



Appeal Decision

Site visit made on 6 February 2024

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2024

Appeal Ref: APP/C4235/W/23/3328370

262 Bramhall Lane South, Bramhall, Stockport SK7 3DG

- 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 Phill Reynolds against the decision of Stockport Metropolitan Borough Council.
 - The application Ref is DC/083795.
 - The development proposed is erection of a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at 262 Bramhall Lane South, Bramhall, Stockport SK7 3DG in accordance with the terms of the application, Ref DC/083795, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the description of development from the application form, omitting wording that is not an act of development.
3. The appeal site comprises part of the garden to No. 262 Bramhall Lane South, also known as Ladybrook House. The Council contend that Ladybrook House, although currently not on a list of locally listed buildings, is a building of local architectural and historic merit and is a non-designated heritage asset in terms of the Planning Practice Guidance (PPG¹). The Council's Bramhall Park Conservation Area Character Appraisal (2011) (CAA) identifies Ladybrook House as a 'Key Unlisted Building', and my attention has been drawn to the Bramhall Park Management Plan (2012) (BPMP). Section 4.4 of this document identifies key unlisted buildings as non-designated heritage assets.
4. The appellant's Heritage Statement (October 2022) also refers to Section 4.4 of the BPNP and concludes that Ladybrook House, as a key unlisted building, has a low level of heritage significance. The PPG advises that local planning authorities may identify non-designated heritage assets as part of the decision-making process on planning applications. For the avoidance of doubt, I consider Ladybrook House to be a non-designated heritage asset.
5. The appellant has submitted a signed and dated Planning Obligation (s106 Agreement) with the appeal, pursuant to s106 of the Town and Country Planning Act 1990, in the form of an agreement with the Council. It includes provisions regarding financial contributions towards recreation and open space in the local area which are addressed later in this decision.

¹ Paragraph: 039 Reference ID: 18a-039-20190723

Main Issues

6. The main issues are:

- whether the proposed development would preserve or enhance the character or appearance of the Bramhall Park Conservation Area;
- the effect of the proposed development on the significance of Ladybrook House as a non-designated heritage asset;
- the effect of the proposal on the landscape character of the area; and,
- Whether the proposal would make adequate provision for recreation and amenity open space arising from the occupation of the proposed development having regard to local development plan policy requirements.

Reasons

Bramhall Park Conservation Area

7. The appeal site is located within the Bramhall Park Conservation Area (BPCA). The CAA describes the special character of the BPCA, insofar as it relates to this appeal, as deriving from the survival of the parkland and buildings of Bramhall Hall, steep sided valleys that create a dramatic setting for the Hall and create a series of open and closed views and vistas within and across the park, building form and plot sizes that have respected the established historic pattern, an absence of repetition between houses and the survival of mature trees and hedges. The significance of the BPCA, insofar as it relates to this appeal, includes individually designed dwellings set in large plots within and above a wooded valley slope north of Bramhall Park and Lady Brook.
8. Ladybrook House and its garden lies to the north-east of Bramhall Hall on the wooded slope overlooking Bramhall Park valley. As I saw on my site visit the steep wooded hillside forms an important backdrop to the parkland setting of the valley and is a key contributor to the appearance and character of the conservation area and its significance. The wider area is suburban in character with large detached dwellings positioned within substantial plots.
9. The CAA highlights the contribution which large plots make to the character of the area and how further development could have a harmful effect if not considered carefully. I attribute moderate weight to the CAA. Although of some age, it was subject to public consultation and provides useful context to the definition of the conservation area's character.

Effects of the proposal on the character and appearance of BPCA

10. The proposed development would introduce a large detached contemporary building into the substantial sized garden of Ladybrook House. It would also require the removal of several trees, not only within the garden area but also as a result of the proposed widening of the access spur to the site from Bramhall Lane South.
11. In terms of the proposed building, as set out above, it would be relatively respectful of its context due to its low height and response to the change in levels across the site. It would appear to be built into the slope of the land. The proposed development would still maintain a substantial gap between it and

Ladybrook House and the well wooded boundaries, given the extensive nature of the garden.

