

Planning Statement

For Mrs S Roberts | 24-532

Partial redevelopment, remodelling and erection of a single storey rear extension -
Hawkshaw Hall, Hawkshaw Lane, Bury, BL8 4LD

Project: 24-532
Site Address: Hawkshaw Hall, Hawkshaw Lane, Bury, BL8 4LD
Client: Mrs S Roberts
Date: May 2025
Author: Gareth Salthouse
Approved by: Caroline Payne

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Contents

1.	Introduction	1
2.	Site and surrounding area	2
3.	Relevant planning history	3
4.	The proposed development	4
5.	Planning policy context	5
6.	Planning considerations	9
7.	Conclusion	16
8.	Appendices	17



1. Introduction

- 1.1 This Statement has been prepared on behalf of Mr and Mrs Roberts in support of a householder planning application for partial demolition, remodelling and a single storey rear extension at Hawkshaw Hall, Hawkshaw Lane, Bury.
- 1.2 In terms of Green Belt planning policy, this Statement demonstrates that the proposed works do not constitute inappropriate development in the Green Belt. It is necessary for only one exception at paragraph 154 of the Framework to be satisfied for the scheme to be considered 'appropriate development', and this scheme satisfies two separate exceptions:
- It does not result in disproportionate additions above and beyond the size of the original building for the purposes of paragraph 154(c) of the Framework.
 - It does not result in substantial harm to the openness of the Green Belt for the purposes of paragraph 154(g) of the Framework.
- 1.3 The proposed development is acceptable in all other regards, including design, highways and residential amenity.
- 1.4 This Statement demonstrates that the proposal is compliant with the provisions of the development plan and planning permission should therefore be granted without delay in accordance with paragraph 11 of the Framework.



2. Site and surrounding area

- 2.1 The application site is located to the north of Hawkshaw village in the administrative boundaries of Bury Council.
- 2.2 The site is known as Hawkshaw Hall, and it comprises a stone-built dwelling with the principal elevation facing southwards. The house is set in a complex of buildings and structures that includes an outbuilding, barn and stables and tennis court and vehicular access is via a tree-lined driveway off Hawkshaw Lane.
- 2.3 The wider area comprises open countryside characterised by clusters of farmsteads and individual houses with the village 'core' of Hawkshaw to the south. The site is located within the designated Green Belt.



3. Relevant planning history

3.1 We summarise the relevant planning history for the site below:

- 47927 – Conversion of barns/stables to form additional living accommodation with extensions – Approved June 2007.
- 55681 - Two storey side extension at side and basement – Approved November 2012.
- 58560 – Two storey side extension and single storey rear extension – Approved May 2015.
- 66724 – Single storey detached outbuilding – Approved May 2021.



4. The proposed development

- 4.1 The proposed development is for demolition of the existing 'boot room/WC' single storey rear outrigger and the erection of a replacement single storey 'boot room/WC', together with a new infill extension to provide dining room space at ground floor level. The scheme has been designed by Good & Tillotson Architects.
- 4.2 The external materials to be used will be matching stone with mullion windows to the boot room/WC element, although the new dining room extension would comprise glazing panels and a low-profile roof to give the extension a lightweight and discrete appearance.
- 4.3 The external volume calculations for the approved scheme '66724' were as follows as per the officer report:
- Original dwelling: 2,150m³.
 - Previous extensions and approved outbuilding: 627m³.
- 4.4 In terms of this scheme, Good & Tillotson Architects confirm the external volume of the exiting boot room/WC as 62.5m³ and the external volume of the rebuild and infill extension to be 423m³.

Image 1: Visual of the replacement boot room/WC and infill dining room extension (Good & Tillotson Architects)



5. Planning policy context

Development plan

- 5.1 The development plan comprises the saved policies of the Bury Unitary Development Plan (UDP), which was adopted by the Council in 1997. The Proposals Map shows that the site is within the designated Green Belt and a Special Landscape Area. Saved Policies OL1/2 and EN9/1 are relevant to the determination of this planning application together with Saved Policy H2/3 which deals with house extensions and alterations.
- 5.2 Saved Policy OL1/2 does not fully reflect paragraph 154 of the National Planning Policy Framework (the Framework) and the Framework takes precedence in such circumstances. The Bury Alterations and Extensions to Residential Properties (SPD6) and the New Buildings and Associated Development in the Green Belt Supplementary Planning Document (SPD8) are also relevant.

National Planning Policy Framework (the Framework)

- 5.3 The Framework was published in December 2024, and this represents a significant change in circumstances further to the previous planning applications and appeal relating to the application site.
- 5.4 Paragraph 154(g) says that the following will not be considered to be inappropriate development within the Green Belt:

“limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.”

- 5.5 The relevant test is therefore whether there will be substantial harm to the openness of the Green Belt, and this is a high threshold. It is permissive of schemes that result in a negligible, limited, moderate or significant impact on openness. This is also a fundamental shift from the previous parameters for assessment under para 154 which previously set out a threshold of no greater impact on the Green Belt than the existing.
- 5.6 We refer to relevant parts of the Framework in Section 4 below.



Other material considerations

Euro Garages Ltd vs. SoC for CLG and Cheshire West and Chester Council Judgment (2018)

- 5.7 This High Court Ruling related to unauthorised works to a petrol filling station at Red Ensign Service Station on the A540 near Ellesmere Port. The site already contained fuel pumps with a canopy above, food and drink outlets and a car park and the works subject to the legal challenge related to the erection of a storage container and a modestly sized side extension.
- 5.8 The Inspector for the appeal had accepted that the proposed development would constitute limited infilling of a previously developed site for the purposes of paragraph 145(g) of the Framework. Although the Inspector noted that there would be no adverse visual impact on the Green Belt, the Inspector took the view that the increased floor area and volume meant that there would be a greater impact on the openness of the Green Belt and she commented that a lack of visibility did not in itself mean that there would be no loss of openness.
- 5.9 In upholding Euro Garages' challenge to the Inspector's decision, Mrs Justice Jefford made the following observations:
- For there to be a greater impact on the openness of the Green Belt, there must be something more than merely a change.
 - The question as to the impact on the openness of the Green Belt involves an assessment of the harm occasioned by the change.
 - Asking the question whether there is any greater harm is one way of addressing the impact on the openness of the Green Belt.
 - A realistic assessment of the openness of the Green Belt will often have to include the likely perceived effects on openness, if any, as well as spatial effects.
 - It is inherent in the policy that a judgement must be exercised as to the likely visual or perceived impacts on the openness of the Green Belt; it is not simply a question of whether something, which by definition has a spatial impact, is to be built. However, this has subsequently been tempered through the Samuel Smith Old Brewery (Tadcaster) & Ors, R (on the application of) v North Yorkshire County Council [2020] Judgment discussed further below, which confirms that it is for the decision-maker on a case by case basis to assess whether visual openness is relevant, and to what extent.

Samuel Smith Old Brewery (Tadcaster) & Ors, R (on the application of) v North Yorkshire County Council [2020]

- 5.10 This Supreme Court Judgment followed a Court of Appeal ruling in 2018 concerning the interpretation of the openness of the Green Belt. The key points to note are as follows:



- There is reference to the relevance of PPG2 when interpreting the meaning of the Framework (as opposed to taking the Framework at face value). Lord Carnwath considers the reasons for designating Green Belt and the changes to Green Belt policy in the Framework and suggests that omissions in the Framework are not intended to mark a significant change of approach.
- Lord Carnwath agrees with the conclusions in *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466; [2017] 2 P & CR 1:

“The concept of ‘openness of the Green Belt’ is not narrowly limited to the volumetric approach suggested by [counsel]. The word ‘openness’ is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs ... and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.” (para 14)

- There is no legal requirement for the decision-maker to take visual impacts into consideration when assessing openness, unless they are “obviously material”:

“Paragraph 90 does not expressly refer to visual impact as a necessary part of the analysis, nor in my view is it made so by implication. As explained in my discussion of the authorities, the matters relevant to openness in any particular case are a matter of planning judgement, not law.” (para 39).

- The visual aspect of openness of the Green Belt remains capable of being relevant, and paragraph 64-001 of the PPG remains applicable in terms of having due regard for the spatial and visual aspects. However, it is for the decision-maker to make a judgement as to what aspects of openness are most relevant, having due regard for the site-specific circumstances of the case in question. It will not always be the case that an assessment of the openness of the Green Belt must have due regard for visual and spatial elements (it may be one or the other, or both, in combination sometimes with other factors such as traffic generation).

5.11 The Samuel Smith Judgment in some ways supersedes the findings of the Euro Garages Judgment referred to earlier. However, it remains the case that where visual impacts are a relevant consideration to openness of the Green Belt, the decision-maker should follow the steps set out in the Euro Garages Judgment in terms of there having to be actual tangible harm (as opposed to change) in order to support the proposition that there will be greater impact on openness.

National Planning Policy Guidance (PPG)

5.12 Paragraph 64-001 of the PPG advises what factors can be taken into account when considering the potential impact of development on the openness of the Green Belt. It reflects case law such as the Euro Garages Judgment summarised above in noting that the assessment of openness is not confined to spatial considerations:



“openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume”



6. Planning considerations

Green Belt policy

- 6.1 It is accepted that the proposed development would result in cumulative additions that exceed 30% of the size of the original property. However, there is no definitive guidance through the Framework, the adopted development plan or SPD6 or SPD8 on how a disproportionate addition should be determined. Paragraph 10.10 of SPD6 says the following and makes clear that it is a matter of planning judgment and each scheme will be determined on its own merits:

“Proposals for domestic extensions in the Green Belt should not normally exceed a third of the volume of the original dwelling. However every application is assessed on its own merits.”

- 6.2 Each scheme should be assessed on its own merits as to what may be considered disproportionate. For the reasons set out below in relation to paragraph 154(g) of the Framework, we do not consider that the scheme represents a disproportionate addition over and above the size of the original dwelling for the purposes of paragraph 154(c). The proposed scheme is very modest in scale and massing, would appear very much secondary and subservient in relation to the size of the existing property, which is substantial and seen in the context of a group of buildings and structures, and there would no material impact on the openness of the Green Belt (or limited impact at most). The proposed development does not therefore comprise inappropriate development in the Green Belt.

- 6.3 Nevertheless, we set out below that the scheme is compliant with paragraph 154(g) of the Framework in any event and it is only necessary for one of the exceptions at paragraph 154 of the Framework to be satisfied for planning permission to be justified.

- 6.4 Paragraph 154(g) of the Framework is permissive of the following form of development:

“limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.”

- 6.5 There are 3 no. elements to the above that we discuss further below under the following sub-sections:

1. Whether the site comprises previously developed land.
2. Whether the development comprises limited infilling or partial redevelopment.
3. Whether there would be substantial harm to the openness of the Green Belt.

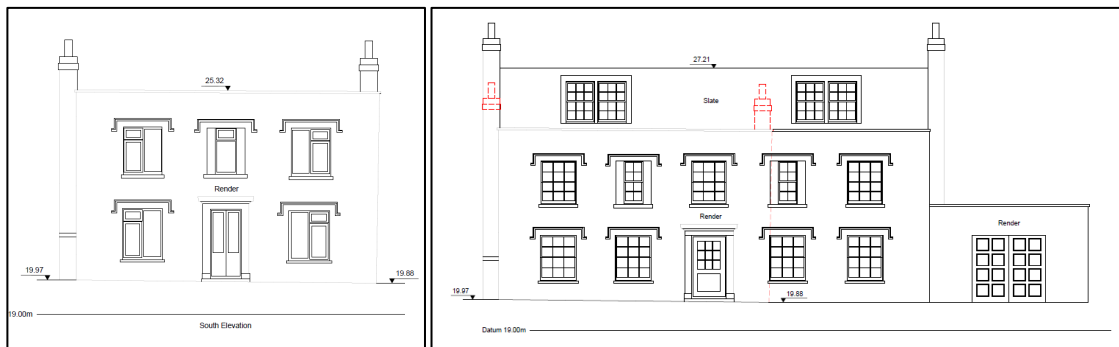


- 6.6 Firstly, we refer to householder appeal decisions that are relevant to our client's scheme. For instance, there are very clear similarities to a recent appeal decision in relation to partial demolition, remodelling and extensions at a property in the Littlewick Green area of Maidenhead (PINS ref: APP/T0355/W/24/3352921). We enclose the appeal decision letter at **Appendix EP1** of this letter and the existing and approved plans at **Appendix EP2**.

Image 2: Location of the site at Bath Cottage, Bath Road, Littlewick Green, Maidenhead (circled red)



Image 3: Existing and approved front elevation drawings: Bath Cottage, Bath Road, Littlewick Green, Maidenhead



- 6.7 Planning permission had been refused by the Council as the works were considered to be disproportionate for the purposes of paragraph 154(c) of the Framework, although the Inspector allowed the appeal because paragraph 154(g) was satisfied. We copy paragraphs 7, 8 and 11 of the appeal decision letter below:

“The Council assessed the scheme against the exception now listed in paragraph 154 c) of the Framework, which states that the extension or alteration of a building is not inappropriate development provided it does not result in disproportionate additions over and above the size of the original building. However, the appellant’s evidence

refers me to other exceptions including paragraph 154 g) of the Framework, which states that development in the Green Belt is not inappropriate where it comprises “limited infilling or the partial or complete redevelopment of previously developed land (PDL) (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt”.

