The Planning Inspectorate

Appeal Decision

Site visit made on 9 January 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2024

Appeal Ref: APP/H1705/W/23/3326212
Berry Court Business Park, Bramley Road, Little London RG26 5AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Philip Snook against the decision of Basingstoke and Deane Borough Council.
- The application Ref 20/00962/ROC, dated 14 April 2020, was approved on 11 May 2023 and planning permission was granted subject to conditions.
- The development permitted is the change of use of land from agricultural to B8 use as an extension of Berry Court Business Park.
- The conditions in dispute are Nos 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 which state that:
  2) *A natural buffer of 20m in width from the native linear tree belt which forms the western boundary of the site shall be provided. This buffer is to be measured out from the edge of the existing tree canopy and shall thereafter be retained and maintained in accordance with the details approved under condition 3.*
  3) *Within 3 months of the date of this permission a scheme of landscaping for the 20m natural buffer (identified in condition 2 above) which shall specify species, planting sizes, spacing and numbers of native trees/shrubs to be planted (including replacement trees where appropriate). The works approved shall be carried out in the first planting and seeding seasons following the approval in writing of the approved scheme. In addition, a maintenance programme detailing all operations to be carried out in order to allow successful establishment of planting, shall be included. Any trees or plants 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 and species, to be agreed in writing by the Local Planning Authority.*
  4) *Within 3 months of the date of this permission waste storage to accommodate the need of the existing user shall be provided and retained until the user no longer is on the site. Within 1 month of and other business / operator moving onto the site waste storage shall be provided to accommodate their needs and shall be retained until the user no longer is on the site.*
  5) *Notwithstanding the existing boundary treatments and within 3 months of the date of this permission a site plan (to a recognised metric scale not less than 1:250) shall be submitted demonstrating the following:*
     - *20m buffer (required by condition 2 above);*
     - *Details of the field boundary between the western red line edge and the adjoining land (area of the native linear tree belt);*
     - *Removal of the southern bund within the 20m buffer;*
     - *Details of the location / materials / height / width of the boundaries of the proposed use;*
     - *Specify species, planting sizes, spacing and numbers of trees/shrubs to be planted on any boundary (including replacement trees where appropriate).*

  The approved screen walls/fences shall be erected within 2 months of the date of the approval of the submitted details and shall subsequently be maintained.

Any planning shall be carried out in the first planting and seeding seasons following the approval in writing of the approved scheme.
In addition, a maintenance programme detailing all operations to be carried out in order to allow successful establishment of any planting, shall be included. Any trees or plants 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 and species, details of which shall be agreed in writing by the Local Planning Authority before replacement occurs.

6) *Whether or not development, prior to the installation of any lights a scheme detailing all external lighting to be erected on the site shall be submitted. Once approved in writing the lighting scheme shall be implemented and maintained in full accordance with the approved details. No other lighting shall be erected on the site.*
7) *Within 3 months of the date of this permission the following shall be submitted to the Local Planning Authority:-*
    (a) a site investigation report (covering both the existing bunds / hardstanding and proposed hardstanding) documenting the ground conditions of the site and incorporating chemical and gas analysis identified as being appropriate by the councils Environmental Health Team and in accordance with BS10175:2011- Investigation of Potentially Contaminated Sites - Code of Practice; and,
    (b) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants/or gases when the site is developed.

    Once approved in writing the any works will be carried out in full accordance with the approved details.
    The scheme must include a timetable of works and site management procedures and the nomination of a competent person to oversee the implementation of the works. The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 and if necessary proposals for future maintenance and monitoring. If during any works contamination is encountered which has not been previously identified it should be reported immediately to the Local Planning Authority. The additional contamination shall be fully assessed and an appropriate remediation scheme, agreed in writing with the Local Planning Authority.
    This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11'.
8) *Any verification by the competent person approved under the provisions of condition 7(b) that any remediation scheme required and approved under the provisions of condition 7(b) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation) shall be submitted to the Local Planning Authority within 1 month of the agreed timetable of works agreed under 7(b). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:*
    - as built drawings of the implemented scheme;
    - photographs of the remediation works in progress;
    - certificates demonstrating that imported and/or material left in situ is free of contamination.

    Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 7(b).
9) *Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) the use of the site shall remain B8 and no change of use permitted by the aforementioned document shall take place on the application site unless approved in writing by the Local Planning Authority on an application made for such.*
10) *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no buildings, plant, machinery, structures, walls or fences of any kind shall be erected within the area outlined in red on the location*

plan unless approved in writing by the Local Planning Authority on an application made for such.