12. My attention has been drawn by the Council to the open space value of the appeal site. However, whilst there is value to the character of the area derived in part from the spacious garden of Ladybrook House in the sense that the building and the historical development and ratio of building to plot size in the local area can be appreciated, the overall plot size of Ladybrook House is substantial. In respect of the subdivision of the plot, both the proposed dwelling and Ladybrook House would still sit within generous sized individual plots typical of the wider BPCA.
13. The proposal would not result in 'cramming' as referred to in the Council's Design of Residential Development Supplementary Planning Document, 2007 (SPD). Moreover, sub-division of the plot would not be reinforced by features such as fences, walls or hedges.
14. I recognise that an important attribute of the special character of the BPCA is the contribution the trees make within the suburban area. The wooded hillside within which the appeal site sits provides a strong visual edge to the Bramhall Park valley and a key view, particularly from the south. The proposal would result in the loss of trees within the centre of the site to accommodate the proposed dwelling and at the access to Bramhall Lane South.
15. The Council contend that there is some uncertainty about the number of trees that would require removal. The appellant's Arboricultural Impact Assessment (AIA) is dated December 2022. The Tree Replacement Proposals Plan Ref: 383 04 Rev C (TRP) is dated May 23 and the Proposed Road Alterations Plan Ref: 2648 007 Rev A (RAP) is dated March 2023 and aligns with the TRP plan. These plans are therefore more up to date than the AIA and were in the list of plans on the decision notice. These plans indicate that 6no. trees would be removed to accommodate the proposed dwelling but would be replaced with 18no. trees within the plot.
16. Given the increase in replacement planting around the proposed dwelling, even if the trees took time to mature, this, together with the low built form of the proposed dwelling, would ensure that the appearance of the site would be maintained. Due to the density of tree cover on the site, the proposal would be barely discernible outside of the site, even during hours of darkness when lights inside the building could be switched on.
17. I note the suggestion that there would be pressure to prune trees in the vicinity of the proposed dwelling by future occupants. However, there is no substantive and demonstrable evidence before me to suggest that the proposed development would lead to pressure to prune trees in a manner that would cause harm to the character and appearance of the BPCA. In any event, the Council would have a degree of control over such matters and there is no reason to assume that any proposed works to prune the trees would not be carried out in accordance with best industry practice as per BS3998:2010 'Tree work – Recommendations'. This provides arboriculture standards to ensure that trees are pruned without disfigurement.
18. The proposed dwelling would increase the density of development in this part of the BPCA but not unreasonably so and not to a degree which I consider would harm the character and appearance of the BPCA. Ladywood House would

still retain a large garden in relation to other properties in the area, the collective characteristic of the heavily wooded boundary when viewed from the south would remain and the appearance of this part of the BPCA from Bramhall Park valley would be preserved. Thus, the proposal would not diminish this important attribute of the BPCA or reduce the ability to appreciate its significance.

19. In terms of the proposed widened access, both the TRP and the RAP suggest 3no. trees would require removal. However, I recognise that trees T2 and T7 would be positioned on or very close to the visibility splay and there is some doubt that these trees would remain due to the cutting back of the embankment on the root protection areas of those trees. Even if 5no. trees were removed from the access with Bramhall Lane South, they would be replaced by 4no. trees, and I note that the Council's arboriculture officer has raised no objections to the tree removals or replacement planting schedule.
20. Notwithstanding the above, the widening of the access and the resultant loss of trees along this part of Bramhall Lane South, where there is a change in levels, would reduce the length of dense tree cover along this boundary, even if new trees were planted close to the junction. It would marginally shorten the length of tree cover and diminish the sense of enclosure along Bramhall Lane South, an important element of the leafy character of the area. In turn this would result in some minor adverse effect on the character and appearance of the BPCA.

