



Appeal Decisions

Site visit made on 8 January 2024

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 04 December 2024

Appeal A Ref: APP/M3645/X/22/3298141

66A Rook Lane, Chaldon CR3 5AD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended (the "Act") against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Ian Bastable of Chaldon Lands against the decision of Tandridge District Council.
 - The application ref: 2021/1572, dated 27 August 2021, was refused by notice dated 8 December 2021.
 - The application was made under section 192(1)(b) of the Act.
 - The use and development for which a certificate of lawful use or development is sought is described as 'use of building for private garaging purposes including ancillary sleeping, dining, bathing and leisure activities. Internal alterations with changes to external windows and doors'.
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Appeal B Ref: APP/M3645/W/22/3298143

66A Rook Lane, Chaldon, CR3 5AD

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Bastable of Chaldon Lands against the decision of Tandridge District Council.
 - The application Ref is TA/2021/1571.
 - The development proposed is described as 'extension to hardstanding and internal and external alterations to building'.
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Decisions

1. Appeal A – The appeal is dismissed.
2. Appeal B – The appeal is dismissed insofar as it related to the extension to hardstanding.
3. Appeal B - The appeal is allowed with respect to the internal and external alterations to building and planning permission is granted for demolition of existing and erection of a replacement detached garage and workshop at 66 Rook Lane, Chaldon CR3 5AD in accordance with application ref TA/2018/1909 without compliance with condition number 2 previously imposed on planning permission TA/2018/1909 dated 15 January 2019 and subject to the conditions in the attached schedule.

Preliminary Matter

4. No representative from the Council attended the site visit. The Appellant's representative allowed me to inspect the property. No discussion as to the

merits of the appeal took place. I am satisfied that I have seen all that I need to see in order to proceed to a decision.

Procedural Matters

Appeal A

5. The appellant submitted the appeal under s.192(1) of the Act, which provides for the making of an application to ascertain whether (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land would be lawful. The LDC application is described as *'use of building for private garaging purposes including ancillary sleeping, dining, bathing and leisure activities. Internal alterations with changes to external windows and doors'*. However, the evidence indicates that the operational development had already been carried out at the date of the LDC application. I therefore reverted to the parties on this matter and as a result, I shall deal with the operational development as if the application were made under s.191(1)(b). Notwithstanding that the appellant would be content for me to deal with the alleged use under s.191(1)(a), the appellant's evidence alleges a proposed use and thus I shall determine this matter under s.192(1)(a).

Appeal B

6. The Council granted planning permission¹ in 2019 for the 'demolition of the existing and erection of a replacement detached garage and workshop' (the "2019 Permission"). Condition 2 requires the development to be carried out in accordance with the listed approved drawings. The appellant subsequently constructed a building and hardstanding that did not accord with the approved plans. The appeal was brought under s.78 of the Act against a refusal of the Council to grant planning permission.
7. Section 55 of the Act sets out the meaning of development, which includes engineering operations in, on, over or under land. From the evidence provided and from my inspection of the site, I find that significant engineering works have taken place in order to construct the area of hardstanding. I therefore find, as a matter of fact and degree, that the hardstanding carried out constitutes an engineering operation and is therefore development for the purposes of section 55 of the Act.
8. The external alterations comprising the windows and door have an overtly domestic appearance and as such they do not give the impression of the building being for garage and workshop use. As such, they materially affect the external appearance of the building and therefore amount to development for the purposes of s.55 of the Act.
9. Section 55(2)(a)(i) of the Act advises that the carrying out for the maintenance, improvement or other alteration of any building of works which affect only the interior of the building, shall not be taken for the purposes of the Act to involve the development of the land. To this extent, the alterations comprising the insertion of a kitchen and a mezzanine floor with two multi-functional spaces and two ensuite shower rooms are internal alterations do not comprise 'development'.

