



Appeal Decision

Site visit made on 9 July 2024

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Appeal Ref: APP/U1105/W/23/3333794

The Barn Annexe, 2 Lower Court Cottages, Fluxton EX11 1RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended (the '1990 Act') against a refusal to grant planning permission.
 - The appeal is made by Elaine Paget against the decision of East Devon District Council ('EDDC').
 - The application ref. is 23/1224/FUL.
 - The development proposed is described on the application form as 'to subdivide 2 Lower Court Cottages, with creation of vehicular access and parking to serve new independent property.'
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Decision

1. The appeal is allowed and planning permission is granted to subdivide 2 Lower Court Cottages, Fluxton EX11 1RL, along with the creation of vehicular access and parking to serve the new independent property, in accordance with the terms of application ref. 23/1224/FUL, subject to the conditions below.

Preliminary matters

Statutory and policy context

2. Each planning proposal must be determined in accordance with the development plan unless material considerations indicate otherwise.¹ The development plan includes policies of the East Devon Local Plan 2013-2031 (adopted 28 January 2016, the 'LP'), the Ottery St. Mary and West Hill Neighbourhood Plan 2017-2031 (supported at referendum on 21 June 2018, the 'NP') and the East Devon Villages Plan (adopted 26 July 2018, the 'VP'). I have had regard to various other material considerations, including the National Planning Policy Framework ('NPPF'),² and the Planning Practice Guidance ('PPG').
3. As reflected in the application form and EDDC's decision notice of 22 September 2023, the proposal relates to the 'Barn Annexe' at no. 2 (also referred to as the 'Little Barn'). No. 2 Lower Court Cottages is the southern of 2 dwellings now comprising grade II listed Lower Court Farmhouse.³ The appeal is under section 78 of the 1990 Act, not section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 'LBCA' Act). The

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended.

² The latest iteration of which was published on 20 December 2023 in place of the 20 July 2021 version extant at the time of EDDC's decision notice of 22 September 2023.

³ List entry no. 1213125.

latter concerns unsuccessful applications for listed building consent. That statutory context is relevant for 2 reasons in particular.

4. Firstly, section 1(5) of the LBCA Act sets out how objects or structures fixed to listed buildings, or within the curtilage thereof predating 1 July 1948, are to be treated as part of the listed building. A narrow path separates the annexe and now-subdivided Farmhouse. The two are physically attached by a short section of wall around a door spanning the path (likely historic). The annexe, or more accurately a building there, in all likelihood existed long before 1 July 1948.
5. Section 7 of the LBCA Act, however, relates to works affecting listed buildings 'for the demolition of a listed building or for its alteration or extension in any manner which would affect its character...'. The proposal is, in summary, to establish the use of the annexe as an independent dwelling without altering it physically. There would only be changes to its surroundings, notably provision of a defined curtilage and separate access. In that context EDDC are of the view, with which I concur, that listed building consent is not required in relation to the present scheme.⁴
6. Nonetheless, secondly, LBCA Act section 66(1) places a duty upon me in considering whether to grant planning permission for development which affects a listed building or its setting, to have 'special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. I have approached the appeal cognisant of that and of other relevant statutory requirements. There is nothing to indicate that the current nature of the annex is anything other than authorised.

The dispute between EDDC and the appellant (the 'main parties')

7. Whilst each proposal turns on its merits, this scheme follows a previously unsuccessful application.⁵ Although the administration of applications is tangential, the officer report associated with the previous application addresses the former concern of Ottery St. Mary Town Council in respect of hedgerow removal. No hedgerow would, however, be removed. Some scrub and a deteriorating fence would be cleared to facilitate access, albeit that neither contribute in any meaningful sense to local character.⁶
8. The appellant has also presented an earlier draft officer report related to the previous application. In contrast to the subsequent version of the officer report, that earlier draft recommends approval. Nevertheless I agree with EDDC that the draft report is not particularly relevant; the advice of officers is not binding. It is only relevant in alluding to their being planning judgement at play as to whether the scheme is acceptable.
9. EDDC's decision notice in respect of application ref. 23/1224/FUL sets out that the appeal site is beyond any 'built-up area boundary of any defined settlement or a strategic location within the adopted Local Plan and is, therefore within the

⁴ Application ref. 23/1225/LBC having been withdrawn.