Non-designated heritage asset - Ladybrook House

21. From the evidence before me and observations at my site visit, Ladybrook House dates from approximately 1921 and is a two-storey brick and half-timbered dwelling built in the Arts and Craft style. The CAA states that the building is 'of interest as an unusual example of simple historical Arts and Crafts style, with plain walls, simple windows and deep overhanging eaves with long slender brackets'. The building appears little altered and the architectural origins remain clearly legible.
22. However, it is prudent to acknowledge that, even as a non-designated heritage asset, it has no statutory protection in its own right. Even so, Paragraph 209 of the Framework, indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss, and the significance of the heritage asset.
23. Furthermore, while not specifically referring to non-designated heritage assets, Policy CS8, paragraph 3.301 of the Stockport Core Strategy DPD, March 2011 (CS), requires that development makes a positive contribution to the protection and/or enhancement of the borough's heritage assets. The policy goes on to advise that, amongst other things, buildings and areas positively identified as having a degree of historic, architectural, artistic or archaeological significance will be safeguarded for the future.
24. Ladybrook House is positioned on the highest part of the site where its garden slopes southwards and comprises of terraced lawns which lead to informal paths criss-crossing a steep and extensively wooded area to its southern and

western boundaries. The dense strip of trees along the western boundary with Bramhall Lane South are protected by a Tree Preservation Order². The remainder are protected by virtue of being located within a conservation area.

25. The immediate setting of Ladybrook House, comprising its enclosed garden, has a direct physical, visual and functional link with the non-designated heritage asset. Thus, although not clearly visible from outside the site, the appeal site contributes positively to how the non-designated heritage asset is experienced. However, notwithstanding the spacious extent of the garden, the proximity of more recently constructed dwellings to the east at Lodge Farm Close has moderately diminished the contribution that the garden makes to the appreciation of Ladybrook House as a non-designated heritage asset.
26. Having regard to the submitted evidence and mindful of the definition of significance for heritage policy as set out in the Framework, I consider the significance of Ladybrook House to mostly stem from its intact aesthetic example of the period and the social and historic local context of former wealthy owners taking up residency away from the inner core of Stockport.

Effects of the proposal on the significance of Ladybrook House

27. The proposed dwelling would be located on the lower wooded slope of the garden to the south of Ladybrook House. It would be of contemporary design and incorporate large areas of glazing, timber and stone. Using the topography of the site, the dwelling would be built against an existing stone garden retaining wall and would extend over two levels and incorporate a grass roof. Access would be taken from the end of a narrow spur off Bramhall Lane South where there is a vehicular gate and gate posts alongside, but separate to, the gated access to Ladybrook House.
28. The proposed dwelling would project towards the southern boundary, beyond which is a large, detached brick flat roof building and a roundabout junction. The scale of the proposal would be considerable due to the spread of the proposed footprint across different levels, notwithstanding that the appellant has sought to minimise the overall height by taking advantage of the dramatic terraced slope. The removal of several trees to accommodate the proposal would be likely to expose this part of the garden.
29. The overall effect of the proposed development in as far as the physical presence of the proposed dwelling, access and its separate garden area would be to sub-divide the plot. This would result in some disconnection of Ladybrook House to its southern wooded and steeply sloping boundary.
30. However, there would be no physical hard boundary feature separating the proposed site from the remaining garden of Ladybrook House. The submitted plans indicate that the proposed grass roof on the first floor of the proposed dwelling would run seamlessly at the same level from the lawned garden area of Ladybrook House. While the Council have expressed some doubt that this would remain the case once the property was occupied, this matter could be dealt with through the use of an appropriately worded condition should I be minded to allow the appeal.
31. Moreover, the proposed dwelling would not be clearly visible from Ladybrook House due to its low height and the steeply sloping topography of this part of

² Tree Preservation Order Bramhall Lane South No.2 1981

the garden. Even though the overall form and siting of Ladybrook House and the proposed dwelling would be distinct, they would share the same linear wooded boundary to the west. The intimate lawned part of the garden to Ladybrook House would be retained. Furthermore, due to the substantial separation distance and contemporary approach to the design of the proposed dwelling, it would not compete with the special architectural character of Ladybrook House itself. While the overall size of the existing garden would be reduced, sufficient space would be retained between the non-designated heritage asset and the proposal such that it would not be noticeably intrusive or disruptive to the appreciation of Ladybrook House.

32. The proposed access would use the existing gated access and the proposed driveway would be screened from views from Ladybrook House by existing vegetation. There would therefore not be any undue incursion into the site and the understanding of Ladybrook House would not be diminished.