11) *The parking space(s)/area hereby approved shall not be used for any purpose other than the parking of vehicles ancillary to the use of the site to the north (Berry Court Business Park) and the B8 storage use approved by this application.*
12) *No items, vehicles and materials shall be stacked or deposited to a total height exceeding 3m above ground level within the site.*
13) *The site shall only operate between the following hours:*
    Monday - Friday 07:30 hrs - 19:30 hours
    Saturday 08:00 hrs - 13:00hrs
    No opening on Sunday and Bank and Public Holidays
14) *Within 3 months of the date of this decision details of surface water drainage together with a timetable for implementation; or shall be submitted to the Local Planning Authority. The approved scheme shall be implemented within 1 month of the approved detail and completed in accordance with it and thereafter maintained in accordance with the approved details.*
15) *Within 3 months of the date of this decision a detailed habitat enhancement scheme shall be submitted to the Local Planning Authority. Once approved in writing the use hereby approved shall be maintained in accordance with the details so approved. The details shall include:*
    - *Purpose, aims and objectives for the scheme, taking into account the site's existing biodiversity;*
    - *A method statement for implementation of the enhancement proposals;*
    - *Sources of habitat material (e.g. planting stock and its origin) if applicable;*
    - *Aftercare and long term management.*

- The reasons given for the conditions are:

2) *In order to prevent adverse impacts on the linear tree belt and the benefits it has in relation to biodiversity, landscape character and visual amenity and amenity of users of the adjacent PROW in accordance with the National Planning Policy Framework (July 2021) and Policies EM1, EM4 and EM10 of the Basingstoke and Deane Local Plan 2011-2029 and Chapter 5 (Biodiversity) of the Landscape, Biodiversity and Trees Supplementary Planning Document (2018);*
3) *The application is speculative and these details are required in relation to the landscape character and visual appearance of the area and amenity of future occupants in accordance with the National Planning Policy Framework (July 2021) and Policies EM1, EM4 and EM10 of the Basingstoke and Deane Local Plan 2011 - 2029; Landscape, Biodiversity and Trees Supplementary Planning Document (2018).*
4) *The application is speculative and these details are required in relation to the visual appearance of the area and amenity of future occupants in accordance with the National Planning Policy Framework (July 2021) and Policies EM1, EM10 and CN9 of the Basingstoke and Deane Local Plan 2011-2029; Landscape, Biodiversity and Trees Supplementary Planning Document (2018); Parking Supplementary Planning Document (2018).*
5) *The application is speculative and these details are required in relation to the landscape character and visual appearance of the area and amenity of future occupants in accordance with the National Planning Policy Framework (July 2021) and Policies EM1 and EM10 of the Basingstoke and Deane Local Plan 2011 - 2029; Landscape, Biodiversity and Trees Supplementary Planning Document (2018).*
6) *In order to prevent adverse impacts on biodiversity and landscape character and visual amenity in accordance with the National Planning Policy Framework (July 2021) and Policies EM1, EM4 and EM10 of the Basingstoke and Deane Local Plan 2011-2029 and the Landscape, Biodiversity and Trees Supplementary Planning Document (2018).*
7) *To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EM12 of the Basingstoke and Deane Local Plan 2011-2029.*

8) *To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance Policy EM12 of the Basingstoke and Deane Local Plan 2011-2029.*
9) *The application has been evaluated as a B8 use and any change of use permitted by the GDPO may not be acceptable to the Local Planning Authority, having regard to the site location and in accordance with Policy EM10 of the Basingstoke and Deane Local Plan 2011-2029.*
10) *To protect the amenities of the locality and to prevent overdevelopment of the site, in accordance Policies EM10 and CN9 of the Basingstoke and Deane Local Plan 2011-2029.*
11) *To ensure adequate on-site parking provision for the approved and in the interests of local amenity and highway safety and in accordance Policies CN9 and EM10 of the Basingstoke and Deane Local Plan 2011-2029.*
12) *In the interests of the amenities of the area in accordance with Policy EM10 of the Basingstoke and Deane Local Plan 2011-2029.*
13) *To protect the amenities of the occupiers of nearby properties and in accordance with Policy EM10 of the Basingstoke and Deane Local Plan 2011-2029.*
14) *Details are required prior to commencement as insufficient detail was submitted within the application in this regard, in accordance with Policies EM6 and EM12 of the Basingstoke and Deane Local Plan 2011-2029.*
15) *As insufficient information was submitted with the application and to help maintain and enhance the biodiversity of the area in the long-term in accordance with the National Planning Policy Framework and Policy EM4 of the Basingstoke and Deane Local Plan 2011-2029; Landscape, Biodiversity and Trees Supplementary Planning Document (2018).*

