



Appeal Decision

Site visit made on 3 November 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal Ref: APP/P3040/W/23/3319093

Chestnut Farm, Chestnut Lane, Barton in Fabis NG11 0AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
 - The appeal is made by Mr & Mrs J Kent against the decision of Rushcliffe Borough Council.
 - The application Ref 21/03205/REM, dated 20 December 2021, sought approval of details pursuant to condition No 2 of planning permission Ref 19/00412/OUT granted on 6 June 2019.
 - The application was refused by notice dated 23 September 2022.
 - The development proposed is Demolition of existing buildings and construction of a residential scheme of up to 5 dwellings (Outline planning permission with all matters reserved).
 - The details for which approval are sought are access, appearance, landscaping, layout, and scale.
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Decision

1. The appeal is allowed, and the reserved matters are approved, namely the details of access, appearance, landscaping, layout and scale submitted in pursuance of condition No. 2, attached to planning permission Ref. 19/00412/OUT, dated 6 June 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs is made by Mr & Mrs J Kent against Rushcliffe Borough Council. This application is the subject of a separate Decision.

Background and Procedural Matters

3. The application is for the approval of reserved matters. In the decision paragraph I have taken the description to be the numbers of the conditions of the outline planning permission¹ (OPP) that both relate to reserved matters, and that are sought to be discharged in the application form. Condition Nos 7 and 11 are not reserved matters in the terms set out in legislation², therefore they do not fall within the scope of my consideration.
4. In identifying matters to be submitted, condition No 2 of the OPP refers to details of surface and foul water drainage. This is not a reserved matter under

¹ Ref. 19/000412/OUT.

² The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

the terms of the legislation, so does not fall within the scope of my consideration. Conditions 3 and 10 relate to certain details pertaining to the reserved matter of landscaping. However, they are not sought to be discharged by the application. Therefore, the specific requirements of conditions 3 and 10 are not discharged by this decision.

5. Planning permission has already been granted at the outline stage based upon indicative plans. An application for approval of reserved matters is not an application for planning permission. The scope of my consideration of this appeal relates to the reserved matters before me, not those matters which should have been dealt with in determining the outline application. As all matters are reserved, the appellants are not bound by the previously submitted indicative plans, such as in respect of the layout, footprints, or the number and composition of dwellings, unless specific conditions are imposed upon the OPP. I have had regard to extant conditions in my assessment.
6. The appellants have submitted plans to amend a typographical error to reflect the finished floor levels (FFL) as shown and to include non-opening obscure glazed windows. The Planning Appeals Procedural Guide (2023) states that it is important that what is considered by the Inspector is essentially the same scheme that was considered by the LPA and by interested parties at the application stage. The FFLs are correctional, and the windows are similar to what was sought by draft condition 17 of the Council's Officer report to committee. I am satisfied that the changes on the plans are minor, and no-one would be prejudiced by my taking the amended plans into account.
7. The Council's first reason for refusal does not set out the particular properties or living conditions that it alleges would be harmed. I have had regard to the submitted evidence and what I saw in setting out the relevant main issue. The Council's second reason for refusal does not specifically refer to non-designated heritage assets (NDHAs). However, both main parties and some interested parties provide substantive evidence in respect of this matter, to which I have had regard in setting out the first main issue below.

Main Issues

8. The main issues are:

- the effect of the proposed development upon the character and appearance of the area including the setting and significance of NDHAs; and,
- the effect of the proposed development upon the living conditions of the occupiers of The Forge and No 8 Chestnut Lane (No 8) with particular reference to outlook, privacy, daylight and overshadowing.

Reasons

Character and appearance

9. The appeal site mostly comprises gravelled hardstanding, part of which was occupied by structures used in connection with a lawful mixed commercial use of the land. The site is immediately surrounded by a 1-2 storey brick building along much of its north side, a field to the east, gardens and outbuildings of The Forge and No 8 Chestnut Lane due south, and two storey semi-detached dwellings to the west on the opposite side of Chestnut Lane. The surrounding buildings range significantly in size, layout, age and design.