“The appeal site is occupied by Bath Cottage and its garden, as well as an outbuilding and areas of hardstanding. The proposal would partially redevelop the site through the demolition of some structures, and the construction of various extensions and alterations to the host property and its grounds. Due to the site’s location outside of a built-up area, the garden area is not excluded from the Framework’s definition of PDL. The site therefore comprises PDL.”

“..... On this basis, I conclude that the proposal falls within the exception set out in paragraph 154 g) of the Framework and therefore it would not be inappropriate development in the Green Belt. On that basis, it is not necessary for me to consider the proposal against the other exceptions in the Framework, or for very special circumstances to be present. Therefore, there would be no conflict with Policy QP5 of the LP.”

- 6.8 Our client’s scheme is similarly compliant with the provisions of paragraph 154(g) of the Framework as discussed below. The scheme comprises partial redevelopment through demolition and remodelling works, and the new extension represents limited infilling of a small gap.
- 6.9 The principle that only one exception at paragraph 154 of the Framework needs to be complied with was also addressed through an appeal decision in the Green Belt in Cheshire West and Chester. We enclose an appeal decision and relevant plans at **Appendix EP3** and **Appendix EP4**. The Inspector noted that the works to the property would equate to a ‘disproportionate addition’ over and above the size of the original building. However, planning permission was granted based on paragraph 154(f) with the Inspector noting the following:

“Policy DM21 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (LP2) states that extensions and alterations will be supported in the Green Belt if the resulting development would not result in disproportionate additions over and above the size of the original building. This corresponds with one of the exceptions identified at paragraph 149(c). However, there is nothing within the Framework that restricts consideration of a proposed extension, by definition a building, against exception 149(c) only, and no other exception identified at paragraph 149.”

“One of the other exceptions identified in the Framework, at paragraph 149(e), relates to limited infilling in villages.”



“.... It would largely fill a gap, smaller than two dwellings wide, that is formed by the host property and the adjoining dwelling. In this context, given its limited width and position to the side of the host dwelling, the proposed extension would be limited infilling. The proposal would not, therefore, be inappropriate development within the Green Belt as defined at paragraph 149(e) of the Framework and in the development plan.”

6.10 Although the scheme was considered to be ‘disproportionate’ for the purposes of paragraph 154(c) of the Framework, the appeal was allowed based on limited infilling development in a village i.e. paragraph 154(e) of the Framework. We also refer to a recent appeal decision in the Green Belt in Warrington whereby the Inspector accepted that a replacement house was compliant with paragraph 154(g) of the Framework, and that there was no need to go any further in considering other parts of paragraph 154 e.g. whether the new house was materially larger for the purposes of paragraph 154(c) of the Framework. We enclose the appeal decision at **Appendix EP5** of this Statement and copy paragraph.

6.11 Our client’s scheme need only satisfy one of the exceptions at paragraph 154 of the Framework.

Whether the site comprises previously developed land

6.12 The definition of previously developed land in the annex of the Framework is as follows:

“Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

6.13 Our client’s site comprises a building and its curtilage and it is not excluded from the above definition because the land is not in the ‘built-up area’. The site is ‘previously developed land’ for the purposes of the Framework, and this is consistent with the High Court Judgment in *Dartford Borough Council v. Secretary of State for Communities & Local Government* (2015).



Whether the development comprises limited infilling or partial redevelopment

- 6.14 The proposed development comprises limited infilling and partial redevelopment as illustrated through the annotated image below. The dining room extension infills a small gap between the existing two-storey outrigger to the western side (ground floor living room and first floor bedrooms) and the existing boot room/WC outrigger to be enlarged to the eastern side. The dining room extension would be 'bookended' by these 2 no. outriggers and would infill a small gap. See also Image 1 provided earlier in this Statement.

Image 4: Annotated Google Earth showing the proposed development



Whether there would be substantial harm to openness of the Green Belt

- 6.15 The key policy test for the purposes of paragraph 154(g) is whether the development results in substantial harm to openness. This is a very high threshold, and it exceeds other thresholds such as limited, moderate and significant.
- 6.16 We summarised earlier the Euro Garages and Samuel Smith Judgments and the PPG guidance for assessing openness which postdate the previous appeal decision for the site. It is for the decision-maker to come to a judgement as to the most relevant factors having due regard for the circumstances of each specific case. There is no definition set out through law as to what openness should comprise, and there is no standard methodology as to assessing impact. It may sometimes be the case that volumetric calculations are the most, or only, relevant considerations whereas it may in other cases be more relevant to consider visual prominence. Furthermore, It would be wrong to focus on the openness of the site in question instead of the Green Belt as a whole.

- 6.17 The Euro Garages Judgment referred to earlier in this Statement, which concerned development on a petrol filling station forecourt (i.e. a brownfield site), also made it clear that the preservation test is capable of accommodating change in the built environment. The key test is whether there is actual, tangible harm to openness. It is insufficient to simply say that quantitative change equates to greater ‘harm’ to openness as may have been the case many years ago when there was a much greater emphasis placed on the spatial aspect of openness.
- 6.18 In the case of our client’s site, the context is that the house itself sits within a complex of other buildings and structures. The siting of the new extension is a relatively very small area of the curtilage and the scheme represents a proportionally small uplift to the size of the existing property. The new boot room/WC extension would be marginally larger than the existing and the dining room extension would be ‘bookended’ by the 2 no. outriggers either side of it, one of which is two-storey. The external materials and design of the additions would ensure that the scheme would not appear prominent through matching stone, mullion windows and glazing with a low-profile roof to the dining room element.
- 6.19 The proposed scheme does not encroach beyond the established built envelope of the existing group of buildings. There would be some change at a very localised and site-specific level but there would be no actual, tangible ‘harm’ to the openness of the Green Belt as a whole when considering the quantitative and qualitative aspects of openness and coming to a rounded assessment.
- 6.20 Even if one was to say that there was harm to openness, a refusal of planning permission could only be sustained where that harm would be substantial. As a benchmark in terms of consideration of openness, we refer to an appeal decision in Billericay, Basildon for the erection of 47 no. two-storey houses that was allowed by the Planning Inspectorate in 2022 (PINS ref: APP/V1505/W/22/3296116). The appeal decision letter is at **Appendix EP6** of this Statement, and the approved site layout plan is at **Appendix EP7**. Although the existing buildings on the site were modest, single storey and the land largely comprised open paddock land with a very substantial quantitative increase in built development proposed, the Inspector concluded that the scheme would result in ‘moderate’ harm only to openness, given visual prominence considerations. Paragraph 16 of the appeal decision letter emphasises the point that the key consideration is the impact on the wider Green Belt as a whole, rather than focusing on the site itself.

“The proposal would result in an increase in built form on the site both in overall footprint and volume and spread across the site. However, the appeal site is largely visually self-contained, with existing housing to Billericay to two sides of the site and the extensive existing and proposed boundary landscaping to the other two sides. Where the boundary planting would be more open the proposal would be seen in the context of the existing housing to Billericay. The harm to openness on the appeal site itself would therefore have limited effect on the wider GB. Allowing for the slightly greater harm to openness of the appeal site itself, the overall harm to the openness of the GB would be moderate.”



- 6.21 The impact could not be described as substantial by any measure. Notwithstanding our position that there would be no material harm, there is no scenario whereby the decision-maker could reasonably allege that the impact exceeds 'limited' only. There are similarities to the assessment by those Inspectors for the appeal decision discussed earlier, and enclosed at **Appendix EP1**, where the impact on openness was similarly found to be much below a substantial threshold.
- 6.22 The proposed works are compliant with paragraph 154(g) of the Framework and the scheme is not inappropriate development within the Green Belt.

Other matters

- 6.23 In terms of design, the proposed extensions would be a modest scale and massing in relation to the overall built form of the existing property and would appear very much as secondary and subservient additions. The external materials would be to complement the host building, and this can be secured by the local planning authority via an appropriately worded planning condition.
- 6.24 The proposed scheme would integrate well with the existing property, and it would be compliant with Saved Policy H2/3 of the Bury UDP.
- 6.25 By virtue of the modest scale of the scheme and the distance to any nearby residential properties, there would be material impact on the local road network or residential amenity for the purposes of Saved Policy H2/3 of the Bury UDP.



7. Conclusion

- 7.1 It has been demonstrated through this Statement that the proposed development is compliant with the provisions of the development plan and planning permission should therefore be granted without delay in accordance with paragraph 11 of the Framework.



8. Appendices

EP1 – Appeal decision: APP/T0355/W/24/3352921 – Bath Cottage, Bath Road, Maidenhead.

EP2 - Existing site layout plan and approved site layout plan: APP/T0355/W/24/3352921 – Bath Cottage, Bath Road, Maidenhead.

EP3 – Appeal decision: APP/A0665/D/23/3320634 - Glenroy, School Bank, Norley, Northwich.

EP4 - Existing site layout plan and approved site layout plan: APP/A0665/D/23/3320634 - Glenroy, School Bank, Norley, Northwich.

EP5 – Appeal decision: APP/M0655/W/24/3348066 - 11 Wilton Lane, Culcheth and Glazebury, Warrington

EP6 – Appeal decision letter: APP/V1505/W/22/3296116 – Land at Maitland Lodge, Billericay.

EP7 – Existing site layout plan and approved site layout plan: APP/V1505/W/22/3296116 – Land at Maitland Lodge, Billericay.



EP1



Appeal Decision

Site visit made on 18 March 2025

by **E Catcheside BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 April 2025

Appeal Ref: APP/T0355/W/24/3352921

Bath Cottage, Bath Road, Littlewick Green, Maidenhead SL6 3QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Werakso against the decision of The Council of the Royal Borough of Windsor and Maidenhead.
 - The application reference is 24/01276.
 - The development proposed is relocation of the front entrance with new canopy, part single, part first floor, part two storey side/rear extension with attached store, 2no. rear bay windows, new mansard roof, 2no. front dormers, 3no. rear dormers, increase in height to the existing chimney, alterations to fenestration, new drop kerb and relocation of the existing vehicular access following the demolition of the single storey rear elements and detached outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for relocation of the front entrance with new canopy, part single, part first floor, part two storey side/rear extension with attached store, 2no. rear bay windows, new mansard roof, 2no. front dormers, 3no. rear dormers, increase in height to the existing chimney, alterations to fenestration, new drop kerb and relocation of the existing vehicular access following the demolition of the single storey rear elements and detached outbuilding at Bath Cottage, Bath Road, Littlewick Green, Maidenhead SL6 3QR in accordance with the terms of the application, reference 24/01276, subject to the following 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 drawing numbers 0173-GA-0015 Rev P01, 0173-GA-0016 Rev P01, 0173-GA-0017 Rev P01, 0173-GA-0018 Rev P01, and 0173-GA-0019 Rev P01.
 - 3) Notwithstanding the details shown on the approved drawings, no development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
 - 4) No development shall take place above slab level until details of biodiversity enhancements, to include but not be limited to one bat roosting opportunity installed integral to the building (tile, brick, or box), have been submitted to and approved in writing by the local planning authority. The biodiversity enhancements shall thereafter be installed prior to the first occupation of the development hereby permitted.

- 5) No external lighting shall be erected or installed on the site other than in complete accordance with an external lighting scheme that has first been submitted to and approved in writing by the local planning authority. The external lighting scheme shall include:
- A lighting layout plan with beam orientation
 - A schedule of lighting equipment
 - Measures to be taken to avoid glare
 - Measures to be taken to avoid adverse impacts on wildlife
 - Details of locations of bat boxes, tiles, and/or bricks.

Preliminary Matters

2. The description of development reflects the wording agreed between the parties during the application process.
3. The appeal documents included a Preliminary Ecological Appraisal (PEA) and Ecological Survey Report (ES). These documents were not before the Council when it determined the application. The additional information does not alter the appeal scheme but rather provides technical information to address the Council's concerns regarding the effect of the proposal on protected species. The Council has reviewed the PEA and ES as part of the appeal process, and has stated that the content is satisfactory, subject to suggested conditions. Based on the evidence I have no reason to take a different view. I am satisfied that no procedural unfairness arises from me considering the documents, and I have therefore proceeded on the basis that the second reason for refusal, and any conflict with Policy NR2 of the Borough Local Plan 2013-2033 (Adopted 8 February 2022) (LP) no longer applies.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The parties have had an opportunity to comment on the revised Framework as part of the appeal process. The paragraph numbers in this decision refer to the latest version of the Framework.

Main Issue

5. The main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies.

Reasons

6. The appeal site lies within the Green Belt. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate, other than in a few exceptions. Policy QP5 of the LP also seeks to protect the Green Belt from inappropriate development, as defined by the Framework, unless very special circumstances are demonstrated.
7. The Council assessed the scheme against the exception now listed in paragraph 154 c) of the Framework, which states that the extension or alteration of a building is not inappropriate development provided it does not result in disproportionate additions over and above the size of the original building. However, the appellant's evidence refers me to other exceptions including paragraph 154 g) of the

Framework, which states that development in the Green Belt is not inappropriate where it comprises *“limited infilling or the partial or complete redevelopment of previously developed land (PDL) (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt”*.

