



Appeal Decision

Hearing Held on 25 February 2020

Site visit made on 25 February 2020

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 05 March 2020

Appeal Ref: APP/F1610/W/19/3236430

Land at Hill View, Icomb, Gloucestershire GL54 1JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Hadaway against the decision of Cotswold District Council.
 - The application Ref 18/02796/FUL, dated 23 July 2018, was refused by the Council by notice dated 13 March 2019.
 - The development proposed is construction of new residence (NPPF paragraph 55).
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Decision

1. I allow the appeal and grant planning permission for construction of new residence at Land at Hill View, Icomb, Gloucestershire GL54 1JB in accordance with the terms of the application, Ref 18/02796/FUL, dated 23 July 2018, subject to conditions 1) to 17) on the attached schedule.

Preliminary Findings

2. There is no dispute that the site is in the countryside in policy terms, and that development would be contrary to Local Plan Policy DS4 which states that open market housing will not be permitted outside principal and non-principal settlements unless it is in accordance with other policies that expressly deal with residential development in such locations.
3. The scheme was promoted on the basis of meeting the provisions in paragraph 55 of the 2012 National Planning Policy Framework. This provided for an exception to the statement that planning policies and decisions should avoid the development of new isolated homes in the countryside, where the design was of exceptional quality or an innovative nature. That exception is now to be found in paragraph 79e) with altered wording.
4. The meaning of the word 'isolated' in that context was the subject of the 'Braintree' judgments¹ which the High Court Judge determined should be given its ordinary objective meaning of '*far away from other places, buildings or people; remote*'. The Appeal Court Judge stated that this 'simply connotes a dwelling that is physically separate or remote from a settlement' and observed that there is no definition in the Framework of a 'settlement' and no specified minimum number of dwellings or population. Whether a proposed new

¹ Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018

dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of a particular case.

5. The Council determined the case as being for an isolated new home and confirmed that view at the Hearing. Mr Leay for local residents claimed that the site and hence the dwelling is not isolated as determined by 'Braintree' and cited a recent Appeal Decision which determined that a site in North Norfolk was not isolated (Ref; APP/Y2620/W/19/3236740, dated 3 February 2020). Paragraph 8 of that Decision describes a site that has development on each of the 4 roads surrounding the area and which was described in representation over the Area of Outstanding Natural Beauty as being adjacent to other buildings in the village. The Inspector's planning judgment on the facts of the site and its situation was that the site should not be considered isolated.
6. There is no settlement boundary to Icomb, but the Conservation Area boundary is near but not touching the eastern edge of the site, while 350m from the site of the proposed house would be at or about the centre of the designated Area and the nearest corner of the site would be closer still. There is a dwelling downhill from the site and the main bulk of built form is in the lower lying area to the east. The proposal would preserve the conservation area and its setting.
7. Unlike the description of the situation at North Norfolk, there are no other buildings, much less dwellings, to the other sides of the site, and not for some distance either, and whilst the visual effect of the proposals will be tested in the main issue, the site has a limited close range zone of visual influence, broadening with distance but also lessening in effect as a result. There are limited places where the built form of the village and that of the dwelling would appear together.
8. Based on these facts, the planning judgment in this case is that the site and the dwelling should be considered isolated in terms of paragraph 79 and that the proposal should be tested against the exception provided for in sub-paragraph e).
9. It was explained at the Hearing that the reference in the Officer's Report to the existing use being that of a gypsy and traveller site concerned only a small area of the south-west corner, the remainder being shown as blue-edged land on that application. Policy H7 of the Local Plan safeguards such sites where there is a need, but the Council explained that whilst the updated Gypsy and Traveller Accommodation Assessment identified a need for 3 pitches, significantly more pitches have been allocated or granted permission as windfall sites, and hence there is no objection to the change of use.

Main Issue

10. This is whether the proposal reaches the standard of design sought in Framework paragraph 79e) for an isolated dwelling in the countryside, and this analysis will take account of the location within the Cotswolds Area of Outstanding Natural Beauty and the landscape character of the area.

Reasons

11. Local Plan Policy EN2 on the design of the built and natural environment, states that development will be permitted which accords with the Cotswold Design Code as set out at Appendix D, and that proposals should be of design quality

that respects the character and distinctive appearance of the locality. Policy EN4 concerns the wider natural and historic environment and states that development will be permitted where it does not have a significant detrimental impact on the natural and historic landscape (including the tranquillity of the countryside) of Cotswold District or neighbouring areas. Proposals will take account of landscape and historic landscape character, visual quality and local distinctiveness. They will be expected to enhance, restore and better manage the natural and historic landscape, and any significant landscape features and elements, including key views, the setting of settlements, settlement patterns and heritage assets. The Cotswolds Area of Outstanding Natural Beauty is the subject of Policy EN5 and conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight.

12. Paragraph 170 of the Framework requires decisions to contribute to and enhance the natural and local environment by, among other measures, recognising the intrinsic character and beauty of the countryside and at paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.
13. The Council cited 2 Reasons for Refusal, the first being that the proposal was considered not to meet the requirements of paragraph 79e) of the Framework to justify an isolated new dwelling in the open countryside. The second was that by virtue of the design and materials it would not be sensitive to the defining characteristics of the Area of Outstanding Natural Beauty, with particular reference to the amount of glazing and the limited use of local stone. The Statement of Common Ground agreed that aspects of the glazing concerns had been overcome, and it is the case that revised drawings show a greater use of Cotswold stone. Having regard to the 'Wheatcroft principles', the revised drawings listed in paragraph 9 of the Statement of Common Ground are those on which this Decision is based. This single main issue will however consider all aspects of the design and its relationship with the surroundings.
14. Before embarking on the analysis, it is noted that the scheme was subject to appraisal by the South West Design Review Panel on 3 occasions, in July 2017, February 2018 and lastly in November 2018. The Panel commended the constructive and thoughtful way in which the appellant had responded to their comments and suggestions at each stage. The third assessment concluded that the scheme had by that stage reached the requirements of paragraph 79 of the Framework. It is noted also that the Chair of that Panel attended the Hearing in a personal capacity as an architect, in support of the scheme. Paragraph 129 of the Framework in the section on achieving well-designed places states that in assessing applications, regard should be had to any recommendations made by Design Review Panels.
15. One further observation concerns the credentials of the design team with successful projects and a clear passion for design, and for this project in particular, which came over strongly at the 'round-table' discussion around the model. Those credentials and the attention to detail shown to-date gives comfort that were permission to be granted, the promised quality of the scheme would be delivered on-site.
16. Paragraph 79e) states that one of the circumstances for the development of an isolated home in the countryside is that the design is of exceptional quality, in

that it is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. These elements will be considered separately.

Being truly outstanding.....reflecting the highest standards in architecture, and helping to raise standards of design more generally in rural areas

17. The proposal is more than just a building and the role of the landscape architect has been central to the location of the house and other elements within the site and the design of the immediate surroundings to the building. The site slopes west down to east and the building responds to that terrain, and to the fact of the existing vehicular entrance being at the higher level. The approach drive would be long and narrow, terminating visually at a tree, containing views other than down an avenue part-way along towards the pond.
18. More utilitarian functions would be clustered at the road entrance, so that when the approach opens out into a courtyard parking area exposing the long, low natural stone entrance façade, the feeling would be on an understatement, with no real idea of the site's wider context, the courtyard being enclosed by the garage block, the front house wall and a wall shielding a private stepped garden. The limited openings at the entrance position would allow only filtered views when close-to.
19. The full impact of the location and view would emerge on entering the house and the Gallery with the slot down to the lower level and matching rooflight above, would give onto a colonnade facing east with a planted roof terrace accessible from the study. This space with the solid wall behind would be dramatic and exciting and would blur the boundary between inside and out.
20. Similar care has gone into the design of the other internal spaces, and their relationship with the immediate surroundings and the longer views. The south-end and its lower level would be cellular and small scale, with limited openings, while the north-end at the projecting lower level would be more open and free-flowing through Kitchen, Dining area and Drawing Room, with extensive glazing. Whilst planning may well be more concerned with the external appearance and the relationship with the surroundings, the judgement of exceptional quality, and the highest standards in architecture must go beyond that consideration and it is the case here that the internal spaces and how they have been designed to address the external areas immediately outside the various rooms and uses would be of the highest standard.
21. The same rigorous approach to the client's brief and the nature of the site is evident in the external massing of the various parts and the relationship with the terrain is particularly evident. Although there has been criticism of the length across the site, and the building is long for its depth, the visual effect would be of an articulation of planes, some projecting and some recessed, with the colonnade given further modulation, and the orientation means that for much of the day there would be a play of shadows enlivening the elevation and breaking-up the appearance of a single length; drawing 201D gives a clear indication of that attractive effect.
22. The conclusion is that the design, including the landscaped setting and the disposition of other minor buildings, would be truly outstanding, and to the

extent that the requirement to 'reflect' the highest standards in architecture implies something not wholly radical, the proposal would be well-mannered, drawing on tried and tested themes from contemporary residential buildings.