Decision

1. The appeal is allowed and the planning permission Ref 20/00962/ROC for the change of use of land from agricultural to B8 use as an extension of Berry Court Business Park at land adjacent to the south side of Berry Court Business Park, Tadley, RG26 5AT granted on 11 May 2023 by Basingstoke and Deane Borough Council, is varied by deleting conditions 3,4,5,6,7,8,9,10,11,12,13,14 and 15 and substituting them with the conditions set out in the attached schedule.

Preliminary Matters

2. Within the description of development in the decision above I have taken out the details which aren't acts of development.

3. During the appeal, the Council commenced its Regulation 18 consultation[1], in accordance with The Town and Country Planning (Local Planning) (England) Regulations 2012 on the Basingstoke and Deane Local Plan Update 2021 to 2040. The main parties have been invited to provide further comments on this update and, where received, I have taken them into account in my decision. However, given the early stage of the update, I attach limited weight to it within my determination of this appeal. I am satisfied no party would be prejudiced by taking this approach.

4. Additionally, during the appeal a new version of the National Planning Policy Framework (the Framework) came into effect. However, as the Framework's policy content insofar as it relates to the main issues has not been significantly

[1] Date commenced 22 January 2024

changed there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by the appeal being determined accordingly.

Background and Main Issues

5. Planning permission[2] was granted in 2019 (the original permission) for the change of use of the appeal site from agricultural to a B8 use as an extension to Berry Court Business Park (the Business Park), subject to several conditions.

6. The site is now being used for the storage of caravans and motorhomes, and an area of car parking. Other vehicles, including a double-decker bus, were also stored on the site at the time of my visit.

7. A further planning application sought to vary or remove most of the conditions attached to the original permission. Although the Council approved the further planning application (the varied permission), not all variations or deletions sought were accepted. Therefore, the appellant wishes to further vary or delete these conditions via this appeal.

8. The main issues are the effect that varying or removing the conditions would have on:

- biodiversity, with particular regard to the Gypsy Lane Site of Importance for Nature Conservation (SINC);
- the character and appearance of the area;
- water quality and flooding;
- safety of users of the site, with particular regard to contaminants;
- the highway safety of users of Bramley Road;
- the suitability of the site having regard to local planning policies on the location of economic development; and
- the living conditions of neighbouring occupiers, with particular regard to noise.

Reasons

Biodiversity

9. Following other Inspector's decisions[3] relating to several appeals on a site nearby[4] (the LDC/ENF site), there is no dispute that the woodland associated with the adjacent Gypsy Lane Public Right of Way (PROW) is not an Ancient Woodland, even if it displays characteristics of such a habitat. However, the evidence before me indicates that between Bramley Road and New Road, the wooded area associated with this former drove has been designated as a SINC, a non-statutory nature conservation site. Furthermore, the woodland on either

[2] Council ref: 19/0070/FUL dated 16 September 2019
[3] Appeal Decisions APP/H1705/W/20/3248772, dated 15 December 2020 and APP/H1705/C/20/3262226 & 3262297, APP/H1705/X/20/3262235, dated 25 August 2023
[4] Land at South of Berry Court Farm (subject to the above planning, Local Development Certificate and Enforcement appeals)

side of Gypsy Lane is subject to a Tree Preservation Order[5] and, as an area of lowland mixed deciduous woodland, is a priority habitat[6].

10. Policy EM4 of the Basingstoke and Deane Local Plan 2011-2029 (the Local Plan) restricts development which would cause significant harm to biodiversity or, if that is not possible, clearly demonstrate that it can be mitigated so there would be no harm to locally designated sites, including SINCs, as a result of the development. This is consistent with Chapter 15 of the Framework which seeks to protect sites of biodiversity commensurate with their status or quality and sets out the principles to be applied when determining a planning application. This includes the refusal of planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or compensated.

