



Appeal Decision

Hearing held on 8 August 2023

Site visit made on 9 August 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

Appeal Ref: APP/A0665/W/23/3316910

Hooton Hotel, Hooton Road, Hooton, Ellesmere Port CH66 7NL

- 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 Mick Larkin (Hooton Hotel Developments Ltd) against the decision of Cheshire West and Chester Council.
 - The application Ref 21/02906/FUL, dated 12 August 2021, was refused by notice dated 11 October 2022.
 - The development originally proposed was 'redevelopment of site for new residential development involving the demolition of the existing public house and erection of 12 no open market dwellings and 6 no. affordable dwellings with associated new single point of vehicular access, landscaping treatment and biodiversity net gain.'
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of site for new residential development involving the demolition of the existing public house and erection of 9 no open market dwellings and 4 no affordable dwellings with associated new single point of vehicular access, landscaping treatment and biodiversity net gain, at Hooton Hotel, Hooton Road, Hooton, Ellesmere Port CH66 7NL, in accordance with the terms of the application, Ref 21/02906/FUL, dated 12 August 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The proposal originally sought development of 12 market and 6 affordable housing units, as set out in the description of the banner heading above. This was subsequently amended during the application to 9 market units and 4 affordable units. I have assessed the proposal on this basis and the formal decision above reflects this amended quantum of development.
3. A new National Planning Policy Framework (the Framework) was published on 5 September 2023. I am satisfied that the limited changes made to the Framework are not relevant to the present appeal. Therefore, the new Framework does not affect the main parties' cases and it is not necessary to seek further comments. References in the decision are to the 2023 Framework.

Background and Main Issues

4. The appeal site is located within the Green Belt. The site contains a derelict public house out of use for several years. The evidence before me indicates efforts to find an operator to reopen the premises have not been successful, and the Council does not oppose the loss of the public house in principle.

5. At the hearing, the question of whether the proposal would make adequate provision for affordable housing was raised. The appellant has subsequently provided a signed unilateral undertaking to address this matter, which is not a point of dispute between the main parties. Accordingly, it no longer forms a main issue of the appeal.
6. Therefore, having regard to the reasons for refusal and other evidence before me, I consider the main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies, the provisions of the Framework, the effect on the openness of the Green belt and the purposes of including land within it;
 - Whether the proposal would represent an appropriate location for housing, having regard to the accessibility of the site to local services and facilities and the effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on protected species;
 - If the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development in the Green Belt

7. The Government attaches great importance to Green Belts. Paragraph 149 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but it lists certain forms of development which are not regarded as inappropriate. This includes, at criterion (g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would either:
 - not have a greater impact on the openness of the Green Belt than the existing development; or,
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
8. It is common ground between the parties that the site comprises PDL. The appellant's case at the hearing was that the proposal was capable of according with both strands of Paragraph 149(g). In respect of the second strand, the appellant's evidence sets out that Willaston & Thornton Ward has a low level of social rented tenure compared to the wider district and nationally, and that there are some 159 persons, couples or households on the Council's housing waiting list who have indicated Hooton and Willaston to be their preferred choice of area.
9. The Council does not dispute the appellant's evidence of local need but argues that it is meeting its requirements to deliver affordable housing through policy compliant schemes and rural exception sites, pointing to an overall need for

6,600 affordable units between 2010 and 2030 (30% of the total housing requirement), of which 4,420 have been permitted or delivered by 2022. These figures suggest the Council is on track to achieve 6,600 units by 2030, but the Council accepted at the hearing that windfall sites will be needed to do so. In that respect, the proposal would contribute towards meeting an identified affordable housing need.