¹ Planning Reference: TA/2018/1909

10. As the hardstanding is new development, I shall deal with this in accordance with section 78 of the Act.
11. Insofar as the application related to internal and external alterations, the appellant is, in effect, seeking permission for development which has already been carried out in breach of a condition. As such, I shall deal with the internal and external alterations in accordance with s.73A of the Act. I wrote to the parties to explain this matter and sought their comments. I shall determine the appeal on this basis.
12. The description of the proposal as described in the application form is hand annotated with the words 'retrospective'. However, as the word 'retrospective' is not an act of development, I have therefore removed it from the description of the development sought.
13. As part of the appeal, the appellant has provided a revised site plan (Appendix 3 to the appellant's statement of case) which includes an alteration to the red line to include a smaller area of land. However, as the plan did not form part of the original application and interested parties' views have not been sought upon its content, I cannot be certain that this would not prejudice the interests of interested parties. I shall therefore determine the appeal before me based upon the plans that were before the Council when they made their decision.

Main Issue and Reasons - Appeal A

14. Having regard to section 195(3) of the 1990 Act, the main issue is whether the Council's decision to refuse a LDC was well-founded.
15. Section 191(1)(b) of the Act states that if a person wishes to ascertain whether any operations which have been carried out in, on, over or under land are lawful they may make an application to the local planning authority.
16. Section 192(1)(b) provides for the making of an application to ascertain whether any proposed use of buildings or other land would be lawful.
11. For the purposes of the Act, uses and operations are lawful at any time if no enforcement action may then be taken in respect of them, whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason and they do not constitute a contravention of any requirements of an enforcement notice then in force.
12. In this appeal the focus is twofold. Firstly, whether use of the building for sleeping, dining, bathing and leisure activities would constitute an ancillary use to the lawful primary use of the site and thus not be regarded as development. Secondly, whether works comprising the installation of a kitchen and a first floor containing a number of bedrooms with ensuite shower room and external alterations comprising changes to windows and doors would be in breach of a condition and, if not, whether those works would be unlawful for some other reason.
13. In an LDC appeal, the onus of proof is firmly on the appellant to make out their case to the standard of the balance of probabilities. The applicant's own evidence does not need to be corroborated by independent evidence. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be

accepted. Issues of planning merit do not fall to be considered. The application before me must be considered in light of the facts and the relevant law.

14. In 2019, planning permission² was granted for a replacement detached garage and workshop (the 2019 Permission). A number of conditions were attached to that planning permission including:-

- *Condition 2 – This decision refers to drawings numbered F13117/02 The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.*
- *Condition 10 - The garages hereby permitted shall be used for the garaging of private motor vehicles only and not for any commercial or business use.*

15. The approved building, as shown on the approved plans, comprises a large area described as garage and separate areas labelled as a workshop, w/c, lobby and 'CPD' which I take to mean a cupboard. These areas are solely confined to the ground floor. In contrast, the appellant has constructed a building that includes a first floor mezzanine which comprises two rooms each with its own ensuite shower room and two sets of stairs leading from the ground to the first floor. At ground floor level, a kitchen has been installed in the position of the workshop element of the approved 2019 scheme and a 'mixed shower' room replaces the approved w/c. The design of a number of windows differ to those shown on the approved plans and instead of a garage door, a glazed bi-fold door has been inserted.

16. It is acknowledged by the parties that the lawful primary use of the site is as a garage/workshop as described in the application for the 2019 Permission and that this would include use of the site to store and work on private motor vehicles and uses ancillary to the primary use such as storage. I see no reason to disagree with this point. However, the appeal is based, in part, upon the contention that the space provided for dining, sleeping, bathing and leisure activities would be ancillary to the primary use of the site for garage and workshop purposes, and does not, therefore require planning permission as it would not result in a material change of use of the land.

17. In order to succeed, the appellant needs to demonstrate that, on the date of the LDC application, use of the building for dining, sleeping, bathing and leisure activities would have been ancillary to the lawful garage and workshop use of the overall planning unit and thus lawful.