11. Policy EM4 is amplified by the Council's Landscape, Biodiversity and Trees Supplementary Planning Document (the Landscape SPD) which requires a minimum of a 20-metre buffer zone to be created between the edge of a woodland/tree belt and any development. This enables a naturally graded edge to the woodland to be provided. Where it is considered the woodland forms part of an important wildlife corridor, for example of particular importance to bats, or is ancient in origin, the Council expect buffers greater than this size. Although the size of the buffer to be provided is not set out in Policy EM4, nevertheless, the intent of the Landscape SPD to protect and enhance the biodiversity of an area is consistent with the overall aims of Policy EM4 and the Framework.

12. In determining the original planning application, the Council identified that subject to the imposition of **Condition 2** and **Condition 3**, including a 20-metre buffer and associated landscaping scheme, the development would not cause significant harm to biodiversity. Given the absence of detailed evidence regarding the biodiversity baseline of the woodland when the original planning application was determined, the imposition of a seemingly default buffer size is not unreasonable or unnecessary to make the development acceptable.

13. A Condition Amendment Report[7] (CAR) was submitted with the further planning application. This was based on a walkover survey undertaken on 10 December 2019 and concluded that an 8-metre buffer would be sufficient to ensure no negative impacts to the native tree belt. However, the CAR provides limited evidence of the baseline biodiversity or ecological value of the woodland. This is despite concluding that it is likely the woodland is of considerable ecological value for a variety of wildlife, particularly bats and birds. Moreover, as set out in the CAR, given habitats and the species they may support change over time due to natural processes and human influence, the walkover survey is only valid for two years. As no update to the walkover survey or the CAR has been provided as part of the appeal and its ecological evidence is limited, I cannot be certain that its findings accurately represent an up-to-date condition and value of the woodland. Nor am I able to conclude with certainty that a reduction in the size of the buffer would not significantly harm its biodiversity.

[5] TPO/BDB/0679A dated 18 April 2023
[6] Under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006
[7] Prepared by Ecological Surveys Ltd, issued 16 January 2020

14. Due to the status of the woodland associated with Gypsy Lane, any comparison between the size of the buffer Natural England recommends between development and an Ancient Woodland is not determinative in this case.

15. Although the provision of a 20-metre buffer limits the area which can be used for open storage, it does not restrict the ability of the site to accommodate a significant number of caravans and motorhomes, as I observed during my site visit. Furthermore, the varied permission does not preclude the use of the site for the open storage of other items. On this basis, the continued operation of the use of the site is not prevented by the requirement for a buffer zone.

16. Notwithstanding the limited details before me relating to the Business Park or Berry Court Solar Farm (the Solar Farm) planning applications nor the planning regime in place at the time of their determination, the absence of a buffer on these sites is not a reason to permit unacceptable development.

17. Based on the evidence before me, it has not been clearly demonstrated that significant harm to the biodiversity of a priority habitat would not result from the development should the buffer be reduced in size. This is the case irrespective of the lack of specific trees identified by the Council that raise concerns regarding growth, decay or death.

18. As a result, the requirements of Conditions 2 and 3 are reasonable and necessary to prevent harm to the biodiversity of the site and its surroundings. For clarity, I have replaced Conditions 2 and 3 with a single, comprehensive condition which combines the requirements of a hard and soft landscaping scheme more precisely. I have also included a strict timetable for the submission of the scheme and subsequent implementation as the development has commenced. This also ensures that the development can be enforced against if the requirements are not met.

19. However, I have removed the requirement for the existing bund to be removed from the buffer zone. Without the results of the ground condition testing (Conditions 7 and 8) before me or an approved habitat enhancement scheme (Condition 15), it is not clear if removing the bund within the buffer would cause harm to the biodiversity of the SINC.

20. **Condition 15** requires a habitat enhancement scheme to be submitted to and approved in writing by the Council within three months of the date of the decision on the further planning application. Given the absence of evidence regarding the existing biodiversity of the site including the importance of the SINC habitat, the main parties agree this condition is necessary. However, the issue in dispute relates to the timing of Condition 2 requires this size of natural buffer along the site's boundary, enabling the submission for Council approval.

21. I recognise that the instruction of a suitably qualified Ecologist may take time, survey work can be seasonal and time to liaise with the Council's Ecologist would be necessary. Nevertheless, this scheme was required via a pre-commencement condition on the original planning permission from 2019. Irrespective of the length of time the Council took to determine the further planning application, it has not been sufficiently justified why nine, rather than three, months from the date of this decision is needed to complete this work. Consequently, the imposition of such a condition is reasonable, although, I have undertaken some editing to it for precision and to ensure it is implemented appropriately.

