elaborated on the assertion that flooding occurred in 2020 over a 'considerable period of time'. As such, and based on the evidence before me, I give greater weight to the conclusions of the EA which indicate that any flood event would be short in duration (hours rather than days).
46. The fact that a flood event occurred which affected parts of the access track does not therefore invalidate the conclusions of the FRA and neither does it necessitate a revised FRA. Furthermore, there is no substantive evidence to indicate that there have been any recent physical changes on the ground which might have increased the risk of flooding.
47. Framework paragraph 168 outlines that applications for some minor development and changes of use should not be subject to the sequential or

⁸ Flood level ranging up to 48.15 AOD and Bridge Deck level estimated as low as 48.08 AOD

exception tests but should still meet the requirements for site-specific flood risk assessment. In this case, an FRA was submitted which demonstrates that the most vulnerable development (the residential component) would be located in an area at lowest risk of flooding and that safe access and egress from the building could be achieved, despite the existing access traversing Flood Zones 2 and 3. On that basis, the proposal would comply with the provisions of Framework Paragraph 167.

48. Whilst the appellant has provided a flood warning and evacuation plan, it is not necessary to require its implementation by planning condition because the dwellings would be located in an area of low risk and the access track can be negotiated even during flood events.
49. The evidence before me demonstrates that the proposed dwellings would not be at risk of flooding and that the development would not increase flood risk elsewhere. Whilst the evidence does strongly indicate that the access track would be at risk of flood, these events are likely to be infrequent and short in duration and even in their most extreme (1 in 100 year + climate change) would be unlikely to completely obstruct the safe access and egress to and from the dwellings.
50. I note that the Council has referred to an appeal⁹ for a proposed dwelling, which was dismissed partly on the basis that the access track was within Flood Zone 3. However, in that case the Inspector concluded that it had not been satisfactorily demonstrated that suitable means of emergency access and egress would be provided during a flood event. Based on the evidence before me, I have reached the opposite conclusion in relation to this proposal and as such this appeal decision does not alter my findings.

Location and siting of the building

51. The Council's reasons for refusal include the assertion that insufficient information has been provided to demonstrate that the Fire Service would have suitable access to firefighting water in the event of an emergency. Indeed, Bedfordshire Fire and Rescue Service was consulted on the planning application. Its response concludes that 'unless suitable access and firefighting water is provided we would object to this development'. The response highlights that the proposal will need to comply with the requirements of Building Regulations 'Approved Document B (Fire Safety) Volume 1 – Dwellings'.
52. The evidence indicates that the Building Regulations require the proposal to provide access for a pump appliance within 45 metres of the dwellings. However, in this case the access track is between approximately 180 and 200 metres long, with the nearest fire hydrant a further 25 metres from the proposed access onto the highway. The evidence also indicates that parts of the access track are too narrow to facilitate access to a standard fire tender.
53. Despite these considerations, the response from Bedfordshire Fire and Rescue does indicate that there may be an alternate 'solution for the provision of firefighting water'. Whilst the potential solutions listed in its response might not be possible, that does not necessarily mean that no solution exists at all.