10. However, the Council further argues that in meeting but not exceeding the 30% affordable housing required by Policy SOC1 of the Cheshire West and Chester Local Plan Part 1: Strategic Policies (January 2015) (the LPP1), the proposal would not deliver sufficient affordable housing to engage the second strand of Paragraph 149(g). The Council's position at the hearing was that because the second strand in principle permits development which would cause harm to Green Belt openness at a level that may approach 'substantial,' it should require a greater level of affordable housing to offset this harm.
11. However, the wording of paragraph 149(g) is 'contribute to meeting an identified affordable housing need'. It does not specify that compliance is dependent on delivery of a scheme that is fully or majority affordable housing, or indeed schemes above levels set out in development plan policy. Moreover, nowhere in the evidence before me, or within national policy or guidance to which I have been referred, does it set out such an interpretation. I accept that, interpreted in the extreme, a proposal could seek to provide a single affordable unit that would technically contribute to a local need, but may represent a very low ratio of affordable to market housing. However, even if this were accepted as meeting the second strand of paragraph 149(g), it would likely conflict with the development plan in respect of the general requirement for affordable housing. Therefore, I am not persuaded that acceptance of a policy compliant scheme as satisfying the second strand of Paragraph 149(g) would set an unduly low bar for development in the Green Belt or undermine the delivery of affordable housing in the district.
12. On this matter, therefore, I conclude that the proposal would contribute towards meeting an identified affordable housing need within the area of the local planning authority. Therefore, the second strand of paragraph 149(g) is capable of being met, subject to my findings on the effect on openness.
13. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. In spatial terms, the existing public house occupies the northern end of the site, with the southern end open, albeit laid to hardstanding having formerly functioned as a car park. The proposed dwellings would spread across the site in three rows. Compared to the existing buildings on the site, the proposal would result in increases in footprint of some 43%, gross internal floorspace of 71% and volume of 21%.
14. The appellant argued at the hearing that the development would have negligible effects on openness due to the effective screening that would be provided around the site boundaries that would filter views of the built form. However, the imagery provided by the appellant suggests that the built form to the southern end of the site would be visible, both from the junction at Hooton Road looking through the north-western corner of the site, and clearly from the new access proposed on Waterworks Lane. From both vantage points, the additional spread of development would be observable, as I was able to see at my site visit. Although the southern end of the site was used as a car park, it

no longer is and has re-established an open quality. The height of the dwellings would have a much greater impact in this part of the site than parked vehicles that would have been low level, temporary in nature and well screened by boundary hedgerows.

15. Moreover, even offsetting the scale of the public house, the overall quantum of development on the site would increase and would extend to parts where there is no built form at present. Overall, I find that this would have an adverse effect on openness in both spatial and visual terms.
16. However, the test under the second strand of paragraph 149(g) is whether the harm to openness would be substantial. Although the evidence shows large increases in footprint and floorspace, the overall volume increase would be less dramatic at 21%. The appellant sought to present a volume calculation omitting the affordable housing element, but there is no policy or guidance, as far as I am aware, that advocates such an approach. Nonetheless, I accept that the development would temper the increased scale of the built form by breaking up the massing with areas of open space and enhancing the soft landscaping throughout the site, such that the site would not appear wholly occupied by buildings and some sense of openness would be retained.
17. Taking these considerations together, I find that the proposal would result in moderate harm at most to the openness of the Green Belt. In light of these findings, the proposal would accord with the exception at paragraph 149(g)(ii) and would not amount to inappropriate development in the Green Belt. Therefore, there would be no conflict with the requirements for development in the Green Belt as set out under Policy STRAT9 of the LPP1 and the Framework.
18. Given my conclusions on this main issue, it is not necessary for the appellant to demonstrate that very special circumstances exist so as to justify inappropriate development in the Green Belt.

Location for Housing

Accessibility

19. The site is located outside of any identified settlement and is therefore in the countryside for planning purposes. Policy DM19 of Cheshire West and Chester Local Plan Part 2: Land Allocations and Detailed Policies (July 2019) (the LPP2) supports certain forms of development in the countryside, including, at criterion 7), the replacement of buildings on previously developed land where a series of seven criteria are met. Of these, and relevant to this main issue, the Council argues that the proposal would conflict with criterion 7(ii) that the development is located within reasonable walking distance of local services and facilities along a safe route.
20. The Framework sets out that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. However, it also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.
21. There are no immediate amenities around the appeal site, with the notable exception of the train station. This, I was told, informed the Council's decision not to designate the area as a settlement under the local plan. The appellant

argues that the site is nevertheless accessible on foot to services in Willaston to the west. I walked this route at my visit. There is a footpath for the full length and most of the route has street lighting. However, although the nearest extent of Willaston was around 1.1km, the distance to the convenience store was around 2.35km, a walk of some 28 minutes at an easy pace, or 24 minutes at a brisker pace on the return journey. To my mind, a round trip of 45 to 60 minutes is likely to deter most people from walking, particularly if they are less mobile, are with children or have to return carrying purchases.