23. With regard to helping to raise standards of design more generally in rural areas, the appellant has submitted a Unilateral Undertaking that commits to a strategy for reasonable access for students and others, along with a web-site to publicise the design and track the construction process. A balance would need to be struck due to the nature of the access roads and the amount of parking available, and the web-site is of particular note in allowing a more virtual experience.
24. However, there can be no substitute for the actual experience of a building, and the strategy would meet the requirement to help raise standards of design generally and in rural areas in particular. The proposal demonstrates that good contemporary design can be appropriate in this rural area and that vernacular styles or pastiche are not inevitable, provided the quality of the design and design process is of the highest order.

As an alternative, being innovative

25. The Design Review Panel describe this aspect as being a requirement, and it is not, although they found the approach to habitat creation among other things to be innovative, and there are such elements proposed. It would be perverse to design a new house of this quality, and budget, without its thermal and technical performance being excellent. There are however limited truly innovative features and achieving the goal of innovation should not be at the expense of the architectural design goal which has been significantly surpassed. There is nothing wrong with this approach and this is allowed for in the alternative within paragraph 79e).

Significantly enhancing its immediate setting

26. The south-west corner of the site had been in use as traveller pitch and the remainder was the blue edged land. Representation for local residents tell of difficulties encountered from the use, but apparently more particularly the occupant, over the care of animals and the land. Whatever the causes, the land to the south is somewhat degraded with suburban features and planting of the laurel hedging. The 'meadow' to the north is natural in character and appearance but does not have the appearance of either farmed land or grazing.
27. The house has been designed to sit within the topography and would not impose itself on it, being subsumed within the backdrop of hedging in most of the identified views. The scheme is more than just the house, and the remediation of the land and the landscaping scheme would introduce appropriate planting and maintenance measures so that as a holistic proposal, the immediate setting would be enhanced. It is the case that much of the remediation and landscaping enhancements could be achieved by a willing landowner irrespective of the house being developed, but in this case they are more than just mitigation for the effects of the house, and the quality of the house design deserves to be seen.

Being sensitive to the defining characteristics of the local area.

28. The Landscape and Visual Impact Assessment shows that 3 broad locations for the house within the site were considered, number 1 being to the road, south-

- end of the site, and this was discounted as not taking advantage of the views although it was acknowledged to have existing buildings and hardstanding, and hence a low visual impact. Number 3 was to the far north end on the highest ground and was considered to have a high visual impact for that reason.
29. The chosen site equates only in part to area 2, as the house extends outside the ringed area, towards the less favoured area 3. The ringed area was the preferred location due to being sheltered, within a gentle fold and for being at the heart of the site.
30. The analysis of these 3 broad locations does not negate the decision to deviate northwards from the 'preferred location', and the design of the house has responded appropriately to the topography. That location has allowed a more thoroughgoing enhancement of the southern area, and still retains sufficient of the natural 'meadow' to the north. One of the key considerations in this respect is the delineation of the domestic curtilage, and revised drawing S108E indicates a tightly drawn green line around the terraces and a little to the north of the main block, with separate areas at the folly and the secret garden. That would avoid the risk of domestic paraphernalia extending over the site, and that degree of control is essential, notwithstanding the appellant's stated intentions, as the dwelling is likely to be in place for a long time, and there is, quite rightly, no intention to limit occupation to named persons.
31. The site falls within Character Area 15: Farmed Slopes as identified in the Cotswolds Area of Outstanding Natural Beauty Landscape Strategy and Guidelines. The site displays many of the Key Features for the character area, although it is noted that one of those is numerous historic parklands sited to take advantage of wide panoramic views over productive farmland, so the area is not just farmland. The Strategy and Guidelines identify isolated development such as new single dwellings as a local force for change, having various potential landscape implications. The strategy is stated as avoiding development that will intrude negatively and which cannot be successfully mitigated; opposing new housing unless what is now paragraph 79 applies and the proposal conserves and enhances the Area of Outstanding Natural Beauty. It was agreed at the hearing that there is no general preclusion of such dwellings, including 79e) proposals, from being built in the Area, and that would apply to the Farmed Slopes character area; the submitted document does not seek only dwellings with an essential need.
32. Looking in more detail at the Farmed Slopes implication and strategy, whilst the development of a building on an undeveloped site would be change, the quality of the design does not result in a visual intrusion or suburban form, and the domestication of the landscape would be avoided by the restriction on curtilage. The size of the site and the landscape proposals do avoid the appearance of a 'mini parkland' and larger parklands are a stated feature. The sense of openness has been maintained, the impact of development on views to and from the Framed Slopes has been carefully considered, and the landscaping scheme does utilise appropriately sized native trees.
33. An important consideration is the effect of the proposal with regard to dark-skies and the Farmed Slopes forming a dark backdrop to the vale, together with concerns over 'glint' from the glazed areas in daylight. Two Reports are to hand, both from ARUP, '*Light Obtrusion*' and '*Sunlight Reflection*'. In the former, various control strategies are promoted to reach the conclusion that,

based on the assessment of the analysis carried out against policy, as well as 'GN01: Guidance Note for the Reduction of Obtrusive Light GN01:2011', the harm identified in the second Reason for Refusal is not considered to occur. The Council did not provide an evidence-based objection while the Report did provide an evidential basis to counter the Reason for Refusal.

34. With regard to reflection or 'glint' the Report concluded that having regard to the timing, duration and extent of any potential reflections from the development, coupled with mitigating factors such as the low-rise architecture, tree planting and probable annual cloud cover, the development would have no detrimental visual impact in terms of glint and glare of sunlight during the day.
35. The practice of ARUP has an acknowledged expertise and the Reports appear thorough. In the absence of contradictory evidence, they carry great weight leading to the conclusion that there would be no unwarranted adverse effects from artificial lighting or the degree of glazing.
36. The building would be visible as it does not seek to hide away, and the paragraph 79e) exception, as with its antecedents back to Planning Policy Guidance Note 7 '*Sustainable development in Rural Areas*', does not require such an approach. Built form is a feature of the Cotswolds Area of Outstanding Natural Beauty, and the addition of natural oolitic limestone has placed the building firmly within that setting. The quality of the architecture and landscaping combined would be a positive addition to the site and would enhance the stock of built form of the Area of Outstanding Natural Beauty, while conserving the natural features of the designated area. To conclude on this section, the proposal is sensitive to the defining characteristics of the local area, and as a result of the foregoing analysis, the overall conclusion is that the proposal satisfies the requirements of paragraph 79e).
37. Turning to the Development Plan, the proposal accords with the Appendix D Design Guide in making strong local references, respecting elements of the Cotswolds vernacular as set out at D.29, the site is an appropriate one to explore a less conventional design approach, which is encouraged at D.30, and the massing is broken by the colonnade and stepping-down with a simplicity of design as sought in D.31 and D.32. the use of glazing as referred to in D.33 has been shown to be acceptable on the wider landscape, while the performance of the building accords with D.33 and D.34. As a result, the proposal satisfies the requirements of Policy EN2 in the design of the built and the natural environment.
38. The development would not have significant detrimental effects on the natural or historic landscape such that Policy EN4 is accorded with, and the requirements of Policy EN5 on the Area of Outstanding Natural Beauty would be met. The fact of being contrary to Policy DS4 through being outside principal and non-principal settlements is overcome by the material consideration of satisfying the exception in paragraph 79e) of the Framework.
39. To conclude, the proposal of new house and landscaping together reach the standard sought in order to allow an isolated home in the countryside and accords with relevant Development Plan policies, and hence, planning permission should be granted.

Conditions and Undertaking

40. The Council suggested conditions and these were discussed and amended at the Hearing. Subsequent to that, the wording of the proposed pre-commencement conditions was sent to the appellant for written approval, and this was forthcoming. This is required under Section 100ZA(5) of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.
41. In detail, conditions are necessary to ensure the proposed quality of the design is delivered with respect to materials, windows, doors, ecology and biodiversity measures, landscaping and its monitoring, access and parking. Archaeological work is to be carried out prior to any development to ensure that items are not disturbed, and the drainage design is to be submitted and approved prior to commencement. The suggested external lighting condition is altered to make clear that no lighting is to be provided other than that which has been first submitted to and approved in writing by the Council. In the circumstances of the site and design, it is reasonable to remove permitted development rights for extensions, new window and door openings as well as outbuildings. A condition listing the 'as proposed' drawings is required for the avoidance of doubt.
42. The terms of the Unilateral Undertaking with regard to the promulgation of information on the design and access to the site have been set out in the Reasoning to this Decision, the other obligation concerns the Landscape Management Plan which would ensure that the considerable biodiversity net gains would be maintained for a minimum of 30 years.
43. In conclusion, the conditions would satisfy the tests in paragraph 55 of the Framework, of being necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, as also set out in the web-based Planning Practice Guidance (Paragraph: 003 Reference ID: 21a-003-20190723). The undertaking is essential to the grant of permission; being necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development as referred to in paragraph 56 of the Framework. The Undertaking also satisfies the legal test in Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010, and full weight it attached to the provisions in this Decision.