For the above reasons, I find that the intact and attractive Arts and Craft attributes of Ladybrook House that give significance would be fundamentally unchanged. Therefore, in undertaking a balanced judgement, there would be a neutral impact on its significance.

Conclusion on heritage matters

33. I am mindful of my statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving or enhancing the character or appearance of the BPCA, to which I have attached considerable importance and weight.
34. While I have found that the erection of the proposed dwelling in itself would not adversely affect the BPCA, the widening of the access to Bramhall Lane South would cause some diminution of significance of the BPCA, and therefore adverse impacts on character and appearance. This would amount to less than substantial harm in the heritage balance. The less than substantial harm would be limited, and although there is no legal need to quantify the amount of less than substantial harm, I consider it to be at the lower end of a notional spectrum of less than substantial harm.
35. No public benefit test is set out within the relevant development plan policies, and as such they are more restrictive than the Framework in this regard (with the exception of redevelopment following demolition in Policy SIE-3D which is not relevant to this appeal). There would be conflict with Policies CS8, SIE1 and SIE3 of the CS and Policy HC1.3 of the Stockport Saved Unitary Development Plan Review 2006 (UDP). These policies seek, amongst other things, to protect, safeguard and enhance the character and appearance of conservation areas and views into or out of the area. However, as these policies are more restrictive than the framework, they carry moderate weight. The proposal would also conflict, in part, with guidance in the SPD in relation to the protection and enhancement of important views in sensitive locations. Moreover, there would be conflict with s72 of the Act. Such conflict would be of considerable weight.
36. Paragraph 208 of the Framework states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal. I undertake this balance later in my decision.

37. In terms of the non-designated heritage asset, I have concluded that the proposal would not harm the significance of Ladybrook House as a non-designated heritage asset. As such, there would be no conflict with the development plan in this regard or paragraph 209 of the Framework concerning non-designated heritage assets.

Landscape Character

38. The appeal site and a significant portion of the BPCA sits within the Ladybrook Valley Landscape Character Area (LVLCA), defined by the UDP. Saved Policies LCR1.1 and LCR1.1a of the UDP confirm that development will only be allowed in such areas where it protects and enhances the quality and character of the area and can be accommodated without adverse effect on the landscape quality of the particular character area.
39. The explanation text to Policy LCR1.1 advises that the Borough's river valleys generally cover countryside areas, but some, such as the LVLCA include parts of the urban area. Policy LC1.1a sets out that proposals in the urban fringe should protect, conserve and improve the landscape quality and natural history of the locality. I note the LVLCA advises that the safeguarding of domestic gardens from further encroachment by infill development will form an important part of safeguarding the character of this area.
40. Although the proposal would result in the construction of a dwelling within a garden and the loss of some mature trees on the wooded slope enclosing the north side of the valley, when viewed in the context of the dense and continuous concentration of trees on this slope, the loss would be modest and the building barely discernible.
41. Given the low height of the proposed dwelling and the replacement planting, I consider the landscape quality and sense of wooded enclosure would be preserved. Accordingly, the effect of the proposal on the landscape character of the area would be acceptable. The proposal would not therefore conflict with Policies LCR1.1 and LCR1.1a of the UDP and Policies H.1 and CS8 of the CS which all seek, amongst other matters, that development avoids an adverse effect on landscape quality.

Recreation and amenity open space

42. Policy L1.2 of the UDP requires all new residential developments to contribute towards reasonably related provision and maintenance of recreation facilities and amenity open space in the local area. This policy position is reiterated in Policies CS8 and SIE2 of the CS confirming that residential developments will be given positive consideration where they satisfy the need for children's play facilities by the provision of new or improved facilities in locations which are accessible to future occupiers.
43. Further guidance and details are provided within the Council's Open Space Provision and Commuted Payments Supplementary Planning Document, adopted 2019 (OSP SPD). This sets out the evidence base and way in which contributions will be calculated and invested.
44. The Council's Statement demonstrates how the contributions sought have been calculated using standard formulae based on the number of units, bedrooms and persons. I accept that the proposal would potentially generate additional

