



Appeal Decisions

Hearing Held on 17 October 2023

Site visit made on 18 October 2023

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2023

Appeal A: APP/J1915/C/22/3291052

Land at Quinbury Farm, Hay Street, Braughing, Ware, Hertfordshire

SG11 2RE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Adam Saggars, Quinbury Farm Estate Limited, against an enforcement notice issued by East Hertfordshire District Council.
- The enforcement notice was issued on 21 December 2021.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of 4no dwelling houses.
- The requirements of the notice are 1 Permanently remove from the land the 4no dwelling houses including footings and drains; 2 Remove from the Land all the resultant materials following compliance with (1).
- The period for compliance with the requirements is 6 months.
- The appeal is made on the grounds set out in section 174(2)(a), (b), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/J1915/W/23/3317491

Quinbury Farm, Hay Street, Braughing, Ware, Hertfordshire SG11 2RE

- 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 Adam Saggars, Quinbury Farm Estate Limited, against the decision of East Hertfordshire District Council.
- The application Ref 3/22/0813/FUL, dated 11 April 2022, was refused by notice dated 2 February 2023.
- The development proposed is "Continued erection of four dwellings to the same design and appearance as previously approved under ref. 3/14/1204/FP together with all supporting infrastructure following removal of the original barns."

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions set out below in the Formal Decision.

Application for costs

1. At the Hearing an application for costs was made by Mr Adam Saggars, Quinbury Farm Estate Limited, against East Hertfordshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

2. With regard to Appeal A, the appeal on ground (b) is that the alleged development has not occurred as a matter of fact. The Council conceded, prior to the event, that the breach of planning control, as alleged in the notice, was somewhat erroneously described and therefore misleading. This is because the four dwellings referred to are only in the very early stages of construction.
3. The Council suggested the allegation could be corrected by the insertion of words qualifying that the breach concerned 'works for' the erection of 4 dwellings, with consequential amendments to the notice requirements. The appellant accepted that correcting the notice accordingly would not result in prejudice and I have no reason to take a contrary view. The ground (b) appeal therefore succeeds to this limited extent.
4. If, as in this case, the allegation is corrected, then the deemed planning application is changed accordingly and thus forms the basis for assessing the ground (a) appeal. Case law, as referred to by the appellant, does not persuade me otherwise¹.
5. The appellant confirmed in advance of the Hearing that the appeal on ground (g) was withdrawn. I therefore take no further action with regard to this element of the appeal.
6. With regard to Appeal B, I have taken the description of development from that given on the application form, which I consider adequately captures what is proposed.

Background

7. The appeal site, part of a former farmstead, which included cattle and storage barns, has a lengthy planning history. In December 2005 the Council granted planning permission for the change of use of redundant agricultural buildings to four holiday cottages². In August 2014 the Council granted planning permission for the change of use, alteration and extension of existing barns to form 4 no 4 bed dwellings³. This followed in the wake of an Inspector's decision to dismiss a planning appeal for a similar development at the appeal site, albeit where the reasons for that decision were confined to matters of detailed design.
8. In very brief terms, the appellant's case is that the buildings associated with the 2014 permission had in the meantime suffered extensive and severe physical deterioration and were structurally unstable or contaminated. Consequently the buildings were subject to collapse and / or demolition, such that they were removed in their entirety. The proposal, the subject of Appeal B, is to rebuild identically the approved 2014 scheme. Indeed, the Council accepted within its delegated officer report that the size, scale, massing, form and siting of the structures would be the same as the pre-existing barns. Therefore the 2014 planning permission is of particular relevance to the current proposals and, as discussed later, a key material consideration in this decision.

¹ *Tapecrow Ltd v FSS & Vale of White Horse DC* [2006] EWCA Civ 1744 & *Ahmed v SSCLG & Hackney LBC* [2014] EWCA Civ 566

² Planning permission reference 3/05/1815/FP

³ Planning permission reference 3/14/1204/FP

Appeal A on ground (d)

9. The ground of appeal is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control. S171B(1) of the Act provides that no enforcement action may be taken in respect of any unauthorised operational development after the end of the period of four years beginning with the date on which the operations were 'substantially completed'.
10. The appellant's ground (d) appeal is confined to the excavation and infilling of a 2.5 metre long foundation, which was the subject of a building control completion certificate in February 2009, and the completion of drainage works, the subject of a building control inspection report in May 2017. These works were carried out in connection with the aforementioned planning permissions.
11. The Council confirmed that it accepts these works have become immune from enforcement and therefore lawful due to the passage of time. I have no reason to take a contrary view, and therefore the ground (d) appeal succeeds to this limited extent.