22. Whilst external lighting is not included within the development, given the proximity of the site to the SINC any lighting installed could harm flora or fauna, including the flight paths of bats and therefore, adversely affect biodiversity. Consequently, the imposition of **Condition 6** requiring the approval of any external lighting by the Council is necessary. I have made minor edits to it for clarity.

23. To avoid risk to the natural environment from any contaminants, **Conditions 7 and 8** relate to the testing of ground conditions and implementation of any remedial works. This makes specific reference to the materials used in the creation of the bund on the southern boundary of the site and the hardstanding. It has been claimed that topsoil from the site was used to create the bund and the materials imported match those on the LDC/ENF site nor that both bunds were created at the same time. However, I have limited substantive evidence confirming this to be the case, even if the contamination testing completed in respect of the LDC/ENF site[8] concluded the imported materials do not pose a risk to the environment. For that reason, I am unable to conclude with certainty this also applies to the materials used on the appeal site.

24. It has not been demonstrated that, without the imposition of conditions requiring ground condition testing, the development would not result in pollution to the natural environment on the site or its surroundings. This would be detrimental to biodiversity. On this basis, the requirement for ground condition testing is necessary and reasonable. As the development has commenced it is appropriate to require the testing to be submitted to the Council within a specific timescale. In the interests of precision and clarity, I have replaced Conditions 7 and 8 with a single, more succinct condition. It also has a strict timetable for submission because the development has commenced.

25. **Biodiversity conclusion:** subject to the imposition of the conditions set out above, the development would not harm the biodiversity of the area, with particular regard to the SINC. It would comply with policies EM1, EM4, EM6 and EM12 of the Local Plan which, taken together, seek to avoid development that poses unacceptable risks or significant harm to the natural environment.

26. It would also accord with the Landscape SPD which amplifies Policy EM4 by confirming the presumption against granting planning permission that would result in harm to a SINC as well as the Framework which seeks to minimise development's impacts on and provide net gains for biodiversity.

Character and appearance

27. The site is located within an area of gently undulating landform comprising farmland, interspersed by small settlements and a scattered pattern of built form including dwellings and buildings associated with the predominantly agricultural use of the area. Established hedgerows and woodland areas bound the fields and roads in the surroundings, enclosing the spaces beyond although glimpses through gaps in the landscape features are present.

28. The site, bounded on three sides by the Business Park and the Solar Farm contrasts with this landscape, despite being partly enclosed by the SINC and

[8] Email from Geoprobe Environmental Limited dated 3 February 2021

the countryside beyond. The other boundaries of the site are defined by bunds and single-species hedgerows. Although these features screen much of the site, they have a man-made appearance which disrupts the pattern of hedgerows and woodland in the surrounding countryside.

29. Due to the site's countryside setting, former agricultural use and nearby established landscape features, including the wooded area designated as a SINC and covered by a TPO, the imposition of conditions relating to a hard and soft landscaping scheme is necessary to make the development acceptable. As **Conditions 2, 3 and 5** relate to similar features of the development, I have combined the details into a single, more comprehensive condition which sets out more clearly and precisely the requirements of the scheme.

30. As the development has commenced, it is necessary to stipulate the timescale within which the hard and soft landscaping scheme is submitted to the Council for approval. I have not set out the timescale for the erection of the boundary treatments within this condition, which was required by the varied permission. Instead, I have specified that a timetable for the implementation of the works is required for the landscaping scheme as a whole. This enables the appropriate timing for the works to be agreed upon, including any restrictions and limitations due to the time of year.

31. Whilst not included in Condition 5, the Council refer to the need to remove the existing boundary fence alongside the SINC. I have not found it necessary to include this specific detail as the condition already requires the approval of all boundary features.

32. Notwithstanding the boundary treatments to be approved via other conditions, **Condition 10** removes any permitted development rights which would allow the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure[9] without the need for planning permission. This condition also restricts the erection of buildings, plant, machinery or structures without formal approval from the Council via a planning application. Given the site's location, including its proximity to the public right of way along Gypsy Lane, harm to the character and appearance of the area could be caused through the introduction of features which could be incongruous within a countryside setting. Although there is no indication that buildings, plant, machinery or structures are sought by the appellant at this time, this condition enables the Council to assess the effect of such forms on the character and appearance of the area.

33. Similarly, **Condition 12** seeks to preserve the character and appearance of the countryside by limiting the height of any items, vehicles and materials stored on the site to three (3) metres above ground level. To accommodate the storage of double-decker buses, larger motorhomes and stacked containers, an increase to the height limit is now sought.