8. The appeal site is occupied by Bath Cottage and its garden, as well as an outbuilding and areas of hardstanding. The proposal would partially redevelop the site through the demolition of some structures, and the construction of various extensions and alterations to the host property and its grounds. Due to the site's location outside of a built-up area, the garden area is not excluded from the Framework's definition of PDL. The site therefore comprises PDL.
9. Notwithstanding that some existing structures would be removed as part of the proposal, the scheme would significantly enlarge the width, height, and overall volume of built form on the site, and the extended dwelling would fill most of the space between the side boundaries of the plot. At two-storeys high, and given its width, the side extension would block views from Bath Road through to the gardens and upwards towards the sky. Therefore, there would be a loss of openness in both visual and spatial terms.
10. However, owing to its location at the end of a short and well-treed lane, there are very limited views of the site from the surrounding area, including the A4 road. Indeed, the development would only be observable from the footpath and road immediately outside of the site and in glimpsed views through trees from neighbouring properties. Even then, the appeal site is well-enclosed by other buildings and vegetation such that there are limited opportunities for longer views through the garden towards open space. When considered together with the modest scale and nature of the proposal, the loss of openness would be localised. It follows that, whilst there would be harm to the openness of the Green Belt, the harm would not be substantial.
11. On this basis, I conclude that the proposal falls within the exception set out in paragraph 154 g) of the Framework and therefore it would not be inappropriate development in the Green Belt. On that basis, it is not necessary for me to consider the proposal against the other exceptions in the Framework, or for very special circumstances to be present. Therefore, there would be no conflict with Policy QP5 of the LP.

Conditions

12. The Council provided a list of suggested conditions, which I have considered against the tests set out in the Framework. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability.
13. In addition to the standard time limit condition, I have attached a condition to define the permitted drawings to provide certainty.
14. I have imposed a condition to control external materials to protect the character and appearance of the area. The Council suggested this could be a compliance condition, however the details on the submitted plans are limited and do not include references to colour for example. Therefore, I have required the details to be submitted for approval.

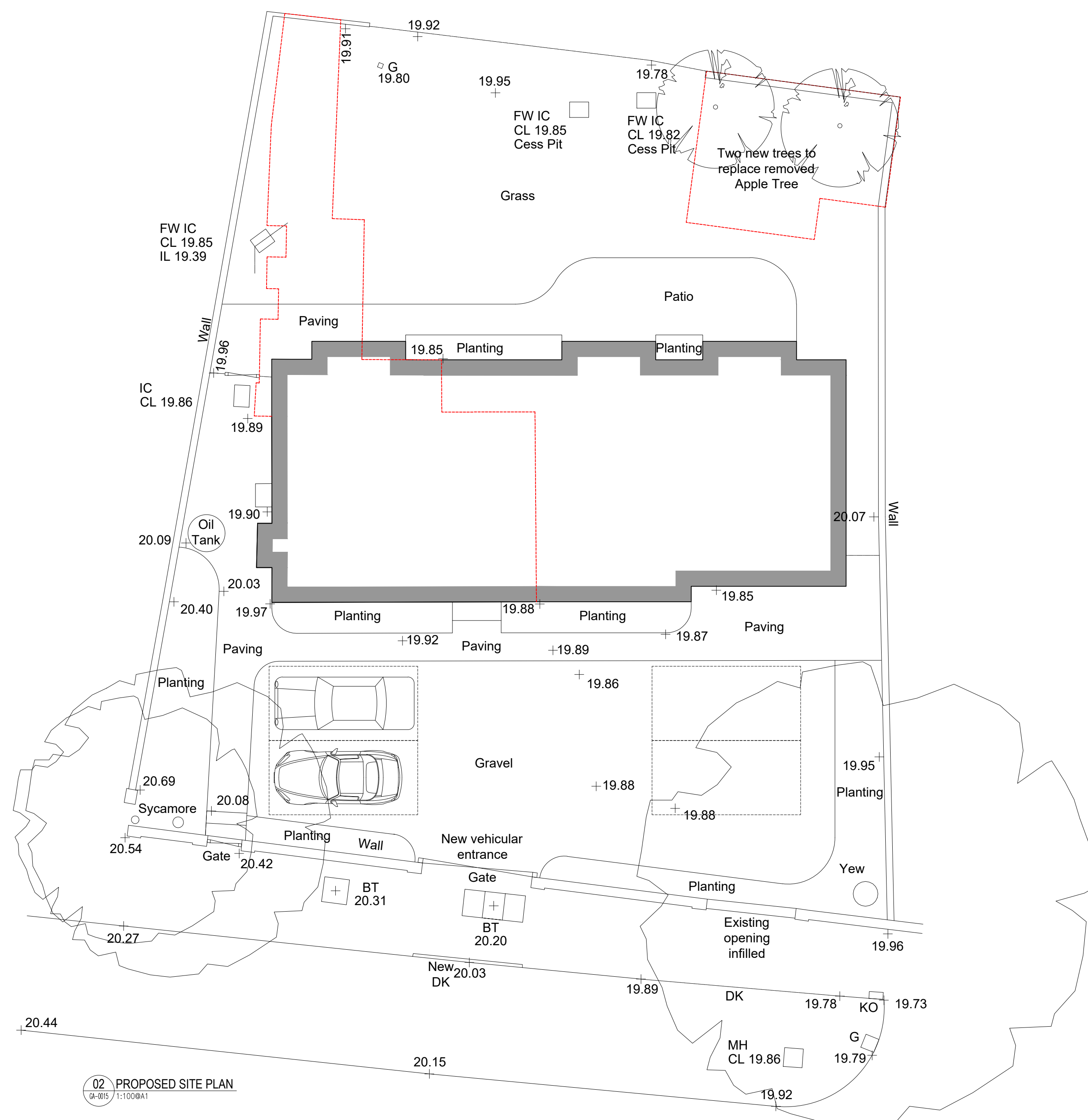
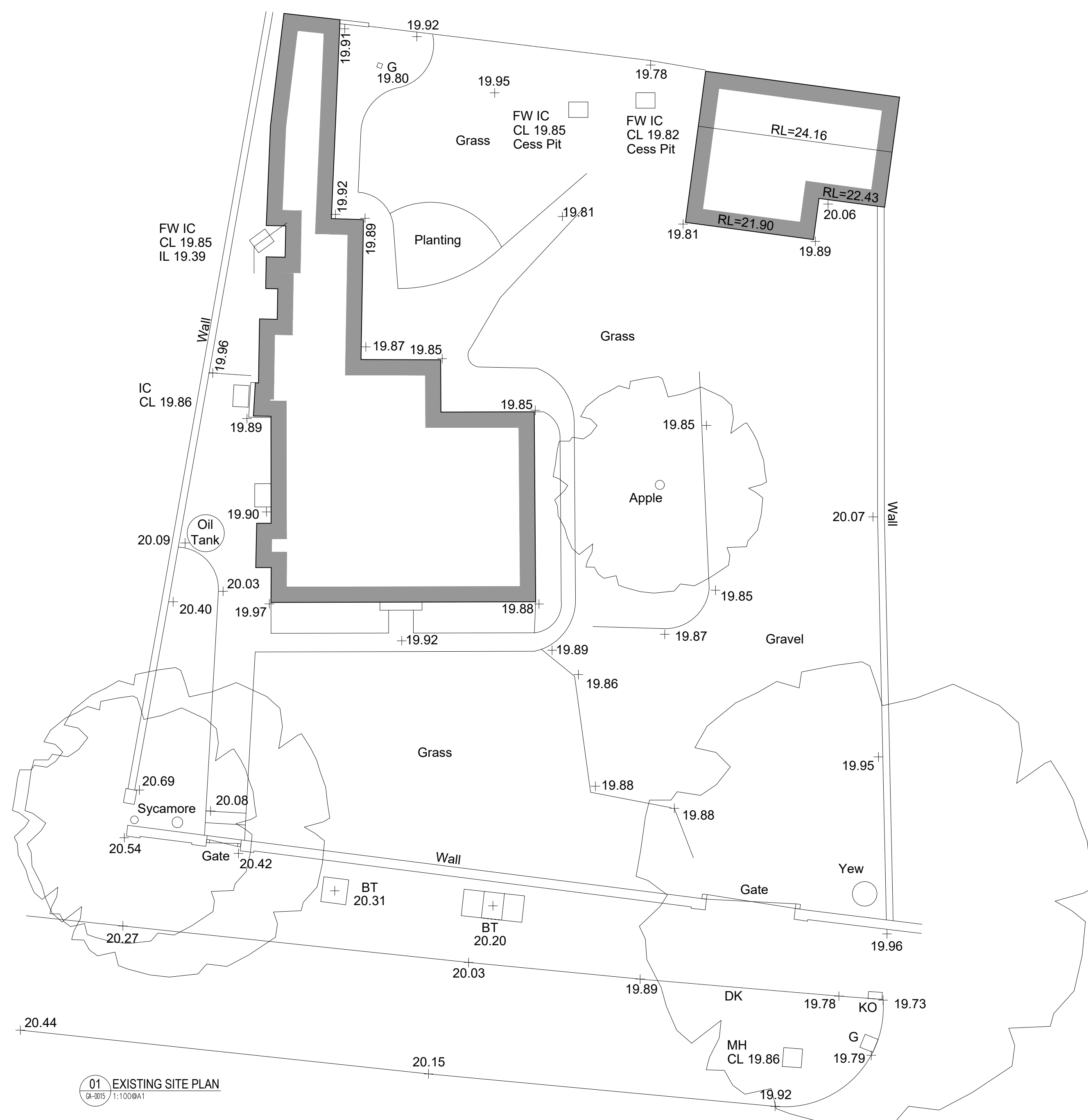
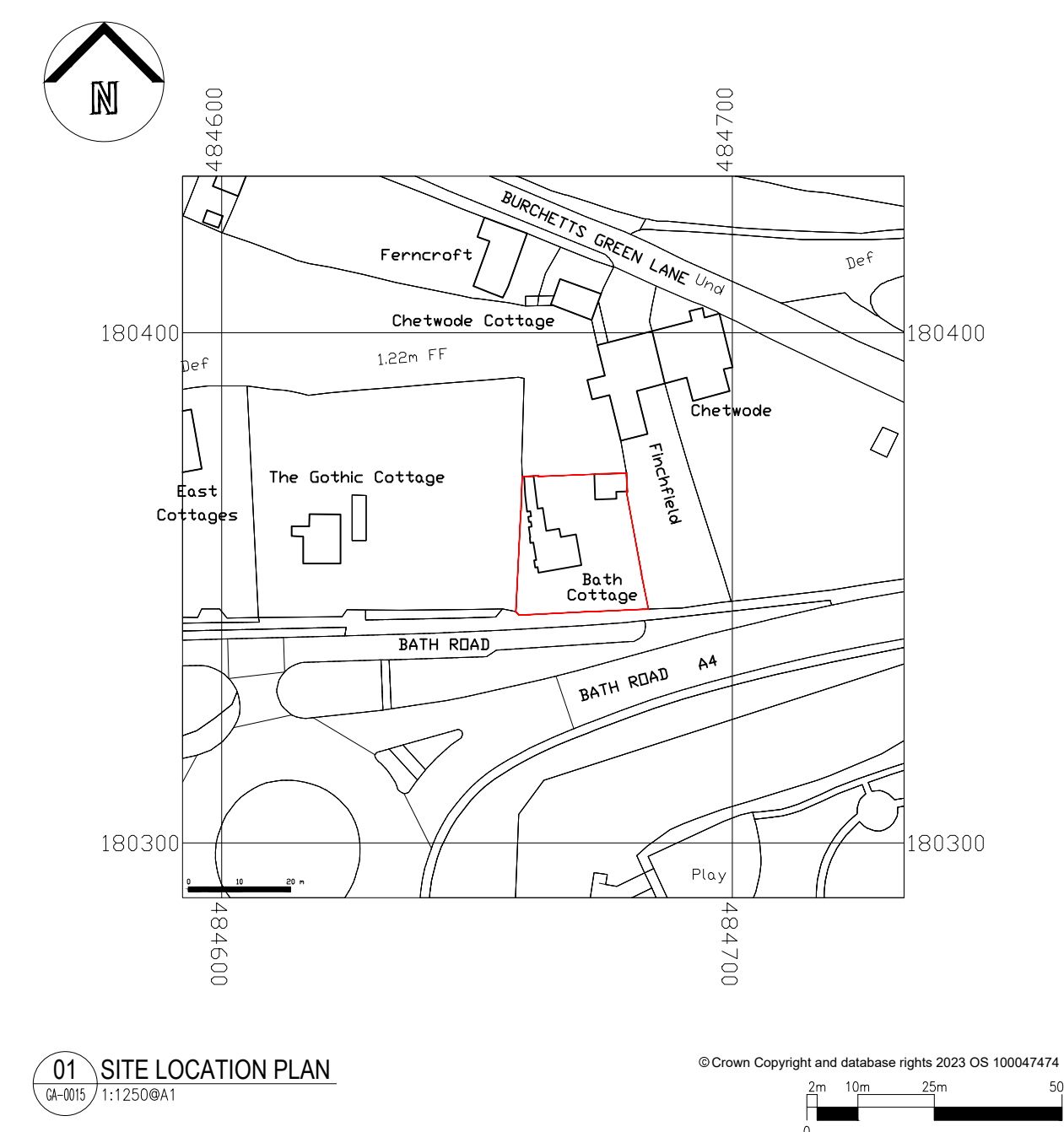
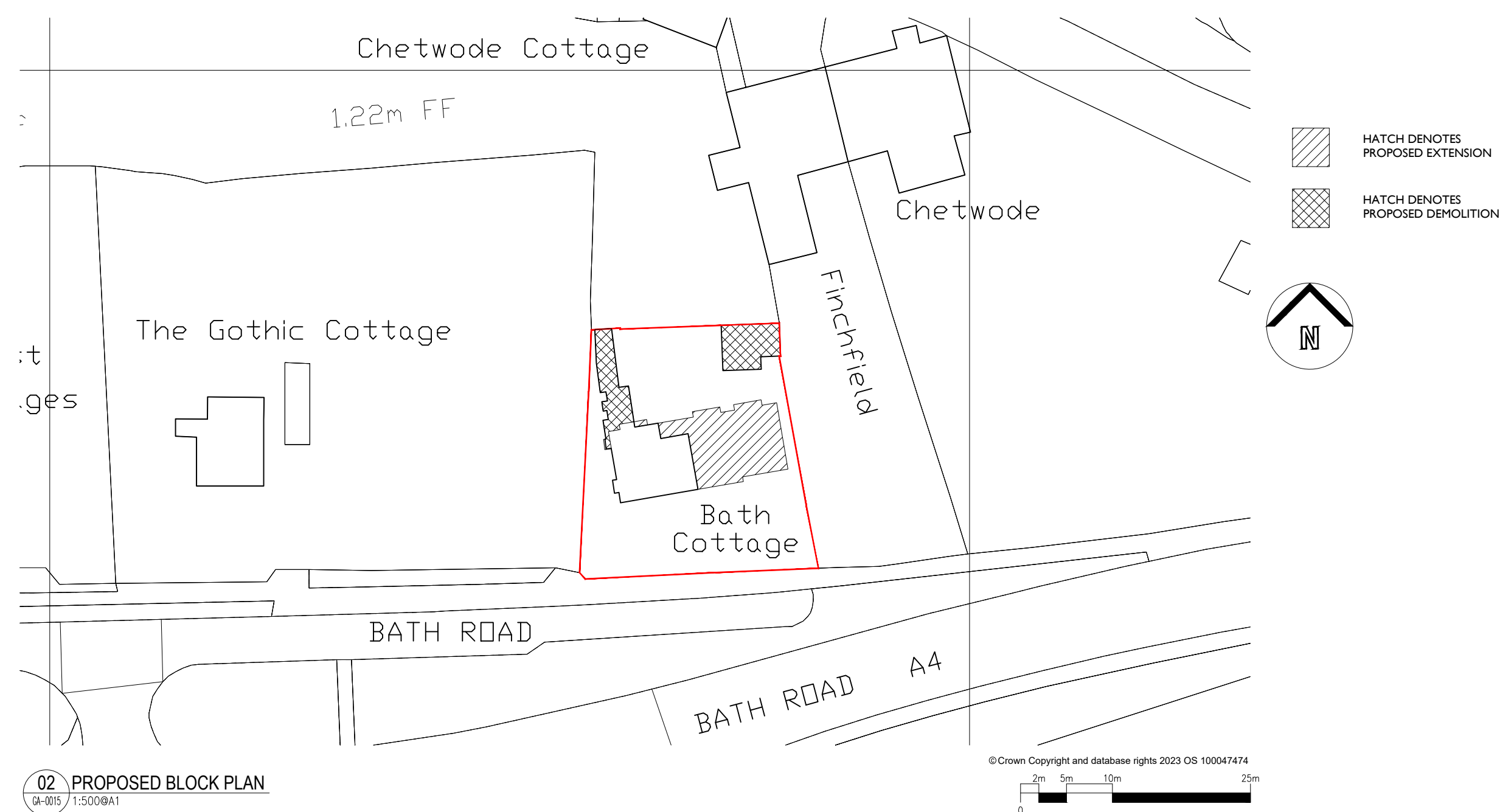
15. A biodiversity enhancement scheme is required to be submitted through a condition, to ensure the site delivers biodiversity enhancements.
16. A condition is included to prevent external lighting other than where this has been approved by the Council. This is necessary to protect local character, and to safeguard protected species.
17. It is not necessary to include an informative advising the appellant to cease works if protected species are unexpectedly found to be present because this is covered by separate legislation.