- demand for formal and informal recreation space in the locality and could be expected to increase the number of children using nearby playgrounds.
45. The OSP SPD indicates that there is a quantitative shortfall of equipped children's play space in Bramhall. Furthermore, I have been provided with a Playing Pitch Strategy 2019 (PPS) which identifies a range of capacity and quality issues across a number of sports in the Bramhall area. Although I have not been provided with a copy, the Council advises that the Local Football Facility Plan 2020 (FFP) identifies priority projects for investment in the area.
46. In order to ensure any financial contribution is spent locally, the OS SPD sets threshold distances which I find to be reasonable. In this respect, Bramhall Park Neighbourhood Area of Play (NEAP) is within 1km of the appeal site and a portion of the contribution would be invested here to improve the qualitative provision of amenity open space.
47. A further portion of the contribution would be allocated to the Council's Formal Sport Priority List, a copy of which I have been provided with, which is informed by the PPS and FFP. It would appear that 3 sites within the Bramhall and Cheadle area are on this list.
48. On the above basis, from the information presented, I am satisfied that the contributions sought would be necessary to make the development acceptable in planning terms and would be directly related to the development and fairly and reasonably related in scale and kind. The s106 Agreement is complete and executable. I am therefore satisfied that it meets the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.
49. I therefore conclude that the proposal makes the necessary provision for public recreation and amenity open space in accordance with Policy SIE2 of the CS, Saved Policy L1.2 of the Stockport Unitary Development Plan Review (2006) and the OSP SPD.

Other Material Considerations/Public Benefits

50. Both parties agree that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. In this regard, the proposal would deliver one home on a windfall site with good accessibility to services which would make a positive, albeit limited, contribution to meeting housing needs. Moreover, economic and social benefits would flow from its construction and occupation, as well as from future occupiers supporting local services and facilities. While the extent of these benefits are tempered by the modest amount of development proposed, they attract moderate weight in favour of the appeal.
51. Improvements to the access would ensure a safer access onto Bramhall Lane South for occupants of the proposed dwelling as well as for occupants and visitors to other dwellings on the spur and would therefore represent a benefit to highway safety as expressed by the Council's Highway Officer. I ascribe this moderate public benefit.
52. There would be likely to be ecological enhancement of the site because of additional tree planting and enhanced landscaping, although this would be tempered by the loss of mature trees and construction of a building on green space. I afford this limited public benefit.

Heritage and Planning Balance

53. There follows a strong presumption against approving a scheme which would harm the significance of a designated heritage asset, not least because the desirability of preserving the heritage asset is a matter of statutory duty and is therefore a factor of considerable importance and weight. Nevertheless, change to heritage assets is inevitable and is only harmful when significance is damaged. The nature and importance of the significance that is affected will dictate the proportionate response to assessing that change and its justification.³
54. In the terms of the Framework, less than substantial harm would result to the conservation area. In light of my conclusions above, I consider that the limited harm identified would be at the lower end of the 'less than substantial' spectrum. In circumstances where there would be harm to significance, it is necessary to weigh that harm against the public benefits of the proposal.
55. In this case, the public benefits relate to highway, biodiversity, social and economic benefits of the proposal as set out above. The proposal would contribute a new home. This would make a small contribution to addressing the Council's shortfall in housing land supply in a location with good access to transport and service options. Together, I give these matters considerable weight which is sufficient to outweigh the low level of harm to the character and appearance of the BPCA and the conflict identified in relation to the Act and local policies.
56. As I have found that there would be no harm to the significance of Ladybrook House as a non-designated heritage asset or the landscape character of the area these matters are neutral in the balance.
57. Overall, notwithstanding the conflict with the development plan provisions relating to the low level of harm to the BPCA, I find that the adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole.

Other Matters

58. Whilst I recognise the concerns from occupants of properties located along the spur on Bramhall Lane South regarding the narrowness of the access road and that the construction process is likely to be disruptive, it would be short-term and is not a reason to withhold permission. Furthermore, construction methods, foundation design and the technical facilitation of the proposal, are not matters that are material to the planning considerations of the proposal. Where necessary, measures to deal with some effects of the construction process could be secured by planning conditions.
59. I have also given careful consideration to the comments from local residents who have expressed concerns including, but not limited to highway safety, ecology, drainage, re-profiling of land and removal of earth material, loss of privacy and increased noise as a result of the widening of the access to Bramhall Road South. However, I note that these matters were considered