Conclusions

44. The particular circumstances of the site lead to the conclusion that the proposed new dwelling would, along with the attendant landscaping secured by conditions, be of the quality sought as an exception under paragraph 79e) to the general policy of avoiding isolated homes in the countryside. Whilst the site is within the Cotswolds Area of Outstanding Natural Beauty, no harm would be caused to the designated area's character and appearance, and its scenic beauty would be conserved and enhanced. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

A Moody	Senior Case Officer Cotswold District Council
T Rosser-Smith	Landscape Officer Cotswold District Council
J Ayton	Conservation Consultant for Cotswold District Council

FOR THE APPELLANT:

S Whale	of Counsel
J Ellis	Rural Solutions
C Lyon	Lyon+Co Architects
J Stroud	Lyon+Co Architects
K Dougall	Seed Landscape Design
J Marshall	Seed Landscape Design
J Bidgood	Architect
	Chair of South West Design Review Panel for the scheme but appearing in personal capacity
Cllr J Beale	District Councillor
P and L Hadaway	Appellants

INTERESTED PERSONS:

M Leay	Martin Leay Associates Appearing for objectors listed in DOC 6
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DOCUMENTS

Document	1	Statement of Common Ground signed by appellant and Council
Document	2	Plan of Traveller site submitted by Council
Document	3	Hard Copy of Landscape and Visual Impact Assessment July 2019 Revision B submitted by appellant
Document	4	Cotswolds Area of Outstanding Natural Beauty Landscape Strategy and Guidelines: 15 Farmed Slopes submitted by M Leay
Document	5	Unilateral Undertaking dated 25 February 2020 submitted by appellant
Document	6	List of people represented by Martin Leay Associates
Document	7	Appellant's agreement to wording of pre-commencement conditions
Document	8	Revised drawing S108E showing extent of proposed curtilage submitted by appellant.

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: 1637/S100C; 1637/S101C; 1637/S102C; 1637/S103C; 1637/S104D; 1637/S105D; 1637/S106C; 1637/S107C; 1637/S108E; 1637/S109C; 1637/S110C; 1637/S200D; 1637/S201D; 1637/S202C; 1637/S203D; 1637/S204D; 1637/S205D; 1637/S206C; 1637/S207C; 1637/S208D; 1637/S209D; 1637/S210D; 1637/S211D; 1637/S212C and 1637/S213D.
- 3) No development shall take place until samples of the proposed walling and roofing materials shall be approved in writing by the Local Planning Authority and only the approved materials shall be used.
- 4) Prior to the construction of any external wall of the development hereby approved, a sample panel of walling of at least one metre square in size showing the proposed stone colour, coursing, bonding, treatment of corners, method of pointing and mix and colour of mortar shall be erected on the site and subsequently approved in writing by the Local Planning Authority and the walls shall be constructed only in the same way as the approved panel. The panel shall be retained on site until the completion of the development.
- 5) No development shall take place until details of the windows and external doors have been submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by drawings to a minimum scale of 1:5 with full size moulding cross section profiles, elevations and sections. The development shall be carried out only in accordance with the approved details and retained as such thereafter.
- 6) No development shall take place until a full surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme. The development shall be carried out only in accordance with the approved details and shall be fully operational prior to the first occupation of the development hereby approved and be retained as such thereafter.
- 7) No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.
- 8) The development shall be carried out in accordance with the recommendations in the following reports all prepared by Ecology By Design (with amendments to be agreed as necessary):
 - Section 6 of the Preliminary Ecological Appraisal dated November 2016
 - Section 6 of the Bat Survey dated September 2017
 - Section 6 of the Reptile Survey dated September 2017; and the
 - Ecological Design, Creation and Management report dated April 2018

- 9) No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan – Biodiversity (CEMP-B) has been submitted to and approved in writing by the Local Planning Authority. The CEMP-B shall include, but not necessarily be limited to, the following:
- i Risk assessment of potentially damaging construction activities;
 - ii. Identification of 'biodiversity protection zones';
 - iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - iv. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
 - v. The times during construction when specialist ecologists need to be present on site to oversee works;
 - vi. Responsible persons and lines of communication;
 - vii. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s);
 - viii. Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period; and
 - ix. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.
- 10) No development shall take place until a comprehensive landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. This shall include full details of all biodiversity enhancements, including the green/brown roof (and the use of subsoil rather than topsoil), living walls (if possible), wildlife pond profile drawings and a 5-year aftercare maintenance schedule. The scheme must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development.
- 11) The landscaping scheme shall be carried out by the end of the planting season immediately following the completion of the development or the site being brought into use, whichever is the sooner, or in accordance with a programme to be submitted
- 12) Before the erection of any external walls, details of the provision of bat roosting features (including at least two Habibat boxes as shown in Appendix 6 of the Bat Survey report dated September 2017 prepared by Ecology By Design) and nesting opportunities for birds (specifically, House Martin, House Sparrow, Starling and Swift) into the dwelling, stable/garage building, folly/summerhouse and Ecology Wall shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a drawing showing the locations and types of features and a timetable for their provision. The development shall be carried in accordance with the approved details and the approved features shall be retained in accordance with the approved details thereafter.

- 13) No external lighting shall be installed or used on the site other than that which has been submitted to and approved in writing by the Local Planning Authority. Details to be submitted shall show how and where external lighting will be installed (including the type of lighting), so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bat species using their territory, potential roosts (i.e. new bat boxes) and that light spillage into wildlife corridors such as the field boundary hedgerows and trees will be minimised as much as possible. All external lighting shall be installed in accordance with the specifications and locations set out in the details, and these shall be retained thereafter.
- 14) A Landscape and Ecology Management and Monitoring Plan (LEMMP) shall be submitted to, and approved in writing by, the Local Planning Authority before occupation of the development. The content of the LEMMP shall include, but not necessarily be limited to, the following information:
- i. Description and evaluation of features to be managed; including location(s) shown on a site map;
 - ii. Landscape and ecological trends and constraints on site that might influence management;
 - iii. Aims and objectives of management;
 - iv. Appropriate management options for achieving aims and objectives;
 - v. Prescriptions for management actions;
 - vi. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-10 year period)
 - vii. Details of the body/organisation responsible for implementation of the plan;
 - viii. Monitoring Strategy for a period of 15 years (at least first 5 years on an annual basis), including the successful establishment of all habitats and the colonisation of the site by target species (specifically, invertebrates, bats, birds, reptiles and amphibians if possible);
 - ix. Details of any contingencies and/or remedial actions (where the results from monitoring show that the conservation aims and objectives of the LEMMP are not being met) and how these would be identified, agreed and implemented;
 - x. Timeframe for reviewing the plan; and
 - xi. Details of how the aims and objectives of the LEMP will be communicated to the occupiers of the development.
- The LEMMP shall be implemented in full in accordance with the approved details.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other statutory instrument amending or replacing it, no extensions, new window/door openings, or outbuildings shall be erected, constructed or sited in the application site, other than those permitted by this Decision.
- 16) Before the occupation of the development, the access facilities necessary to serve the site shall be laid out and constructed in accordance with the

submitted details with any gates hung so as to open inwards and the area within 5m of the carriageway edge surfaced in bituminous macadam or other non-migratory material and thereafter be similarly maintained unless otherwise agreed in writing by the Local Planning Authority.

- 17) The development shall not be occupied or brought into use until the vehicle parking and manoeuvring facilities have been completed in all respects in accordance with the approved details and they shall be similarly maintained thereafter for that purpose.