Appeal B

Main Issues

12. The main issues are i) the effect of the development on the character and appearance of the surrounding area and ii) whether the appeal site is in a sustainable location.

Reasons

Local Policy Context

13. The following development plan policies are relevant to the main issues identified. Policy DES4 of the East Hertfordshire District Plan 2018 (LP) seeks to achieve a high standard of design by reflecting and promoting local distinctiveness. Policy GBR2 is concerned with maintaining the Rural Area Beyond the Green Belt as a valued countryside resource and permits certain types of development, provided they are compatible with the character and appearance of the rural area. Clause (d) states that such development includes the replacement of buildings, provided the size, scale, mass, form, siting, design and materials of construction are appropriate to the character, appearance and setting of the site and/or surrounding areas.
14. Policy INT1 of the LP aligns with the overarching National Planning Policy Framework (the Framework) objective of presuming in favour of sustainable development. Policy DPS2 sets out the development strategy for the District in terms of a hierarchy of preferred site locations. With sustainability in mind this is focused on the larger settlements. However Policy GBR2(e) does allow for the limited infilling or redevelopment of previously developed sites in sustainable locations. Policy TRA1 seeks to achieve accessibility improvements and to promote sustainable transport usage. In addition Policy VILL1 recognises that Group 1 category villages should accommodate at least a ten per cent increase in the housing stock, appropriate in scale and character amongst other things. This is reflected in Policy 1 of the Braughing Parish Neighbourhood Plan (NP) which seeks to steer new development to previously

developed or infill sites within the village, whilst avoiding harm to local character and undesirable ribbon development.

15. The parties agreed at the Hearing that to comply with Policy GBR2(d) it was not necessary for a proposed replacement building to be in the same use as its predecessor. They also agreed that if I found the development to be acceptable in relation to Policy GBR2(d), then it would be compliant with that policy overall and there would be no need for me to go on to consider the development in relation to clause (e) of the same policy.

Character and Appearance

16. The appeal site is situated in a valley location, in broadly undulating countryside. Open fields with pockets of woodland and mature hedge lines predominate, with parts of small settlements evident in some longer distance views. The land rises to the east and west away from the site, with the linear hamlet of Hay Street running along a ridge, parallel to the B1368 road, a relatively short distance to the west. The village of Braughing is situated at greater distance to the south. Although the site is relatively close to these places there is no dispute that it is in the countryside, outside settlement boundaries, albeit the parties agreed at the Hearing that the site is not in a physically isolated location.
17. The immediate surroundings of the site are varied in appearance. Quinbury Farm House, essentially a large red brick building, with tall chimneys, slate roof, and some smaller ancillary buildings and Quinbury Farm Cottage, a two storey dwelling with cream painted render are to the south and north respectively. On the eastern side is a large, ageing storage building associated with the former farmstead, with a small scale equestrian related development to the north-west. The appeal site occupies the land between these various structures. Despite its diverse appearance, the location has an agricultural and rural character, reinforced by the surrounding grassed paddocks and open land.
18. The proposed buildings themselves are a combination of single and two storey structures. Traditional materials would be utilised, with elevations constructed in brickwork or weatherboarding and roofs in slate or pantiles. Each of the buildings would incorporate extensive floor to ceiling glazed areas, reminiscent of the large openings that one might associate with a former barn. The buildings would be designed to emulate the scale, form, siting and appearance of the residential conversion scheme in relation to the buildings that previously occupied the site, and for which the Council previously granted planning permission, as referred to above.
19. The parties agreed at the Hearing that the most important visual receptor locations for the development would be the byway close to the site entrance (from which access into the site is taken) and at greater distance a bridleway on higher ground to the north-east. At shorter range, near the site entrance, the proposed buildings would appear appropriate in scale, form and design to their immediate surroundings, broadly referencing the form and layout of development that was originally present on the site in any event.
20. From further away to the north-east, they would, for the most part, be substantially screened by mature intervening planting, but where visible would appear nestled and assimilated next to adjacent buildings and against a rising landform. Also, when viewing the site from the public footpath network to the

south, the development would appear largely screened or filtered by existing buildings or vegetation. The development would not therefore draw the eye as an obtrusive or alien feature in the landscape. I am satisfied that general residential paraphernalia could be screened by appropriate boundary treatment.