18. A number of examples have been provided to describe how the building could be used by the appellant and their family and friends which consist of activities concerned with the maintenance and repair of motor vehicles and bathing, sleeping, dining and entertainment.

19. Whilst primary uses of land can often embrace one or more ancillary activities, the essential feature of an ancillary use is that there should be some functional relationship between the ancillary use and the primary use. Moreover, that functional relationship should be one that is normally found and not based on the personal choice of the user. Whether a use is ancillary to another, or not, is a matter of fact and degree and each case is to be determined on its particular merits.

² Planning Reference: TA/2018/1909

20. Given the size and layout of the building it is capable of containing multiple motor vehicles within it at any one time. The ground floor of the building is largely open plan, with the exception of the shower room and lobby/stairs areas. Whilst there is little delineation between the kitchen area and garage space, the upper floor rooms are entirely separate from the ground floor.
21. Whilst little evidence has been put forward about the proposed ancillary use, the use of the building for a garage and workshop would generally entail the building being a place where private vehicles are kept, and repairs and maintenance could be undertaken. The nature of this use is likely to generate a need for some welfare facilities, such as a toilet and handwashing facilities. I understand that car repairs and maintenance can be dirty and messy activities, however, little evidence has been provided to demonstrate why multiple numbers of toilets would be required together with the provision of a number of fully equipped shower rooms.
22. Similarly, whilst it could be argued that some facilities are required for welfare purposes ancillary to the primary use, this would likely include a kettle, small fridge and possibly a microwave for warming food. Based upon my observations at the site visit, whilst I acknowledge that the content of the kitchen area may have changed since the LDC application was made, I nevertheless observed a fully equipped kitchen area which was extensive in size and content and included appliances, cooking facilities and areas for food preparation that in my judgment, go considerably further than what could reasonably be considered as welfare facilities.
23. The provision of sleeping accommodation is usually associated with a residential use and little information has been provided to explain why this is necessary.
24. Overall, I find that the appellant has not demonstrated that there is a clear linkage or dependency between the approved use and the proposed 'ancillary' sleeping, dining, bathing and leisure activities use of the building such that a functional relationship would exist.
25. Therefore, I conclude, on the balance of probability, that use of the building for dining, bathing, sleeping and leisure activities would not be ancillary to the primary use of the site as garage and workshop. The alleged ancillary use would amount to a primary use in its own right and thus two primary uses would exist within the same planning unit.
26. There would be a significant difference in the character of the activities from that which is capable of being carried out in accordance with the use of the site as a garage/workshop, as a matter of fact and degree, and this would amount to a material change of use to the planning unit for which planning permission would be required to be obtained. Thus, I find the proposed use would not be lawful and the appeal fails in this regard.
27. Turning to the internal and external alterations to the building, the main thrust of the appellant's case in relation to the is that the works are not development for the purposes of section 55 of the Act. The works comprise internal alterations and changes to the windows and doors.
28. Planning permission TA/2018/1909 was granted on 15 January 2019 for the demolition of existing and erection of a replacement detached garage and

workshop. Condition 2 attached to the permission refers to a number of drawings, including WDP510, and states that 'the development shall be carried out in accordance with these approved drawings'. It goes on to state 'There shall be no variations from these approved drawings'.