Appeal Decision

Hearing held on 17 November 2015

Site visit made on 17 November 2015

by L Gibbons BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 February 2016

Appeal Ref: APP/M1710/W/15/3010471

Wishanger Estate, Smithfield Lane, Headley Down, Bordon, East Hampshire GU35 8ST

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K W Wright (MBK Leisures) against the decision of East Hampshire District Council.
 - The application Ref 52796/001, dated 8 July 2014, was refused by notice dated 2 October 2014.
 - The development proposed is the development of a new single family dwelling with associated environmental improvements.
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Decision

1. The appeal is allowed and planning permission is granted for the development of a new single family dwelling with associated environmental improvements at Wishanger Estate, Smithfield Lane, Headley Down, Bordon, East Hampshire GU35 8ST in accordance with the terms of the application, Ref 52796/001 dated 8 July 2014, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. At the Hearing an application for costs was made by Mr K W Wright (MBK Leisures) against East Hampshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council have confirmed that they are no longer pursuing reasons for refusal 3 and 4 relating to contributions towards affordable housing and community facilities. I have dealt with the appeal on that basis.
 4. Subsequent to the Hearing the appellant submitted a revised location plan which alters the red line to show the correct landownership details.
 5. For the sake of clarity, I have used the name of the appellant as set out on the appeal form as agreed at the Hearing.
-

Background and Main Issue

6. The appeal site has a planning history which includes a previously refused planning application in 2013 for an eco-dwelling with an education centre and an estate manager's house, bridleway and a new access. The scheme before me seeks to overcome the previous concerns of the Council including by removing the education centre and estate managers dwelling, the bridleway and retention of existing access. The proposed dwelling also no longer incorporates a basement level.
7. The appeal proposal is for a single dwelling in the countryside. Policy CP2 of the East Hampshire Local Plan: Joint Core Strategy (JCS) 2014 seeks to direct development growth to the most sustainable and accessible locations in the District. Policy CP19 of the JCS sets out that in the countryside the approach to sustainable development is to operate a policy of general restraint in order to protect the countryside for its own sake. These objectives are compatible with the National Planning Policy Framework (the Framework) in respect of sustainable development and protecting valued landscapes.
8. However, Paragraph 55 of the Framework also states that isolated new homes in the countryside should be avoided unless there are special circumstances. One of these circumstances includes *the exceptional quality or innovative nature of the design of the dwelling. In order to meet this test a design should be truly outstanding or innovative, helping to raise standards of design more generally in rural areas, reflect the highest standards in architecture, significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.* I have therefore considered the scheme against these criteria.
9. The main issue is whether the proposal for a new dwelling is justified having regard to the Framework and development plan policy.

Reasons

10. The appeal site is largely unmanaged grassland with ponds to the north and bridleways to the south and west. Some of the ponds have been in use as a commercial fishery and there are also some wooded areas. The land is undulating although there is a general slope down to the north and the west towards the ponds.

Is the design truly outstanding or innovative and does the design reflect the highest standard in architecture

11. Whether or not a proposal is of a truly outstanding or innovative design is invariably a subjective matter. I note that the proposal would not have to demonstrate both of these elements. The appeal scheme and the 2013 planning application were considered by the East Hampshire District Council Architects Panel (Architects Panel). I note that the Council consider this is a very informal group and I understand that it does not have a statutory consultee role. I also understand that the Council do not agree with the conclusions of the Architects Panel in respect of the appeal scheme and refer to the comments of a former in-house design expert who considered that the proposal failed to demonstrate any innovation.
12. Nevertheless, the use of the Architects Panel reflects the advice within the Framework and the Planning Practice Guidance. These state that local planning

authorities should have design review arrangements in place to provide assessment and support to ensure high standards of design. In July 2014, the Architects Panel considered that *' by integrating cutting edge technology in a design that is of the highest standard, whilst fully engaging within its landscape setting and location an outstanding design has been achieved'*.

13. The Council refers to the proposal only meeting Level 4 of the Code for Sustainable Homes although I understand that it would have actually met Code Level 5 across the whole site. In any event, the Code has now been replaced. I accept that the technology and energy saving principles in the proposal are fairly well established. The local authority therefore rightly questions the extent to which the proposed dwelling could be considered as innovative in this respect. However, it is clearly demonstrated by the Energy Statement and Design and Access Statement that sustainability factors have driven the design of the dwelling from the initial concept. I accept that the Council and other parties do not agree that this is the case. Nevertheless, that sustainability considerations were a key driver for the design of the house, is to my mind an outstanding feature of the proposal.
14. I note that the appellant would purchase electric vehicles and that charging points would be installed. The proposal would also incorporate additional solar panels in order to offset any other car use. I accept there is no mechanism before me to ensure that future occupiers would use electric cars. However, the appellant refers to a significant reduction in carbon emissions of 77% when considered in relation to the current use of the fishing ponds. The submitted Sustainability Energy Statement includes a set of assumptions made about the traffic movements associated with the commercial fishery. The Council does not disagree with these assumptions. I note that the commercial fishery on the site has been run down for some time and that keeping the fishery open would have some economic and social benefits. Nevertheless, the estimated reduction in carbon emissions would be of benefit.
15. The main structure would be constructed with no need to import significant amounts of materials the site. Exceptions to this would include glazing and the use of concrete, with the use of concrete for the foundations. However, overall the proposal would make significant use of low environmental impact materials, which would include the use of local materials found on the site including local stone for the gabion walls and earth for the rammed walls.
16. The dwelling would be single storey and cut in to the earth. It would sit comfortably within the contours of the land between the two of the highest points of the site. It would not appear contrived and would have a very limited visual impact. The internal accommodation would be arranged on a single floor in an arrangement which would work well for a family and it would have a westerly orientation, to take advantage of the afternoon sun. The internal layout would also reflect the contours of the site. Externally, the gabion walls would be a very attractive feature of the design.
17. The important point about this proposal would be the combination of features and opportunities offered on the site which would combine to form an integral part of its design. Overall, the design would embrace the site's physical characteristics in terms of the contours of the land, its orientation and views towards the ponds. It would be of an exceptional quality.

18. The Council refers to subterranean homes existing elsewhere. However, no specific examples were provided and therefore it is not clear how similar they would be to the scheme before me. I also note that the number of passive houses in England and Ireland are still fewer than 200. I also understand that 'eco-homes' have been built locally. However, details of these were not provided and I cannot be certain how they would compare to the proposal in terms of design and concepts as well as use of materials.
19. In terms of raising standards, the Council suggests the test is very high and that the building should possibly be of national and certainly regional interest. However, that it should be representative at that level is not set out in the Framework. Local residents refer to the proposal as not being exemplar as it cannot be seen. I accept that the majority of the house would not be seen in public views including from the bridleways. I acknowledge that it in that respect it would not be the same as some large prominent country houses found within the area. However, it would still be a substantial house and would have a long drive, thereby representing some of the characteristics of that type of house.
20. The Council also consider that it would not help raise standards of design as the dwelling could not be replicated locally and would not include technological advancements where these could be replicated elsewhere. The Council does acknowledge though that this would be the first house of its kind within the District. In addition, the Architects Panel considered that '*in the context of applications which normally come before them in East Hampshire, that the design could be regarded as both exemplary and innovative*'. In any event, I consider that the integration of sustainability technology from the initial design concept and the use of environmentally low impact materials are particular elements which would be possible to replicate elsewhere in the rural area.

Would the design significantly enhance its immediate setting and be sensitive to the defining characteristics of the area?

21. The Framework also requires designs to significantly enhance the immediate setting. In this case, the immediate setting consists of the appeal site and the boundary hedgerows, the ponds and bridleways. I accept that the field is currently unmanaged and has an unkempt appearance. I understand there has been some fly tipping and there was some evidence of this along the bridleway and at the appeal site.
22. The proposals would include the provision of a wildflower meadow over the site which would amount to 11 hectares. There would be a pictorial meadow, lawn, additional planting of deciduous woodland, a rainwater pond and a natural swimming pool. The biodiversity measures would result in an increase in the number of species found on the site. I note that these proposals are supported by Natural England. The Council, whilst indicating biodiversity and landscape proposals would not significantly enhance the immediate setting, do acknowledge that they would provide benefits to the wider setting.
23. I accept that the proposal would incorporate lawns and orchard planting, which are not particular features found in this area. The Council refer to other features such as the proposed ha-ha, access track, lighting and parking areas, which would add to the domestic appearance of the appeal proposal. However, these would not be dominant features and would not be highly visible within the landscape. The proposed gabion walls would provide some screening of

domestic features close to the house. I also note that the intention is that the majority of landscaping would incorporate the use of natural planting.

24. Although there would no longer be an agricultural use, the proposals would ensure that part of the site would develop a more natural habitat and would significantly enhance the setting. The Framework also encourages improvements to biodiversity and I consider these would be significant benefits of the scheme. This is particularly so, as the area identified for biodiversity enhancement is quite large in proportion to the rest of the site.
25. The parties do not agree on the assessment of local character. The appellant refers to a number of dwellings in large plots, a mix of dwellings including converted farm buildings, bungalows and large country houses with long drives. The Council refer to the site simply being a field in an agricultural area, with only isolated dwellings and small groups of ribbon development and generally open countryside. Generally, there are both of these characteristics present. The local landscape character is also described as including medium sized fields, grazing, woodlands and wood pasture. The appeal site is representative of some of these features.
26. Nevertheless, the design of the house and landscaping would enable the proposal to blend in with the rolling landscape and would make very good use of the level changes within the appeal site. I note that the Architects Panel also referred to the context of the lakes and that the house was felt to be sensitive to the defining characteristics of the local area. Due to the position of the parking, garage and access as well as the subterranean nature of the house, the proposal would have a very limited effect on the open nature of the site and wider area. There are also proposals to increase the amount of woodland in the area. These factors would ensure that the proposal would be sensitive to the characteristics of the area.