⁵ Application ref. 21/2246/FUL, refused via EDDC decision notice of 29 July 2022.

⁶ Plan no. '2021_901_01 Rev A'.

open countryside...'. Rationally, however, given the nature of its surroundings and proximity to nos. 1 and 2 Lower Court Cottages in particular, EDDC do not suggest that the appeal site should be considered 'isolated' with reference to NPPF paragraph 84. EDDC's decision notice does not refer to any VP or NP policies, instead citing conflict with LP strategies 7 and 27, policies D8 and TC2, and with the NPPF. Neither main party rely on any policies in emerging plans.

Main issue

10. Against the foregoing context, the main issue is whether the appeal site is an acceptable location for the development proposed.

Reasons

Policy context

11. LP strategy 1 sets an overarching approach to distributing development across East Devon reflecting the scale and function of different settlements. LP strategy 7 concerns development in the countryside. It acts as a counterpart to strategy 1.
12. Amongst other things, LP strategy 7 sets out that in the countryside development 'will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development...'. Strategies 1 and 7 both seek to focus development where there is better accessibility to services and facilities and to safeguard rural character. LP policy TC2 articulates the former. Those are objectives shared with the NPPF.⁷
13. As above, EDDC's decision notice cites strategy 27, entitled 'Development at the Small Towns and Larger Villages'. In addition to those built up area boundaries ('BUAB') set via the LP, strategy 27 identifies settlements to have boundaries defined via the VP.
14. Fluxton, which might best be characterised as a hamlet, is not identified via strategy 27, via the VP or otherwise. The nearest identified settlements with BUABs are West Hill and Ottery St. Mary, the former not too distant to the west, the latter slightly further to the north-east. In short, although logically consistent with LP strategies 1 and 7, strategy 27 is not designed to address development proposed in the open countryside (as here).
15. LP policy D8 is entitled 'Re-use of Rural Buildings Outside of Settlements.' It is designed to address certain types of development in the open countryside, setting out various criteria where the 're-use or conversion of buildings in the countryside outside of Built-up Area Boundaries will be permitted'.
16. There is some force in the appellant's argument that policy D8 is geared towards redundant or agricultural buildings. The former is suggested by the term 're-use'. In respect of the latter, various criteria to LP policy D8 relate to the implications of a scheme in terms of ongoing agricultural viability. There is

⁷ Notably set out at paragraphs 108, 109 and 180.

though no agricultural enterprise here. There is furthermore no dispute between the main parties that the scheme would either accord with criteria 2 to 5 and a), or that those criteria are not applicable.

17. Nevertheless, there is no specific definition of 'rural buildings' in the LP, VP or NP. LP policy D8 also uses the phrase 'agricultural buildings' in respect of where pressure, and thereby landscape harm, may arise where replacements are sought. Policy D8 therefore appears to have been consciously framed not solely with redundant or agricultural buildings in mind. Moreover, on a plain reading, a 'rural' building simply means one related to the countryside.
18. The proposal cannot rationally be said to be the 're-use' of a building. The annexe is in use. The use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse, however, involves a material change of use.⁸ Setting aside any physical relationship between the listed building and the annexe, the subdivision of a dwelling might fairly be described as a conversion in terms of use or purpose.
19. In my view LP policy D8 is therefore applicable. That aligns with the position of EDDC. Following my logic in respect of the interaction of relevant policies set out above, if theoretically a proposal were to comply with policy D8 it would thereby logically comply with strategies 1, 7 and policy TC2 also.

The history to the annexe

20. There is a copy of a deed between Anthony Paget and EDDC of 30 September 1985 before me.⁹ Anthony Paget is therein referred to as 'the Developer'. The land shaded red in the plan appended to the deed is that currently occupied by the annex.
21. The deed states that it was then the Developer's intention 'to develop the land by converting a barn situate thereon to use as living accommodation for an elderly relative...' (sic.). Reference is made in the deed to the intention to pursue planning application ref. 7/45/85/0692/979. The deed further explains that EDDC had at that juncture 'no objection to the proposed development in principle' subject to the developer agreeing to be bound by the covenants it contains. The third covenant reads:

'3. The Developer hereby covenants with the Council that:-

- a) The proposed development shall only be used and occupied solely by persons for the time being occupying the property known as Lower Court Fluxton Ottery St. Mary in the County of Devon or by relatives and dependants of such persons residing with them.
- b) The proposed development shall only be used for purposes ancillary to the enjoyment of the said property known as Lower Court Fluxton Ottery St. Mary in the County of Devon and shall not be sold leased let or

⁸ Section 55(3)(a) of the 1990 Act.