29. The first question to consider is whether the development has been carried out in accordance with these approved drawings. The photographs provided by the appellant show the building with bi-fold doors, rather than a garage door to the southern elevation, and windows with two panes, rather than four, and a window with one pane instead of two. The appellant provides little detail regarding the construction of the building. In my view, given the extent of the works likely to be necessary to replace windows and doors and insert an additional floor which requires plumbing and electric, and given the limited period of time between the 2019 Permission being granted in January 2019 and the LDC application in August 2021, it seems unlikely that the appellant would have constructed the building in accordance with the approved plans and then subsequently deviated from the approved plans. Rather, I consider it more likely, that the appellant constructed the building with the 'proposed' variations.
30. A plans condition will not prevent, once the building is completed and occupied, the carrying out of works which are exempted from development under section 55(2)(a) or which are permitted by the GPDO. Another condition would need to be imposed to prohibit such works or remove the relevant rights and the question to therefore be asked is whether Condition 2 of the 2019 Permission achieves this.
31. The appellant suggests that condition 2 simply seeks to prevent any changes to the drawings. However, a condition should not be construed narrowly or strictly but benevolently and in a common sense way. The reason for attaching the condition is stated to be '*to ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan*' and it is clear from the wording of the condition that the Council was seeking to prevent the developer from deviating from the approved plans. In my judgement, the wording of the condition imposes a clear ongoing requirement for the scheme to be built and retained in perpetuity as per the plans and this amounts to a clear and ongoing requirement to seek approval for any change to the scheme.
32. Accordingly, I find that, on the balance of probabilities, the building was not constructed in accordance with Condition 2 of the 2019 Permission and therefore the internal and external alterations are not lawful.
33. Thus, for the reasons given above, the appeal must fail.

Appeal B

Main Issues

34. With regards to the hardstanding, the main issues are:-

- i) whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and development plan policies;
- ii) the effect of the development on the openness of the Green Belt;

iii) the effect of the development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance; and

iv) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

35. With regards to the internal and external alterations, the main issue is whether the variation of Condition 2 of the 2019 Permission is reasonable and necessary having regard to:-

i) whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and development plan policies;

ii) the effect of the development on the openness of the Green Belt and;

iii) whether the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt -Hardstanding, internal and external alterations

36. The appeal site is located within the Metropolitan Green Belt. The National Planning Policy Framework (December 2023)(the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt (GB) and should not be approved except in very special circumstances.

37. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (July 2014)(LP) sets out the Council's approach to development within the GB noting that planning permission for any inappropriate development is, by definition, harmful to the GB and will normally be refused. It goes on to state that a proposal involving inappropriate development in the GB will only be permitted where very special circumstances exist, to the extent that other considerations clearly outweigh any potential harm to the GB by reason of inappropriateness and any other harm.

38. Policy DP13 of the LP provides a list of exceptional development within the Green Belt including, at Part I, "*any other form of development as listed under paragraph 90 of the NPPF*". Paragraph 90 is now included within paragraph 155 of the current Framework and it sets out that certain other forms of development are also not inappropriate in the GB provided they preserve its openness and do not conflict with the purposes of including land within it. This includes engineering operations, at paragraph 155b). There is no dispute that the formation of an area of hardstanding constitutes such an operation.

39. Openness as a concept has both a spatial and visual aspect. The absence of visual intrusion does not in itself mean that there is no impact on openness. On the other hand, this does not mean that openness has no visual dimension. Several factors are capable of being relevant and how to take them into account is a matter of planning judgement.