Conclusion on the main issue

27. The proposed dwelling would be located in the countryside and would be away from local services and facilities and also public transport. The Council also indicate that they are able to demonstrate a five year supply of housing and that the dwelling would not be needed in terms of adding to the supply of housing in the area. However, even in the face of conflict with Policies CP2 and CP19 of the JCS, the quality of the design, incorporation of sustainability concepts from the start, coupled with ecological benefits and a sensitivity to the characteristics of the area are sufficient to justify the scheme when considered against the criteria set out in fourth bullet of paragraph 55 of the Framework.

Other matters

28. I acknowledge the concerns of local residents that the proposal could lead to other proposals for new homes in the area. In this respect, I have been provided with a letter that expresses an interest in a neighbours land for the construction of eco-homes. However, it is not clear what type of proposal is being referred and whether it would be a single home or more than one. The Council also clearly state that they consider this scheme could not be replicated elsewhere. In any event, I have judged the proposal on its merits and found it to be acceptable; it would be for other decision makers to consider other proposals on their merits.

29. Local residents raised concerns about access via Bacon Lane and that it is a dangerous road. I accept that Bacon Lane is narrow with only a few passing points. The Council and Highways Authority do not object to the proposal in this regard. Based on my observations of Bacon Lane and the evidence before me, I see no reason to disagree with this matter.

Conclusion and conditions

30. I have considered the conditions in the light of the tests set out in paragraph 206 of the Framework and the Planning Practice Guidance. For the avoidance of doubt and in the interests of proper planning, a condition is necessary specifying the approved plans.
31. In order to protect the character and appearance of the area, conditions are necessary in relation to the submission of details of materials to be used as are conditions relating to the removal of certain permitted development rights. A condition relating to the submission of the details of landscaping and landscape management is also needed in this regard. The Council proposed two conditions in order to protect and enhance biodiversity. At the Hearing it was agreed that only a single condition would be needed in respect of the submitted ecological management plan, report and mitigation statement. In the interests of sustainability, conditions are needed in relation to the submitted energy and water statements and for the cessation of the commercial fishery. A condition relating to the submission of a construction method statement is necessary in the interests of highway safety and in order to protect the existing trees on the site.
32. For the reasons given above and having regard to all other matters raised, I conclude that subject to the conditions set out in the schedule below, the appeal should be allowed.

L Gibbons

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr K Wright	Appellant
Mr R Williams	Counsel
Mr A Bateman	Stiles Harold Williams
Ms N Thomas	ARCH-Angel Architects
Mr D Lobb	Graduate Landscapes Ltd
Ms R Mitchell	Greenbox Associates

FOR THE LOCAL PLANNING AUTHORITY

Mr S Wood	Consultant acting on behalf of East Hampshire District Council
Mrs N Powis	Principal Planning Officer, East Hampshire District Council

INTERESTED PERSONS

Dr S May	Local resident
Cllr A Williams	East Hampshire District Council and Headley Parish Council
Cllr A Luff	Headley Parish Council

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

- 1 Statement of Common Ground
- 2 Costs application on behalf of the appellant
- 3 Copy of a Powerpoint Presentation given at the Hearing by the appellant
- 4 Letter to Dr May from Ecofriendly Development Company dated 23 September 2014 supplied by Dr May
- 5 Proposed route for the site visit – maps

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: E01 Rev B - Location Plan; P01 Block Plan; P03 Proposed floor plans; P04 Rev A Proposed house elevations; P05 Section AA; P06 Proposed construction plans; P07 Proposed lookout and garage plans; GL 1288/01 Landscape Plan; GL 1288/02 Site Landscape Plan; Proposed Sewage Plan; Proposed Curtilage Plan
- 3) No development shall take place until the materials to be used in the construction of the external and internal surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a construction method statement has been submitted to and approved in writing by the local planning authority. Construction shall proceed in accordance with the approved statement which shall provide for:
 - i) Loading and unloading of plant and materials;
 - ii) Storage of plant and materials used in the construction, and;
 - iii) Erection and maintenance of security hoarding.
 - iv) Tree and hedge root protection zones.
- 5) Prior to the occupation of the hereby approved development a landscape management plan, schedule of planting, management objectives and responsibilities and maintenance schedules for all landscaped areas shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Development shall be implemented in accordance with the recommendations put forward in the submitted Ecological Management Plan (azurEcology, February 2011), Ecology Report – Code for Sustainable Homes Category 9 – Ecology (azurEcology, September 2011) and Mitigation Statement (azurEcology, March 2014) relating to the implementation of ecological mitigation and enhancements and the longer term management of these.
- 7) Development shall be implemented in accordance with the recommendations put forward in the submitted Sustainability and Energy Statement (Greenbox Associates, May 2014) and Sustainable Water Strategy (ech2o, June 2012) relating to the implementation of sustainability enhancements.
- 8) Upon occupation of the hereby approved development, the commercial fishery at Wishanger Estate shall cease all operations.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that order), no fences, gates or walls shall be erected within the curtilage of the dwellinghouse hereby permitted.

- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that order), no garages or outbuilding shall be erected, other than those expressly authorised by this permission.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that order), the dwellinghouse and out building hereby permitted shall not be extended or altered or the roof extended or altered in any way.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that order), no windows, dormer windows or other openings shall be constructed other than those expressly authorised by this permission.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that order), no access other than that shown on the approved plan shall be formed.



Appeal Decision

Site visit made on 26 May 2022

by **G Rollings BA(Hons) MAUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/L3245/W/21/3289722

Land south of Fitz, Fitz, Shrewsbury, SY4 3AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by R & C Clarke & Francis against the decision of Shropshire Council.
 - The application Ref 21/02213/FUL, dated 23 April 2021, was refused by notice dated 14 July 2021.
 - The development proposed is the erection of a new dwelling including provision of access and amenity space (paragraph 79).
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling including provision of access and amenity space at land south of Fitz, Shrewsbury, SY4 3AS in accordance with the terms of the application, Ref 21/02213/FUL, dated 23 April 2021, subject to the list of conditions set out in the annex to this Decision.

Preliminary Matters

2. The application was made whilst a previous version of the National Planning Policy Framework (the Framework) was in force. This 2019 version enabled, at paragraph 79, for the development of isolated homes in the countryside in instances where design was of an exceptional quality. The current 2021 version, at paragraph 80, makes a similar allowance but removes the ability of such design to be tested by way of its innovation. The 2021 version supersedes the previous, and is the version under which this appeal is considered.

Main Issue

3. The main issue in this appeal is whether the proposal reaches the standard of design sought in Framework paragraph 80, taking into account the character and appearance of the surroundings.

Reasons

4. A generally high standard of design and an appropriate location and relationship with surroundings is expected for new development as set out in the Council's local plan, including the *Adopted Core Strategy* (2011) and SAMDev¹ Policies provided in its decision notice. In particular, SAMDev Policy MD7a manages the development of new market housing outside of identified

¹ Shropshire Council *Site Allocations and Management of Development Plan* (SAMDev) (2015).

locations, with countryside development restricted unless certain criteria can be met, none of which are in this instance.

5. However, the Framework postdates the local plan. Paragraph 80 of the Framework also discourages the development of isolated homes in the countryside but provides for some exceptions. One of these, at paragraph 80(e), is that the design must be of exceptional quality, setting four tests. The development is tested against these in the remainder of this section.

Whether the design is truly outstanding, reflecting the highest standards in architecture

6. The site in its present state has different components, comprising woodland, farmland and a semi-wooded bank to the river. The area on which the house is proposed has been previously cleared.
7. The proposal has had a protracted design process. Elements such as a central dome have been altered or eliminated and through a process of consultation and evolution, the scheme now proposes a neo-classical building that is set on high ground back from the river's edge, taking advantage of the varying site levels and existing woodland. The appearance of the building, together with its compact nature, is reminiscent of a folly in the English grand house tradition. The style of the dwelling draws heavily on the classical architecture of the past. In this regard it could be considered a pastiche, in the same way that neo-classical architecture of the past drew on the eras that went before.
8. However, unlike a traditional folly, the building would have a practical purpose as residential accommodation. Views from and towards Fitz from the appeal site are shielded by woodland that would be retained and managed as part of the property, with limited views from other public spaces. The main views of the building would be within the expansive site area with glimpses from the river. The surrounding site area would have a mix of domestic and pastoral space that would both blend and enhance the existing landscape, whilst creating an appropriate setting for the new building. The design process has been subject to robust review to ensure that the development would not only stand as high-standard development in its own right but also be a positive addition to the rural setting.
9. I appreciate that appearance and design can be a subjective matter but consider that in this case, the rigorous design process has resulted in a proposal that successfully blends traditional and modern styles. It is coherent and would provide a legible building that is well integrated within both the altered and existing parts of the surrounding landscape. Its design achieves a very high standard of quality and in this regard, I consider that it passes the relevant test.