Conclusion

18. For the reasons given above the appeal should be allowed.

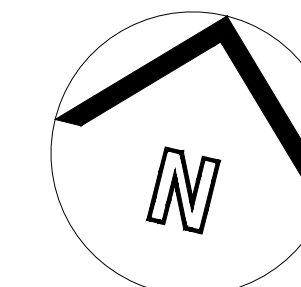
E Catchside
INSPECTOR

EP2



ALL DIMENSIONS MUST BE CHECKED ON SITE
INFORM THE ARCHITECT OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION

KEY PLAN

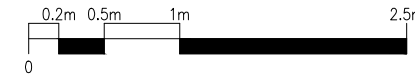


NOTES

DRAWING REMAINS COPYRIGHT OF THE ARCHITECT.

P01	24.04.24	INITIAL ISSUE	BC	BC
REV	DATE	DESCRIPTION	DRN	CHK

CLIENT	
Mr & Mrs Werakso	
PROJECT	
Bath Cottage, Bath Road Littlewick Green, SL6 3QR	
DRAWING TITLE	
Existing Location and Block Plans Existing and Proposed Site Plans	
SCALE 1:1000A1 / 1:2000A3	A1 SHEET
STATUS	
PRELIMINARY	
DRAWING NO	REV
0173-GA-0015	P01



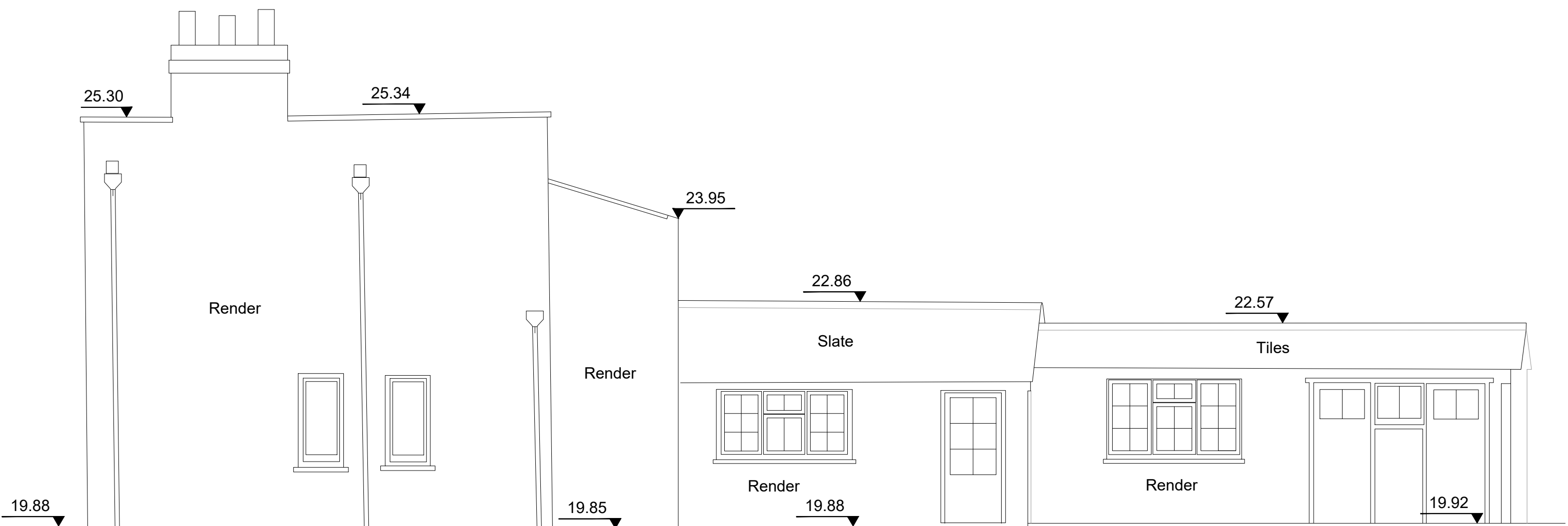
NOTES

DRAWING REMAINS COPYRIGHT OF THE ARCHITECT.



Datum 19.00m

South Elevation



Datum 19.00m

East Elevation

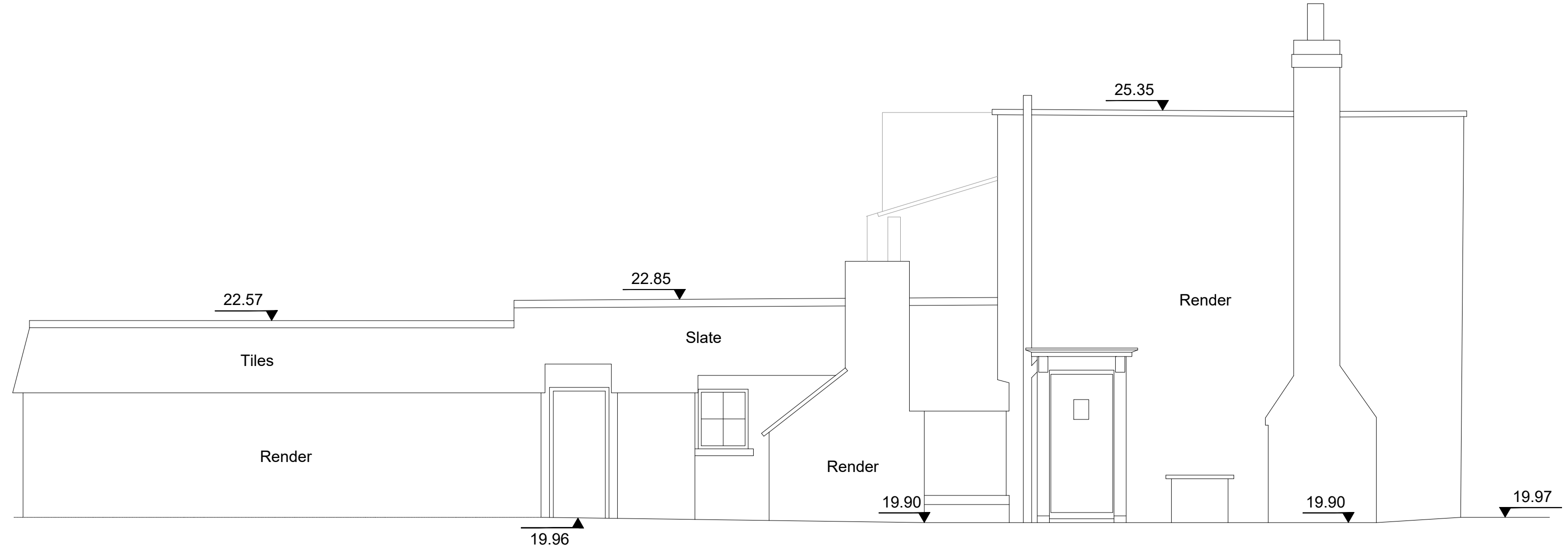
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02 EXISTING SIDE ELEVATION
0.00m 1:500A1



Datum 19.00m

North Elevation



Datum 19.00m

West Elevation

03 EXISTING REAR ELEVATION
0.00m 1:500A1

04 EXISTING SIDE ELEVATION
0.00m 1:500A1

P03 23.05.24 PLANNING APPLICATION DRAWING BG BG
P02 24.04.24 PLANNING APPLICATION DRAWING BG BG
P01 07.12.23 PLANNING APPLICATION DRAWING BG BG
REV DATE DESCRIPTION DRN CHK

CONNECTED
ARCHITECTURE

CLIENT
Mr & Mrs Werakso
PROJECT
Bath Cottage, Bath Road
Littlewick Green, SL6 3QR