40. A number of plans that were approved as part of the 2019 Permission have been provided. It is the Council's case that the approved area of hardstanding, as shown on the approved plan, measures approximately 192 square metres. This figure has not been disputed by the appellant.
41. In contrast, the installed hardstanding is a significant expanse comprising a loose gravel surface which has been laid across some 485 square metres, taking the Council's measurement, which has not been disputed by the appellant. This results in an area of hardstanding that is roughly more than double the size of that which was approved as part of the 2019 Permission.
42. The evidence before me indicates that prior to the hardstanding being constructed the land was free from development. As a result, the unauthorised hardstanding has encroached onto a considerable area of undeveloped open land. The unauthorised development is not readily visible from public vantage points by reason of the intervening vegetation and neighbouring properties and the distance from the highway. However, it nonetheless remains visible from surrounding properties, particularly during winter months when visibility of the appeal site is improved due to the vegetation being reduced, and it therefore has a greater impact on openness than prior to the unauthorised development taking place and is a substantial intrusion of urban form within the Green Belt. In spatial terms, it covers a considerable expanse of land with a surface of significant permanence in appearance and character and this harmfully erodes openness of the Green Belt.
43. The Council also refer to the degree of activity that is likely to be generated from use of the hardstanding area. This could amount to a factor that weighs in the overall assessment of the impact of a proposal on openness of the Green Belt. Consideration must also be given to what was approved by the 2019 Permission.
44. Land included within the red line as part of the 2019 Permission was sizeable and in granting planning permission for the replacement garage and workshop, the land falling within the red line, including the land comprising the unauthorised hardstanding, would be capable of being used for garage and workshop purposes and other purposes ancillary to that lawful use of the site. The appellant points to the possibility of cars being repaired and stored outside of the building and within the wider site, and whilst it would not be precluded by the 2019 Permission, I consider that it would be less likely for vehicles to be repaired and/or parked where there is no hardstanding particularly during inclement weather, which is likely to limit what could be undertaken.
45. It is the appellant's case that land forming the unauthorised hardstanding area could be used for eating, leisure and recreation purposes and for the siting of paraphernalia such as washing lines, picnic benches, waste containers, play equipment and barbeques. However, no evidence has been provided to show that the appeal building, and wider appeal site are ancillary to any dwelling. In my view, these activities would ordinarily be considered as ancillary to a residential use and are not generally found to be ancillary to a garage and workshop use.
46. Whilst the appellant has suggested the existing hard surface comprised of gravel material could be replaced with 'grasscrete', which would allow vegetation to grow through the surface, by virtue of the size and permanence

of the footprint of the hardstanding development, there would remain a spatial impact on the openness of the GB.

47. Taking into account all of the above, I consider that the area of hardstanding has an adverse effect on openness and the development does not preserve the openness of the Green Belt. It therefore constitutes inappropriate development in the Green Belt when considered against paragraph 155 of the Framework. The urbanising effect of the hardstanding area would conflict with the purposes of including land within the Green Belt which includes assisting in safeguarding the countryside from encroachment.
48. In addition, a number of alterations to the building have been made which differ from the approved plans of the 2019 Permission. The external changes comprise alterations to the windows and door. In particular, as noted above, bi-fold doors, rather than a garage door to the southern elevation, windows with two panes, rather than four, and a window with one pane instead of two. Internally, the changes include the installation of a large kitchen measuring some 23 square metres and a mezzanine floor that accommodates two 'multi-functional spaces' and two ensuite bathrooms. Each 'multi-functional' room is stated to have a floor area of some 15 square metres which the Council asserts is of a size that is capable of being suitable for use as a double bedroom. No dispute has been raised by the appellant in respect of the cited figures.
49. As the works constitute an alteration of a building, these could be considered in light of paragraph 154(c) of the Framework which provides for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Whilst the amount of floorspace contained within the building has greatly increased, the overall footprint and volume of the building has not changed from the size of building approved as part of the 2019 Permission. In terms of measuring and assessing the proportionality of the difference between the approved plans and the as built development, the Framework refers to 'size' and notwithstanding the increase in floorspace, there is no overall size increase in terms of volume and external dimensions. As such, these alterations to the building have not resulted in a disproportionate addition over and above the size of the approved building and therefore I consider that the appeal scheme benefits from the exemption specified in paragraph 154(c) of the Framework.
50. Given that the internal and external alterations meet with one of the exceptions set out within paragraph 154 of the Framework, it is not necessary to go on and also consider the same development against other provisions of Green Belt policy.
51. A previous Inspector has considered whether the residential use of the building would be acceptable and concluded it would be inappropriate development in the Green Belt³. However, the appeal before me is concerned with works to the building, not its use. The use of the building would be controlled by the 2019 Permission, which limits its use to a garage and workshop.
52. Accordingly, insofar as the appeal scheme relates to the hardstanding, I find that it is contrary to the provisions of the Framework and Policies DP10 and DP13 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 (July 2014)(LP) insofar as these policies set out that proposals involving

³ APP/M3645/W/20/3246111

inappropriate development within the Green Belt will only be permitted where very special circumstances exist, to the extent that other considerations clearly outweigh any potential harm to the green belt by reason of inappropriateness and any other harm.