22. This notwithstanding, the presence of the footpath means that some residents may still choose to walk on occasion, when not constrained by time or for leisure purposes, such as to visit the public house. The road is busy, but I did not note it to be particularly unsafe for pedestrians as argued by the Council, and no such concerns have been raised by the local highway authority. The facilities in Willaston are also easily reached by bicycle within a few minutes.
23. Moreover, even if these facilities are unlikely to be regularly visited by means other than the private car, the adjacent train station is a significant public transport facility with regular services to Chester, Liverpool and points in between, which accords with criterion 7(i) of Policy DM19. This would be highly attractive for prospective occupants as a preferable mode of travel over the private car for everyday commuting and many leisure trips. Its presence is therefore likely to considerably reduce the degree to which occupants rely on their car to meet their overall travel needs. There are also weekday bus services accessible within 200 metres or so of the development serving Ellesmere Port and Neston, including a school service.
24. In the context of a rural location such as this, I find that the level of public transport availability is exceptional and would be likely to considerably reduce the level of car use overall by residents, even allowing for the probability of short car journeys to the nearest services in Willaston for day-to-day needs.
25. Therefore, notwithstanding the limitations on walking to the nearest facilities, I find that the appeal site would be sufficiently accessible to local services and facilities by means other than the private car, and therefore would accord with the overall thrust of the locational criteria of Policy DM19(7).

Character and Appearance

26. Policy DM19(7)(v), (vi) and (vii) together require that redevelopment schemes have no greater impact on the character of the countryside; to result in an enhancement of the site and the rural setting and that the design and layout fully reflects the rural character of the area and does not 'urbanise' the countryside.
27. The Council accepts in its written evidence, and also accepted at the hearing, that the scale of the proposed front building containing the flats would be acceptable in the context of the Hooton Road streetscene, in that it would create a deliberate frontage with a similar scale and presence to the existing public house. The overall design approach to the individual buildings, including the materials, are also not opposed. Rather, the Council's concerns were expressed as relating to the depth of development on the site, the uncharacteristic suburban layout with short cul-de-sacs and the effect on the rural character of Waterworks Lane. The appellant challenged the Council's position at the hearing, pointing to the conclusions of its Landscape and Visual

Impact Assessment (LVIA) as not having been questioned by the Council's Landscape Officer.

28. I observed the immediate area to be mixed in character, with residential development to the east along Hooton Road of mainly traditional forms, but with considerable industrial development opposite the site to the north and west. Hooton rail station, the railway line and sidings and the large park-and-ride car park are further urbanising elements within the immediate environment. This is consistent with the description of the Willaston Character Area as having 'significant areas of 20th century residential and industrial development, especially alongside roads, that give the landscape a 'suburban' appearance in many places.'¹
29. Consequently, whilst there is an undeveloped rural character to the south of the site, and to areas further afield beyond the development on Hooton Road, the immediate context is a mixed built form along a well-trafficked road adjacent to a busy transport hub. The site also abuts a dense wooded area to the south and east which acts as a physical and visual barrier to the wider, open countryside beyond. From my own observations, this barrier means the site is read very much as part of the built-up area along Hooton Road, and not as a contiguous part of the open countryside.
30. The Council describes the site layout as uncharacteristic of the linear pattern of development seen to other developments nearby. I do not share this view as, whilst there are linear patterns, these are sporadic examples dotted variously along Hooton Road, and not of an extent that they define the spatial pattern of the area, which also includes individual buildings and considerable and varied forms of development at depth in the case of the industrial units directly to the north and the park-and-ride facility to the west.
31. Moreover, perhaps the most notable development is the Roften Way scheme around 200 metres to the west, comprising some 265 dwellings and a care home extending hundreds of metres south of Hooton Road. This scheme far exceeds the scale of the proposal before me and adds considerably to the sense of the area being in transition and capable of accommodating development that enhances its appearance.
32. The proposed development would have a more suburban character due to its overall scale, layout and contemporary architecture, but the particular mixed nature of the surroundings, which include industrial buildings of little aesthetic value, are such that this is not a typical rural setting. Consequently, the proposal would not appear anomalous within this context, but rather would create something of a focal point within this cluster of development that would uplift a prominent but derelict corner. This would enhance the site and its setting in accordance with criterion (vi).
33. The depth of development into the site would be no deeper than that to the east on Oak Road and much less than the extent of the car park opposite on Waterworks Lane. The tree cover to the south and east of the site would contain the development and prevent it from visibly extending the built form into the open countryside or adversely affecting the rural character which emerges further to the south on Waterworks Lane. As such, I find the proposal

¹ A Landscape Strategy for Cheshire West and Cheshire Borough (2016)

would satisfy the requirements of criteria (v) and (vii) to not have a greater impact on the character of, or 'urbanise' the countryside.