⁹ PINS Ref: APP/K0235/W/21/3275066

54. In summary, there is no certainty that the appellant could not meet Building Regulation requirements in relation to fire safety. Given that there is a separate regulatory regime which would control this, this is not a reason to indicate that the location or siting of the building makes it otherwise impractical or undesirable to convert it into dwellinghouses. Indeed, the issue of whether a fire tender could access the appeal site was also considered by the Inspector in the Previous Appeal. He too concluded that this issue could be addressed under Building Regulation requirements. The Inspector considering the appeal for the adjacent office development (which utilises the same access track) also reached the same conclusion.
55. Local Plan Policy 31 only requires that 'planning applications should give particular attention to' the suitability of access arrangements to and within the development for service and emergency vehicles. In this instance I am satisfied that this matter can be sufficiently controlled through a separate regulatory regime. Given the lack of conclusive evidence to demonstrate that there is no possibility of the appellant meeting the requirements of Building Regulations in this regard, the proposal would not conflict with Local Plan Policy 31¹⁰.
56. I also note the Highway Authority's representations concerning this matter, however these representations do not specifically demonstrate how this issue would give rise to an adverse impact on highway safety. Indeed, even if I were to accept that a fire tender could not traverse the access track, there is no reason why this should lead to an adverse impact on highway safety.
57. On the issue of access for bin collection, the Council's Technical Guidance for Waste and Recycling in New Developments (2021) (the Technical Guidance) outlines that future occupiers of residential development will be expected to bring their bins to the edge of the public highway for collection. It also specifies that future occupiers must not be required to drag their bins a distance further than 25 metres from the bin storage area to the highway.
58. The Council also outlines that it has a legal obligation to provide domestic waste collection services to households. However, the appellant has provided evidence – in the form of various application forms and correspondence with the Council – indicating that alternative arrangements are available for the collection of waste from the appeal site. On that basis alone, even taking account of the Technical Guidance, this is not a matter which indicates that the location or siting of the building would be impractical or undesirable. Indeed, taking a reasonable approach, it is highly unlikely that the future occupiers of the dwellings would forgo alternative arrangements, as this would inevitably be to their own detriment.
59. The Council and interested parties have also referred to the impact on the living conditions of the occupiers of Nos. 111 and 117 High Street. Given my conclusions in relation to the likelihood that waste could be collected directly from the proposed dwellinghouses, I do not consider that there would be any adverse impact on the amenity of neighbouring occupiers in this regard.
60. The Council has also cited an appeal decision¹¹ where the Planning Inspector dismissed an appeal partly on the grounds that suitable arrangements for refuse collection from the site could not be secured. Firstly, this appeal related

¹⁰ Notwithstanding that the test at Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply in any case.

¹¹ PINS reference: APP/K0235/W/21/3275066

to a planning application (where there is a statutory requirement to have regard to the development plan policies) as opposed to an application for prior approval under the GPDO. Secondly, in that case the appeal site was more than twice as far from the adopted highway. For these reasons, the approach taken by the Inspector is not considered directly relevant to this appeal.

61. Indeed, I am satisfied that the evidence before me demonstrates that there are options available for waste collection and I consider it incredibly unlikely that these options would not be pursued by the appellant and future occupiers of the dwellings. Incidentally, for this reason, this issue does not necessitate the imposition of a condition requiring further details of waste and recycling provision to be submitted to the Council.

Appeal A - Other Matters

62. The proposed dwellings would be accessed from a private track which passes through the Sharnbrook CA. However, the existing agricultural building is located wholly outside the CA. There are also several listed buildings¹² on the High Street which back onto the nearby Brook.
63. 105 and 107 High Street are two separate grade II listed buildings. Both primarily derive their significance from their 17th Century architecture with distinctive features including their limestone rubble construction and clay-tiled and thatched roofs respectively. 115 and 117 High Street is a grade II listed building, comprising an 18th Century pair of houses, which similarly derives its significance primarily from its distinctive architectural features, including limestone construction and thatched roof.
64. The site of the proposed dwellings does not contribute to the significance of these listed buildings. Whilst the buildings all have rear elevations facing Sharn Brook, their settings are largely confined to the area up to the Brook, with the area beyond heavily obscured by existing tree planting. Indeed, of far more significance is the intimate and compact relationship of the buildings within the street scene.
65. Indeed, the CA itself primarily derives its significance from the proliferation of historic buildings and their intimate orientation in relation to the street scene and Sharn Brook. The CA has a verdant and rural setting, albeit the agricultural land surrounding it does little to add to the significance given its predominant visual separation, both in immediate and intervisible views.
66. Given the visual, physical and functional separation between the agricultural building and these heritage assets, combined with the fact that the original agricultural character of the building would be largely retained, there would be no harm to their significance as a result of the proposal. As such, the proposal would comply with the relevant provisions of the Framework with regard to heritage assets.

Appeal A – Conditions

67. The appellant should note that the GPDO requires at Paragraph Q.2(3) that the development shall begin within a period of 3 years from the date that the prior approval is granted. A number of other conditions apply to such development,

¹² 115 AND 117, High Street (List Entry 1321484) Grade II, 107 High Street (List Entry 1310329) Grade II and 105 High Street (List Entry 1114383) Grade II.

including that set out under at paragraph W(12)(a) of Part 3 to Schedule 3 of the GPDO, which requires that the conversion is carried out in accordance with the details provided in the application. As such, a condition specifying the approved plans is not necessary. The plans submitted clearly demonstrate that the proposal is for three dwellings and therefore a separate condition specifying the number of dwellings approved is not necessary, given the requirement that the development is carried out in accordance with the approved details.