⁹ Pursuant, amongst other provisions, to section 52 of the Town and Country Planning Act 1971.

otherwise disposed of at any time hereafter otherwise than as an integral part of the said property.’

22. On 8 October 1985 EDDC granted permission for the ‘conversion of barn to annexe’ at Lower Court.¹⁰ The third condition to the 1985 permission differs slightly in wording from the deed, albeit is similar in substance: ‘the development hereby approved shall only be used as an annexe and shall not be used as an independent unit of residential accommodation separate from the main dwelling known as Lower Court, Fluxton.’
23. There are several noteworthy points from the foregoing history. Albeit much altered pursuant to planning permission ref. 7/45/85/P0692/00979, the annexe was formerly a barn. More precisely, judging both by the remnants of walls on the ground and the plan appended to the deed, what is now the annexe was formerly part of a more extensive building or range of buildings to the south of the courtyard in front of the listed building.
24. There is also a range of buildings, now also much altered and in diverse use, to the north of the courtyard. ‘Barns with iron roofs form wings on each side of front around yard’ are referred to in the list entry.
25. That is important. The annexe’s physical presence was not justified on the basis of building anew. Part of an existing barn was repurposed, distinguishing circumstances here from where annexes come forward as new buildings. The 1985 scheme was for the establishment of a residential annexe; an independent dwelling was not proposed. It is therefore unknown how EDDC would have reacted to an application for an independent dwelling at that time.
26. ‘Lower Court’, although the name of the listed building as in the list entry, has been subdivided into nos. 1 and 2 Lower Court Cottages.¹¹ Tangentially, it may now not be possible to occupy the annexe in compliance with the provisions of the deed or condition no. 3 to planning permission ref. 7/45/85/P0692/00979 (depending on how those provisions are interpreted). The surroundings to the listed building have also changed. Buildings to the north of the courtyard have been converted, ‘Om Shanti’ to holiday accommodation.¹²
27. Furthermore, the justification for the third condition attached to planning permission ref. 7/45/85/P0692/00979 was ‘in the interests of the amenities of those occupying the converted building and Lower Court.’ There is now no objection to the scheme in that respect (as reflected in particular in the ‘Amenity’ section of the officer report associated with application ref. 23/1224/FUL). The rationale for that condition has passed into history.
28. Lastly, as reflected in paragraph b) to the third covenant in the deed, EDDC have treated the annexe as ‘an integral part’ of Lower Court. The appellant

¹⁰ Ref. 7/45/85/P0692/00979, EDDC’s officer report citing ref. 85/P0692.

¹¹ There is a copy of the register of title No. DN322294 in respect of 2 Lower Court Cottages and its land of 3 December 1992 (paragraph 2 of the Charges Register setting out how the land in that title was transferred to Elaine Paget, the appellant, on 3 December 1992).

¹² Related to permission ref. 08/0168/COU.

indicates that position, and therefore compliance with what is now NPPF paragraph 84.d) was referred to by EDDC in pre-application advice. That, though, is paradoxical as the annexe is not within an isolated location.

29. Setting the foregoing aside, the appellant states that the annexe has practically 'been used as an independent dwelling for over thirty years...'. I am told that separate Council Tax has applied to it since 1993, some 31 years ago. Whilst there is no certificate of lawfulness of existing use before me, there is no indication of any enforcement proceedings. EDDC do not contest the history to how the annexe has been used in practice.