34. For these reasons, I conclude that the proposal would enhance the character and appearance of the area, in accordance with the relevant criteria of Policy DM19.

Conclusions on Location for Housing

35. It is common ground between the main parties that, where the proposal accords with Policy DM19, then there is consequent compliance with the strategic aims of Policies STRAT 1, STRAT 2 and STRAT 8 of the LPP1 in respect of the location of new housing development. Given my findings above in respect of accessibility and character and appearance, I agree and find that the proposal would represent a suitable location for housing.

Protected Species

36. The Council's third reason for refusal alleged harm to protected species, in this case bats and great crested newts and, having regard to the derogation tests of the Conservation of Habitats and Species Regulations 2017, considered that Natural England (NE) would be unlikely to grant licences to undertake works on the site. However, the Council agreed at the hearing that, were the proposal found to be otherwise acceptable in planning terms, then it would take the view that licences would be likely to be granted, and it would no longer contest this reason for refusal.
37. However, as the appropriate decision-maker in this case, it is still necessary for me to be satisfied that the proposal would not cause harm to protected species, or that any harm would be suitably mitigated, having regard to the three derogation tests.
38. The first derogation test is reasons of overriding public interest. The proposed development would deliver housing, including affordable housing and make effective use of PDL. It would also deliver tangible economic benefits to the local building trade in the construction of the development and subsequent patronage of local services by future occupants. My findings above do not indicate substantive adverse impacts to counter these benefits.
39. The second test is that there is no satisfactory alternative. The Council pointed to the 'do nothing' scenario or the possibility of renovating the existing building, but the evidence is clear that the public house is no longer viable, and the condition of the building is increasingly poor, with the roof collapsed in places, and the evidence is that the structural condition of the building is such that demolition is required to facilitate the overall redevelopment. I am satisfied that lesser interventions are not realistic alternatives in this case.
40. The final test is that the proposal would not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range. The appellant's surveys revealed the presence of day roosts for seven bats and that a Natural England Bat Mitigation Class Licence (Low Impact) would be appropriate in this case. The mitigation proposed includes 3x bat boxes erected prior to the commencement of works; procedures and methods for dealing with bats located during demolition works; permanent roosting provision in the form of bat tubes and bat access tiles; and control of lighting across the site.

41. In respect of great crested newt, the appellant's evidence assumed their presence within three ponds located between 130-180 metres from the site boundary but assessed the risk of their presence on site as low on the basis of these separation distances and the existence of better habitats closer to the ponds. The appellant has indicated an intention to develop the site under a Great Crested Newt District Level Licence alongside implementation of a reasonable avoidance measures (RAMs) method statement. The appellant has registered with the scheme and an Impact Assessment Conservation Payment Certificate has been issued. This specifies a sum of £4,184.40 to be paid to NE following the granting of planning permission to be used for the creation of new ponds and implementation of newt conservation measures within the district. The RAMs would include measures related to the construction phase to reduce the suitability of the site as a habitat for newts and recommended actions to be taken in the event newts are found on site.
42. On the evidence before me in respect of both protected species, I am satisfied that the risks identified are low and that the proposed mitigation measures would suitably address these risks, such that the favourable conservation status of both bats and great crested newts is maintained. The mitigation measures can be secured by condition.
43. Subject to this, I conclude that the proposal would ensure that the ecological value of the site would be preserved, and I find there to be no reason in principle why the proposal would not meet the relevant derogation tests and that the necessary licences would not be granted by NE. No conflict therefore arises with Policies ENV4 of the LPP1 or DM44 of the LPP2 or with the related aims of the Framework to protect and enhance biodiversity.

Other Matters

44. In reaching a view on the main issues above, I have had regard to the various examples of other developments permitted by the Council which the appellant regards as comparable, and to the Council's responses to these. Ultimately, they are separate proposals in different locations and with their own unique circumstances. As such, it is difficult to draw direct comparisons with the appeal scheme such that these other cases may be decisive to my reasoning. Therefore, I have reached my conclusions on the specific planning merits and site-specific evidence of this proposal.
45. The Council has not opposed the loss of the public house, which is indicated to have been closed since 2018. On the evidence before me, the site has been appropriately marketed, with no realistic interest from prospective operators, including local groups. The building is also in a poor condition that would require substantial financial investment to return to use. I also note the presence of alternative facilities nearby in Hooton and Willaston. Overall, I have no firm reasons to differ from the Council's conclusions and I am satisfied that the proposal accords with the relevant requirements of Policy DM39 of LPP2.
46. The appellant has submitted a signed unilateral undertaking (UU) which would secure the provision of the affordable housing units in line with the requirements of Policy SOC1 of LPP1. A completed Section 106 agreement has also been provided which would secure contributions in respect of allotments, amenity green space, children's play spaces, parks and recreation and sports pitches. On the evidence before me, I am satisfied that the contributions sought through both the S106 agreement and UU are required to offset the