10. Beyond the immediate site surrounds are a variety of other one and two storey buildings, of a highly varied age, style, scale, appearance, and layout. The variance, maturely vegetated plots and views to and from the countryside, means the character and appearance of the site surrounds are of a rural village location that exhibits a richly diverse age, scale, pattern and grain of development. This diverse character and appearance reflect much of the settlement as I saw it. From my visit, currently the appeal site makes a minor negative contribution to the character and appearance of the area.
11. I am mindful that with the demolition of the site buildings, the site has changed, so the detailed analysis of the appellants' Landscape & Visual Impact Assessment was not made in the context of the site as it currently exists. The proposal would result in a notable change in its current appearance and new built development. However, the scale, layout, appearance and position of the new dwellings would be distinctly within the settlement and established development lines. Given its position, the built nature of its surrounds, the scope for future landscaping including species secured by conditions 3 and 10 of the OPP, noting views from various receptors including the landscape to the east and the Public Right of Way (PROW), the proposal would be viewed as being within the village, and would be respectful of the local landscape setting.
12. The frontage of the dwellings would not be out of keeping with the building lines on the eastern side of the Chestnut Lane scene as a whole. Though parts of the village include linear and courtyard layouts, backland development patterns are present, including approximately 50m north of the appeal site and off Brown Lane a short distance further southwest of the site. The recent history of the site is a mixed commercial one, and a requirement for an agricultural courtyard layout is not imposed by the OPP. Noting the varied surrounds, the appeal proposal layout, intensity, and density, cannot be said to be harmful to or out of keeping with the character and appearance of the area.
13. The Council considered floor levels and heights at the outline stage in imposing conditions 5 and 6 on the OPP. The proposal complies with the requirements. Their height would be comparable to and not significantly higher than Nos 2 – 8 Chestnut Lane. The dwellings appear of a larger scale and proportion than some immediately surrounding it. However, they are not stridently so. Noting the long flank elevations of the Chestnut Farm buildings, and the scale of the commercial building to the southeast, there are sizeable buildings that form part of the immediate visual context in which the dwellings would be viewed.
14. Moreover, some design attributes of the new dwellings would serve to limit the perception of scale and bulk. They would be well within generous plots and not appear cramped. The massing of the elevations would be broken-up by the combination of single and 1.5 storey elements, gabled and cross gabled forms, dormer and bay windows, brick plinths, and some larger window openings.
15. The form, general material types, architectural detailing such as in the brickwork and eaves are of a traditional design in keeping with local character. Aspects such as some windows, terraces and screens are limited elements that would neither be dominant nor considered strident in the context of the widely diverse surrounds in which they would be viewed. Obscure glazed windows serving certain rooms are not an uncommon occurrence in the village. Those proposed are limited in size and number and not harmful to the character and appearance of the area. There are examples of dormers, front facing gable