The relationship of the annexe and proposal to policy

30. I have set out above that criteria 2 to 5, and also criterion a), to LP policy D8 are not at issue between the main parties. There is nothing before me to indicate otherwise. That effectively leaves criteria 1, b) and c) in dispute.
31. Criteria 1 relates both to character and also to locational implications, criterion b) solely to the former, and criterion c) solely to the latter. In respect of location, criterion 1) sets out how relevant scheme should be 'in a location which will not substantively add to the need to travel by car...'. Criterion c), however sets a higher test in respect of residential proposals, namely that development 'is located close to a range of accessible services and facilities to meet the everyday needs of residents'.
32. At face value criterion c) seems oxymoronic. By definition, and within the policy context described above, it is difficult to see how any development 'outside of settlements' would meet that test. The only way that I can logically interpret criterion c) is that accessibility under LP policy D8 should be judged relatively, i.e. acknowledging that policy applies to a rural context. Seen through that lens, in my view, the annexe may fairly be described as suitably accessible.
33. The appellant has provided the timetable of the 382 bus service, which stops at Fluxton several times a day. It provides connectivity to and from Ottery St. Mary, Whimble and Sidmouth. I also understand that there is an on-demand bus service here for those attending the King's School (at the fringes of Ottery St. Mary). Residents hereabouts are therefore not solely dependent on private modes of transport.
34. Moreover, not all services and facilities are concentrated in settlements with BUABs. Notwithstanding the appellant's reference to permission for a farm shop at Fluxton, there is a village store and the Golden Lion at Tipton St. John (some 800m or so away). It is a relatively convenient route to Tipton St. John proceeding via footpaths leading to and along the River Otter.¹³
35. Albeit a slightly longer route, West Hill, which does have a BUAB, may similarly be reached in large part via footpath.¹⁴ That is likewise true of Ottery St. Mary,

¹³ Ottery St. Mary Footpath 71 spurs eastwards off Tipton Vale close by, connecting thereafter with footpaths 24 and 75 heading southwards.

¹⁴ Via Ottery St. Mary footpath 40.

around 2 miles distant.¹⁵ Inherent in my reasoning above is that the appeal site is not isolated and that the walking or cycling route, both in terms of distance and experientially, to various services and facilities is no different in relation to the annexe compared to many nearby properties.

36. Moreover, in broad-brush terms, the surrounding area is punctuated by hamlets, farmsteads and occasional properties (including along Tipton Vale, Brookvale, and Strawberry Lane). Whilst rural, the landscape is not one with a strong sense of remoteness. Settlements and buildings dotted about form part of its character.
37. Although Om Shanti, holiday accommodation, was permitted in an earlier policy context, my observations above essentially align with those in the officer report in respect of permission ref. 08/0168/COU, namely that 'the nearest settlement of Tipton St. John is only 700 metres away which has a small range of facilities and services. The Larger settlements of West Hill and Ottery St. Mary are also within 2 ½ miles of the site. Therefore despite being in the open countryside it is well located and accessible.'
38. Moreover, as above, the scheme is not for a new building, but rather for an independent dwelling in place of an existing annexe. Therefore not only should locational implications be considered in a rural context consistent with the function of policy D8, but also relative to present circumstances.
39. There is, in short, no countervailing evidence to the appellant's position that the annexe has been used quasi-independently for decades. Although the annexe has been treated in technical terms as an integral part of no. 2 as above, in reality it could readily function independently without any discernible change to its layout or curtilage; a condition cannot rationally make something that which it is not in actuality.¹⁶
40. Importantly, on EDDC's own case, the original justification for the requirement that the annexe be maintained as ancillary is no longer pertinent (namely safeguarding amenity). That the annexe is restricted as such appears simply a quirk of history. For the foregoing reasons, the location of the scheme would be acceptable in accordance with criteria 1. and c) of LP policy D8.
41. The operational implications of the scheme are very limited and relate to land which is either already domestic or incidental in terms of landscape character or historic integrity as opposed to possessing any particular poignancy. All told the implications of the scheme may fairly be described as neutral in those respects, assimilating acceptably with the surrounding context rather than representing an enhancement with reference to criteria 1. and b) to policy D8.
42. The foregoing historic quirk, however, appears to have perverse consequences which come to the fore in respect of character.

¹⁵ The most direct walking route again being via Ottery St. Mary footpath 24 tracking alongside the River Otter.