impacts of the development and secure affordable housing and meet the requirements for planning obligations set out in the Framework. I have therefore taken the submitted planning obligations into consideration.

47. The application was not refused in respect of the effect on neighbours living conditions, trees, access and parking, highway safety, contaminated land, housing mix, drainage and flood risk. I have had regard to the evidence before me in respect of each of these matters, and to the comments of interested parties in these and other issues, including pressure on local infrastructure. However, the evidence before me does not indicate that the proposal would cause material harm in respect of any of these matters, subject where necessary to planning conditions to secure mitigation or the delivery of certain elements of the scheme.

Planning Balance

48. For the reasons set out above, I have found that the proposal would not amount to inappropriate development in the Green Belt. Moreover, I have found that the proposal would be within an accessible location and would be acceptable in terms of its effect on the character and appearance of the area and protected species. Therefore, overall, I find that the proposal would accord with the development plan, taken as a whole.
49. In light of my findings with respect to the Green Belt, the Framework as a material consideration does not indicate that development should be refused. On the contrary, the proposal would deliver benefits including boosting the supply of housing; providing affordable housing to meet a local need; making efficient use of previously developed land; creating biodiversity net gain and generating economic activity during and post-construction. Overall, the proposal accords with the aims of the Framework, taken as a whole, and would represent a sustainable form of development.
50. There are no other material considerations I have identified which would otherwise justify withholding planning permission in this case.

Conditions

51. I have had regard to the list of suggested conditions provided by the main parties. Where necessary, I have amended their wording to ensure they meet the relevant test for conditions set out in the Framework. The appellant has confirmed their agreement to conditions which would be pre-commencement. The numbers in brackets refer to the condition numbers in the schedule.
52. In addition to the standard time limit [1], a condition setting out the approved plans is necessary to provide certainty [2]. Pre-commencement conditions are required in respect of a construction management plan [3]; potential land contamination [4]; a surface water drainage scheme [5]; tree protection measures [6]; a method statement for protection of bats [7]; a scheme of sound insulation [9] and details of highway works [10]. These are required to respectively address neighbours' living conditions; human and environmental health; flood risk; prevent damage to trees; safeguard protected species; provide a suitable standard of accommodation and highway safety. These are pre-commencement as they relate to matters where harm could arise at the outset of development, or where the details are required at the outset so as to be properly incorporated into the construction phase.

53. A condition is also required that no demolition works take place until a licence issued by NE authorising the works is obtained or written confirmation that no such licence is needed is given [8]. This is necessary, reasonable and relevant to planning to safeguard protected species present on or near to the appeal site. Although the Council raised concerns, it would be possible to enforce where development is found to have proceeded without either of the criteria having been met. I also have no substantive evidence to suggest that the only pre-commencement condition related to protected species [7] could not be discharged, and licences subsequently issued by NE, before development commences. The appellant has also indicated their agreement to the imposition of the condition.
54. It is also necessary to set out hours of construction [11] to protect neighbours' living conditions. Further conditions requiring implementation of protection measures during construction for great crested newts [12], badgers [13] and nesting birds [14]; and implementation of mitigation measures for birds and bats [19], a habitat management plan [20] and an external lighting scheme [21] are all necessary to safeguard protected species and promote biodiversity.
55. Details of finished floor levels [15], external materials [16] and landscaping [18] are necessary to ensure a satisfactory appearance. Measures to address unexpected contamination [17] and confirm completion of remediation measures [23] are required to protect human and environmental health. Conditions to secure provision of vehicular and cycle parking [22] and capability for electric vehicle charging points [24] are required for highway safety and promotion of sustainable transport. Finally, a condition is required for efficient water usage [25] in the interests of sustainability.