21. Drawing the above considerations together I conclude that the development would respect local distinctiveness and would represent replacement buildings appropriate to the character, appearance and setting of the site and its surroundings, rather than urbanisation of the rural area or undesirable ribbon development. Indeed, recreating and promoting understanding of the historic layout of the original farm buildings would, in my judgement, provide limited heritage benefit and improvement to existing character. Accordingly I find that the development would accord with Policies DES4 and GBR2(d) of the LP, summarised above. In addition, although the appeal site lies outside the village boundary, on the evidence before me I do not find the development to be in conflict with the wording of Policy VILL1 of the LP or with Policy 1 of the NP as referred to above. Furthermore the development would meet the high quality design sought by the Framework.
22. At the Hearing the Council said that leaving the site empty and open would be more akin to the rural character. I consider that leaving the site undeveloped and open would not necessarily be harmful to character and appearance. However this does not undermine the positive assessment I have made above.

Sustainable Location

23. The site is undisputed to lie outside the Braughing village boundary, as defined in the NP. Whilst it has a primary (including nursery) school, a church and village hall and three public houses which would be accessible via a number of walking routes, Braughing is undisputed to have only a limited range of services. It would therefore be necessary for residents at the appeal site to travel to larger settlements further afield, in order to access various day to day services and facilities such as shopping, secondary education and medical care. Furthermore, footpaths and bridleways are for the most part unlit, with some being poorly surfaced and would not necessarily present a safe or attractive alternative during darkness or bad weather.
24. The site is within walking distance of bus stops on the B1368 Road from where bus routes provide connectivity with larger centres such as Ware, Hertford and Royston. However, services are hourly, at best, and therefore relatively infrequent. I acknowledge that an 'on demand' community bus service is provided by Herts Lynx. However, even so, I have not been provided with evidence to persuade me that this would be sufficiently flexible and responsive to provide a realistic alternative to the car. Furthermore, the Council expressed doubt at the Hearing as to the likely continuity of this service, and from the information before me I cannot be sure that it is well established and dependable into the future.
25. With regard to connectivity it would be realistic to conclude that for convenience and distance reasons, and safety during hours of darkness, there would need to be significant reliance on private vehicles in order to gain access to everyday services and facilities. I am not therefore persuaded that the appeal site could reasonably be described as being in a sustainable location.

Accordingly I consider that residential development of the appeal site would be in conflict with the Council's spatial development strategy, as encompassed within the hierarchy in Policy DPS2 of the LP, which seeks development to take place in sustainable locations. It would also conflict with Policy TRA1 of the LP insofar as it seeks to ensure a range of sustainable transport options, with a view to enabling sustainable journeys to be made to key services and facilities.

26. However, the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In this context, and having regard to the availability of some services in the smaller, nearby centres of Puckeridge and Buntingford, also to the relatively limited scale of the proposed development, I consider that the length, duration and number of journeys necessary to access essential services and facilities, even if taken by car, would not in this case be excessive for a rural location. I am also mindful that the parties agree to a planning condition being imposed requiring the installation of electric vehicle charging points at each of the dwellings, which would also serve to facilitate and promote, albeit not guarantee, the use of more sustainable transportation. These factors therefore serve to reduce the adverse weight that I give to this matter to a moderate level.
27. Nevertheless, in my judgment, the development strategy and use of sustainable transport are key elements of the Local Plan and accordingly I find that the proposal would be in conflict with the development plan when read as a whole.
28. I have considered the various decisions, either by the Council or at appeal, that were referred to me by the parties regarding sites elsewhere in the District, where sustainability of the location was an issue. It would appear that sites at Labdens House and Gore Lane were either closer to a village centre or within a settlement boundary and not therefore directly comparable to the present site. Similarly it would appear that the site at Bockings, where residential development was found to be acceptable⁴, was close to a village containing facilities which included a post office and convenience store, unlike the appeal site. The scale of development proposed at Whempstead Road⁵, Toad Hall⁶ and at Elbow Lane Farm⁷, when taken with other recent development on that site, was in each case greater than in this case. It is also relevant that each site must be considered on its individual planning merits.

Other Matters

29. Braughing Parish Council has objected to the proposed development. It is concerned that the standard of access to the site, via a bridleway, is inferior and would endanger driver and pedestrian safety. I drove and walked the access route during my site visit. The surface of the track is informal, uneven and not finished to a high standard. It is nevertheless navigable and narrow grassed verges on either side would allow for the passing of vehicles and act as a refuge area for pedestrians. Accordingly, I am satisfied that there would not be danger to highway or pedestrian safety.
30. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However, each application and

⁴ Planning permission reference 3/22/2243/FUL.