¹⁶ PPG reference ID: 21a-012-20140306 sets out that conditions should not be used 'to modify the development in a way that makes it substantially different from that set out in the application.'

43. Had the former barn been patched hotchpotch over time, or left to rack and ruin, achieving an enhancement to the character or the setting of the annexe or listed building would be more easily achievable. It is precisely because the barn has been repurposed that opportunities in that regard are more limited.
44. As above, we cannot know how EDDC would have reacted were the proposal in 1985 instead for an independent dwelling. Nonetheless the requirement for 'enhancement', insofar as relevant to this particular case, appears to create a potential perverse incentive against re-using buildings for some socially useful purpose (including in line with NPPF paragraph 157).
45. There is moreover no express requirement in respect of permitted development rights for the conversion of agricultural buildings to dwellings that character or setting is enhanced (nor assessment of locational suitability).¹⁷ Furthermore, logically, the absence of enhancement does not result in material harm; even in the statutory context of the LBCA Act, a neutral effect reflects the preservation of a heritage asset.¹⁸
46. Fundamentally, as articulated in NPPF paragraph 8 and in LP strategy 3, planning seeks to reconcile economic, social and environmental objectives in the use of land. Its function is not to create rules in the absence of justification for those rules. Consequently that the proposal does not actively enhance character does not lead to any substantive planning harm. In other words the absence of enhancement would still protect the countryside in line with the underlying objectives of the development plan and NPPF.
47. As such, on balance and with reference to the specific circumstances here, I conclude that the proposal complies with the purpose of LP policy D8 (and thereby, following my reasoning in paragraph 19, with strategies 1, 7 and policy TC2). Even if policy D8 were not to apply, my reasoning regarding the absence of harm would remain. Although in the latter scenario that would mean there would not be a 'specific' policy enabling the development pursuant LP strategy 7, that would not accordingly justify dismissing the appeal.
48. With that in mind, EDDC rationally explain that consideration of annexes entails different considerations to independent dwellings. However again noting the history to the barn, no policies in the LP, VP or NP have been brought to my attention dealing with annexes (nor do they appear to exist). If the logic in strategy 7 were to apply to a proposal for an annexe here, there would be no specific policy support. That would similarly be the case of any annexe. Again that appears to be a perverse, unrealistic scenario divorced from any assessment of the merits of a scheme.

Other matters

Ecology and Appropriate Assessment

¹⁷ Schedule 2, Part 3, Class Q to the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.

¹⁸ South Lakeland DC v SSE & Carlisle Diocesan Parsonages Board [1992] 2 WLR 204.

49. The annexe falls within the 10km zone of influence drawn around the Pebblebed Heaths Special Protection Area ('SPA') in the South-east Devon European Site Mitigation Strategy (published 29 April 2014). The SPA, designated pursuant to the Birds Directive, is an extensive tract of lowland heath (overlapping with other designations).¹⁹ It is accorded protection on account of the value of its habitat and the fauna reliant upon it, notably migratory birds. Whilst not a precise correlation, increased recreational pressure associated with increased population is likely to adversely affect ecological integrity.
50. SPA protection is incorporated into domestic statute via the Conservation of Habitats and Species Regulations 2017 as amended. Regulation 63(1) requires that, before deciding to give any permission or other authorisation for a project which is likely to have a significant effect on a European site, a competent authority must make an appropriate assessment of its implications (including in combination with others). I have undertaken an appropriate assessment in a reasonable and proportionate manner. I am also required to take reasonable steps to conserve and enhance the natural features of sites of special scientific interest, and in relation to biodiversity more broadly.²⁰
51. As in the Mitigation Strategy, avoidance or mitigation of effects resulting from residential pressure is to be achieved by the provision of alternative greenspace, to redirect those who would have made use of the SPAs recreationally, and via associated monitoring and management arrangements. The contributions that individual schemes are expected to make are established at a strategic level, such that a proportionate contribution is made relative to development proposed.
52. As secured via an undertaking of 18 August 2023 under section 111 of the Local Government Act 1972 as amended, there is an associated contribution of £196.81 in line with EDDC's latest position in terms of mitigation. Notwithstanding my reasoning in paragraphs 38 and 39 above, there is no dispute between the main parties regarding the necessity of that contribution.
53. The Mitigation Strategy has been arrived at in conjunction with Natural England, the appropriate nature conservation body under Regulation 63(3). Moreover in this instance the site is domestic and has been such since around 1985. Aside from minor alterations to the curtilage and provision of access, and subject to conditions, the scheme would not affect what are likely to be the most ecologically valuable elements of the site (namely trees).
54. Consequently, and given also that ecology is protected via other regimes,²¹ subject to the imposition of suitable conditions, and to the provisions of the undertaking, unacceptable effects to ecology would not arise either directly or