Conclusion

56. For the reasons set out, the appeal is allowed.

K Savage

INSPECTOR

Schedule of Conditions

Time Limit/Plans

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall not be carried out except in complete accordance with the details shown on the submitted drawings and documents as follows:

Site Location Plan	Drawing : 2022-001A
Proposed Site Plan	Drawing : A029_P_010F
Proposed Cycle store : houses	Drawing : A029_P_012C
Proposed Cycle store : apartments	Drawing : A029_P_503B
Proposed Bin store : apartments	Drawing : A209_P_504A
Apartment & Type F GF	Drawing : 2022-111C
Apartment & Type F FF	Drawing : 2022-112B
Apartment & Type F Roof	Drawing : 2022-113C
House Type D elevations	Drawing : A029_P_204
House Type E elevations	Drawing : A029_P_205
House Type D GF	Drawing : A029_P_115
House Type E GF	Drawing : A029_P_119
House Type D FF	Drawing : A029_P_116
House Type E FF	Drawing : A029_P_120
House Type D SF	Drawing : A029_P_117
House Type E SF	Drawing : A029_P_121
House Type D roof	Drawing : A029_P_118
House Type E roof	Drawing : A029_P_122
Apartment elevations 1	Drawing : A029_P_501D
Apartment elevations 2	Drawing : A029_P_502D
Arboricultural Impact Assessment	Document : 20/AIA/CHE(W)367 (Rev A)
Landscape Masterplan - General Arrangement	Drawing : YD2_HH_LP001 Rev G
Landscape Planting Plan and Schedule	Drawing : YD2_HH_LP002 Rev E
Ecology Report (incorp. Mitigation biodiversity net gain)	Document : 21/0074/A
Bat Emergence Surveys	Document : dated 15 June 2021
PRFA - Report of Walkover (bats)	Document : dated 16 June 2022
GCN Mitigation Plan : RAMS	Document : dated 18 June 2022
Biodiversity Net Gain Report	Document : dated 16 June 2022
Biodiversity Net Gain - metric spreadsheet	Document : dated 30 June 2022
PRFA - Updated Walkover	Document : dated 8 July 2022
Bats Re-emergence Survey (BERS)	Document : V4

Pre-Commencement

- 3) No development shall take place, including any works of demolition, until a Construction Management Plan, including Pollution Risk Assessments

and Method Statements, has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- i. The provision of parking for vehicles of site operatives and visitors;
- ii. Area for loading and unloading of plant and materials;
- iii. Location of site office and any other portacabins;
- iv. Storage of plant and materials used in constructing the development;
- v. Wheel washing facilities;
- vi. A scheme for recycling/disposing of waste resulting from demolition and construction works;
- vii. Protection of surface and groundwater resources; and
- viii. Best practice on the use and storage of fuels, oils and chemicals, to remove the risk of causing pollution during construction.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall take place until the following components (a to c) of a structured scheme to deal with the risks associated with actual or potential contamination of the site have each been submitted to and approved in writing by the local planning authority:
 - a) A detailed scheme of site investigation based on the submitted Phase 1 Report from which a detailed assessment of risk to all current and future receptors that may be affected, including those off site, will be derived.
 - b) A remediation options appraisal and implementation strategy, based on the detailed results of (a), giving full details of the remediation measures required and how they are to be undertaken.
 - c) A verification plan providing details of the data that will be collected in order to demonstrate that the remediation works set out in (b) are complete and effective and identifying any requirements for longer-term monitoring of pollutant linkages; maintenance, contingency actions and reporting.

The pre development structured scheme shall be implemented as approved unless revision is agreed with the local planning authority in writing.

- 5) Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the local planning authority. The drainage schemes must include:
 - i. An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;

- ii. A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations). In the event of surface water discharging to the public combined sewer, the rate of discharge shall be restricted to 5 l/s;
- iii. Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- iv. Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- v. Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

- 6) Prior to the commencement of development, a tree protection plan, to include off-site woodland, shall be submitted to and approved in writing by the local planning authority. This shall be implemented in full before any construction works take place, including demolition, and shall remain for the duration of works.
- 7) Prior to the commencement of development, a method statement in regard to precautions to be taken for bats during building works shall be submitted to and approved in writing by the local planning authority. The agreed method statement shall be implemented in full throughout the construction period.
- 8) No development, including demolition and site clearance, shall commence unless the local planning authority has been provided with either of the following in respect of both bats and great crested newt:
 - a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development to go ahead; or
 - b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.
- 9) Prior to any development commencing on site, a detailed scheme of sound insulation shall be submitted to and approved by the local planning authority. The submission for approval shall include details of windows, openings and means of ventilation in the buildings hereby approved, as well as full details of any acoustic fences or other barriers required, and ensure the following noise levels are not exceeded and shall apply to all residential properties prior to occupation within the development hereby approved. The scheme shall ensure that the following internal noise measurements are met:
 - Maximum noise levels within habitable rooms during the day (07:00-23:00hrs) of 35dB(A) LAeq, 16hrs
 - Maximum noise levels within bedrooms during the night (23:00-07:00hrs) of 30dB(A) LAeq, 8hrs and 45dB(A) LMax