⁵ Appeal refs APP/J1915/W/22/3303408 amongst others.

⁶ Appeal ref APP/J1915/W/21/3276833.

⁷ Appeal ref APP/J1915/W/22/3304110.

appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.

Other Material Considerations

National Planning Policy Framework

31. It is undisputed that the Council is unable to demonstrate a five-year supply of deliverable housing sites. The Council refers within its statement, as confirmed at the Hearing, to having a 4.41 year supply, equating to a shortfall of 760 dwellings.
32. Paragraph 11(d) of the Framework is therefore engaged. This means that decision makers should apply a presumption in favour of sustainable development, such that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Framework sets out that achieving sustainable development means the planning system has overarching economic, social and environmental objectives.
33. From an economic perspective, in broad terms the development would benefit the local economy during the construction period and as a result of additional spending by the various new occupiers. However, these benefits would be tempered by the relatively small number of units involved and I therefore attach limited weight in this regard.
34. The buildings would be constructed to good environmental standards, incorporating various energy and water saving measures. This would be in keeping with Policies CC1 and CC2 of the LP which seek that developments allow for climate change adaptation. However, these measures serve to help offset the impact of the development and accordingly are neutral in the planning balance. The proposal would allow for biodiversity improvement through measures such as additional landscaping. However, in light of the limited scale of development, I consider this factor should be granted very limited positive weight.
35. In social terms, a small number of additional dwellings would be provided, adding to the choice of units in the context of an acknowledged significant shortfall of housing land supply in the District. Recreating and promoting understanding of the historic layout of the original farm buildings would provide limited heritage benefit and improvement to the existing character of the site and its surroundings. The development, incorporating features and materials referencing the site's agricultural past, is well-designed. I am also mindful that the appeal site is well related to the rights of way network and is in close proximity to open countryside and various attractive walking routes. Access to such recreation opportunities would be conducive to health and well-being. Overall the social benefits of the development attract moderate positive weight.
36. The appellant considers the appeal site to constitute previously developed land and that as such the development would accord with the Framework inasmuch as it encourages the use of previously developed land where suitable opportunities exist. However, the site was previously occupied by agricultural buildings, which are specifically excluded from the definition of previously

developed land. Whilst the appellant has referred to the previous existence of an office and other businesses on the site, there is no evidence that these became lawful primary uses there. Whilst the driveway area serving the appeal site would also serve existing adjacent residential properties, I am not persuaded that this equates to the lawful primary use of the appeal site being residential. I conclude that the appeal site does not constitute previously developed land and this is not therefore a factor weighing in support of the development.

37. As set out previously in my decision the proposed development would not be in a sustainable location and would be in conflict with the development plan when read as a whole. However, for the reasons given I have attached moderate adverse weight to this harm. In terms of paragraph 11(d) of the Framework any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly, it would constitute the sustainable development in relation to which the Framework presumes in favour.

Planning History of the site

38. The Council confirmed at the Hearing that its decision to grant planning permission for the change of use of the farm buildings, that previously existed on the site, to residential properties was based on a supporting design and access statement and the findings of a structural engineer's report⁸. This report concluded that conversion was possible without the need to demolish or use significant or disproportionate reconstruction. The report did, however, say that that conclusion was subject to detailed design surveys.
39. The Council conceded that whilst it had expected the conversion scheme to be implemented without significant reconstruction, the plans and supporting information, accompanying the 2014 permission, were not specific regarding the exact parts of buildings which would be retained; also that changes to ground levels shown on a number of the approved plans would have a knock-on effect in terms of the reconstruction of elevation walls in any event. Neither did the Council dispute that it had agreed the use of new materials in relation to certain parts of the buildings.
40. With the benefit of hindsight this raises the question as to what the Council might reasonably have expected from the conversion scheme and how any retained materials could genuinely have been valued. Furthermore, I acknowledge the appellant's point that the Council's refusal reason on character and appearance grounds, regarding the Appeal B planning application, did not expressly refer to the loss of historic building materials.
41. Indeed, it seems to me any proposition that the previous 2014 permission can be distinguished from the present proposals on the basis that historic parts of the building would have been retained, which would have been of value to the scheme, does not stand up easily to scrutiny, because of the ambiguity over the nature and quantity of materials that were to be kept. I am also mindful that the Council's original statement in relation to its enforcement case against

⁸ Q.A. Byrom Associates, dated 22 May 2012

four dwellings indicated the Council had no objection to the development on grounds which included design, layout and character and appearance⁹.