34. At the time of my site visit, a double-decker bus was parked on the site which was largely screened from public view by the site's boundary features. However, it was still visible above the boundary planting and adjacent Solar Farm, when viewed from close to the access drive from Bramley Road. Whilst the harm to the character and appearance of the area resulting from one

[9] Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO)

double-decker bus being parked on the site is limited, any height restriction imposed applies to the site as a whole.

35. Increasing the permissible height of items stored on the site, or the removal of the restriction altogether, when there is uncertainty around the type, bulk and form of man-made items to be stored, would contrast starkly with the character and appearance of the countryside. Notwithstanding the approval of the hard and soft landscaping scheme, any existing or proposed boundary planting would take time to grow to a height comparable to a double-decker bus. This condition is necessary and reasonable, therefore, in the interest of protecting the character and appearance of the site, even if the adjacent Business Park is not subject to height restrictions.

36. As concluded above, the imposition of **Condition 6** is necessary to protect the biodiversity of the SINC. Similarly, in the interests of the character and appearance of the area given the site's location within the countryside and limited existing lighting within the surrounding area, it is necessary to control the provision of any external lighting on the site.

37. Whilst there may be no reason for waste storage facilities beyond standard commercial wheelie bins to be required for the existing user of the site, this may not be the case for future users, even if no specific waste facilities to support the development are included in the Council's Parking SPD[10].

38. Without the imposition of **Condition 4**, therefore, should bins be required by future users, these could be stored in locations either on the site or in the surrounding area which would be detrimental to the character and appearance of the area. Therefore, I have imposed a condition requiring the waste storage facilities to be submitted to and approved by the Council.

39. In the event of a change in site user, should the new occupier require additional or different waste facilities, approval by the Council would be required given the removal of permitted development rights under Condition 10 above. As such, a condition requiring the waste storage facilities to be provided for existing or future users of the site within a certain timeframe is necessary to make the development acceptable. I have, however, made modifications to the condition including stipulating a strict timetable for the submission and subsequent implementation of the waste facilities because the development has commenced.

40. The use of the parking spaces/area is restricted by **Condition 11** to vehicles ancillary to the adjacent Business Park and the B8 storage use of the site. The parking area provides space for users of the adjacent Business Park and the appeal site. In the absence of a condition requiring the parking area to be retained on the site, drivers would need to seek alternative locations to park their vehicles. This could include along the driveway which provides access to the appeal site and the Business Park, thereby resulting in the presence of incongruous, man-made features in the open countryside, which would be detrimental to the character and appearance of the area. Consequently, this condition is necessary to make the development acceptable. I have, however, made some minor edits to the wording for precision and clarity.

[10] Parking Supplementary Planning Document (the Parking SPD)

41. **Character and appearance conclusion:** subject to the conditions set out above, the development would not harm the character and appearance of the area, in accordance with policies EM1, EM10 and CN9 of the Local Plan. In combination, these policies, amongst other provisions, require development to be sympathetic to the character and visual quality of the area, respect the local environment and provide appropriate waste storage areas.

42. It would also accord with the Landscape SPD which sets out a series of principles that amplify the requirements of policies EM1 and EM10. Additionally, it would not conflict with the Framework's objective of recognising the intrinsic character and beauty of the countryside.

Water quality and flooding

43. Given the uncertainty around the presence of contaminants on the site, the quality of water draining from the development into nearby water bodies has not been determined. This is the case even if the washdown area uses water only. Regardless, although the site is currently being used for the storage of caravans and motorhomes, the storage of other items is not precluded under Class B8. In this circumstance, the use of plain water is not guaranteed nor is the quality of the water draining from the site. Therefore, the requirement within **Condition 14** for details of a surface water drainage scheme to be submitted to and approved by the Council is necessary and reasonable.

44. The site adjoins the boundary of an Upstream Critical Drainage Area, an area which drains into a Critical Drainage Area that is likely to be overloaded as a result of surface water from new development[11]. However, as the site is not located within the UCDA, the need for a Flood Risk Assessment, as required by Policy EM7 of the Local Plan, is not triggered by the development. Nevertheless, no surface water drainage scheme has been prepared for the development demonstrating that it would not lead to an unacceptable increase in the runoff rate.

45. In addition, without an approved hard and soft landscaping scheme, the impact of the type and coverage of the materials used in the development would have on the runoff rate, has not been determined. The anecdotal evidence that the site has not flooded since the development commenced is not sufficient to conclude a surface water drainage scheme is unnecessary to protect the site or its surroundings from flooding.