³ Historic England's Managing Significance in Decision-Taking in the Historic Environment, Historic Environment Good Practice Advice in Planning: 2

where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

60. Concern has been expressed that the granting of permission at the appeal site would set a precedent for other similar development in the area. However, my decision is based on the characteristics of this appeal site and this proposal and I see no reason as to why it should set a precedent for others since each site and proposal would be likely to differ. In any event, my decision would not limit the scope of judgement in other individual case circumstances.
61. The owner of the land either side of the access to Bramhall Lane South has advised that they would not be agreeable to making their land available for use as part of the proposed development, in particular the widening required to make the development acceptable with regards highway safety. Furthermore, it is put to me that in the event that the appeal is allowed, conditions requiring the widening of the access junction, including the submitted plans, would not meet the tests set out in paragraph 56 of the Framework or the PPG⁴ regarding the use of planning conditions, as there would be no prospect of the proposed development being implemented. I will return to this below.

Conditions

62. I have considered the suggested conditions from the Council and had regard to the Framework and the PPG in terms of the use of planning conditions. I have undertaken some editing and rationalisation of the conditions suggested by the Council in the interests of precision and clarity. Both main parties have had the opportunity to review the proposed conditions and I have taken account of their comments.
63. I am informed that the land required to widen the existing access to Bramhall Lane South and remove trees would not be available to the appellant as it is not within their ownership. Whilst rights of access and land ownership are a civil matter outside of the planning regime, matters such as a land ownership could prevent the widening of the access, with no prospect of the appellant being able to fulfil the requirements of conditions.
64. The PPG⁵ advises that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. However, it may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) prohibiting development authorised by the planning permission until a specified action has been taken.
65. The PPG informs that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.
66. While the PPG provides a useful steer on the use of planning conditions, it is guidance not law. The courts have found (*Bellway Homes Ltd v SSCLG & Cheshire East Council CO/302/2015*) that it must be more than unlikely or

⁴ Paragraph: 003 Reference ID: 21a-003-20190723

⁵ Paragraph: 009 Reference ID: 21a-009-20140306

uncertain that the action would be achieved to justify refusing permission for development which would be acceptable with the condition in place. This judgment re-affirms that the unlikelihood of implementation is not by itself sufficient reason to refuse to impose a Grampian condition; the discretion not to use such a condition must be exercised with other sound planning reasons.

67. In addition, the failure to consider imposing a suggested Grampian condition, or indeed any other suggested condition, was considered procedurally unfair in *Engbers v SSCLG [2016] EWCA Civ 118*.
68. Although the owner of the land would not currently make the land available, I cannot be certain that circumstances would not change within the timescale of the permission. Furthermore, it was held in *Grampian Regional Council v Aberdeen CC [1983] P&CR 633* that negatively-worded conditions are enforceable and imposing such a condition with respect to land outside of the applicant's control would not create unacceptable uncertainty, since there is nothing to compel any applicant to implement a permission in any event.
69. In addition to the standard condition relating to the time period for implementation, there is a need for a condition specifying the plans to which the permission relates, in the interests of clarity and certainty but without changing the substance of any particular condition. It is suggested that plans in relation to tree removal in relation to the widened access are uncertain and are in conflict with each other. Proposed tree plans refs 2648 0011 and 0012 have not been included on the list of approved plans as they have been superseded by the proposed tree replacement proposals plan ref 383 04 Rev C and the proposed road alterations plan re 2648 007 Rev A. These are more up to date than the AIA and provide a clear indication of the proposed access widening works and tree removal.
70. Pre-commencement conditions are required for construction method statement, access, surface water drainage, tree protection, invasive species management, materials and driveway construction to ensure appropriate management of the construction phases at an early stage, to protect neighbouring living conditions, trees, biodiversity, the character and appearance of the conservation area and to ensure details are available to contractors before work commences. The appellant has not objected to the inclusion of these pre-commencement conditions.
71. Details of hard landscaping are reasonable and necessary in respect of character and appearance and conditions in respect of the provision of bat and bird boxes and insect houses are necessary in the interests of biodiversity and protected species. I have reworded the Council's suggested condition regarding construction works in relation to ecological features and the submission of a landscape plan to a requirement to implement the recommendations of the appellant's ecological report and the approved tree replacement proposals, which also include proposed landscaping. These are reasonable and necessary to protect habitats and species and to ensure suitable replacement landscaping to preserve the character and appearance of the conservation area.
72. Other conditions are necessary for trees and vegetation clearance are reasonable and necessary in respect of ecology and to protect the visual attributes of the area. I have replaced the reference to the AIA in the Council's suggested condition with the tree replacement proposal plan as this is more up to date.