- ends and similar barge boards in the vicinity. They would not be particularly unique features and also would not be obtrusive or harmful.
16. The plot size, scheme design, massing, and configuration of the buildings, would limit the perception of scale and proportions, viewed in surrounds of a highly varied character and appearance. The design can be considered of a high standard that is appropriate to its context. I am satisfied the development adequately reflects local design policies and documents having regard to paragraph 134a) of the National Planning Policy Framework (2023) (the Framework), and the requirements of Policies 1 and 11 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) (the LPP2).
 17. The Rushcliffe Design Guide (2009) (the RDG) provides guidance upon design principles and approaches. A recurrent theme is to build in context, which includes to have regard to the characteristics of a site and its surroundings. I am satisfied the design meets these overarching requirements and much of the relevant guidance contained within it such as in respect of scale, massing, height, detailing and innovation. The requirement for detailed materials in condition 4 of the OPP, will remain and can be considered by the Council.
 18. The Forge and Chestnut Farm are NDHAs. Despite the principle of 5 dwellings on the site being considered acceptable in granting the OPP, consideration should be given to any effects of this reserved matters scheme upon the NDHAs, having regard to the Framework, including paragraphs 195 and 203. I have noted the advice in the National Design Guide (2021) (the NDG) and extracts quoted of documents such as Historic England's Advice Note 3: The Setting of Heritage Assets. The Forge barn is of historic and architectural merit, the grounds retain the historic development pattern, cottage small-holding and meadow, so I have considered them part of the NDHA.
 19. The architectural and historic significance of The Forge is primarily in the architectural and historic values of its construction, forms, materials, preservation of the historic development pattern and reflection of bygone lifestyles and rural economic activity, occupying a settlement edge position on New Road. Its significance is appreciable from within The Forge, around New Road, part of the PROW and countryside to its east, with a limited perception from appeal site. Its setting includes the modern dwellings at No 2 – 8 Chestnut Lane, New Lane, the large commercial building to its east, some surrounding countryside, the appeal site and historic buildings to its north.
 20. Aside of the settlement edge position viewed from New Road and some middle-distance views from the PROW and landscape, its setting contributes in a limited way to its significance. There are historic occupational ties to The Forge. However, the site has a lawful use as a mixed commercial yard and the previous barns are demolished. The appeal site in its current form gives a degree of openness to its setting, but this is not a longstanding arrangement, and the principle of a residential development of 5 dwellings within the height parameters of condition 6 was already established in approving the OPP.
 21. The proposal would not impinge upon the settlement edge position of The Forge in either direction. It would retain some existing intervisibility with the Chestnut Farm and other historic buildings from the east. The development would respect and maintain a sufficient degree of separation from the asset. The historic layout would still be legible, and the scheme would not impinge upon the former small-holding now cottage garden area. The intensity, activity

- and noise of the new land use could not be said to be such that there would be any greater effect or harm to the NDHA than from the lawful use. The proposed design including brickwork, stepped roof forms and parapeted gables echo certain characteristics of The Forge and Chestnut Farm buildings. The more modern looking obscure glazed features would be limited, not out of keeping with some of the more modern attributes of wider dwellings and do not harmfully impact upon the significance or setting of the assets.
22. It is not necessarily uncommon for a cottage garden to be surrounded by other properties and in some cases, landscaping evolves to either screen or complement built surrounds. Overall, the reserved matters scheme would not harmfully affect the understanding of The Forge, its significance, or the way it is experienced, and the effect is an overall neutral one.
23. I agree with much of the Council's substantive assessment of the significance and setting of Chestnut Farm and the brick barns along the northern edge of the site. The effect upon setting, context and views would not be greatly dissimilar that has occurred from other nearby development. The visual relationship of Chestnut Farm to The Forge viewed from the countryside would still be discernible. There would be some minor perceptual changes from Chestnut Lane in front of the appeal site. However, site buildings have been cleared and the agricultural association with the appeal site has changed. The barns are of limited significance and would still be visible as a separate building from the east and west. Having regard to its significance, setting, and the contribution of the appeal site, the effect of the proposal would be neutral.
24. For the reasons set out above the proposal would not be harmful to the character and appearance of the area, or the setting and significance of NDHAs. It would not conflict with Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy (2014) the (LPP1). Amongst other things this expects proposals have regard to their context, positively contribute to a sense of place, and states they will be assessed having regard to massing, scale, proportion, the local landscape, and townscape, and conserving the setting of heritage assets. It would also not conflict with the aims of paragraphs 126, 134 and 203 of the Framework insofar as these expect development be of a high-quality design that reflects local design policies and takes into account the setting of NDHAs.
25. I have not concluded against criteria 2b) of Policy 10 of the LPP1 under this main issue, as this relates to the living conditions of neighbouring occupiers, which I have assessed under the next main issue.

Living conditions

26. The Forge is set within an extensive plot with a barn towards its rear, surrounded by compartmentalised well-landscaped garden areas designed and landscaped for differing functions, such as aquatic wildlife, flowers, and seating. Due to the distances to the proposed dwellings at approximately 44m, there would not be effects resulting in harmful living conditions to the occupiers in respect of outlook, privacy, daylight or overshadowing, from within the dwelling even were much of the mature vegetation to be removed.
27. The barn appeared to primarily function as display, storage and seating areas. The ground floor openings mostly face either inward or had slatted wooden coverings, and the rooflights face away from the site. Given the distance from

the new dwellings, I am satisfied the proposals would not result in harmful living conditions having regard to the effect upon the use of the barn.