46. Whilst the main parties may have agreed it would be reasonable to limit a surface water drainage scheme to the washdown area only in respect of the the appeals on the LDC/ENF site, I have limited substantive evidence this was the case. Moreover, these appeals were dismissed.

47. I conclude that the imposition of a condition requiring a surface water drainage scheme to be submitted to and approved by the Council is reasonable and necessary to prevent pollution or pose unacceptable risks to the natural environment. Subject to the imposition of this condition, the development accords with policies EM6 and EM12 of the Local Plan.

[11] As identified in the Council's Level 1 Strategic Flood Risk Assessment, dated July 2021 (SFRA)

Safety of users of the development

48. As identified above, to protect the biodiversity of the area, it is necessary to require the testing of ground conditions to ensure the development would not result in the pollution of the natural environment. This testing would also demonstrate if any contaminants are present on the site which could pose a health risk to existing or future users of the development. Given the lack of certainty around the source of materials on the site, the imposition of **Conditions 7 and 8**, albeit amalgamated, is therefore necessary and reasonable.

49. Subject to condition, I conclude the development would not harm the safety of its users, with particular regard to contaminants. It would comply with Policy EM12 of the Local Plan which permits development provided that it does not result in pollution detrimental to quality of life.

Highway safety

50. **Condition 11** is necessary to make the development acceptable in character and appearance terms. However, the reason for the imposition of this condition is also to retain areas for car parking to prevent parking from obstructing other users, being displaced and causing highway safety issues.

51. As already highlighted, the removal of this condition would lead to vehicles being parked in undesignated spaces within the Business Park, elsewhere on the appeal site or along the access driveway. This could obstruct other vehicles using the driveway, including buses, coaches and other larger vehicles that are more difficult to manoeuvre. In such a circumstance, the obstruction could lead to vehicles being backed up along the driveway and blocking the access from the highway, which would be detrimental to the safety of users of the highway. Consequently, it is necessary to impose a condition requiring the parking area to be retained to make the development acceptable.

52. Subject to this condition, I conclude that the development would not result in harm to the safety of highway users. It would comply with Policy CN9 of the Local Plan which permits development that, amongst other provisions, does not compromise highway safety.

Location

53. Policy SS1 of the Local Plan sets out that, for the purposes of the Local Plan, the site is located within the countryside. In respect of economic development, Policy EP4 stipulates the circumstances where economic uses in the countryside will be permitted. Of relevance to the site is where development enables the continuing sustainability or expansion of a business or enterprise, provided it is appropriate to the site and surroundings.

54. Schedule 2, Part 3, Class P of the GPDO permits the change of use of a building and any land within its curtilage from a use falling within Class B8 to a dwellinghouse. However, there are no buildings on the site and I have found that the removal of permitted development rights concerning, amongst other features, the erection of buildings without planning permission, (Condition 10) is necessary to protect the character and appearance of the area. As no buildings can be constructed on the site without planning permission, it would not be possible to implement the permitted development rights set out in

Schedule 2, Part 3, Class P of the GPDO. Accordingly, **Condition 9** is not necessary to make the scheme acceptable and I have deleted it.

55. I conclude that the site is suitable for the development having regard to local planning policies on the location of economic development including policies SS1 and EP4 of the Local Plan without the removal of permitted development rights set out in Condition 9. As I have found that the aforementioned permitted development rights could not be implemented, Policy EM10 of the Local Plan which relates to the delivery of high-quality development is not determinative in this main issue, despite being included on the decision notice in respect of it.

Living conditions

56. **Condition 13** limits the hours of operation of the site to specified times from Mondays to Saturdays, with no opening times permissible on Sundays or Bank/Public Holidays. Whilst the original application was speculative, nonetheless it sought the change of use of the land to Class B8 which comprises storage or distribution, including warehousing and open-air storage. As I have found that it is necessary to restrict the construction of buildings on the site without approval from the Council (Condition 10), the use of the site is further restricted.

57. Although there are existing residential properties within the surrounding area, including on Silchester Road, these are located on the other side of the road and beyond a large field currently accommodating solar panels. The four self-build dwellings recently approved[12] would be sited on the appeal site side of Silchester Road, marginally closer to the development. Nevertheless, as a result of the distance between the site and existing or proposed dwellings, I see no reason to conclude the occupants of these dwellings would experience unacceptable levels of noise from the development.