68. Paragraph W(12)(b) makes it clear that prior approval can be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

Appeal A – Conclusion

69. For the reasons given above, the proposed development is permitted development and as such, having considered all matters raised, the appeal is allowed and approval is granted.

Appeal B and C Main Issues

70. The main issues relevant to both Appeal B and C are as follow:

- Whether the principle of a dwelling on the appeal site is acceptable, with particular regard to the development plan strategy for the location of residential development.
- The effect of the proposed developments on the character and appearance of the area.
- The effect of the proposed developments on Flood Risk.
- Whether the proposals make adequate provision for the collection of waste.
- Whether the proposals make adequate provision to facilitate access for the fire brigade.

Appeal B and C Reasons

Location

71. The appeal site is located close to, but outside of, the Settlement Policy Area Boundary for Sharnbrook as defined within the Local Plan. As such, for planning purposes the appeal site is within the Countryside. Local Plan Policy 7S, which relates to development in the countryside, is directly relevant to the principle of residential development in this location.
72. This policy outlines various criteria which must be met in order for development in countryside locations to be considered acceptable in principle. None of these apply to the proposals. As such, neither of the appeal proposals comply with Local Plan Policy 7S. This policy also sets out general requirements for all development in the countryside. The Council asserts that the proposed developments would both be harmful to the character and appearance of the area. I have considered this matter later in this decision letter, under the relevant main issue.
73. There would not be a direct conflict with Local Plan Policies 3S or 4S as these policies are broad strategic policies which relate to the general approach to the provision of housing in the district. They do not prohibit development in certain locations.
74. Sharnbrook Neighbourhood Plan Policy S3 outlines that, other than development on the allocated site at Hill Farm, housing will only be permitted where the proposal relates to a site within the Settlement Policy Area or where 100% affordable housing is proposed on sites immediately adjacent (in exceptional circumstances). The appeal site is located outside of the Settlement Policy Area and neither proposal comprises affordable housing. As such, the Appeal B and C proposals would both conflict with this policy.

Character and Appearance

75. The existing agricultural building comprises roller shutter doors and is clad with corrugated steel. It has a modern and functional agricultural appearance. The appeal site, which is bound by fields to the north, east and west has a rural character. The existing building is not prominent within the landscape, given its close proximity to existing trees located to the rear and alongside the brook.

76. The nearest neighbouring dwellings are located within the settlement on the opposite side of Sharn Brook. This part of the village is located within the Sharnbrook Conservation Area, which I address under 'other matters'. Development on High Street typically comprises older buildings, most of which serve as dwellings. Many of these buildings are thatched and constructed of stone. However, there are numerous more modern buildings interspersed within them.
77. The brook and intervening trees separate the appeal site visually and physically from the rest of the village. As such, whilst it is relevant to consider the character of the village, the proposals need not replicate this character in its entirety. Furthermore, the appeal site is unique because it comprises a large agricultural building. As such, other than its general rural appearance, it currently does not reflect the prevailing character of the village.
78. The dwellings proposed under Appeal B and C would be almost identical in appearance. However, the latter does not include such a varied materials specification. Both would be a similar size to the existing agricultural building. Whilst there would be a small increase in the maximum ridge height, there would also be a small reduction in the footprint when compared to the existing barn. The proposals are both modern in design, incorporating features such as: projecting elements at first floor level; balconies; and full height glazing on the gable elevations. The Appeal B proposal also incorporates a fairly extensive array of building materials. However, these could be conditioned such that the palette of materials reflects the more simple appearance of the existing barn. That said, the existing barn is not attractive. As such, despite their modern appearance, both proposed dwellings would represent an enhancement.
79. The Appeal B proposal also includes a detached garage/office building. This would be located to the north west of the dwelling. Whilst the dwelling proposed under Appeal B respects the existing rural character of the area, the provision of a detached garage in this location would not. This is because whilst the dwelling makes sufficient reference, in terms of its design, to the existing barn, the garage would be an alien and far more urban feature. The garage would also be located further from existing tree planting, in a more prominent location. This would exacerbate the harmful visual impact of the proposal.
80. In summary, the Appeal B proposal would be harmful to the character and appearance of the area given that the proposed garage/office building would be a prominent urbanising feature which would not respect the existing rural character of the area. The Appeal B proposal would therefore conflict with Local Plan Policies 7S, 28S, 29 and 30 and Neighbourhood Plan Policy S1 which collectively seek to ensure that new development is of a high-quality design and respects local character.
81. However, the Appeal C proposal would respect and enhance the existing rural character of the area. A planning condition could also be imposed to require approval of building materials in advance of development above slab level, thereby providing further opportunity for the building to reflect the character of the nearby village. For these reasons the Appeal C proposal would comply with Local Plan Policies 7S, 28S, 29 and 30 and Neighbourhood Plan Policy S1 insofar as they relate to character and appearance. The proposal would also comply with Framework Paragraph 130 insofar as it too relates to character and appearance.