28. The northern hedge is to be retained and protected and I see nothing to suggest protection of its roots could not be achieved. Common Law rights mean hedge could be reduced by future occupiers on their side, but this could happen irrespective of the outcome of this appeal. Though north facing, as a mature established vigorous hedge it is by no means certain it would not recover foliage, decline significantly, or ultimately die, though I am mindful it might not ultimately be relied upon in perpetuity.
29. The proposed Juliet balconies would be well separated from the garden, would only be afforded oblique views and in practice, result in little increased visibility from the first floor. Plot 2 is of a sufficient distance away and mostly screened by the plot 1 and 3 dwellings. The obscure glazed side windows on plots 1 and 3 could be secured to be fixed shut. It is accepted by the Council and the appellants that carefully designed permanently retained and maintained privacy screens could also be the subject of suitably worded conditions. The high-level roof lights would also limit views and visibility from the rooms served.
30. Even were much of the vegetation to the north to be removed or fail, most of the garden area would be a sufficient distance away and/or south of the L-shaped barn and have a distant oblique visibility. The design of the scheme would mean the occupiers of The Forge would be afforded a large amount of sufficiently private outdoor space, with good utility, function, aspect, outlook, and daylight that can provide satisfactory living conditions. The garden layout could also be altered or evolved to cater for certain functions and activities if deemed necessary.
31. The Forge's garden space to the north, and west of the barn gable, would be more affected, and at points, would be in close proximity to the flank elevation of Plot 3. However, this is not uncommon in settlements. Indeed, many garden ends experience some effects upon privacy, outlook, daylight and overshadowing from nearby buildings. I note interested party references to the RDG, the Leeds, and the North Somerset Design Guides, though it is not clear how the 21 and 7 metre rules apply to a rear-to-side relationship as proposed.
32. The new dwellings would run across only part of the rear of the garden and due northwest. Were it desired by the occupiers of the Th Forge the scheme could be part screened by vegetation within The Forge, to supplement the existing approximately 2m high wall. Views from any windows and terraces would be oblique. The effects upon the garden end areas in respect of privacy, outlook, daylight and overshadowing would be limited. Taking the garden of The Forge as a whole, the proposal would not result in harmful living conditions to its occupiers in respect of outlook, privacy, overshadowing or daylight.
33. The proposal would result in dwellings along the northern side of No 8. Plot 2 is of a sufficient distance away and well screened by the plot 1 and 3 dwellings. The dwelling orientation of plots 1 and 3 with flank elevation obscure glazing, adequate privacy screening on the terrace, the garage positions, and the closest first floor windows being higher level rooflights, means the proposal would result in harmful living conditions to the occupiers of No 8 in respect of privacy in either the dwelling or garden.

34. A significant proportion of built development near the side of the garden would be limited in height. The dwelling and garden of No 8 would retain its open aspect to the south and east. Therefore, overshadowing would be limited and the overall levels of daylight would be satisfactory. Given the limited amount, the height of the development, the gap between the new dwellings, the boundary setback, the width and length of No 8's garden, the remaining open outlook south and east, orientation of the windows, that it satisfies the 25-degree and 45-degree rules, the development would not result in harmful living conditions in respect of outlook to the occupiers of No 8.
35. Having considered the position, intervisibility, distances, layouts, features, perspectives, and scope of suitably worded planning conditions, there would be some limited effects to other surrounding dwellings. However, having considered matters of privacy, outlook, daylight and overshadowing, the level of change, and the effects, would not be such that they would result in harmful living conditions to the occupiers of other neighbouring properties.
36. For the reasons set out above, taking into account matters including the scale, elevated levels, window heights and raised terraces, the proposal would not result in harmful living conditions for the occupiers of The Forge and No 8 Chestnut Lane with particular reference to outlook, privacy, daylight and overshadowing. It would not conflict with Policy 1 of the LPP2 or 2b) of Policy 10 of the LPP1. In combination and amongst other things, these policies aim for development to prevent harmful living conditions to neighbouring occupiers, including taking into consideration scale, massing, height, design and layout having regard to being overbearing, overshadowing, and loss of privacy.
37. Though not specifically referred to in the reasons for refusal, I do not find the proposal conflicts with the other aims of Policy 10 of the LPP1 or Policy 11 of the LPP2, insofar as they have similar aims and expectations as the other policies referred to above, in respect of living conditions. I also do not find a conflict with the guidance in the RDG insofar as this advises that private areas should not be excessively overlooked, obscure glazing should be considered, and adequate daylight and sunlight should be provided.