DRAWING TITLE
Existing Elevations

SCALE 1:500A1 / 1:1000A3 A1 SHEET

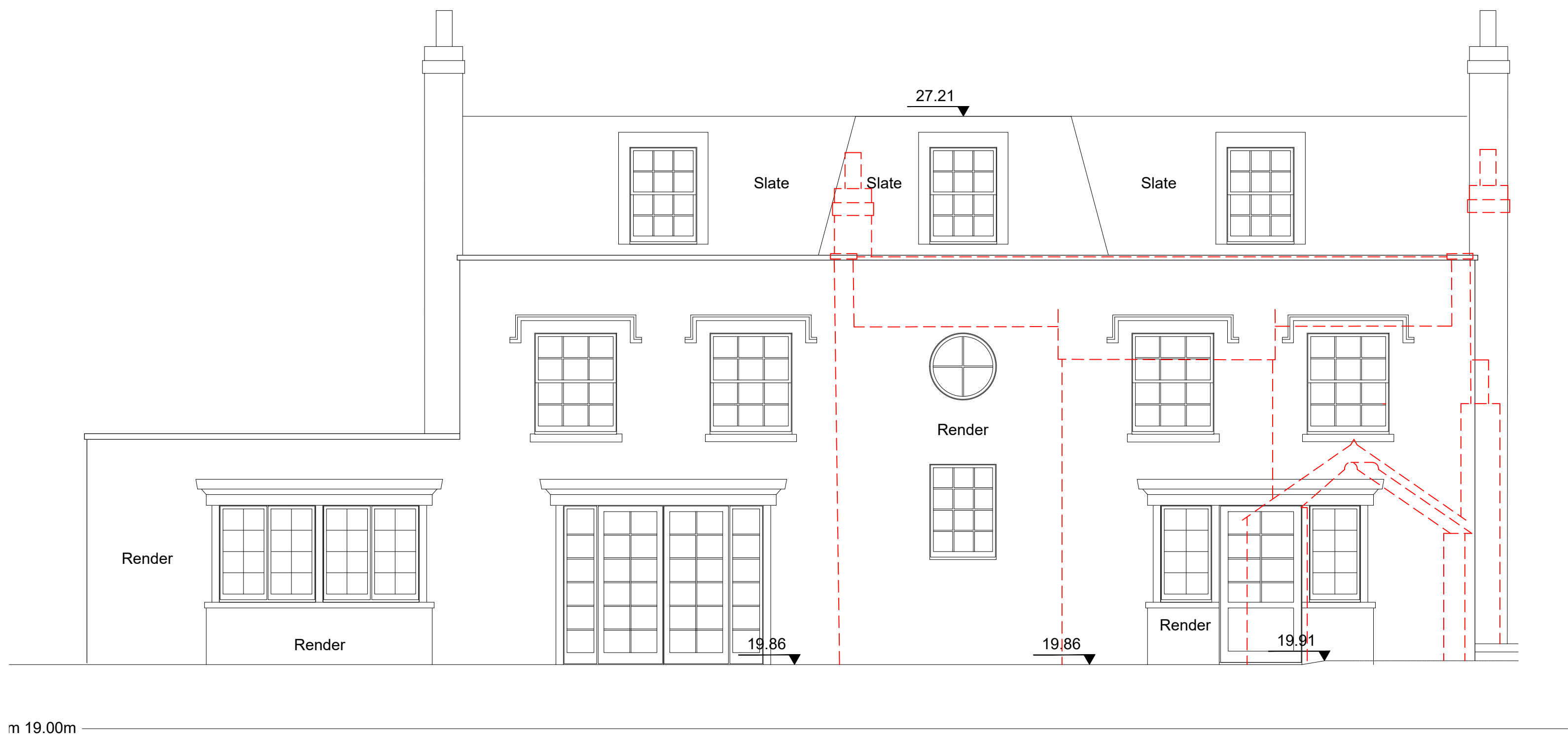
STATUS
PRELIMINARY

DRAWING NO
0173-GA-0005
REV
P03

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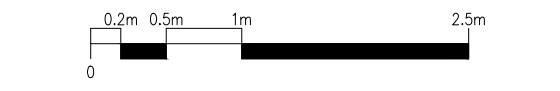
01 PROPOSED FRONT ELEVATION
04-0018 1:500A1



02 PROPOSED REAR ELEVATION
04-0018 1:500A1

ALL DIMENSIONS MUST BE CHECKED ON SITE.
INFORM THE ARCHITECT OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION.

KEY PLAN



NOTES
DRAWING REMAINS COPYRIGHT OF THE ARCHITECT.

P01 24.04.24 INITIAL ISSUE BG BG
REV DATE DESCRIPTION DRN CHK

CONNECTED
ARCHITECTURE

CLIENT
Mr & Mrs Werakso
PROJECT
Bath Cottage, Bath Road
Littlewick Green, SL6 3QR
DRAWING TITLE
Proposed Elevations

SCALE 1:500A1 / 1:1000A3 A1 SHEET

STATUS
PRELIMINARY

DRAWING NO
0173-GA-0018
REV
P01

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EP3



Appeal Decision

Site visit made on 17 October 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2023

Appeal Ref: APP/A0665/D/23/3320634

Glenroy, School Bank, Norley, Northwich WA6 8JY

- 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 D Crawford against the decision of Cheshire West and Chester Council.
 - The application Ref 22/02543/FUL, dated 6 July 2022, was refused by notice dated 10 February 2023.
 - The development proposed is two storey side extension.
-

Decision

1. The appeal is allowed and planning permission is granted for Two storey side extension at Glenroy, School Bank, Norley, Northwich WA6 8JY in accordance with the terms of the application, Ref 22/02543/FUL, dated 6 July 2022, subject to the following 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 plan: Drawing No. CPS107/04 Sheet 01/01.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matters

2. The description of development given above is taken from the Council's Decision Notice and the appeal form, rather than the planning application form, as this provides a more concise description of the proposal.

Main Issues

3. The main issues are:
 - Whether the proposed development is inappropriate in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - The effect of the development on the living conditions of the occupiers of Lynton, with particular regard to light and outlook.

Reasons

Inappropriate development

4. The appeal site is located within the village of Norley which is washed over by the Green Belt. The Framework establishes that new buildings in the Green Belt

are inappropriate other than for specified exceptions that are set out in paragraph 149.

5. Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (LP1) indicates that within the Green Belt restrictions will apply to development in line with the Framework.
6. Policy DM21 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (LP2) states that extensions and alterations will be supported in the Green Belt if the resulting development would not result in disproportionate additions over and above the size of the original building. This corresponds with one of the exceptions identified at paragraph 149(c). However, there is nothing within the Framework that restricts consideration of a proposed extension, by definition a building, against exception 149(c) only, and no other exception identified at paragraph 149. Consequently, as the policy does not recognise this possibility, it is not fully consistent with the Framework. Accordingly, I have relied upon LP1 Policy STRAT9 and the Framework in assessing whether the development would be inappropriate within the Green Belt.
7. One of the other exceptions identified in the Framework, at paragraph 149(e), relates to limited infilling in villages. The Framework does not provide a definition of 'limited', 'infill' or 'village'. The glossary to LP2, however, defines 'infill' as the filling of a small gap, up to two dwellings, in an otherwise built-up frontage in an identified settlement. The glossary defines 'identified settlement' as the named urban settlements, key service centres, and local service centres only, as set out in Local Plan (Part One) Policies STRAT 3 to STRAT 8 and Local Plan (Part Two) policy R1 and their corresponding boundaries as identified on the proposals map.
8. The proposed two storey extension would be located between existing dwellings that form part of a row within Norley, identified as a local service centre in LP2 Policy R1. It would largely fill a gap, smaller than two dwellings wide, that is formed by the host property and the adjoining dwelling. In this context, given its limited width and position to the side of the host dwelling, the proposed extension would be limited infilling. The proposal would not, therefore, be inappropriate development within the Green Belt as defined at paragraph 149(e) of the Framework and in the development plan.
9. As I have previously stated, the Council have considered the development against paragraph 149(c) of the Framework which advises that extensions or alterations of a building are not inappropriate providing they do not represent disproportionate additions over and above the size of the original building. However, even if I were to conclude that the proposal amounts to a disproportionate addition to the original building, that does not alter my view that the development is not inappropriate by virtue of compliance with the exception set out at paragraph 149(e).
10. I therefore conclude that proposal is not inappropriate development in the Green Belt and would not conflict with LP1 Policy STRAT9 which indicates that within the Green Belt restrictions will apply to development in line with the Framework. Accordingly, there is no need for the appellant to demonstrate that very special circumstances exist or for me to go on to consider the effect of the proposed development on the openness or purposes of the Green Belt.

Living conditions

11. The side elevation of the adjoining property, Lynton, is separated from the common boundary, defined by a low wall, by a narrow driveway.
12. Lynton has two windows in the side elevation facing towards the appeal property. The floor plans show that the first-floor window, which I observed is obscure glazed, is to a landing. As that window does not serve a habitable room any impact on light and outlook would not, on its own, justify withholding planning permission.
13. The information provided by the appellant indicates that the ground floor window in the side elevation of Lynton serves a large kitchen and dining area and that the room is also served by two rear facing windows.
14. The light to, and outlook from, the ground floor side facing window of Lynton are already affected by the appeal property and its existing single storey side extension. The proposed development would introduce a two-storey extension very close to the shared boundary that would have a marginally larger footprint than the existing single storey extension it would replace. Nonetheless, given that the room is served by more windows in the rear elevation, I do not consider that the proposal would unacceptably affect the living conditions of the occupiers of Lynton.
15. Accordingly, I find that the living conditions of the occupiers of Lynton would not be unacceptably harmed by the proposal, with particular regard to light and outlook. There would be no conflict with LP1 Policy SOC5 or LP2 Policies DM21 and DM2 which seek to protect residential amenity and safeguard the quality of life for residents. It would also accord with the guidance within the House Extensions and Domestic Outbuildings Supplementary Planning Document (2021) and the Framework that seeks to promote a high standard of amenity.

Conditions

16. In addition to the standard time limit condition limiting the lifespan of the planning permission I have also, in the interests of certainty, attached conditions specifying the approved plans. A condition relating to matching materials is also necessary to ensure that the appearance of the new development would be satisfactory.

Conclusion

17. For the reasons given above, having regard to the development plan and all relevant material considerations, I conclude that the appeal is allowed.