Flood Risk

82. The evidence indicates that a FRA was not submitted with the planning application in respect of the Appeal B and C proposals. Framework Paragraph 167 states that, where appropriate, applications should be supported by a site-specific FRA. Footnote 55 explains that an FRA is required for all development in Flood Zones 2 and 3 and on land subject to other sources of flooding. Parts of the access track are within Flood Zones 2 and 3. As such, a FRA is required. The appellant has provided a FRA (dated 2018) with the appeals. This is the same FRA submitted in respect of Appeal A.
83. The National Planning Practice Guidance (PPG) explains that for the purposes of applying the Framework, 'areas at risk of flooding' is principally land within Zones 2 and 3 but can also include land within Zone 1 where the EA has notified that there are critical drainage problems. In this case, the EA has made no such notification. Nonetheless, because the access track is located partly within Flood Zones 2 and 3, Framework Paragraph 162 applies, which requires the application of a sequential test.
84. The PPG advises that the aim of the sequential test is to steer development to sites in Flood Zone 1. Where there are no reasonable alternatives in Flood Zone 1, sites in Flood Zone 2 should be considered and only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered.
85. The FRA submitted with Appeal B and C does not include a sequential assessment of alternative sites. As such, it has not been demonstrated that there are no reasonably available alternative sites within areas at lower risk of flooding. The Appeal B and C proposals both therefore conflict with Framework Paragraph 162.
86. In respect of the Appeal B proposal, the Council also contends (separately from the issue of the sequential test) that due to the increase in the footprint of development on the site the appellant should have provided sufficient information to demonstrate that the development would not give rise to increased risk of flooding. The proposed dwelling includes a slightly smaller footprint than the existing barn. However, the inclusion of a detached garage means that the overall built footprint of development would increase. Given the site's location, in close proximity to Sharn Brook and areas at high risk of flooding, I consider it necessary that evidence is provided to demonstrate that the development would not result in an unacceptable increase in flood risk elsewhere.
87. The FRA submitted with the Appeal B proposal is not directly related to the proposed development, as it was produced in support of a previous proposal to convert the existing building to a dwelling. On this basis, the appellant has not provided sufficient evidence to demonstrate that the proposal would not increase flood risk elsewhere as a result of surface water runoff.
88. For these reasons, the Appeal B and C proposals would both conflict with Local Plan Policy 92 and the Framework, insofar as both require development to be located in areas at the lowest risk of flooding wherever possible, subject to the application of the sequential test. In addition, in relation to the Appeal B proposal only, the appellant has not provided sufficient information to confirm

that it would not result in an increase in flood risk as a result of surface water runoff.

Waste Collection

89.I have already addressed the matter of waste collection in relation to Appeal A. The developments proposed under Appeal B and C both involve a single dwelling as opposed to three. As such, the conclusions reached in relation to Appeal A are directly relevant. To reaffirm: even taking into account the Council's Technical Guidance¹³, the evidence before me indicates that there are sufficient means by which the dwellings could be serviced (potentially privately) in terms of the collection of household waste and recycling. It is not clear exactly what harm the Council contends would arise in terms of this main issue. The reasons for refusal refer to a detrimental effect on the amenity of the occupiers of 111 and 117 High Street. However, these properties are located at the end of the access track as it intersects the highway. Given my conclusions, I do not consider it likely that permanent bin storage would be necessary in this location. For the same reason, there would not be any adverse impact on highway safety.