Other Matters

38. If a development meets one Green Belt exception to inappropriate development in the Framework, then it is not necessary to meet others. At the outline stage the proposal was considered to meet the exception of being limited infilling in a village (now Framework paragraph 149e)). This does not require an assessment of Green Belt purposes, openness, or very special circumstances. The Council was mindful of the Green Belt in imposing conditions 5 and 6 of the OPP, which the proposal meets.
39. Council officers have been conscious of the Green Belt in negotiating revisions, reflecting the appeal scheme before me. Having regard to the surrounding development pattern, this development would remain within the confines and building lines of established built development surrounding it and what on the ground, I view as the village.
40. The footprint is a very small amount greater than the indicative outline scheme and it makes up a comparatively limited proportion of the appeal site. The scheme is three dwellings only with scale and massing being accordingly limited. It is marginally higher than Nos 2 – 8 and a limited amount higher

than some residential buildings. It does not appear of a significantly greater overall massing or scale than the buildings to its north or southeast. Therefore, I am satisfied having regard to the development and that surrounding it, the proposal is within a village, constitutes infilling and it is limited. Therefore, it falls within the exception at paragraph 149e).

41. In-principle highway and access matters were addressed at the outline stage and at that time having regard to the potential for development with 7 dwellings³. The Highway Authority does not object to the access configuration. Margins and a bin collection point were addressed by a subsequent plan. The existing barn building will have an access from the south avoiding the need to access it to the north. From what I saw and the substantive evidence before me, I am satisfied the accesses would be safe, parking adequate, and the resultant traffic patterns and levels can be adequately accommodated.
42. The suggestion that other layout configurations might be more acceptable are noted, however, this is not the proposal before me, which I find acceptable. I am unclear upon how an interested party has derived calculations of local housing needs, that they are recent, robust and encompass all households. The Council does not object to the proposal in respect of Policy 8 of the LPP2. Moreover, there are no conditions on the OPP to require such dwellings. There is no demonstration of an oversupply of the type proposed, and this scheme would provide required dwellings to contribute to the local mix of housing.
43. Having regard to suitably worded planning conditions, noise levels from normal domestic use, including ventilation or extraction, would not be of the nature to result in harmful living conditions to neighbouring occupiers. The Council has also not raised an objection to the effect of the existing or future noise upon the living conditions of future occupiers, and I see no reason to disagree.
44. The effect upon biodiversity was to be considered in approving the OPP. The Council's ecological specialist also does not object to this proposal, and a net gain in Biodiversity can be secured by planning conditions. There is not substantive evidence to suggest there would be any adverse effect upon wider designated sites of ecological importance. Trees to be removed were assessed as having no suitable potential to support bats. From the substantive evidence before me and what I saw of them, this has not changed. Having regard to the advice in Circular 06/2005⁴ there is not a reasonable likelihood of the species being present and affected by the development.
45. The concerns about the long-term health of T6 due to bleeding canker, its structure, and future adverse effects T6 on neighbouring buildings, means its removal is justifiable. There is no substantive evidence its removal would be likely result in heave or subsidence. Future planting would compensate for its landscape and biodiversity value in the medium to long-term. Moreover, the tree is not protected and could be removed in any event.
46. Like other nesting birds it is an offence to disturb nesting owls. From what I saw the works would be a sufficient distance away to limit any effects upon a barn owl nest box. It appears highly unlikely that works would cause any overall greater disturbance than the lawful use of the site, the potential use of

³ 3.0 of Transport Statement by BWB (June 2016).