- Noise levels within external living areas such as patios and gardens during the day (07:00- 23:00hrs) of 50dB(A) LAeq,16hrs
 - Internal noise levels shall be achieved with windows open, or else closed and with other adequate means of ventilation provided, in accordance with current necessary requirements.
 - Any fences, other barriers or other means of attenuation necessary to achieve the above noise limits shall be installed as approved and retained thereafter.
 - The approved scheme shall be implemented and completed in full before each residence is first occupied and shall be retained at all times thereafter.
- 10) Prior to the commencement of any development on site, the developer must submit to and have approved in writing by the local planning authority detailed plans in respect of the works required within the highway to form the new access, close the existing access and associated footway works along both highway frontages along with a review and potential provision/upgrade of street lighting. The works shall only be carried out in strict conformity with the agreed details and completed prior to first occupation of the development.

Construction Phase onwards

- 11) No development, including demolition, construction works and/or site deliveries, shall take place outside 0800 hours to 1800 hours Mondays to Fridays; 0800 hours to 1300 hours on Saturdays or at any time on Sundays or Bank Holidays.
- 12) The development hereby approved shall only be carried out in accordance with the best practice reasonable avoidance measures detailed in the Hooton Public House Hooton Great Crested Newt Mitigation Plan dated 18/06/2022.
- 13) The development hereby approved shall only be carried out in accordance with the best practice reasonable avoidance measures during construction in respect of badgers, as detailed in Section 4.2.4 of the Ecological Scoping Assessment 12th January 2021 by Kingdom Ecology.
- 14) Notwithstanding the approved plans/surveys, vegetation and building clearance works shall not take place between 1 March and 31 August inclusive (bird nesting season) unless they have first been surveyed for nesting birds by a qualified ecologist and, if nesting birds are found, a scheme for the protection of nesting birds has been submitted to and approved in writing by the local planning authority. Once such a scheme has been approved, the demolition/vegetation clearance within the bird nesting season shall only be carried out in accordance with the approved scheme.
- 15) With the exception of demolition and site clearance, no development shall take place until a plan showing the proposed finished floor level of the new buildings and finished ground levels of the site in relation to the existing levels of the site and adjoining land have been submitted to and approved in writing by the local planning authority. The works shall be carried out in strict accordance with the approved details.

- 16) With the exception of demolition and site clearance, no development above slab level shall commence until details and samples of all materials to be used externally on the buildings have been submitted to and approved in writing by the local planning authority, and the development shall be carried out in accordance with the approved details.
- 17) If during site preparation, demolition or development works contamination is encountered or is suspected in areas where it had not been anticipated:
- being from an existing risk assessed source, and
 - containing comparable risk assessed substances, and
 - affecting an already risk assessed pathway or receptor

that could be addressed by simple extension of the approved measures to a larger area, then the local planning authority shall be notified promptly in writing confirming: the areas affected, the approved investigation, remediation and validation measures to be applied and the anticipated completion timescale. However, if the contamination is:

- from a different source, or
- contains a new contaminative substance, or
- affects a new pathway or receptor,

then revised proposals for detailed investigation, risk assessment, remediation and verification shall be submitted for the written approval of the local planning authority prior to all but urgent remediation works necessary to secure the area and control pollution risks.

Prior to Occupation

- 18) Prior to the first occupation of the development hereby approved, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:-

- i. means of enclosure;
- ii. hard surfacing materials;

Soft landscape works shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

The hard landscaping shall be carried out to the approved specification prior to the occupation of the development. The approved soft landscaping details shall be implemented wholly in accordance with the approved details in the first available planting season after occupation.

If within a period of 5 years from the date of initial planting, any trees or shrubs planted in accordance with the approved landscaping works are removed, die or become diseased or seriously damaged then replacement trees or shrubs shall be planted in accordance with the approved landscaping works in the next available planting season unless agreed otherwise in writing by the local planning authority.