53. Insofar as the appeal scheme concerns the internal and external alterations to the building comprising the mezzanine floor and two multi-functional spaces with ensuite shower room, the kitchen and windows and doors, I consider that the appeal scheme accords with the exception set out in paragraph 154(c) of the Framework and therefore accords with the Framework and Policies DP10 and DP13 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 (July 2014)(LP), the principles of which are set out above.

Noise and disturbance

54. Policy CSP18 of the Core Strategy (2008) sets out that development must not significantly harm the amenities of the occupiers of neighbouring properties by reason of a number of factors including noise and disturbance. LP Policy DP7 has similar aims which seek to safeguard the amenities of neighbouring occupiers, including minimum distances that will be sought between existing and proposed buildings.
55. I am advised by the Council that the nearest residential property is located at a distance of some 50 metres to the west of the appeal building and, given the extent of separation between the appeal building and neighbouring property it has not been put to me that a minimum distance requirement has been contravened.
56. As explained above, in granting the 2019 Permission for the replacement garage and workshop, land included within the red line as part of that permission, including the land comprising the unauthorised hardstanding, would be capable of being used for garage and workshop purposes and other purposes ancillary to that lawful use of the site. The appellant suggests that cars could be lawfully repaired and stored outside of the building and within the wider site. However, I consider that it would be less likely for vehicles to be repaired and/or parked where there is no hardstanding particularly during inclement weather, which is likely to limit what could be undertaken and thus restrict noise and disturbance emanating from use of the wider site including the hardstanding.
57. Whilst the external storage and repair of vehicles are uses which could be considered to be ancillary to the lawful use of the site, and are uses which could lawfully be carried out without any limit of time or the number of persons carrying out those activities, the formation of hardstanding areas makes the likelihood of those areas being used for activities that generate noise more likely and this would be harmful to the living conditions of neighbouring occupiers and could materially compromise their living conditions.
58. Accordingly, I consider it is likely that there would be a detrimental impact upon the living conditions of neighbouring occupiers and thus the formation of an area of hardstanding would fail to accord with Core Strategy CSP18 and LP Policy DP7, the requirements of which are set out above.

Other considerations

59. The appellant has not advanced any points in favour of there being other considerations that weigh in favour of the appeal scheme.

Other Matters

60. A number of representations have been made by interested parties concerning the hardstanding and residential use of the building. However, as the appeal in respect of hardstanding is failing due to the main issues above, and the appeal before me does not concern a material change of use of the building, I have not had to consider those matters which have been raised within their written representations any further.
61. The Council suggest that the unauthorised development has been carried out in a relatively sensitive way given the use of gravel. The Council have not identified any harm on the grounds of character and appearance. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.

Planning Balance and Conclusion

62. I have concluded that the internal and external alterations to the building comprising the insertion of a mezzanine floor with two multi-functional spaces and ensuite shower rooms, a kitchen and changes to windows and doors would accord with the exception set out in paragraph 154(c) and thus is not inappropriate development within the GB. Thus, in respect of the internal and external alterations, I consider the appeal should be allowed.
63. However, insofar as the appeal scheme relates to the formation of hardstanding, I have concluded that there would be harm caused to the Green Belt and to neighbouring occupiers in respect of noise and disturbance.
64. The Framework sets out the general presumption against inappropriate development within the GB. It states that inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
65. I have found that the hardstanding is inappropriate development in the terms set out in the Framework and it has led to a loss of openness to the GB. The Framework establishes that substantial weight should be given to any harm to the GB.
66. In this instance, the harm to the living conditions of neighbouring occupiers and the substantial weight to be given to GB harm is not clearly outweighed by the other considerations. Consequently, very special circumstances do not exist and the hardstanding conflicts with the Framework and with Policies DP7, DP10 and DP13 of the LP and Policy CSP18 of the Core Plan.