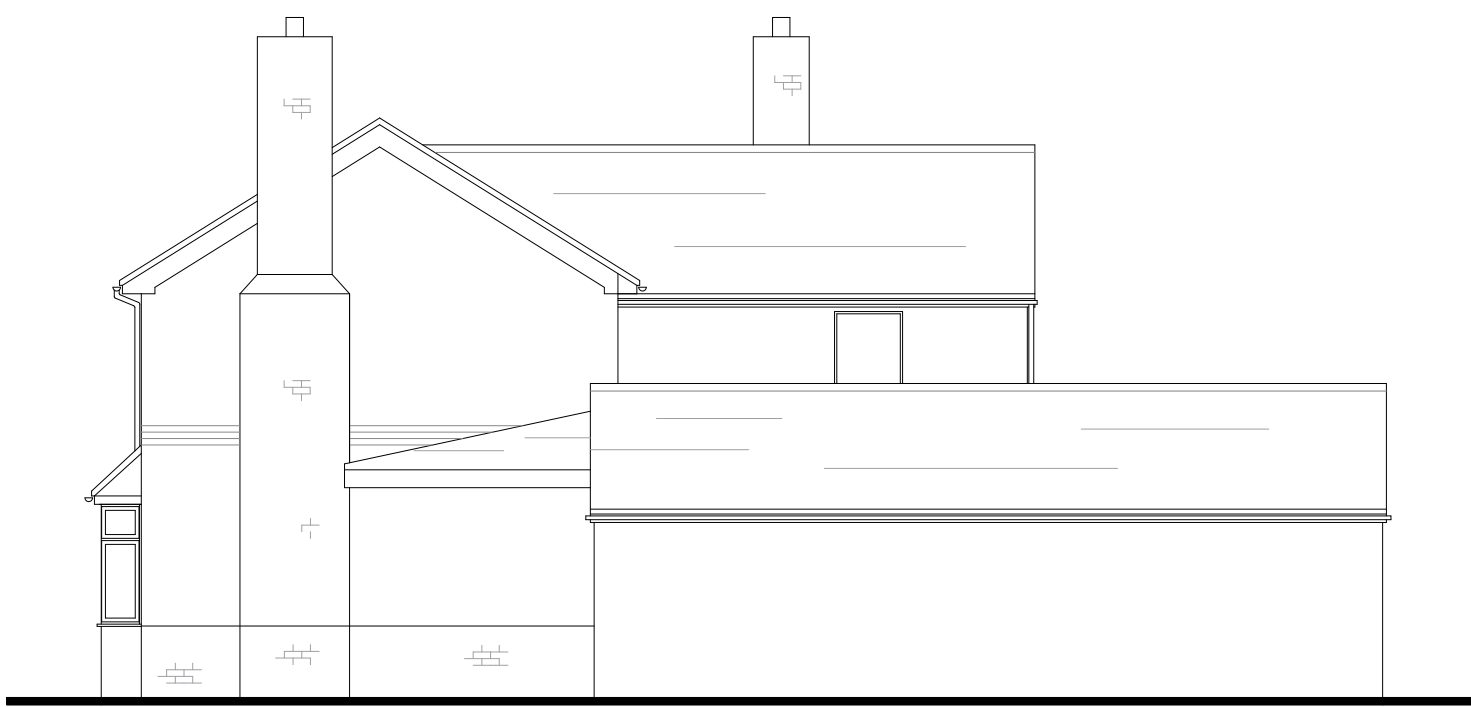
Elaine Moulton

INSPECTOR

EP4



Existing Front Elevation View A - 1:100



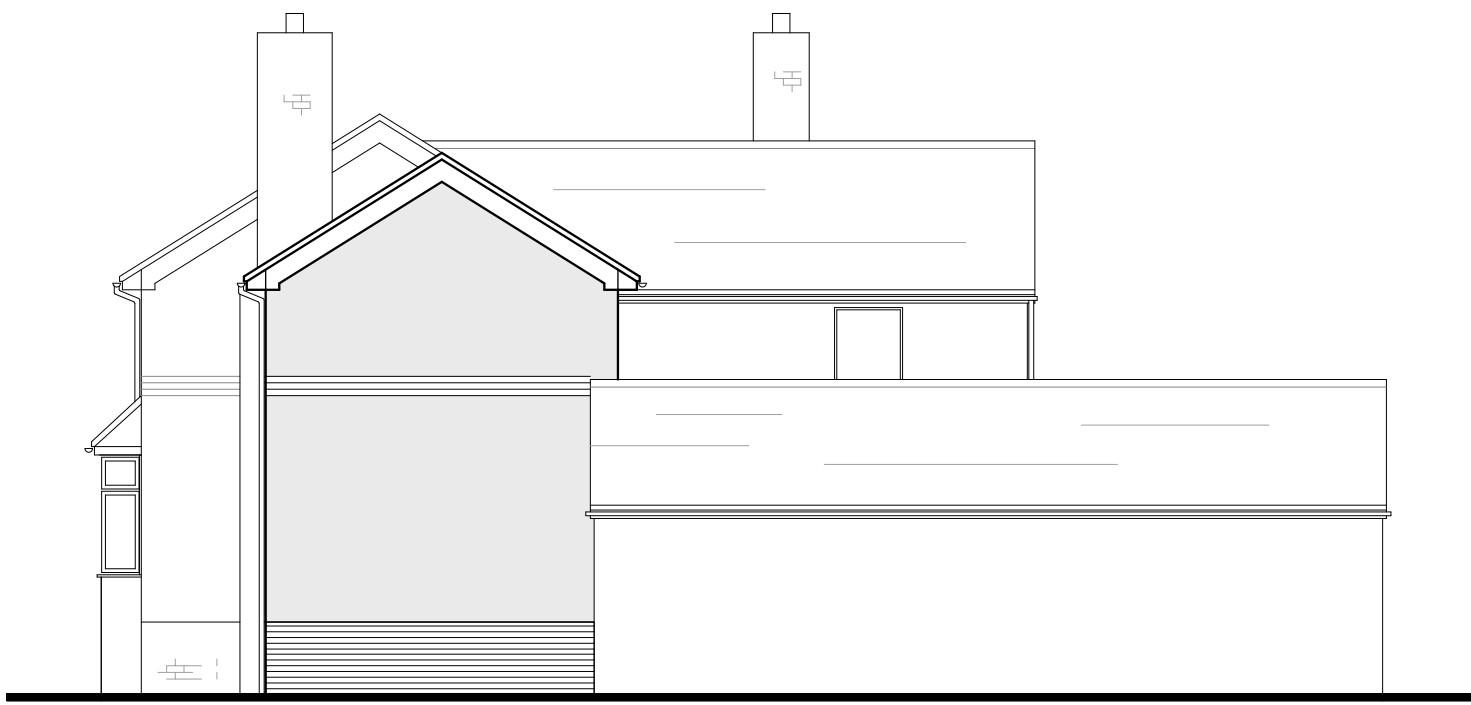
Existing Side Elevation View B - 1:100



Existing Rear Elevation View C - 1:100



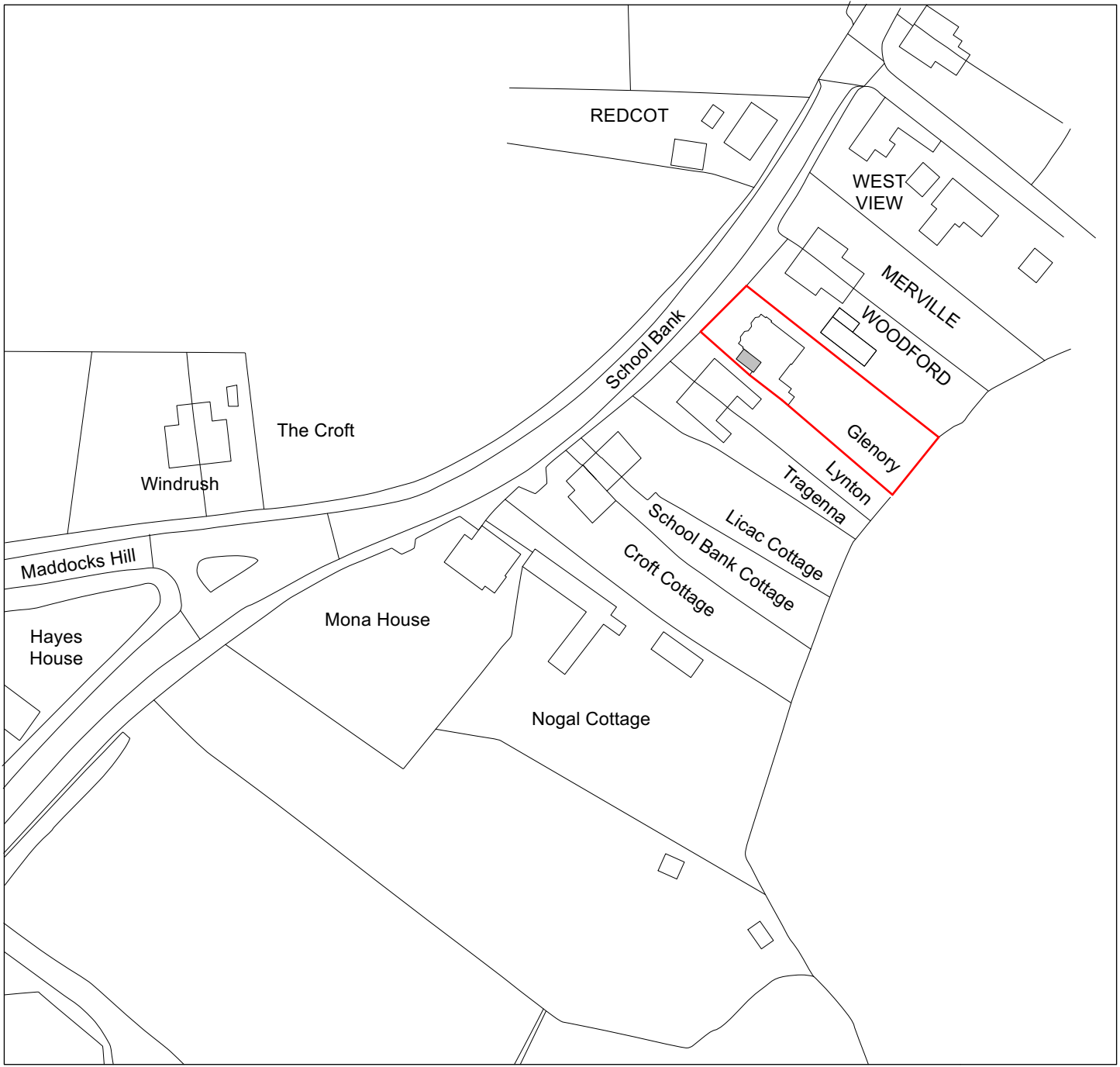
Proposed Front Elevation View A - 1:100



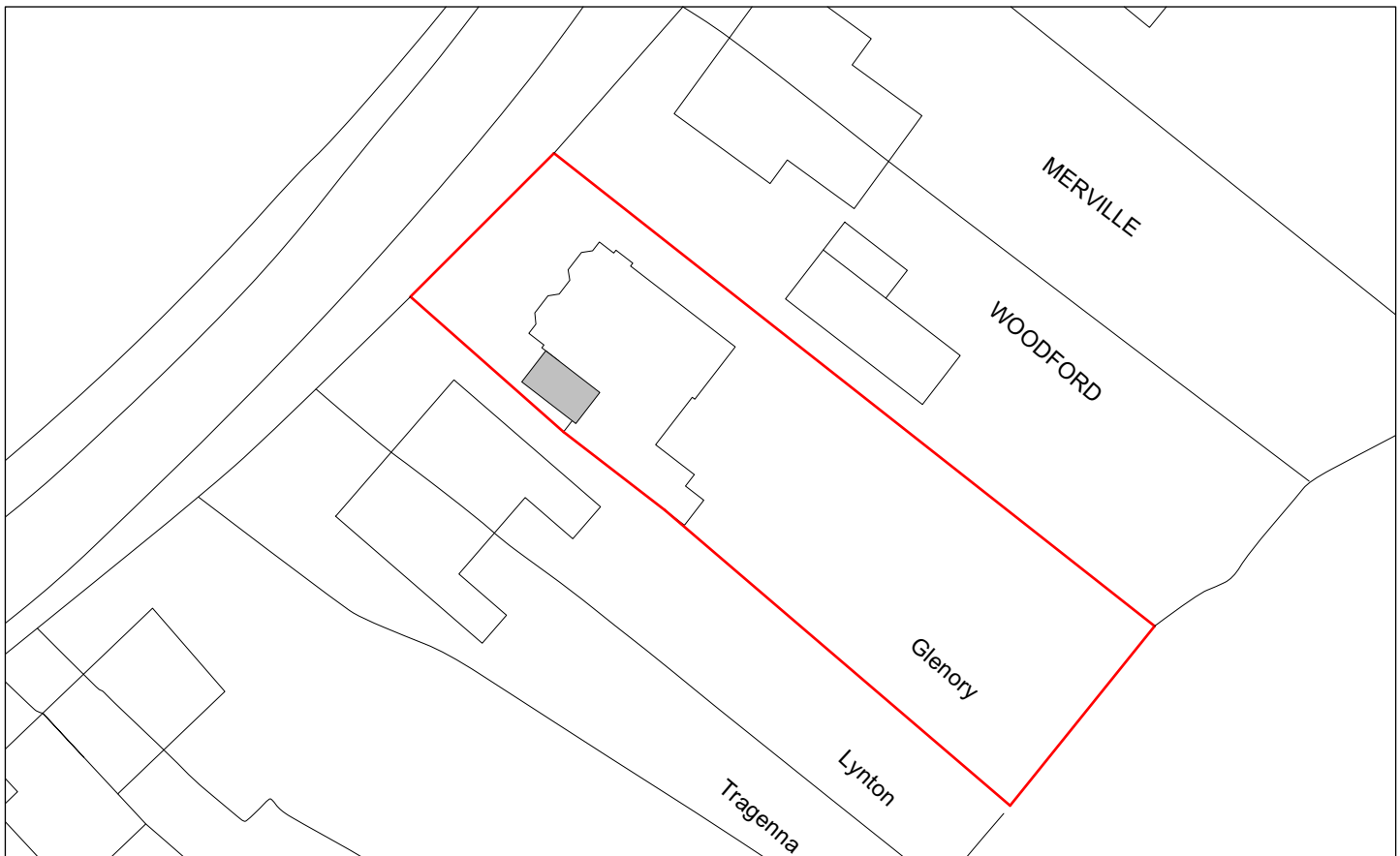
Proposed Side Elevation View B - 1:100



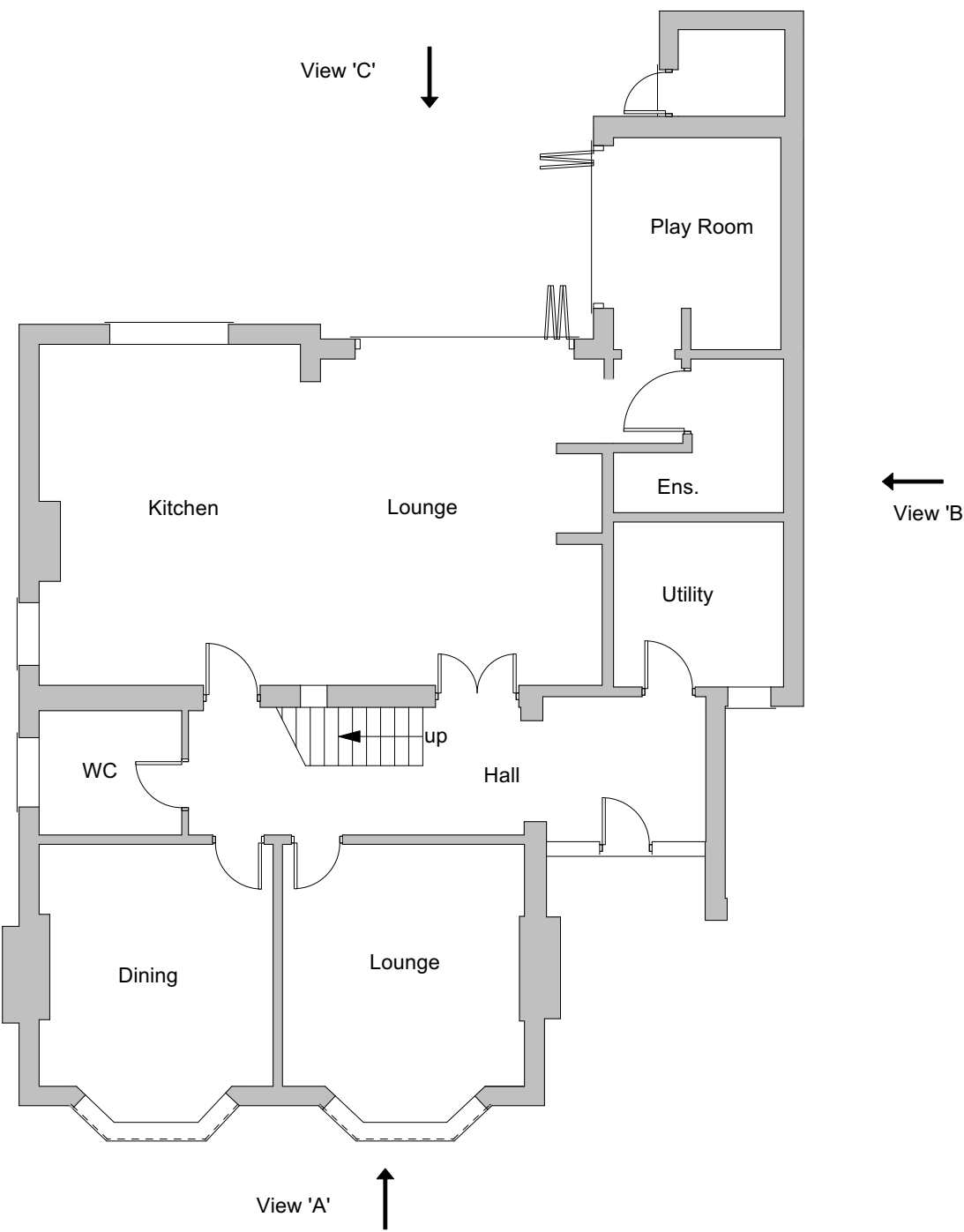
Proposed Rear Elevation View C - 1:100



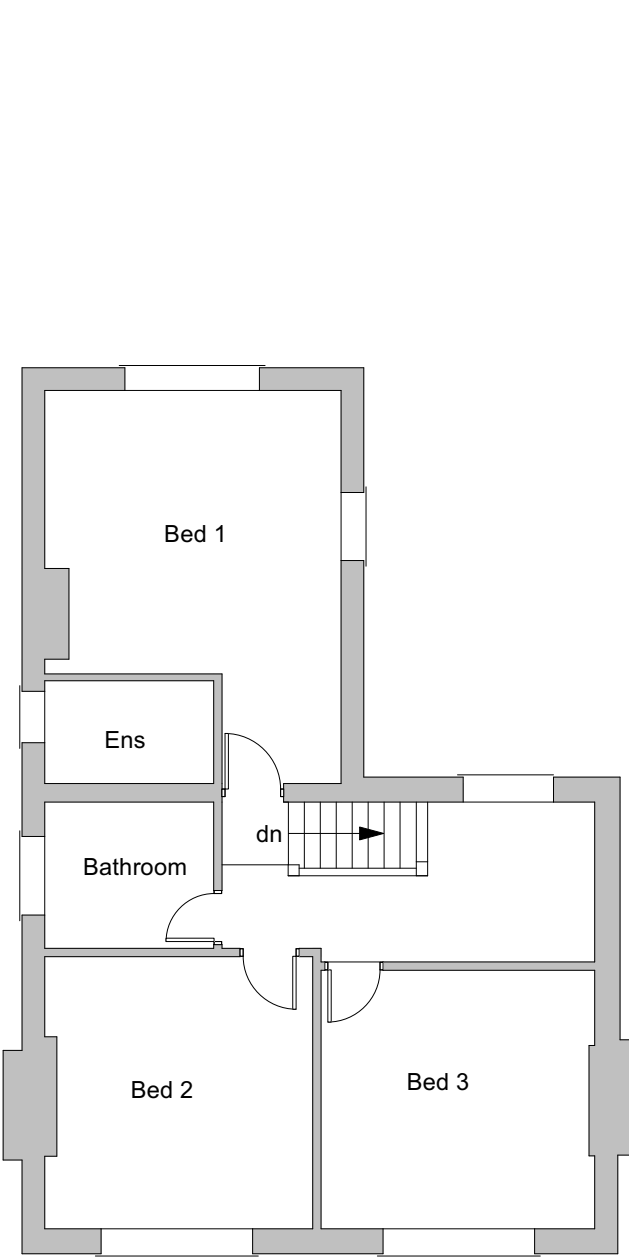
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1:1250 Scale bar in metres
Location Plan 1:1250



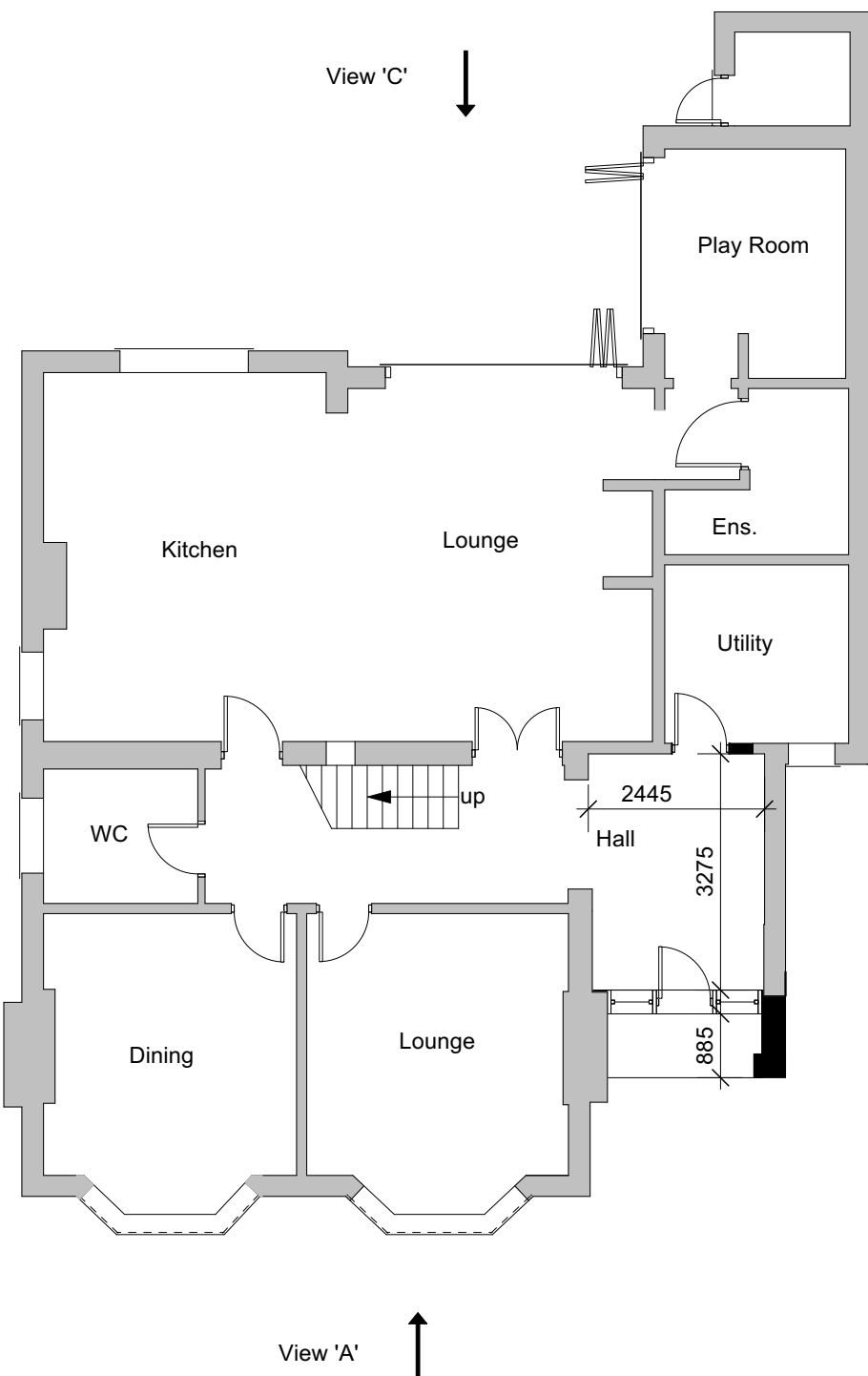
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1:500 Scale bar in metres
Site Plan 1:500



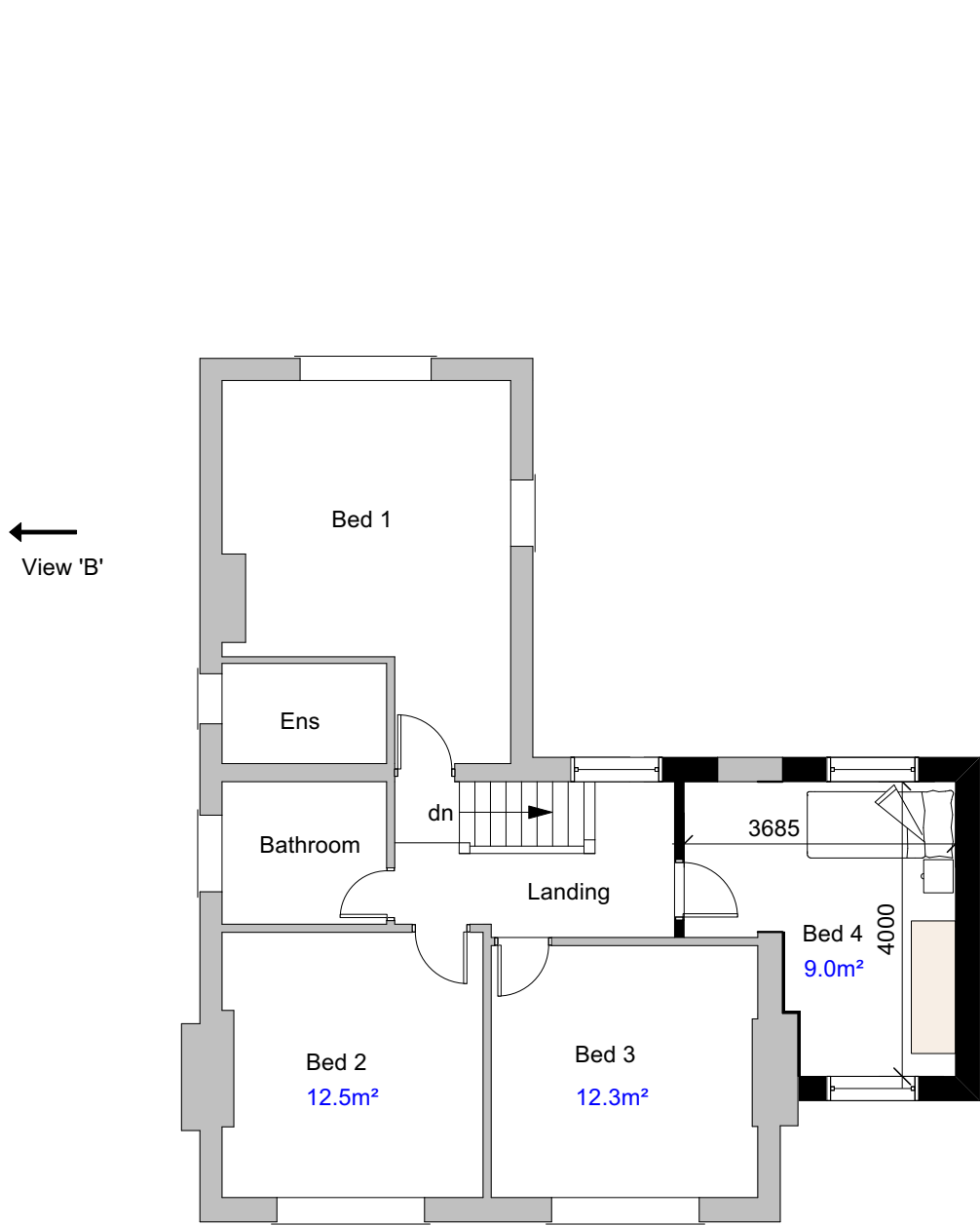
Existing Ground Floor Plan 1:100



Existing First Floor Plan 1:100



Proposed Ground Floor Plan 1:100



Proposed First Floor Plan 1:100

Cheshire Planning Solutions Park View House, Burgess Lane Norley, Frodsham, WA6 8PA Email: jo@cheshireplanningsolutions.co.uk Tel. 07764 484295	
Client Glenroy, School Bank, Norley WA6 8JY	
Project Double Storey Side Extension	
Drawing Title Combined Planning	
Scale (A1) 1:100, 1:500 & 1:1250	Date May 2022
Drawing No. CPS107/04	Sheet 01/01
This drawing is copyright and is issued under the condition that it is not to be copied wholly or in part without the consent in writing of Cheshire Planning Solutions, contractors to check all dimensions on site, do not scale from the drawing.	

EP5

Appeal Decision

Site visit made on 17 December 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2025