⁴ Paragraph 99 of Government Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System (2005).

the garden and barns, or, differ from their typical habitats. Those undertaking site works are also bound by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 (as amended). The method statement required by condition 9 attached to the OPP would also further help to satisfactorily address the noise, dust and vibration effects of construction works, including piling were it to take place.

47. Contamination was considered at the outline stage and subject of a condition on the OPP. I am satisfied this, and the pollution control regime will be operated and enforced. The OPP includes a condition to secure the submission and approval of suitable foul and surface water drainage, to ensure these are adequately dealt with. Energy efficient design and construction in accordance with relevant policies is to be addressed through condition 11 of the OPP.
48. Trees and hedgerows would be sufficiently protected in accordance with condition 10 of the OPP and the suggested condition below. Each dwelling as a whole, would provide generous accommodation and many living spaces have more than one window. The extent of aspect including some being dual aspect mean the primary living spaces would benefit from a sufficient amount of daylight and overall outlook taking into account the terrace screens and obscure glazing, even were the boundary hedge to grow higher.
49. Those rooms served only by obscure glazed windows are generally WCs, bathrooms, or utility rooms, where the daylight would be adequate for their function. As well as gaining light through obscure glazing, the home office areas would include large internal glazed screens and doors. Together these would provide an adequate level of daylight and outlook. The generous east facing gardens with some southern aspect would receive a good level of daylight and have good outlook. For these reasons, and noting common law rights, the substantive evidence does not lead me to conclude the vegetation due south would be likely to result in an actionable complaint.
50. Flood risk is a matter considered at the outline stage, with condition 5 of the OPP requiring compliance with the approved Flood Risk Assessment⁵ (FRA). The Council found the development acceptable having regard to the sequential and exception tests, and there was no objection from the Environment Agency. The FRA takes into consideration matters such as existing flood defences, the requirements of the Framework at that time, catchment climate change allowances of 30% and 50%, finished floor levels, allowance of a freeboard and not increasing flood risk elsewhere. The matters that are subject of this application do not prevent adherence with condition 5 of the OPP.
51. A proposal is required to be considered on its planning merits. The characterisation of representations from a neighbouring property set out in the appellant's appeal submission were neither necessary or appropriate. As an affected interested party that cares about the area, it is not unreasonable to express strongly held views. Many of the points raised are of relevance to the merits and effects of the proposal and are well made. However, after careful consideration, for the reasons set out above, I do not share those views in determining the application upon its planning merits.

⁵ Flood Risk Assessment by BWB (Issued 16/01/2019).

Conditions

52. I have considered the Council's and the Appellants' lists of suggested conditions in the context of the advice in the Framework and Planning Practice Guidance, as well as those suggested by the Parish Council. A commencement condition is not necessary because this is set out in the OPP. For certainty a condition requiring the development is carried out in accordance with the approved plans is necessary. This is amended to add amended plans referred to in the preliminary matters section of this decision.
53. To ensure the development does not cause harm to the health of vegetation to be retained within the development, a pre-commencement tree protection condition is necessary. In the interests of the character and appearance of the area conditions are necessary to require a scheme of replacement tree planting and the prior written approval of boundary treatments. To ensure an overall net gain in biodiversity a condition is necessary to secure a Statement of Biodiversity Net Gain.
54. In the interests of highway safety conditions are necessary to secure the specification of the surfacing of areas to be used by vehicles, their provision prior to occupation of any dwelling, and dropped kerb crossings. For similar reasons and to ensure the effects of construction are adequately managed and mitigated, it is also necessary to impose a condition to secure a Construction Method Statement. It is necessary for this to be pre-commencement so that it encompasses all construction works.
55. Having considered the Parish Council's suggested wording, I am not satisfied highway repair requirements are necessary for three dwellings, should reasonably be imposed at the reserved matters stage, and would be a duplication of section 59 of the Highways Act 1980. Therefore, the requirement does not pass the tests of being relevant to planning, necessary or reasonable. It is also not demonstrated how this could be made sufficiently precise and enforced in a planning condition.
56. In the interests of preventing harmful living conditions to neighbouring occupiers, conditions are necessary to secure the specification of any air source heat pumps, the installation of terrace privacy screens to the approved standard, and all side facing windows on plots 1 and 3 to be non-opening and obscure glazed. In the interests of certainty, in the condition for the side facing windows, I have clarified its requirements, removed tailpieces, worded it to ensure it applies to include kitchen windows on plot 3, and applies in perpetuity. Having regard to the character and appearance of the area, and from what I saw of other obscure glazed windows, it is not necessary for the condition to specify the glass finish.
57. In the interests of the living conditions of the future occupiers, a condition is necessary for the installation of a gate to the north to be for occasional emergency use. In the interests of protecting any local bat population a condition to require the approval of details of external lighting is necessary.
58. A condition is necessary to promote a reduction in water consumption having regard to the provisions of Policy 12 of the LPP2. To comply with the air quality expectations of Policy 41 of the LPP2 condition to require the installation of electric vehicle charging points is necessary. In the interests of the character and appearance of the area and the living conditions of neighbouring occupiers,