- 19) The development hereby approved shall not be occupied until the bird nesting and bat roosting provision has been implemented in accordance

with the details set out in Appendix 3 of the Arbtech BERS Assessment Report version 4, entitled Proposed Site Plan with Enhancements. The bird nesting and bat roosting provision shall thereafter be retained on site for the life of the development.

- 20) Prior to occupation of development, a written 30 year Habitat Management and Maintenance Plan (HMMP) for the site shall be submitted to and approved in writing by the local planning authority. The approved HMMP shall be strictly adhered to and implemented in full for its duration and shall contain the following;
- a) Description and evaluation of the features to be managed;
 - b) Ecological trends and constraints on site that may influence management;
 - c) Aims, objectives and targets for management - links with local and national species and habitat action plans;
 - d) Description of the management operations necessary to achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule, including annual works schedule
 - g) Details of the monitoring needed to measure the effectiveness of management;
 - h) Details of the timetable for each element of the monitoring programme including submission of monitoring reports to the local planning authority ; and
 - i) Details of the persons responsible for the implementation and monitoring.
 - j) Mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets
 - k) Reporting on year 1, 2, 5, 10, 20 and 30, with biodiversity reconciliation calculations at each stage.
- 21) Prior to the occupation of the development hereby approved and prior to the installation of any external lighting, details of all external light fittings and external light columns, including their luminance and location shall be submitted to and approved by the local planning authority. The lighting shall be installed in full accordance with such approved details, and so retained. All exterior lighting to be capped at the horizontal with no upward light spill. The lighting scheme should also reflect the Bat Conservation Trust Guidance Note 08/18 (Bats and Artificial Lighting in the UK) and should consider both illuminance (lux) and luminance (candelas/m²). It should include dark areas and avoid light spill upon bat roost features, bat commuting and foraging habitat (boundary hedgerows, trees, watercourses etc.) aiming for a maximum of 1lux light spill on those features.
- 22) The development shall not be occupied until the vehicular and secure covered cycle parking, turning and service areas have been constructed in accordance with standards and shall be retained and made fully available for those purposes at all times thereafter.
- 23) No part of the development site approved by this permission shall be occupied until:
- a) all components of the pre-approved or revised remediation measures to deal with the risks associated with actual or potential

contamination of the site, relevant to that part, have been completed, and;

- b) written evidence of satisfactory remediation completion and of the suitability of that part of the site for occupation has been submitted to and accepted by the local planning authority.

Ongoing Compliance

- 24) Each dwelling will provide at least one dedicated parking space with a dedicated 32-amp radial circuit which is directly wired to an appropriate RCD at the consumer unit. The circuit shall be located where it is accessible from a dedicated parking bay, such that it may readily be upgraded to Type 2 electric vehicle charging point. Alternatively, the developer may choose to install a proprietary charger with a BS EN 62196 Type 2 socket. Charging equipment shall comply with the latest version of Minimum Technical Specification – Electric Vehicle Homecharge Scheme (EVHS) published by Office for Low Emission Vehicles and shall be rated to at least IP54 for environmental protection if located externally.
- 25) The dwellings hereby approved shall be designed and constructed to meet the higher National Housing Standard for water consumption of 110 litres per person per day.

APPEARANCES

FOR THE APPELLANT:

Christian Hawley	Counsel, instructed by J10 Planning
Justin Paul BA BTP MRTPI	Managing Director, J10 Planning
Ali Siddique BA(Hons) Dip Arch ARB RIBA	Architect, Footprint Design
Adam Vickers CLMI PgDip LA BSc(Hons)	Landscape Director, Square Yard
Mick Larkin	Newry Construction
Tom Cavender	Newry Construction

FOR THE LOCAL PLANNING AUTHORITY:

Emily Yates	Senior Planning Officer
Bethan Armstrong	Principal Planning Officer
Beth Fletcher	Senior Planning Policy Officer

Documents submitted at the Hearing

Copy of aerial photograph indicating viewpoints for site visit

Paper copy of draft agreed list of conditions

Copy of completed Section 106 Agreement dated 3 August 2023

Documents submitted after the Hearing

Council email dated 22 August with attached comments in response to appellant's Statement of Case: Addendum

Completed unilateral undertaking dated 23 August 2023

Emails from appellant dated 18 September 2023 and Council dated 19 September 2023 in respect of prospective conditions