Whether the design would help to raise standards of design more generally in rural areas

10. The proposal is an example of a development that achieves two seemingly opposing outcomes: to both integrate within an existing bucolic landscape, and to impose a manmade 'statement' in a similar manner to country-house architecture of the past. Accordingly, it is a modern interpretation of a traditional style of English architecture that has been appropriately executed and, as such, could be an exemplar for similar development.

Whether the design would significantly enhance its immediate setting

11. The wooded part of the site would be retained and would in future be managed to ensure improvements to its sylvan character. The existing grassland would also be managed but would retain an agricultural character. Other interventions would use materials appropriate to the local landscape. Areas of the site closest to the house would be terraced but mostly shielded in views across open land and from the river. Overall, the domestic interventions would sit well within the landscape and I am satisfied that the development would have a significantly positive visual and operational relationship with the surrounding land.

Whether the design would be sensitive to the defining characteristics of the local area

12. The defining characteristics closest to the site are the planted 19th-century woodland, the agricultural nature of other parts of the site, its topography and the proximity of, and views to and from, the river. As previously described, the development enhances each element but would not detract from their importance nor their ability to be appreciated.
13. Further afield, Fitz settlement and its listed buildings are on higher land but are not visible from the site. The building is visually and physically separate and takes no design cues from the settlement. However, neither the building nor other parts of the site to be developed would affect the settlement or its constituent buildings, and accordingly, the proposal would be sensitive to the defining characteristics of the area.

Conclusion on main issue

14. The proposal reaches the exceptional standard of design sought in Framework paragraph 80, and would not harm the character and appearance of the surroundings. The proposal would not accord with the local plan, including Core Strategy Policies CS1, CS4, CS5 and CS11 and SAMDev Policies S16.2(viii), MD1, MD7a, which together do not allow market housing in the open countryside. The plan does not specifically allow for exceptions, and is consistent with Framework paragraph 80 insofar that isolated homes in the countryside are discouraged. However, the proposal accords with the Framework, including paragraph 80. There is not consistency between the Framework and the local plan, in that the former allows for exceptional development of this nature, and as the former post-dates the latter, I accord the Framework greater weight in my decision.

Other Matters

Effect on listed buildings

15. Fitz settlement is to the north of and on higher land than the location of the proposed house. Listed buildings within the settlement include the Church of St Paul's and St Peter's, and Fitz Manor, both of which are grade II* listed. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, 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, its significance, or any features of special architectural or historic interest.

16. The significance of these listed buildings derives from their architectural features and ornaments, and their relationship as part of the historic settlement. Due to topography and vegetation, their setting is limited to the area within and immediately surrounding the settlement, although the woodland forming part of the site continues outwith to adjoin the garden of the Manor. Nonetheless there is no direct visibility between the designated heritage assets and the site and the development would not affect their significance. Additionally, the development would be sympathetic to the topography of the site and its landscape and would not harm any of the traditional relationships between the heritage assets and surrounding land.
17. Therefore, in accordance with the clear expectations of the Act, the setting of the listed buildings would be preserved, together with the significance of the designated heritage assets.

Planning obligation and affordable housing

18. A completed Section 106 Planning Obligation has been submitted. Given that an obligation may constitute a reason for granting planning permission only if it meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 and paragraph 57 of the Framework, it falls to me to reach a finding on its acceptability.
19. The document provides an undertaking upon the appellants to provide £13,500 to the Council, together with costs, as a contribution towards affordable housing provision within the district. This sum was calculated in accordance with the formula as set out in the Council's *Type and Affordability of Housing Supplementary Planning Document* (2012) and is in accordance with the aims of Core Strategy Policy CS11 in meeting the diverse housing needs of local residents.
20. The contribution is justified and I am content that the obligation meets the requirements of the statutory and acceptability tests.

Local residents' and other submissions

21. There is both support for and objections against the proposal within the local community. The main concerns not already addressed within this decision would be mitigated through the planning conditions.
22. I have had regard to the previous appeal decision provided by the Council in support of its position. Whilst I consider it relevant to this appeal in that both seek Framework paragraph 80 exemptions, the proposal in this appeal is appropriate in bespoke design terms for the reasons that I have set out above.

Conditions

23. I have assessed the list of conditions proposed by the parties in the draft statement of common ground and the Council's suggested list against the tests set out in the Planning Practice Guidance (PPG)². Condition 2 is included for the absence of doubt and in the interests of proper planning. Conditions 3, 5 and 6 are imposed to ensure a high-quality finish and to ensure that the site has an appropriate character and appearance. Condition 4 is applied to enable suitable drainage sustainability, and conditions 7 and 8 for the preservation

² PPG reference ID: 21a-003-20190723; revision date: 23 07 2019.

and appropriate treatment of protected species and biodiversity. Conditions 9 and 10 are provided to ensure acceptable access and highway safety. Given the bespoke nature of the proposal and the aims of the Framework, Condition 11 is appropriate to maintain the design vision during the life of the development and meets the tests of reasonableness and necessity.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

G Rollings

INSPECTOR

Annex: List 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: 0511 001 Context Plan; AWB.122 000 Location Plan; AWB.122 002 rev. A Site Plan; FITZ01 Proposed Basement Plan; FITZ02 Proposed Ground Floor Plan; FITZ03 Proposed First Floor Plan; FITZ04 Proposed Roof Plan; FITZ05 Proposed South Elevation; FITZ06 Proposed North Elevation; FITZ07 Proposed East Elevation; FITZ08 Proposed West Elevation.
- 3) No development shall take place until samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
- 4) No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).
- 5) Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. All external joinery shall be carried out in complete accordance with the agreed details.
- 6) No above ground works shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the Local Planning Authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

- 7) Prior to first occupation/use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:
- A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
 - A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), and/or small birds (28mm or 32mm hole, standard design).
- The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.
- 8) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Guidance Note 08/18 Bats and artificial lighting in the UK* or any replacement version. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.
- 9) The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with approved plan AWB.122 002 Site Plan prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.
- 10) The access apron shall be constructed in accordance with Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.
- 11) 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 development relating to Schedule 2, Part 1, Class; A, B, C, D and E shall be erected, constructed or carried out.

End of list.



Appeal Decision

Site visit made on 1 September 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2022

Appeal Ref: APP/L1765/W/22/3291091

The Reservoir, Abbotstone Road, Fobdown, Hampshire, SO24 9TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Martin Pratt against the decision of Winchester City Council.
 - The application Ref 21/01334/FUL, dated 13 May 2021, was refused by notice dated 18 August 2021.
 - The development proposed is described as 'Change of use of land from agricultural to Class C3 (Dwellinghouse). Development comprising the reshaping of the reservoir to provide for the construction of a floating five-bedroom dwellinghouse, with part subterranean garage, made pursuant to the provisions of paragraph 79(e) of the National Planning Policy Framework (NPPF) (2019). To include: the formation of a new vehicular access from Abbotstone Road, the laying of a driveway and forecourt, engineering works for the purpose of landscaping, and the installation of two floating solar islands'.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from agricultural to Class C3 (Dwellinghouse), the reshaping of the reservoir to provide for the construction of a floating five-bedroom dwellinghouse with part subterranean garage, the formation of a new vehicular access from Abbotstone Road, the laying of a driveway and forecourt, engineering works for the purpose of landscaping, and the installation of two floating solar islands at The Reservoir, Abbotstone Road, Fobdown, Hampshire SO24 9TD, in accordance with the terms of the application, Ref: 21/01334/FUL, dated 13 May 2021, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for an award of costs was made by Mr and Mrs Martin Pratt against Winchester City Council. This application will be the subject of a separate Decision.

Main Issues

3. Subsequent to the Council's decision, a planning obligation has been submitted by the appellant to address the Council's second reason for refusal. The Council has confirmed through its statement of case that it is content the proposal would not have an adverse impact on the Solent Special Protection Area due to the mitigation outlined in the planning obligation. This is a matter to which I will return to as part of my appropriate assessment. That said, as it is no longer a matter in dispute, I have not addressed it as a main issue.

4. Thus, the main issues in this appeal are:

- Whether the appeal site is a suitable location for the proposed development with reference to the spatial strategy in the development plan; and
- Whether other material considerations indicate the proposal should be determined otherwise than in accordance with the development plan.

Reasons

Suitability of the location with reference to the spatial strategy

5. In order to provide development in sustainable locations, support the vitality of rural communities and maintain the rural character of the landscape and identity of settlements, the Council has adopted a spatial strategy for the market towns and rural areas. This involves permitting some housing in these areas to meet local needs. The housing is to be directed to the identified settlements with the level of growth proportionate to its role and function.
6. To support this approach of directing proportionate new development to settlements, Policy MTRA4 of the Local Plan¹ states that in the countryside, defined as land outside settlements, only certain types of development will be permitted subject to the impacts. This includes, for example, that required for agriculture, the reuse of buildings, the expansion of existing businesses or small-scale tourism. The appeal scheme would not be any of the types of development listed in Policy MTRA4. The corollary being that the proposal would be at odds with this policy.
7. In conclusion, the proposal would not be a suitable location for the appeal scheme when applying the spatial strategy in the LP, which is a carefully drafted and considered statement of policy. Instead, the proposal would undermine the objectives of the strategy. This would be harmful given the relative certainty and public interest that flows from a planning system that is genuinely plan led.