58. As such, the restriction of the hours of operation of the development is not necessary in the interests of the living conditions of neighbouring occupiers, with particular regard to noise. The development complies with Policy EM10 of the Local Plan which requires proposals to respect the amenities of neighbouring properties.

Other Matters

59. My attention has been drawn to the fact that the Grade II listed building known as Berry Court Farmhouse is located close to the site. As a result, I am required by Sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

60. I consider the significance/special interest of Berry Court Farmhouse to be derived from its architectural features and vernacular character. Although set within generous gardens, the setting of the farmhouse already includes the adjacent Business Park and, to a lesser extent, the Solar Farm. The separation distance, including the intervening bunds, hedgerows and built form associated with the Business Park, means that there are no visual or functional connections between the listed building and the development. Therefore, I

[12] Appeal refs: APP/H1705/W/20/3257015 and APP/H1705/W/22/3302369

conclude that the development would preserve the setting of the listed building.

61. The length of time taken for the Council to determine the application subject of this appeal falls outside the remit of my decision, as does whether or not the appellant received the Council's statement for comment in respect of one of the appeals on the LDC/ENF site.

62. The responsibility to remove any obstructions before ownership of the PROW was confirmed during the LDC/ENF appeals is not a matter for this decision.

Other conditions

63. For the avoidance of doubt, I have retained the standard plans condition (**Condition 1**).

Conclusion

64. For the reasons set out above, the appeal is allowed, subject to the deletion or substitution of conditions.

Juliet Rogers

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan PS/01A.

2) Unless within three [3] months of the date of this decision a scheme of hard and soft landscaping is submitted in writing to the local planning authority for approval, including as a minimum:

   - a natural buffer of 20 metres, measured from the edge of the existing tree canopy associated with the linear woodland which forms part of the Gypsy Lane Site of Importance for Nature Conservation;
   - the quantity, size, species, and positions or density of all trees and shrubs to be planted on the site, how they will be planted and protected and the proposed time of planting;
   - measures for the protection of existing trees and shrubs on or adjacent to the site during any landscaping works;
   - details of the location, materials, height and width of any boundary treatments;
   - the type and location of any surface materials;
   - a timetable for implementation; and
   - a schedule of maintenance of any trees and shrubs planted until successfully established. This shall include the provision for replacement planting should establishment fail and if, within a period of 5 years from the date of planting, a tree is removed, uprooted, destroyed, dies or is seriously damaged.

   Unless the approved scheme is implemented in accordance with the timetable therein, the use of the site shall cease and all equipment, vehicles and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

   If no scheme in accordance with this condition is approved within nine [9] months of the date of this decision, the use of the site shall cease and all equipment, vehicles and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

   Upon implementation of the approved scheme of hard and soft landscaping specified in this condition, it shall thereafter be retained and maintained.

   In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

3) Unless within three [3] months of the date of this decision, a waste facilities scheme is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within the timetable therein, the use of the site shall cease and all equipment, vehicles and materials brought onto the land for the purposes of such use

shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within nine [9] months of the date of this decision, the use of the site shall cease and all equipment, vehicles and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved waste facilities specified in this condition, it shall thereafter be retained and maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

4) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to installation. The lighting scheme shall be implemented and maintained in accordance with the approved details.

5) Unless within three [3] months of the date of this decision an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), is submitted in writing to the local planning authority for approval.

If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 1 calendar month of the report being completed and approved in writing by the local planning authority.

6) Notwithstanding any details approved by Condition 2) and 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 buildings, plant, machinery, structures, walls or fences shall be erected on the site.

7) The parking space(s)/area hereby approved shall be kept available at all times for the parking of vehicles ancillary to the use of Berry Court Business Park and the B8 storage use approved by this application.

8) Materials, vehicles or items shall not be stacked or deposited above a height of 3 metres measured from ground level.

9) Unless within three [3] months of the date of this decision, a surface water drainage scheme is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within the timetable therein, the use of the site shall cease and all equipment, vehicles and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within nine [9] months of the date of this decision, the use of the site shall cease and all equipment, vehicles and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved surface water drainage specified in this condition, it shall thereafter be retained and maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

10) Unless within three [3] months of the date of this decision, a detailed habitat enhancement scheme is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within the approved timetable therein, the use of the site shall cease and all equipment, vehicles and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within nine [9] months of the date of this decision, the use of the site shall cease and all equipment, vehicles and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved habitat enhancement scheme specified in this condition, it shall thereafter be retained and maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of Schedule