73. Conditions have been suggested by the Council in respect of the provision of a further ecological survey and external lighting. Whilst these are necessary to safeguard ecological interests on the site, I have amended the requirement to provide a further ecology survey should the development not have commenced within 1 year, by which time, the appellant's ecological survey may be out of date.
74. The Council have suggested a condition removing an extensive list of permitted development rights. However, the PPG advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. A blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness, even with the site being located within a conservation area. Nevertheless, I have removed permitted development rights in relation to the erection of a hard physical boundary between the site and Ladybrook House to preserve the character and appearance of the conservation area.
75. I have not included a condition relating to the provision of an electric vehicle charging point as this would be covered by other legislation, in the form of Building Regulations. I have also not included a condition requiring details of gate and piers at the entrance to the site access because the gates and piers that are already in place at the site are acceptable.

Conclusion

76. For the reasons given above, I conclude that the appeal should be allowed, and planning permission is granted.

A Veevers

INSPECTOR

SCHEDULE OF CONDITIONS

Time limit

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

Approved drawings

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 2648 002 Rev D (Site Plan and Location Plan)
 - 2648 003 (Proposed Ground Floor Plan)
 - 2648 004 (Proposed Lower Ground Floor Plan)
 - 2648 005 Rev A (Proposed Elevations)
 - 2648 006 (Proposed Elevations)
 - 2648 007 Rev A (Proposed Road Alterations)
 - 383 04 Rev C (Tree Replacement Proposals)
 - 3533-F02 Rev B (Visibility Plan)

Pre-Commencement

- 3) No development shall take place until a method statement detailing how the development will be constructed (including any site clearance) has been submitted to and approved in writing by the local planning authority. The method statement shall include details on phasing, access arrangements, turning / manoeuvring facilities, deliveries, vehicle routing, traffic management, signage, hoardings, scaffolding, where materials will be loaded, unloaded and stored, parking arrangements and mud prevention measures. Development of the site shall not proceed except in accordance with the approved method statement.
- 4) No development shall take place until a detailed drawing of the proposed junction at the access with Bramhall Lane South has been submitted to and approved in writing by the local planning authority. The details to be submitted shall include proposals to provide vehicular visibility splays of 2m x 43m to the north and south of the junction together with the layout and specification details of the access construction and tie in to adopted highway. The approved development shall not be occupied until the junction has been improved in accordance with the approved drawing and is available for use. No structure, object, plant or tree exceeding 1000mm in height shall subsequently be erected or allowed to grow to a height in excess of 1000mm within the vehicular visibility splays.
- 5) Notwithstanding the approved plans, no development shall take place until a detailed surface water drainage scheme has been submitted to and approved in writing by the local planning authority.
The scheme shall:
 - (a) incorporate SuDS and be based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions;
 - (b) include an assessment and calculation for 1in 1yr, 30yr and 100yr + 40% climate change figure critical storm events showing flood exceedance routes.

- (c) be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards; and
- (d) shall include details of ongoing maintenance and management.

The development shall be completed and maintained in full accordance with the approved details.