42. It also seems, from the evidence before me, that notwithstanding the introduction of a new policy framework since the 2014 permission, and differences in the wording of the relevant character and appearance policies, this would have resulted in very little, if any, material change to how the effects of development on character and appearance per se were assessed. In any event, reference to the officer report in 2014 indicates that the visual effect of the development was not considered to be harmful as, by way of my own assessment of the proposed development, continues to be the case now.
43. With all of this in mind, whilst it is undisputed that demolishing the remaining parts of the original buildings and starting again would require a separate planning permission, the 2014 planning permission is nevertheless an important material consideration. I have taken into account that the demolition of an existing building and creation of a wildflower area in its place, part of the 2014 proposals, no longer forms part of the current scheme. Notwithstanding this, I attach significant positive weight to the fact that the outcome of the proposed scheme would essentially replicate the scheme of converted buildings that gained planning permission from the Council in 2014.
44. I have had regard to case law referred to by the Council¹⁰, in relation to which it distinguishes that case from the current appeal, on the basis of a proportion of the original building materials being retained. This, however, for the reasons given, does not alter my aforementioned conclusions. Furthermore, I find the Council's stance to be somewhat at odds with its recent decision regarding a site elsewhere in the District¹¹. In that case a residential barn conversion scheme had been allowed on appeal. This was cited by the Council as a fallback position which supported its decision to grant planning permission for a new build residential development in its place.

Overall Planning Balance conclusion

45. Therefore, despite the proposal conflicting with the development plan, material considerations, including having regard to the Framework and the planning history of the site, indicate that a decision should be taken otherwise than in accordance with the plan. This approach is recognised by Policy INT1 of the LP.

Appeal A on ground (a)

46. As set out above the deemed planning application, as corrected, is in relation to works for the erection of 4 dwelling houses. It was evident from my visit that the works in question were relatively limited, and included the construction of foundations and formation of ground floor level blockwork platforms.
47. I have concluded from the above analysis that planning permission should be granted for the four dwellings. The works subject to the deemed planning application would therefore inevitably become subsumed as construction work progresses. I am not persuaded that the development as it stands to date, albeit only partly finished and in relation to which the enforcement notice, as corrected, is targeted, results in the sustainability harm that underpinned the

⁹ See paragraph 3.18.

¹⁰ *Vallis v SSCLG and Another* 2012 EWHC 578

¹¹ Meesden Bury Farm – planning permission ref 3/21/2977/FUL – February 2023

reason for serving the notice. Nor do I consider the limited degree of development results in any other harm.

48. I therefore conclude that planning permission ought to be granted.

Conditions

49. I have considered the various conditions suggested by the Council, as discussed at the Hearing. Conditions specifying the plans and requiring details of the external materials, boundary treatments, hard surfaced areas, landscaping and tree protection are needed to safeguard the character and appearance of the area. Conditions regarding the timing of building operations, the management of waste materials associated with the development, dust control measures during construction and the control of external lighting are all required to ensure the living conditions of nearby residents are protected. A condition requiring that the adjacent public right of way is not obstructed is needed so as to protect that route.
50. Conditions removing permitted development rights for extensions and alterations to the dwellings, for the erection of curtilage buildings and future alterations to means of enclosure are required to protect the character and appearance of the area and the living conditions of residents. A condition to ensure that the internal rooms are protected from excessive noise is required in order to protect the living conditions of occupiers of the dwellings.
51. The completion of hard surfaced areas is required in the interests of safety and the character and appearance of the area. A condition to manage any ongoing risk of contamination, remediate any contamination present on the site and to validate remediation measures undertaken is necessary in the interests of environmental protection. The specification of any gas fired boilers on the site and water efficiency measures are controlled for the same reason. A condition requiring the installation of an electric vehicle charge point at each of the dwellings is required in order to promote sustainable transport and minimise air quality impact. A condition requiring details of biodiversity gains is required to secure environmental improvements to the site.
52. I have made some minor alterations to the wording of some of the suggested conditions for clarification and to ensure they meet the tests for conditions as specified in national planning guidance.
53. I have decided that a suggested condition to control heat and water usage in the interests of reducing energy and water demand is not required as such sustainability details form part of the approved plans. Details of waste and recycling storage and collection have been satisfactorily demonstrated as part of the submitted documentation and need not be the subject of further control.

Conclusions

Appeal A

54. For the reasons given above I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The appeal on ground (f) does not therefore fall to be considered.