Conditions

67. Condition 1 of this decision letter replaces Condition 2 on the 2019 Permission and includes the revised drawing which is necessary in the interests of clarity. For the avoidance of doubt, drawing WDP 509 Rev A is not included as this

includes the area of extended hardstanding which is not succeeding as part of this appeal.

68. Condition 2 of this decision letter replaces Condition 3 of the 2019 Permission and as it contains ongoing requirements in relation to tree protection measures, it is necessary to re-impose this condition in the interests of preventing damage to trees in the interest of the visual amenities of the area.
69. Similarly, as Condition 4 of the 2019 Permission contains an ongoing requirement in relation to the provision of visibility zones that are kept unobstructed, I have therefore re-imposed this condition as Condition 3.
70. Condition 8 of the 2019 Permission requires the submission of details for external lighting. As this condition has not been discharged, it is necessary for it to be re-imposed.
71. Condition 10 of the 2019 Permission imposes an ongoing requirement to restrict the use of the permitted garage for the garaging of private motor vehicles only and not for any commercial or business use. It is necessary to re-impose this condition and it therefore appears as Condition 4 within the attached schedule.
72. In respect of any other conditions attached to the 2019 Permission, the Planning Practice Guidance makes clear that when granting planning permission under section 73A those conditions should be repeated unless they have already been discharged. In this instance, Condition 1 of the 2019 Permission relates to the time limit for implementation of the permission and, as the development has already been commenced, it is not necessary for me to impose this condition. The Council has confirmed that, with the exception of Conditions 2, 3, 4, 8 and 10 of the 2019 Permission it is not necessary to impose any of the remaining conditions and I see no reason to take a different view.

Overall Conclusion of Appeal B

73. For the above reasons, having regard to all matters raised, I conclude that the appeal should be allowed in part and dismissed in part.

E Brownless

INSPECTOR

Schedule of Conditions

1. This decision refers to drawings numbered F13117/02, WDP 504, WDP 505, WDP 506 Rev B, WDP 507, WDP 508, WDP 509, WDP 510 Arboricultural Appraisal and Implications Assessment report ref:jc/aiams1/66rl, Ecological Constraints and Opportunities Assessment report by enmis Environmental Excellence revision 2 august 2018 and red edged site plan received on 31 October 2018. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.
2. No demolition or building operations shall start until the tree protection measures detailed within the approved Tree Protection Plan (JC/aiams1/66rl) and Arboricultural Method Statement prepared by ACS Consulting and dated 14 September 2018 have been implemented. Thereafter these measures shall be retained and any specified staging of works strictly adhered to throughout the course of development, and shall not be varied without the written agreement of the District Planning Authority.
In any event, the following restrictions shall be strictly observed unless otherwise agreed by the District Planning Authority:
 - (a) No bonfires shall take place within the root protection area (RPA) all within a position where heat could affect foliage of branches.
 - (b) No further trenches, drains or service runs shall be cited within the RPA of any retained trees.
 - (c) No further changes in ground levels or excavations shall take place within the RPA of any retained trees.
3. The development hereby approved shall not be commenced unless and until the proposed modified vehicular access to Rook Lane has been constructed and provided with visibility zones in accordance with the approved plans (Dwg F13117/02) and thereafter the visibility zones shall be kept permanently clear of any obstruction measured from 0.6m above the road surface.
4. Details of any external [security] lighting shall be submitted to and approved by the District Planning Authority in writing prior to any such provision on the site.
5. The garages hereby permitted shall be used for the garaging of private motor vehicles only and not for any commercial or business use.