- 6) No development shall take place until all existing trees on the site except those shown to be removed on Drawing 383 04 Rev C (Tree Replacement Proposals) have been fenced off in accordance with BS 5837:2012 "Trees in Relation to Construction - Recommendations". The fencing shall be retained during the period of construction and no work, excavation, tipping or stacking of materials shall take place within any such fence during the construction period.
- 7) No site or vegetation clearance and no development shall be carried out other than in accordance with an invasive species management plan which has first been submitted to and approved in writing by the local planning authority. This shall detail how the spread of *Rhododendron Ponticum* on the site will be avoided during construction works, how this species will be removed from site (rather than retained as part of the landscaping scheme) and details of proposed treatment/eradication plan.
- 8) Notwithstanding the information shown on the submitted drawings, no above ground development shall take place until a detailed schedule of all proposed materials of external construction has been submitted to and approved in writing by the local planning authority, and samples have been made available for inspection on site. The development shall not be occupied until the development has been completed in accordance with the approved schedule and materials.
- 9) No work shall take place in respect to the construction of the approved driveway / extended driveway until a detailed drawing of the driveway and in curtilage parking has been submitted to and approved in writing by the Local Planning Authority. Details shall include how the driveway will be surfaced (which shall be tarmac, block paving or other non-loose material) and drained (which must be to a soakaway / SuDS system). The approved development shall not be occupied until the driveway has been provided in accordance with the approved drawing and is available for use. The driveway shall thereafter be kept clear and remain available for parking of vehicles for the development.

Pre-occupation

- 10) The development shall not be occupied until a scheme of hard landscaping has been implemented in accordance with details which have first been submitted to and approved in writing by the local planning authority.
- 11) The development shall not be occupied until 2 bat boxes, 3 bird boxes and 2 insect houses have been provided on site in accordance with details which have first been submitted to and approved in writing by the local planning authority to show their proposed type and location. The bat and bird boxes and insect houses shall be retained on the site thereafter.

Other

- 12) Construction works shall be carried out in accordance with the 'Recommendations for Mitigation' contained in Section 8 of the Roavr Environmental Preliminary Ecological Appraisal Report dated 28 January 2022.

If at any time during construction works evidence of badger (or any other protected species) is discovered on site then works must cease and a suitably experienced ecologist be contacted for advice. Any construction works which involve the creation of trenches or with pipes shall include the provision of sloping escape ramps for badgers which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day. All open pipe work greater than 150mm in diameter exposed during construction works shall be blanked off at the end of each working day.

- 13) The tree planting and landscaping scheme shown on Drawing 383 04 Rev C (Tree Replacement Proposals) shall be carried out within 6 months of the date of first occupation or substantial completion of the development whichever is the sooner. Any trees, plants or grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size, species and quality unless the local planning authority gives written approval to any variation.
- 14) No existing tree within the site shall be cut down, topped, lopped, uprooted, wilfully damaged or wilfully destroyed without the prior written approval of the local planning authority, with the exception of those indicated otherwise on Drawing 383 04 Rev C (Tree Replacement Proposals). Any hedgerows, woody plants or shrubbery removed without such consent or dying or being severely damaged or being seriously diseased, within 5 years of the development commencing, shall be replaced within the next planting season with trees of such size and species as may be approved in writing by the local planning authority.
- 15) No tree shall be felled other than in accordance with 'soft fell' techniques. All trees shall be sectionally felled (avoiding cutting through potential roosting features) and sections shall be gently lowered to the ground. Once on the ground these sections will be inspected by an ecologist and left on the ground overnight (with potential roost access point facing upwards) to allow any bats present to disperse (in case any bats are present but undetectable during the inspection). In the event that bats are discovered advice will be sought from the onsite ecologist on how to proceed.
- 16) If any vegetation clearance works need to take place between 1st March and 31st August inclusive, a competent ecologist must first undertake a careful, detailed check of buildings/vegetation/trees for active birds' nests immediately before works commence and provide written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on site.
- 17) If the development hereby approved has not been commenced within 1 year of the date of this permission, a further ecological survey of the site shall be carried out, submitted to and approved in writing by the local planning authority. The development shall then not proceed other than in accordance with the recommendations of that approved survey.

- 18) No external lighting shall be installed other than in accordance with details which have first been submitted to and approved in writing by the local planning authority to show the design, location and light spillage thereof. All proposed external lighting should be sensitively designed so as to minimize impacts on wildlife associated with light disturbance (following the principles outlined in Bat Conservation Trust guidance: <https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting>). Any lighting installed shall be implemented in accordance with the approved details and maintained as such thereafter.
- 19) 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 fence, wall or other solid physical boundary feature shall be erected between the site and Ladybrook House, 262 Bramhall Lane South.

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