Appeal Ref: APP/M0655/W/24/3348066

11 Wilton Lane, Culceth and Glazebury, Warrington WA3 4BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs W Silcock against the decision of Warrington Borough Council.
 - The application Ref is 2023/01500/FUL.
 - The development proposed is the demolition of existing dwelling and outbuildings. Construction of new dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and outbuildings. Construction of new dwelling at 11 Wilton Lane, Culceth and Glazebury, Warrington WA3 4BD in accordance with the terms of the application, Ref 2023/01500/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. The main parties have been given the opportunity to comment on this version and in reaching my decision I have taken account of the responses received. For the avoidance of doubt, where reference is made in this decision to paragraph numbers, they are taken from the latest version of the Framework.
3. The appellant has set out, within the appeal statement, how the proposed dwelling would satisfy the requirements of Policy DEV2 of the Warrington Local Plan (LP), which requires, as a minimum, that all homes should be provided to Building Regulations Standard M4(2) 'Accessible and Adaptable Dwellings'. Such additional information has been considered by the Council and has led to it confirming that it is now satisfied that the proposal complies with such requirements.
4. Accordingly, the Council has chosen not to defend the second reason for refusal have been addressed. Based on the evidence before me, I am satisfied that the proposal would accord with the requirements of LP Policy DEV2.