90.In the relevant reasons for refusal for each proposal, the Council asserts conflict with Local Plan Policies 29(viii) and 32(v). Policy 29 relates to 'design quality and principles'. Part 'viii' requires that development integrates functional needs such as refuse / recycling storage and collection points, car and cycle parking. However, the area denoted as 'paved patio area' on the submitted site plans is easily capable of accommodating waste collection bins. Precise details of the design and/or location of bin storage could be required by condition. It is also clear that the appellant has given this matter consideration as evidenced by the correspondence provided as part of their Statement of Case. As such, in design terms, there would be no harm arising and neither proposal would conflict with Local Plan Policy 29.

91.Local Plan Policy 32 relates to 'disturbance and pollution impacts'. Part 'v' requires 'planning applications to give particular attention to' arrangements for dealing with waste (including recyclable materials) storage and collection. For the reasons already given the proposals are both capable of making sufficient provision for the collection of waste and recyclable materials, including storage within the appeal site. As such, neither proposal would conflict with this policy.

Access for emergency vehicles

92.I have already addressed this matter in relation to the Appeal A proposal. That proposal relates to the provision of three dwellings utilising the same access arrangements. I concluded that the matter of access to fire service vehicles could be sufficiently addressed under the separate regulatory regime of building regulations. I therefore found that the proposal would not conflict with Local Plan Policy 31.

93.The same conclusions apply to the Appeal B and C proposals, which both propose a lower quantum of residential development than allowed under Appeal A. Furthermore, the planning application consultation response from the Bedfordshire Fire and Rescue indicates that where the specific requirements of the building regulations in relation to access are not met, alternative

¹³ Waste and Recycling in New Developments (2021)

arrangements may be acceptable. I appreciate that the response from the fire service indicates that access beyond 90 metres from the highway would not be acceptable. However, it is possible that this requirement could be met through other means not currently specified (alternative emergency access arrangements for example). In the absence of conclusive evidence to indicate that the appellant could not meet the building regulations requirements, neither proposal would conflict with Local Plan Policy 31, which requires that planning applications 'give particular attention' to the suitability of access arrangements to and within the development for service and emergency vehicles.

Appeal B and C Other Matters

Highway Safety

94. In terms of Highway Safety more generally, the conclusions which I have reached in relation to Appeal A are directly relevant. Albeit, in the case of the Appeal B and C proposals only one dwelling is proposed. Taking into account the characteristics of the access track, the likely small number of additional transport movements associated with a single dwelling and the likely familiarity of future occupants with the access, neither proposal would result in an adverse impact on highway safety. Considering the very low quantum of development proposed, I do not consider it reasonable to impose a condition requiring implementation of a priority system for vehicles using the access.

Heritage

95. The Council's reasons for refusal do not allege any harm to the setting of Listed Buildings or the CA. Nonetheless, in relation to the Listed Buildings, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special regard to the desirability of preserving the setting of the buildings and any features of historic interest which they possess. Section 72 of the same Act requires that I also pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, despite the fact that only the existing access track is located within it.
96. I have already described the significance of these heritage assets in considering the Appeal A proposal. Like the Appeal A proposal, the Appeal B and C proposals would both be physically and visually separated from the CA and listed buildings by Sharn Brook and the trees and vegetation which bound it. Neither proposal would be clearly visible from within the CA and there would be very limited intervisibility. Furthermore, neither proposal would result in harm to the setting of the listed buildings, given the visual and physical separation. For these reasons, the proposals would not result in any harm to the setting of the CA or Listed Buildings and they would both comply with the relevant provisions of the Framework in this regard.

Appeal B and C Planning Balance

The fallback

97. Given that I am allowing Appeal A, this represents a 'fallback' position. The fallback position is a material consideration in determining whether a decision should be made other than in accordance with the development plan in relation to Appeal B and C. In determining the weight to be ascribed to the fallback, it is necessary to consider whether there is a realistic prospect of it being

implemented and whether the Appeal B and C proposals are materially less harmful, such that a decision other than in accordance with the development plan is warranted.

98. There is a realistic prospect of the Appeal A development being implemented given that the appellant has a significant period of time within which to do so. The appellant's intention to implement residential development on the appeal site is evidenced by the number of planning applications and appeals which have been submitted. This further re-enforces the prospect of the implementation of the fallback under Appeal A.