Other considerations

8. The appeal site is located about one kilometre from the edge of New Alresford. Undeveloped open countryside in the form of agricultural fields separate the appeal site from this settlement. Accordingly, the appeal site is physically separate from New Alresford. There is some sporadic development along Abbotstone Road, including a newly converted barn to the north of the appeal site. However, this is dispersed and situated in open landscape. There is not a sense of entering a settlement and leaving the countryside. As a result, the pockets of development along Abbotstone Road do not constitute a settlement, village or rural community. As a result, the appeal site is separate from any settlement and is therefore isolated within the meaning of the National Planning Policy Framework (the 'Framework') when given its proper interpretation as confirmed by the courts²

¹ Winchester District Local Plan Part 1 – Joint Core Strategy

² In *Braintree DC v Secretary of State for Communities and Local Government 2018 WL 01513032* and *City & Country Bramshill Ltd v Secretary of State for Housing, Communities And Local Government & Ors* [2021] EWCA Civ 320, which confirmed that the question to grapple with is whether a development would be physically isolated from a settlement, rather than other buildings. What is a 'settlement', and whether the development would be 'isolated' from one are matters for the decision maker.

9. Paragraph 80e) of the Framework provides in principle support to isolated homes in the countryside when the design would be of exceptional quality. The appellant submits that this would be the case in this instance. To achieve this benchmark, the proposal needs to be truly outstanding by satisfying four tests. These being that the architecture would be of the highest standard, help raise design standards more generally in rural areas, significantly enhance the immediate setting and be sensitive to the defining characteristics of the area.
10. The Framework does not define these terms or tests further and therefore it is a matter of planning judgment whether they are met. It is often helpful in reaching such a view to have the input of specialists, such as a multi-disciplinary design panel. However, in this instance the Council decided not to present the current scheme to a panel despite the appellant requesting this. Previous comments from a design review panel regarding an earlier iteration of the project focused on whether the proposal would be innovative instead of outstanding. It is also unclear what the expertise of the panel members was and whether it was multi-disciplinary. As a result, their findings are of limited assistance to my assessment. Nevertheless, the appellant's submissions are comprehensive and sufficient to facilitate a judgment to be reached against each of the tests. I also note that neither the Council's Urban Design nor Landscape Officer objected, but I have reached my own conclusions.
11. The proposed dwelling would float on the reservoir and would communicate the form of a water lily with the pedestrian bridge being the stalk. In this respect, it would have a unique, whimsical, and attractive architectural appearance which would reflect the aquatic context and impart an elegant, balanced and sculptural quality of a high order. The proposal would not be especially large, bold, or assertive, but architecture need not be so to be of a high standard.
12. An assessment of architectural quality can go beyond the appearance of the building and include other matters such as the construction method. In this respect, the floating concept of the house would be especially interesting and require experimental engineering and construction of a high calibre. The building would also incorporate an outstanding approach to the challenges of climate change as its full electricity demands, including electric vehicles, would be met through solar panels. Batteries would be used to ensure this occurs all year round. An underwater system would turn the heat in the water into heating energy. This would be sufficient to adequately warm the building given its fabric. The water requirements of the occupants could also be met by water recycling and harvesting with the sedum roof incorporating a moisture matt. Excess rainwater would not be stored in the building's hull for reuse. Overall, the proposal would be architecture of the highest quality.
13. There are apparently few opportunities for floating homes in the district and therefore other opportunities to replicate the proposal would be limited. However, it is not just the floating concept that is outstanding. The proposal is a synthesis of environmentally friendly, sculptural architecture that sits sensitively and subtly in the landscape. In this respect it would be a show case of what can be done. It would be so unique and interesting that it would provide inspiration to other designers who may wish to replicate or build upon the concepts employed. In this respect it would help raise design standards more generally in rural areas.

14. The Landscape and Visual Impact Assessment submitted by the appellants demonstrates that the building would not be prominent in the landscape. In this respect, its visual presence would not significantly enhance the immediate landscape setting. However, given that the landscape around the appeal site is generally open and unspoilt, a prominent building in this location would be inappropriate. Thus, the building, through its siting, would have a purposely restrained presence to respect the context. That said, the appeal scheme would relate well to, and enliven the site due to its 365-degree design. The scheme as a whole would also enhance the hard unnatural appearance of the reservoir by providing softer and more informal edges. Importantly, the proposal would significantly enhance biodiversity, especially for white-clawed crayfish, in a way beyond normal policy expectations as detailed in the Ecological Management Plan. Taken together, these points are sufficient to achieve a significant enhancement of the immediate setting.
15. As already explained, the area is typical of the largely open, rural and rolling chalk downland character of the North Itchen Downs Landscape Character Area, although the converted barn to the north erodes tranquillity and is stark. The converted barns, and the reservoir provide some built context that would lessen the impact of the appeal scheme on the tranquillity of the area. Light pollution and glare would be minimised by the soffit overhangs and automatic blinds.
16. In response to the rural and open character of the landscape, the proposed dwelling would sit in the lowest part of the site and therefore only fleeting views of it would be achieved, predominantly from short sections of Footpath 2 and the Oxdrove Way. The use of natural or muted colours along with a 'green' roof would help to integrate the building with the colour pallet found in the surrounding fields and thus soften it. Accordingly, the proposal would not appear unduly prominent or stark in the landscape.
17. The proposal would urbanise the site as a building would be erected where there is not one currently. However, this is an inherent consequence of allowing outstanding architecture in isolated locations in the countryside and therefore the siting and design must be considered with this in mind. In this instance, the proposal is making use of a site dominated by an unattractive manmade reservoir. Moreover, and importantly, the carefully considered approach to the siting of the building in the landscape means it would be sensitive to the characteristics of the area despite not replicating the vernacular styles of buildings found locally.
18. I accept that the design could possibly have been improved by more overtly referencing some locally distinctive materials and perhaps the agricultural history of the area. However, by being sensitive to the surrounding landscape and utilising natural or warm earthy coloured materials the building would invoke vernacular building traditions, in that it would be of the landscape in some respects.
19. Given the sensitive and considered response to the landscape setting of the site, the appeal scheme would not appear stark or incongruous and therefore the appeal site is not one that inherently fails to lend itself to such a proposal. Instead, the building would subtly spark some curiosity when seen from limited near distance vantage points in the landscape but appear striking and of high quality within its immediate visual envelope.

20. The removal of eight metres of mature hedgerow along the adjoining country lane to create the access, along with further scrub removal and engineering operations to create a driveway into the site, would be notable drawbacks of the proposal at odds with the Council's Landscape Character Assessment. However, the access would be sensitively detailed with a five-bar gate and an appropriate surface treatment. Compensatory planting would also occur, and the gap would open a potentially attractive view over the redesigned reservoir and towards a rolling valley and vineyard. On balance, the removal of the hedge is not a determinative matter against the scheme as a whole, albeit subject to appropriately worded landscaping conditions. The garage is a weak element of the proposal, especially as the awkwardly proportioned front with up and over garage doors would be visible when approaching the dwelling. However, it would be recessive and largely below ground. On balance, this aspect of the scheme would not diminish the outstanding overall quality.
21. To summarise, the design would be unique and outstanding and thus reflect the highest standards of architecture. In so doing, it would be inspirational and would help raise design standards in rural areas as an example of best practice. The proposal would significantly enhance its immediate setting and respond sensitively to the local characteristics of the area. As a result, the proposal would be of exceptional quality. It would therefore meet the exception outlined in Paragraph 80e) of the Framework. Accordingly, there would be no conflict with policies DM15 and DM23 of the Winchester District Local Plan Part 2 and the High Quality Places Supplementary Planning Document, which seek to secure sensitive, contextually appropriate and high quality design.
22. Being a reasonably large, complex and no doubt expensive project, constructing the appeal scheme would provide some modest benefits to the local economy. The location would also enable future occupants the opportunity to walk or cycle into New Alresford on occasion. This would be reasonably convenient given the proximity of the Wayfarer's Walk. The proposal would also very modestly boost housing supply and the appellant has completed a declaration (CIL Form 7 Part 1) that the proposal would be a self-build project. I have already stated that it would enhance biodiversity, which is an aim of the Council's Landscape Character Assessment. These are further factors that add additional limited weight in favour of the scheme.