there is clear justification for a condition withdrawing permitted development rights for Classes A, B and E of Part 1 of the Town & Country Planning (General Permitted Development) Order 2015.

Conclusion

59. The proposal would facilitate the realisation of benefits from meeting Framework objectives in respect of remediating and re-using previously developed land within a settlement, and the environmental, economic, and social benefits the proposal would bring. Overall, the proposal would not be harmful to the setting or significance of NDHAs, the character and appearance of the area, or result in harmful living conditions for neighbouring occupiers.
60. For the reasons set out above, the proposal is compliant with the development plan and the Framework taken as a whole. There are no material considerations that indicate the application should be determined other than in accordance with the development plan and the Framework. Therefore, for the reasons given, the appeal is allowed.

Dan Szymanski

INSPECTOR

-- Schedule of conditions --

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - Location Plan, received on 23 December 2021;
 - Drawing 21.3940.13A Sheet 5 of 11 (Plot 1 Proposed 1st Floor);
 - Drawing 21.3940.14 Sheet 6 of 11 (Plot 2 Proposed Elevations);
 - Drawing 21.3940.15 Sheet 7 of 11 (Plot 2 Proposed Floor Plans);
 - Drawing 21.3 940.16A Sheet 8 of 11 (Plot 2 Proposed Garage); received on 21 April 2022;
 - Drawing 21.3940.10B Sheet 2 of 11 (Plot 1 Proposed Elevations);
 - Drawing 21.3940.11B Sheet 3 of 11 (Plot 1 Proposed Elevations);
 - Drawing 21.3940.18B Sheet 10 of 11 (Plot 3 Proposed Elevations); received on 14 June 2022;
 - Drawing 21.3 940.17C Sheet 9 of 11 (Plot 3 Proposed Elevations) received on 16 August 2022;
 - Drawing 21.3940.0 9I Sheet 1 of 10 (Proposed Site and Roof Plan);
 - Drawing 21.3940.12D Sheet 4 of 11 (Plot 1 Proposed Ground Floor Plan);
 - Drawing 21.3940.19C Sheet 11 of 11 (Plot 3 Proposed Floor Plans); received on 22 March 2023 pursuant to the appeal.
- 2) No operations shall commence on site until the existing trees and/or hedges which are to be retained have been protected in accordance with BS 5837, details of which shall be first submitted to and approved in writing by the Local Planning Authority. The approved means of protection shall be retained for the duration of the construction period. No materials, machinery or vehicles are to be stored or temporary buildings erected within the perimeter of the fences, nor is any excavation work or changes of ground levels to be undertaken within the confines of the protected area without the prior written approval of the Local Planning Authority.
- 3) Prior to the commencement of the development, a Construction Method Statement shall have been submitted to and approved in writing by the Local Planning Authority. Amongst other things the statement shall include:
 - a. Parking arrangement for contractors' vehicles within the appeal site and/or at another location off the public highway;
 - b. Methods to avoid the deposit of mud and other detritus from the site upon the highway;
 - c. Methods and frequency for the cleaning of the public highway in the event mud or other detritus is deposited upon it; and,
 - d. The prescribed vehicle delivery routes to prevent construction traffic along Manor Road.