Appeal C

99. I have concluded that the Appeal C proposal would not be harmful to the character and appearance of the area and it would not result in increased flood risk elsewhere as a result of increased surface water runoff (in contrast to the Appeal B scheme). As such, there would be no conflict with the development plan in this regard and it is not therefore necessary that the development has a materially less harmful impact than the Fallback development in relation to these two matters. The same is true of the effect of the Appeal C proposal on the provision of access to waste and fire services, where again, the proposal would not conflict with the development plan.
100. Nonetheless, the Appeal C proposal would conflict with the development plan policies relevant to the principle of development in the countryside. However, as already established, there would not be any harm associated with the impact of the proposal on the character of the countryside. In terms of accessibility to services and facilities and the conflict with the Council's overarching strategy for the location of residential development, the proposal would be significantly less harmful than the fallback development. This is because the fallback development would result in three dwellings being located in the countryside, whereas the Appeal C proposal only proposes one dwelling on the same site. For these reasons, the fallback development is a material consideration which outweighs the conflict with development plan policies concerning the principle of development.
101. The fact that the Appeal C proposal is a new dwelling as opposed to a conversion does not alter my conclusions in relation to the principle of development. This is because the primary difference between the impacts associated with these two types of development is the effect on character and appearance. Given that there would be no harm in this regard, it does not matter that a new dwelling is proposed rather than a conversion. Indeed, it is a comparison of the overall harm between the fallback and the Appeal C proposal which is the most important consideration, rather than a consideration of their similarities.
102. In terms of flood risk, whilst the Appeal C proposal was not supported by a sequential assessment, the existence of the fallback position is a material consideration of significant weight. In relation to this main issue, the provision of one dwelling in a location served by an access in Flood Zones 2 and 3 would be materially less harmful than the provision of three in the same location. The fact that the Appeal A proposal is for a conversion as opposed to a new dwelling does not alter my conclusions in this regard, as it is only the access which is located in areas at higher risk of flooding. Furthermore, I have concluded (in relation to Appeal A) that the evidence demonstrates that the

site can be safely accessed during flood events. For these reasons, the conflict between the Appeal C scheme and the relevant development plan and Framework policies (pertaining to the application of the sequential test) is outweighed.

103. Whilst I accept that fire safety (beyond the highway safety considerations already addressed) is a material consideration, this is a matter which can be addressed under the separate regulatory regime of building regulations.
104. The Council has referred to an Appeal Decision which addressed the consideration of a fallback position on a site elsewhere in the Borough. However, in that case the Inspector concluded that the proposal would be more harmful, in terms of character and appearance, than the fallback scheme. As such, this does not alter my conclusions in relation to the Appeal C scheme.
105. I acknowledge that the existence of a prior approval (the Appeal A development) does not provide a carte blanche for residential development on the appeal site¹⁴. However, the overall impact of the Appeal C proposal would be materially lower than the Appeal A scheme to such a degree that a decision other than in accordance with the development plan is warranted.

Appeal B

106. In contrast, the Appeal B proposal would have a harmful impact on the character and appearance of the area and insufficient evidence has been provided to demonstrate that it would not result in an increase in flood risk as a result of increased surface water runoff. In contrast, the fallback scheme would not result in any harm to the character of the area and would not give rise to increased flood risk elsewhere as a result of surface water runoff. Therefore, the Appeal B proposal would be materially more harmful than the fallback development. For the same reasons given in relation to the Appeal C proposal, the Appeal B scheme would be less harmful than the fallback on issues pertaining to the principle of development and the application of the sequential test on flood risk. However, on balance, I consider that the Appeal B scheme would overall be more harmful than the fallback scheme. Indeed, the conflict with the development plan policies in relation to character and appearance and flood risk¹⁵ is sufficient to warrant refusal of planning permission. Furthermore, the limited socio-economic benefits associated with the provision of one dwelling would not outweigh this conflict.

Appeal C Conditions

107. I have considered the Council's suggested conditions in light of advice contained in the Planning Practice Guidance and the tests within the Framework. As a result, I have amended some of the conditions so that they are enforceable, precise, relevant, necessary and reasonable in all other respects.
108. Conditions relating to timeliness [1] and the identification of plans [2] are necessary to provide certainty. Conditions requiring details of existing ground levels [3], proposed landscaping [4], proposed materials [5], details of boundary treatments [6] and details of bin storage [7] are all necessary in the

¹⁴ PINS Ref: APP/K0235/W/20/3244903

¹⁵ Note: the conflict referred to relates to surface water drainage as opposed to the application of the sequential test.

interest of character and appearance. For the same reasons the development should be undertaken in accordance with the arboricultural method statement [10]. An energy audit [8] is required in order to ensure compliance with Local Plan Policy 54 and in the interest of energy efficiency. A condition requiring details and implementation of parking provision [9] is necessary in the interest of highway safety. A condition pursuant to water efficiency [11] is necessary given the requirements of Local Plan Policy 52. A condition requiring implementation of Biodiversity Enhancement measures is also necessary [12].