¹⁹ The Pebblebed Heaths SPA is also a Site of Special Scientific Interest and Special Area of Conservation (the latter protected pursuant to the Habitats Directive, 92/43/EEC).

²⁰ Section 28(G) of the Wildlife and Countryside Act 1981 as amended, section 40 of the Natural Environment and Rural Communities Act 2006 as amended.

²¹ Notably via the Wildlife and Countryside Act 1981 as amended.

indirectly. The proposal would suitably safeguard ecological integrity in line with the relevant provisions of LP strategies 47 and 50 and NPPF paragraph 186.

Conclusion

55. For the foregoing reasons, subject to the conditions below, the development proposed would comply with the development plan taken as a whole. Alternatively, had I reasoned that there were some technical conflict with LP policy D8 or the other elements of the development plan referenced in paragraph 19 above more broadly, given the particular nature of the scheme and history to the annexe there would be no material harm resulting from the scheme to justify dismissing the appeal. Consequently, and having had regard to all other material conditions, I conclude that the appeal should be allowed.

Conditions

56. In addition to requiring commencement within the relevant statutory period via condition 1, for clarity and so as to ensure that the proposal is implemented as assessed above, I have imposed condition 2 requiring adherence to the relevant plans. Similarly, with reference to LP policy D3, and with reference to the statutory duty on me in respect of trees,²² I have imposed condition 3.
57. To ensure the development is adequately served by access, parking and vehicular manoeuvring space in line with LP policy TC9, I have imposed condition 4. Similarly, to ensure that the development is adequately served by bin and cycle storage in line with LP policy D1, I have imposed condition 5. Condition 3 necessarily pre-commencement as any development on site may have implications in relation to trees.
58. In imposing conditions I have had regard to relevant elements of the NPPF, the PPG and of statute. In that context I have amended the wording or form of certain conditions put to me to ensure that all are appropriate, without altering their fundamental aims.

Tom Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2021_901_01 Rev B (Location and Block Plan), 2021_901_01 Rev A (Elevations - Proposed), 2021_901_01 Rev A (Floor Plans Proposed), 2021_901_01 Rev A (Proposed Plan + Cross Sections), and 2021_901_01 Rev A (Tree Protection Plan).
- 3) No development hereby permitted (including any groundworks or demolition) shall take place until measures for the protection of trees during construction

²² Section 197 of the 1990 Act.

have been put in place in accordance with approved plan 2021_901_01 Rev A (Tree Protection Plan). Once put in place those measures shall be maintained throughout construction. The development hereby permitted shall accord with the supporting 'Method Statement for 'No-Dig' Construction of Proposed Parking Area' in accordance with the Arboricultural Association's Guidance Note 12 (or successor). There shall additionally be:

- (i) no burning on site where flames could extend to within 5 metres of any part of any tree to be retained,
 - (ii) no trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater). All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees (Issue 2) 2007 (or successor),
 - (iii) no changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater), and
 - (iv) no trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed in connection with undertaking the development hereby permitted. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species in the next planting season.
- 4) The use hereby permitted shall not commence until the access, parking and turning areas shown on the approved plans have been laid out, surfaced, and made available for their intended use. Those areas shall thereafter not be used for any other purpose, unless an alternative and equivalent area of land within the site is provided and thereafter kept available for such.
- 5) The use hereby permitted shall not commence until refuse and bicycle storage facilities shown on the approved plans have been provided and made available for their intended use in line with details of their design previously submitted to, and approved in writing by, the local planning authority. Once provided and made available for their intended use as approved, refuse and bicycle storage facilities shall thereafter be retained as such.