The Construction Method Statement shall be implemented as approved for the lifetime of the construction works at the site.

- 4) Prior to the formation of the drive, turning/parking areas or any other hard surface areas, details of the surfacing materials 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.
- 5) Prior to the occupation of any dwelling, the respective driveways, parking and manoeuvring spaces shall be provided in accordance with the layout shown on drawing 21.3940. 09I Sheet 1 of 10 (Proposed Site and Roof Plan) (received on 22 March 2023) including the formation of a separated dedicated access to serve the adjacent commercial use.
- 6) Prior to vehicular access points for either the residential development or adjacent commercial use being brought into use, they shall be fronted with appropriate dropped curb crossings constructed in accordance with Highway Authority specifications.
- 7) Prior to the development progressing beyond ground floor slab level, a Statement of Biodiversity Net Gain from the development shall have been submitted to the Local Planning Authority for approval. Any approved mitigation and enhancement scheme, which amongst other things must include the installation on buildings including Swallow/Swift and Sparrow cups/boxes and hedgerow corridors, shall thereafter be implemented as approved prior to the first occupation of any dwelling, and shall be retained for the lifetime of the development hereby permitted.
- 8) Prior to the installation of air heat source pumps, details of them shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter they shall be installed and retained to the approved specification.
- 9) Each of the dwellings hereby permitted shall be designed to meet the higher 'optional Technical Housing Standard' for water consumption of no more than 110 litres per person per day.
- 10) Prior to the construction of any dwelling proceeding above foundation level, a scheme of details of the provision of electric vehicle charging points to serve each dwelling, shall have been submitted to and approved by the Local Planning Authority. No dwelling shall be occupied until such time as it has been provided with the electric vehicle charging infrastructure in accordance with the approved scheme. The vehicle charging points shall be retained for the lifetime of the development.
- 11) Prior to the removal of tree T6 in the Arboriculture Assessment (FPCR-2016) submitted under 19/00412/OUT, details of replacement tree planting shall have been submitted to and approved in writing by the Local Planning Authority. The replacement planting shall be carried out within the first tree planting season following the substantial completion of the development. 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, unless the Local Planning Authority gives written consent to any variation.

- 12) Prior to the erection of boundary treatments on the external boundaries, details of the materials shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the boundaries shall be constructed in accordance with the details approved.
- 13) Prior to the occupation of each respective dwelling, the rear terraces serving plots 1 and 3 shall be fitted with a 1.8 metre high privacy screen around the southern side of the respective terraces, the details of which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the privacy screens shall be retained and maintained to the approved specification for the lifetime of the development.
- 14) Notwithstanding the submitted plans, all ground and first floor windows on the southern elevations of plots 1 and 3 shall be permanently fixed shut and fitted with glass which has been rendered permanently obscured to glass Group 5 level of privacy, or equivalent. Thereafter, the windows shall be permanently retained to this specification. No additional windows shall be inserted in these elevations thereafter.
- 15) Prior to the installation of any external lighting, a bat sensitive lighting scheme shall have been submitted to and approved in writing by Local Planning Authority. The lighting scheme shall be in accordance with the Bat Conservation Trust (2018) 'Bats and artificial lighting in the UK' publication. The lighting scheme shall be implemented in accordance with the approved details and retained to the approved specification thereafter.
- 16) Notwithstanding the provisions of Schedule 2, Part 1 Class A; B; and E of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification) there shall be no enlargement or alteration of the proposed dwellings, or erection of any outbuildings.
- 17) Prior to any dwelling being occupied, a gate shall be installed across the eastern end of the drive serving the adjacent commercial use in the location as shown on drawing 21.3940.09I. Vehicular access through this gate shall be restricted to occasional emergency use for the lifetime of the development.

END.