109. A condition requiring that the dwelling is served with appropriate open access fibre optic infrastructure to enable high speed and reliable broadband connection is considered unreasonable given that the appeal site is in a location which is unlikely to currently benefit from such infrastructure and the extent that it would be available would be dependent on the service provision of third parties (telecommunications companies). Nonetheless, there would not be a conflict with Local Plan Policy 94 as my observations with regard to the location of the appeal site are sufficient to demonstrate that such a requirement is unfeasible (as allowed under part ii of Policy 94).

Appeal B and C Conclusion

110. The Appeal B proposal would conflict with the development plan taken as a whole. It would result in a more harmful impact on the character of the area than the fallback development. Furthermore, insufficient evidence has been provided to demonstrate that there would be no unacceptable increase in flood risk associated with surface water runoff. As such, the conflict with the development plan is not outweighed by other material considerations. Appeal B is therefore dismissed.
111. The Appeal C proposal would not conflict with the development plan policies relating to character and appearance, nor those concerning access for waste and emergency services. However, it would conflict with the development plan because the appeal site is located in the countryside and partly within areas at high risk of flooding. However, overall, it would be have a materially lower impact than the fallback development (allowed under Appeal A). This is a material consideration which outweighs the conflict with the development plan and consequently justifies a decision other than in accordance with the policies contained with it. Appeal C is therefore allowed.

Luke Simpson

INSPECTOR

APPEAL C - 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: RH/2020-01/01A, RH/2020-01/08A, RHS/2021-01/03, RHS/2021-01/04A, RHS/2021-01/06, RHS/2021-01/07 and 'Arboricultural Method Statement' dated May 2021
- 3) No development shall take place until detailed drawings showing the existing ground levels and the proposed ground and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained as such.
- 4) No development above slab level shall take place (including demolition) until details of both hard and soft landscape works, a timetable for their implementation and a management plan have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out and retained in accordance with the approved details. Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species.
- 5) No development above slab level shall take place until details of the external materials to be used (to include walls, roof, doors, windows and external gutters and pipework) have been submitted to and approved in writing. The development shall thereafter be carried out in accordance with the approved samples and retained as such thereafter.
- 6) Prior to first occupation of the dwelling hereby approved details of all boundary treatments, screen walls and fences including a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and timetable and retained as such thereafter.
- 7) Prior to first occupation of the dwelling hereby approved, details of the design and location of secure bin storage shall be submitted to and approved in writing by the local planning authority. The storage shall be implemented in accordance with the approved details prior to first occupation of the dwelling and the development shall be retained as such thereafter.
- 8) Prior to first occupation of the dwelling hereby approved, an energy audit (including timetable for implementation of measures) shall be submitted to and approved in writing by the Local Planning Authority. The energy audit shall demonstrate how the development will achieve a 10% improvement in the Dwelling Emission Rate over the Target Emission Rate as defined in The Building Regulations Approved Document L1A: Conservation of Fuel and Power in New Dwellings (2013). The measures shall be implemented in accordance with the approved timetable and details and retained as such thereafter.

- 9) Prior to first occupation of the dwelling hereby approved, plans showing the provision of four car parking spaces (including one electric vehicle charging point) and secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The parking spaces shall be provided prior to the occupation of the dwelling and retained for such use thereafter in accordance with the approved details.
- 10) The development shall be carried out in accordance with the Apical Arbor 'Arboricultural Method Statement' dated May 2021.
- 11) The dwelling hereby approved shall achieve as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
- 12) The demolition of the existing building and construction of the dwelling hereby approved shall be carried out in accordance with the recommendations contained at Section 2.3 of the Cherryfield Ecology Report (dated 26 April 2021) and the biodiversity enhancement measures set out under Section 3.0 shall be implemented prior to first occupation of the dwelling hereby approved.