Appropriate Assessment

23. The appeal site is in the catchment of the Solent sites³. These protected sites are important habitat for a range of waterbirds, which are the qualifying features. The conservation objectives for these sites can be summarised as ensuring the extent and distribution of habitats and that the population of qualifying features is maintained or restored.
24. The water environment within the Solent area is important to the qualifying features. Nitrogen and phosphorus entering this water environment via the River Itchen causes eutrophication that effects the marine ecology and adversely impacts the protected habitats and bird species. A residential development such as the appeal scheme provides a pathway for nutrients to enter the water environment. As such, it could have a likely significant adverse effect on the integrity of the Solent in combination with other plans and

³ The Solent Maritime SAC, Solent and Southampton Water SPA, Portsmouth Harbour SPA and Chichester and Langstone Harbours SPA

- projects. Thus, an appropriate assessment, in accordance with the Habitat Regulations⁴, is required to consider the implications of the proposal on the Solent area in view of the conservation objectives.
25. The appellant has provided an updated nutrient neutrality report which calculated a nutrient budget for the proposal. The calculations take into account the location of the site, the foul water management system proposed (a package treatment plant with discharge to the ground via a drainage field), soil conditions and previous and future land uses. There is nothing of substance before me challenging the findings in the budget.
26. The appellant's nutrient neutrality report, which was prepared by a chartered scientist, concludes that no additional mitigation is required if the package treatment plant is correctly installed, operated and maintained, and the land changes set out in the ecological management plan occur (from agriculture to wildlife habitat). Moreover, the report also concludes that there is a low risk pathway for phosphorus to reach the River Itchen because there would be no discharge into surface water. As a result, there would be no significant effect in this respect, alone or in combination.
27. Natural England has indicated that chemical dosing within package treatment plants should not be used to achieve nutrient neutrality unless sufficient measures are in place to ensure the homeowner will provide the correct dosing in perpetuity. The appellant has provided details setting out how the correct dosing would be achieved through automation and suggested a condition is imposed to secure this. The Council has not raised objections in this respect and are satisfied that the planning obligation would secure the necessary safeguards. Moreover, it has apparently approved chemical dosing using polyaluminium chloride solution (Ref. 22/01567/DIC) elsewhere and there is no evidence before me that this has had an adverse effect. Similarly, the planning obligation secures the land use changes and ecological improvements and therefore there would be adequate certainty over the deliverability and enforcement of this aspect of mitigation as well. The monitoring engrained in the planning obligation would provide further certainty in this regard.
28. The planning obligation is directly related to the impacts of the proposal on the Solent sites and is necessary to make the development acceptable. The measures are also fair and reasonable in scale and kind to the development. Thus, the planning obligation can be taken into account. As a result, the proposal would not adversely affect the integrity of the Solent area, the condition of which need not deteriorate as a result of the proposal.

Conditions

29. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of certainty and to secure the outstanding nature of the proposal, that it is undertaken in accordance with the submitted drawings and the energy/water efficiency measures. For similar reason it is necessary that permitted development rights are removed for alterations and external finishing materials are approved. I have referred to the appellant's Energy Report instead of a Code for Sustainable Homes rating because it would ensure the building performs at a very high standard.

⁴ See Regulation 63 Conservation of Habitats and Species Regulations 2017 (as amended).

30. In the interests of highway safety, it is necessary to ensure the access is provided prior to occupation. It does not need to be provided prior to construction works starting given the provisions of the construction management plan. In the interests of biodiversity, living conditions, landscape and highway safety, it is necessary to secure a construction management plan and implementation in accordance with the arboricultural method statement. It is also necessary to secure the mitigation and compensation measures in the ecological management plan for these reasons.
31. The Council's recommended Condition 13 duplicates the planning obligation and is unnecessary. That said, requiring adherence to the Kingspan guidelines for BA-BN Biodisc is necessary in the interests of protecting the integrity of the Solent sites.

Conclusion

32. The proposed development would be at odds with Policy MTRA4 and thus contrary to the development plan as a whole. However, as an isolated home of exceptional quality, the proposal would be supported by Paragraph 80 of the Framework. Policy MTRA4 predates the Framework and is not consistent with Paragraph 80. In this instance, the balance of the considerations are such that the appeal should be determined otherwise than in accordance with the development plan and allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

1. The development to which this permission relates must be begun not later than three years beginning with the date on which this permission is granted.
2. The development hereby permitted shall be carried out in accordance with the drawings listed in the Planning Application Index prepared by Fredrick Adam Ltd dated 12 May 2021.
3. Prior to their use, details and samples of the external finishing materials to be used in the construction of the external surfaces of the development hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. This shall include:
 - Details of the green roofs, including plant species to be used;
 - Details of the proposed metal cladding;
 - Details of the windows and doors in respect of materials, colour as well as the submission of sections at a scale of 1:20;
 - Details of proposed louvres.

Development shall be carried out in accordance with the approved details.

4. Development shall cease on site if, during any stage of the works, unexpected ground conditions or materials which suggest potential contamination are encountered, unless otherwise agreed in writing with the Local Planning Authority. Works shall not recommence before a site assessment has been undertaken and details of the findings along with details of any remedial action required (including timing provision for implementation), has been submitted to and approved in writing by the Local Planning Authority. The development shall not be completed other than in accordance with the approved details. NB - potentially contaminated ground conditions include infilled ground, visual evidence of contamination or materials with an unusual odour or appearance.
5. The development shall not be occupied until a site access and visibility splays has been provided in accordance with the approved plans. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over one metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays. The approved visibility splay will thereafter be retained in the approved form.
6. Prior to construction works commencing a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following details;

General:

- Phases of development.
- Code of Construction Practice for all works and operations on the site
- Use of fences and barriers to protect adjacent land
- Measures to be undertaken to minimise impacts on surrounding land
- Timetable and dates for stages of the development, including land restoration at the completion of construction works.

Environmental:

- Dust suppression, mitigation and avoidance measures
- Measures for minimising construction waste and provision for the reuse and recycling of materials which shall be used in the construction of the development.
- Noise reduction measures, including use and details of acoustic screens and enclosures, the type of equipment to be used and their hours of operation
- Floodlighting and security lighting. (note: this must be directed in such a way as not to cause nuisance to adjoining properties or adjacent highway)

Ecological:

- Timing restrictions for staged removal of any vegetation so as not to conflict with breeding seasons
- Measures to be taken to prevent contaminants from entering watercourses or the water environment

Transportation:

- A traffic management plan for construction vehicles entering and leaving the site, including times of movement so as to avoid peak period traffic
- The Construction Management Plan shall be adhered to throughout the duration of the construction period. For the avoidance of doubt, this condition covers all construction and demolition work (including the breaking up and removal of pavement) on the application site.
- Reason: To ensure that all demolition and construction work in relation to the application is undertaken in a sustainable manner and does not cause materially harmful effects on nearby properties and businesses.

7. 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 development permitted by Classes A, B, C, D and E of Part 1; of Schedule 2 of the Order, shall be carried out without the prior written consent of the Local Planning Authority.
8. The development and site shall be carried out, managed and occupied in accordance with the measures, work plans, management actions, conclusions and recommendations set out within the Water Lily House, Fobdown Ecological Management Plan 2021 – 2031 by Arcadian Ecology, dated 2021 and the Extended Phase 1 Habitat Survey and the Dormouse and Reptile Survey also by Arcadian Ecology 2020 and 2019. Thereafter, the compensation and habitat creation/enhancement measures shall be permanently maintained and retained as specified.
9. The development shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
 - Proposed finished levels or contours, in comparison to existing ground

levels, including the damp proof course and ground floor of the proposed buildings, and the relationship to the levels of adjacent buildings, together with contours to be formed and earthworks to be undertaken;

- All boundary treatment;
- Hard surfacing materials;
- Means of enclosure, including any retaining structures;
- Car parking layout;
- Other vehicle and pedestrian access and circulation areas;
- Refuse or other storage units
- External lighting

Soft landscaping works shall include:

- Planting plans (for new trees, hedges and other planting);
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- Implementation programme.

10. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out before the use hereby permitted is commenced or in accordance with some other programme agreed with the Local Planning Authority. If within a period of five years after planting any tree or plant is removed, dies or becomes, in the opinion of the Local Planning Authority, seriously damaged, defective or diseased another tree or plant of the same species and size as that originally approved shall be planted at the same place, within the next planting season, unless the Local Planning Authority gives its written consent to any variation.
11. Prior to the occupation of the dwelling hereby approved, written details shall be submitted to and approved in writing by the local planning authority to confirm the water, fabric and energy measures set out in the Energy Strategy, Innovation Report and Design and Access Statement have been implemented and are ready for use. Thereafter, the development shall not be occupied or operated otherwise than in accordance with the approved details
12. The development hereby approved shall be implemented in accordance with the calculations and methodology prepared by Earthcare Technical Ltd dated 29 July 2022 and to comply with the Kingspan guidelines for BA-BN Biodisc with chemical dosing for the lifetime of the project or until such time that it is agreed in writing with the planning authority that another suitable solution is in place.
13. The development hereby approved shall be implemented in accordance with the measures set out in the Arboricultural Method Statement Ref. 1164.bjh.Mar21.