Appeal B

55. For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

Appeal A

56. It is directed that the enforcement notice be corrected within Section 3: by the insertion of the words "works for" immediately before the words "the erection of 4no dwelling houses".

57. Subject to this correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely works for the erection of 4no dwelling houses at Quinbury Farm, Hay Street, Braughing, Ware, Hertfordshire SG11 2RE as shown on the plan attached to the notice.

Appeal B

58. The appeal is allowed and planning permission is granted for the Continued erection of four dwellings to the same design and appearance as previously approved under ref. 3/14/1204/FP together with all supporting infrastructure following removal of the original barns at Quinbury Farm, Hay Street, Braughing, Ware, Hertfordshire SG11 2RE in accordance with the terms of the application, Ref 3/22/0813/FUL, dated 11 April 2022, subject to the conditions set out in the schedule below.

R Merrett

INSPECTOR

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:
NWA-12-005-LOC_E Rev B Location Plan; H2140 005 Sustainable Design Strategy; NWA-12-005-6 Rev E Proposed Site Plan; NWA-12-005-8 Rev C Proposed Elevations Plots 1 & 2; NWA-12-005-7 Rev D Proposed Floor Plans Plots 1 & 2; NWA-12-005-9 Rev E Proposed Plans and Elevations Plot 3; NWA-12-005-10 Rev G Proposed Plans and Elevations Plot 4; NWA-12-005-11 Rev A Proposed Car Port Plot 3.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) The Public Right of Way shall remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction at all times during works and must not deteriorate as part of the works.
- 5) The noise levels in rooms at the development hereby approved shall meet the amenity standards set out in BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'. Construction methods and materials / noise mitigation methods to achieve this shall be implemented prior to occupation of the development and thereafter be permanently retained.
- 6) All waste materials and rubbish associated with demolition and / or construction shall be contained on site in appropriate containers which, when full, should be promptly removed to a licensed disposal site.
- 7) Best Practicable Means shall be used in controlling dust emissions during all site preparation, demolition, construction and ancillary activities.
- 8) Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 9/19 'Domestic exterior lighting: getting it right'. Lighting should be minimised and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.
- 9) Site preparation, demolition or construction works shall take place only between the hours of 8:00 – 18:00 hours on Monday to Friday, 8:00 – 13:00 hours on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.
- 10) The development shall not be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include earthworks showing existing and proposed finished levels or contours; hard surfacing

materials; planting species, sizes and densities; retained landscape features and an implementation programme.

The landscaping works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 11) Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) All existing trees and hedges shall be retained, unless shown on the approved landscaping drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the local planning authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the local planning authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the local planning authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the authority.
- 13) Prior to the first occupation of the respective dwellings any boundary walls, fences or other means of enclosure associated with the plot in question shall be erected in accordance with details to be previously agreed in writing by the local planning authority.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the enlargement, improvement or other alteration of any dwellinghouse under Schedule 2, Part 1, Classes A, AA, B, C and E shall not be undertaken without the prior written consent of the local planning authority.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fences, gates or walls shall be erected within the curtilage of any dwellinghouse without the prior written consent of the local planning authority.
- 16) Prior to the first occupation of the development hereby approved full details of net biodiversity gains shall be submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with those details and subsequently maintained as such.

- 17) Prior to the first occupation of the development hereby approved the hard surfaced areas of the development, including roads, pavements, driveways and car parking areas shall be surfaced in accordance with details submitted to and approved in writing by the local planning authority.
- 18) Prior to the first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day is provided.
- 19) The additional monitoring and mitigation laid out in the accompanying document entitled 'Remediation Strategy & Verification Plan' produced in 2015 by Go contaminated Land Solutions needs to be complied with in full.

If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.

A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

- 20) One electric vehicle charging point per dwelling (dwelling with dedicated parking) shall be provided.
- 21) Any gas-fired boiler shall meet a minimum standard of less than 40 mgNO_x/kWh.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Paul Stinchcombe KC	Barrister
Jane Orsborn	Planning Consultant
Salvatore Amico	Agent
Adam Saggars	Appellant
Duncan Murdock	Chartered Surveyor
Simon Cove	Architect
Colin Wilson	Structural Engineer

FOR THE LOCAL PLANNING AUTHORITY:

Charles Merrett	Barrister
Amit Patel	Principal Officer Development Management
Neil Button	Strategic Sites Development Team Leader
Jon Wragg	Planning Enforcement Team Leader

Documents Submitted at the Hearing:

1. Amendments to the list of suggested conditions.