Main Issue

5. The main issue is whether or not the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.

Reasons

6. The revised Framework states, at paragraph 153, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. LP Policy GB1 is consistent with the Framework as it includes a general presumption against inappropriate development.
7. Paragraph 154 of the Framework explains that development in the Green Belt is inappropriate unless one of the listed exceptions apply. Relevant to this appeal is exception 154(g), which, in the revised Framework, allows for the limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
8. There is no dispute between the parties that the appeal site meets the definition of previously developed land (PDL) as set out in Annex 2 of the Framework and I find no reason to conclude otherwise. The effect of the development on the openness of the Green Belt will therefore determine whether it is inappropriate development.
9. It is clear from measurements set out in the officer report, which have not been disputed by the appellant, that the proposal would result in a reduction in the footprint of buildings on site and a very minor increase in volume. The proposal would, however, result in additional floorspace. Furthermore, the proposed dwelling would be considerably higher than any of the existing buildings and would extend beyond the current residential curtilage. Nonetheless, any increase in the impact of development within the site, on the spatial and visual openness of the Green Belt, would be modest, and would be offset by the proposed consolidation of development into one building.
10. The proposal would extend the existing residential curtilage, thereby introducing additional boundary features and domestic paraphernalia onto land that is currently undeveloped. Nevertheless, due to such aspects being seen within the context of existing boundary treatments and other buildings, their impact on the openness of the Green Belt would be limited. In addition, the proposed hard surfaced areas, to accommodate parking spaces and the driveway, would be considerably smaller in extent than that which would be removed as part of the proposed development.
11. Overall, I find that any harm to the openness of the Green Belt would not be substantial. As such, given that the proposal involves partial or complete redevelopment of PDL, it falls within exception 154(g) of the revised Framework and is, therefore, not inappropriate development.
12. Even if the appeal site meets the definition of grey belt, it would not be regarded as inappropriate by virtue of paragraph 155 of the Framework, as the proposal is a replacement dwelling and would not, therefore, address any unmet need for housing. Nonetheless, this does not alter my finding that the development meets the 154(g) exception and, for that reason, is not inappropriate.
13. To conclude, the proposal would not be inappropriate development in the Green Belt and would not conflict with LP Policy GB1.

Conditions

14. The Council has suggested conditions, which I have reviewed and amended in line with guidance and best practice, and to ensure consistency.
15. I have imposed the standard time limit condition, and, in the interests of certainty, a condition that specifies that the development is carried out in accordance with the approved plans.
16. I include a condition regarding construction works so that the construction process is suitably controlled in the interests of highway safety and to protect the living conditions of nearby residents. This is a pre-commencement condition to ensure that appropriate controls are in place before development commences. To minimise risks for future occupiers, neighbouring occupiers and the environment, conditions are also required to ensure that contamination is appropriately addressed.
17. To ensure the satisfactory appearance of the proposed development, I have considered it necessary to attach conditions relating to external materials and landscaping. In the interests of nature conservation and habitat creation, I have attached conditions to secure implementation of amphibian safeguarding measures and to prevent the removal of vegetation during the nesting season.
18. In accordance with LP Policy DEV2 and to ensure that the dwelling is accessible and adaptable, I have imposed a condition requiring that it is constructed in accordance with the optional Building Regulations requirement M4(2).
19. I have included, in the interests of highway safety, a condition relating to the provision of parking and servicing space. It is also reasonable to require the provision of electric vehicle charging points to promote more sustainable forms of transport.
20. The Council has also suggested the removal of certain permitted development rights set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Paragraph 55 of the Framework indicates that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In addition, the Planning Practice Guidance also states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness.
21. I have found the acceptability of the development to be reliant on it not leading to substantial harm to openness. Therefore, to allow for the replacement of the outbuildings to be demolished by additional new buildings, or the enlargement of the dwelling, without control would run contrary to this.
22. The Council has recommended the removal of other permitted development rights. However, the extent of such development would be restricted by the criteria set out in the GPDO and would be constrained by, and limited to, the residential curtilage. Furthermore, there is no compelling evidence before me that suggests that the construction of hard standings, gates, walls, fences or other similar structures under permitted development rights would have an unacceptable effect on the openness of the Green Belt or its purposes. As Wilton Lane is a classified road there are no permitted development rights to construct a means of access to the

highway. Accordingly, only the removal of permitted development rights for extensions and outbuildings would be justified.

Conclusion

23. For the reasons given above, having regard to the development plan as a whole and all relevant material considerations, I conclude that the appeal should be allowed.

Elaine Moulton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 06921 002 Rev A Location Plan; 012 Rev G Proposed Site Plan; 113 Rev C Proposed Site Section; and 021 Rev C Proposed Plans & Elevations.
- 3) No works shall take place on the site at all until a method statement comprehensively detailing the phasing and logistics of construction has been submitted to and approved in writing by the local planning authority. The method statement shall include, but is not limited to:
 - Construction traffic routes, including provision for access to the site.
 - Entrance/exit from the site for visitors/contractors/deliveries.
 - Siting of temporary containers.
 - Parking for contractors.
 - Schedule for large vehicles delivering/exporting materials to and from site.
 - Details of street sweeping/street cleansing/wheel wash.
 - Hours of working.
 - Phasing of works.
 - Details of turning facilities for use by construction vehicles.

The development shall be carried out in accordance with the approved plans unless otherwise agreed in writing by the local planning authority.

- 4) No development (except demolition and site clearance) shall take place until the works in Sections A and B below are undertaken and completed:

A: CHARACTERISATION - With consideration to human health, controlled waters and wider environmental factors, the following documents must be completed (as required) to characterise potential risk to sensitive receptors and submitted to the local planning authority for approval:

- i) Preliminary Risk Assessment (PRA or Desk Study);
- ii) Generic Quantitative Risk Assessment (GQRA) informed by intrusive investigations;
- iii) Detailed Quantitative Risk Assessment (DQRA);
- iv) Remedial Options Appraisals.

Submission of a PRA is the minimum requirement. DQRA only to be submitted if GQRA findings require it.

B: REMEDIATION & VERIFICATION STRATEGY - As determined by the findings of Section A above, a Remediation (if required) and Verification Strategy shall be submitted to and approved in writing by the local planning authority. The strategy must detail the proposed remediation measures and how works will be verified.

The actions required in Section A and B above shall be completed in accordance with the LCRM (Environment Agency, 2023) guidance.

- 5) Prior to the construction above slab level of the building hereby approved, written and photographic details of the external roofing and facing materials (including manufacturer's details) shall be submitted to and approved in writing by the local planning authority. Materials samples shall be made available to view on site and shall NOT be deposited with the local planning authority. The development shall be constructed in accordance with the approved details/samples.
- 6) Prior to the construction above slab level of the building hereby approved, a programmed landscaping scheme which shall include replacement for the loss of trees within the site, shall be submitted to and approved in writing by the local planning authority. The scheme shall include species, size, quantities and spacings of planting and shall be implemented during the first planting season following completion of the development. Any tree or shrub planted which dies or is felled, uprooted, wilfully damaged or destroyed in the first five-year period commencing with the date of planting shall be replaced.
- 7) The development shall not be brought into use until the works in Sections A and B below are undertaken and completed:

A: REMEDIATION & VERIFICATION - Remediation (if required) and verification shall be carried out in accordance with the strategy approved pursuant to condition 4. Following completion all remediation and verification measures, a Verification Report must be submitted to and approved in writing by the local planning authority. The Verification Report must include information verifying any remedial measures; details of imported fill materials (source/quantity/suitability); details of exported fill materials; and details of any unexpected contamination as described in Section B below.

B: REPORTING OF UNEXPECTED CONTAMINATION - All unexpected or previously unidentified contamination encountered during development works must be reported immediately to the local planning authority and works halted within the affected area(s). Prior to site works recommencing in the affected area(s), contamination must be characterised, and risk assessed, with remediation/verification measures carried out as necessary.

The actions required in Section A and B above shall be completed in accordance with the LCRM (Environment Agency, 2023) guidance.

- 8) No works to trees or shrubs shall occur between 1 March and 31 August in any year unless a detailed bird nest survey has been carried out by a suitably experienced ecologist immediately prior to clearance, and written confirmation that no active bird nests are present has been submitted to and approved in writing by the local planning authority.
- 9) The development hereby permitted shall be carried out in accordance with the Proposed Building – Amphibian Impact Assessment dated 24 November 2023.

- 10) The dwelling hereby approved shall be constructed to achieve Building Regulation Standard M4(2) 'Accessible and Adaptable Dwellings'.
- 11) The development hereby permitted shall not be brought into use until the areas for parking and servicing indicated on the submitted plans, have been surfaced, drained and permanently marked out or demarcated in accordance with the details and specifications shown. The parking and servicing areas shall be retained as such thereafter.
- 12) A scheme for the provision of electric vehicle charging points, or passive provision, shall be submitted to and approved in writing by the local planning authority. The scheme shall be provided prior to first occupation and retained as such thereafter.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification):
 - i) no extensions shall be carried out to the dwelling;
 - ii) no garages or outbuildings shall be erected within the curtilage of the dwelling; and
 - iii) no dormer windows shall be added to the dwelling;unless planning permission for such development has been granted by the local planning authority.

EP6

Appeal Decision

Inquiry held on 20 to 23 September 2022

Site visit made on 22 September 2022

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/V1505/W/22/3296116

Land at Maitland Lodge, Southend Road, Billericay CM11 2PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Inland Homes against Basildon Borough Council.
 - The application Ref 21/01687/FULL, is dated 17 November 2021.
 - The development proposed is the demolition of Maitland Lodge and the construction of 47 new homes (Class C3) with vehicular access onto Southend Road, together with associated infrastructure and landscaping works.
-

Decision

1. The appeal is allowed, and planning permission is granted for the demolition of Maitland Lodge and the construction of 47 new homes (Class C3) with vehicular access onto Southend Road, together with associated infrastructure and landscaping works, in accordance with the terms of the application Ref 21/01687/FULL, dated 17 November 2021, subject to the conditions at Annex C of this Decision.

Preliminary Matters

Planning policy

2. The Development Plan for the area includes the Basildon District Local Plan Saved Policies September 2007 (the LP). The emerging Basildon Borough Local Plan 2014-2034 was withdrawn in March 2022. Its policies, therefore, have no weight, although the plan and its evidence base remain material considerations in the determination of the appeal.

Documents and evidence

3. A number of submissions were received during the inquiry, as set out in Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. The appeal is therefore determined on the basis of the revised and additional documents and drawings.

Putative Reasons for Refusal

4. The proposal was taken to planning committee in June 2022, where the Council agreed two putative reasons for refusal. The first reason is that the proposal

represents inappropriate development in the Green Belt (GB) and that 'very special circumstances' do not exist. It states that the proposal would cause substantial harm to openness and that its poor design would exacerbate this harm and would fail to provide a high quality beautiful place.

5. The second reason is in relation to securing adequate provision for on and off-site infrastructure, effects on the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS), and the provision of affordable housing. Subsequent to the planning committee, a s106 planning obligation, dated 7 October 2022, has been submitted. It secures:
 - a healthcare contribution to expand South Green Surgery;
 - an employment and skills contribution to broker job opportunities;
 - an open space, culture, play and sports provision contribution;
 - a contribution in respect of the Essex Coast RAMS;
 - a County Council monitoring fee and a Council monitoring fee;
 - a primary education contribution towards primary education facilities within three miles of the development and/or within Basildon Primary Group 1 (Billericay);
 - a secondary education contribution towards secondary education facilities within three miles of the development and/or within Basildon Secondary Group 2 (Billericay);
 - 16 of the proposed dwellings to be affordable housing, of which 15 would be affordable rented units at least 20% below local open market rent, and one would be shared ownership where the purchaser would have an initial equity share of not less than 25% and not more than 75%;
 - an Affordable Housing Scheme, requiring details of the location of the proposed affordable housing, and a Shared Ownership Marketing Strategy;
 - a further five of the dwellings to be First Homes, allocated to first time buyers at a discount to the market rate of 30%;
 - an Employment and Skills Plan;
 - a management company to carry out the long term management and maintenance of the on-site Open Space; and,
 - an Open Space Specification and the Management Plan regarding the open space.
6. The Council and Essex County Council's joint CIL Compliance Statement sets out the detailed background and justification for each of the obligations. I am satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (the CIL Regulations) and the tests at paragraph 57 of the National Planning Policy Framework (the Framework), and I have taken them into account. The s106 therefore responds to these concerns and this putative reason for refusal is not a main issue for the appeal. I return to matters of weight and detail of the s106 throughout my Decision as appropriate.

Main Issues

7. The main issues are:
 - whether or not the proposal would be inappropriate development in the GB, including assessment of the effect of the proposal on the openness of the GB; and,
 - the effect of the proposal on the character and appearance of the area, in particular on landscape character.

Reasons

Green Belt

Inappropriate development

8. The majority of the appeal site lies in the GB. The area of the site outside the GB is Maitland Lodge and its garden and a thin sliver of land to the north east corner running along the back of the properties to the west of Southend Road. It is proposed to construct a number of new buildings within the GB land.
9. The GB land provides equestrian facilities, other buildings or built form and paddocks directly linked to the equestrian facilities and forming part of the curtilage of the equestrian buildings. The Framework states that the curtilage of developed land can be considered as, but is not necessarily, previously developed land (PDL). In this instance, the functional relationship of the paddocks to the developed stables and other buildings on the site is clear. The paddocks themselves include some built form and are a human intervention on the site. It is also common ground, and I agree, that none of the appeal site is in agricultural use. The residential garden areas to Maitland Lodge are within the part of the appeal site that is within the built-up area of Billericay. These are not, therefore PDL, as defined by the Framework. However, these areas are outside of the GB. I therefore agree with the appellant and the Council, who under cross-examination conceded this position, that all of the GB land within the appeal site is PDL.
10. It is also common ground, and I agree, that the proposal would include affordable housing that would meet an identified need within the Borough. This is expanded upon later in this Decision. Paragraph 149 of the Framework states that new buildings are inappropriate development in the GB, subject to a number of exceptions. Part g), second bullet point, relates to the redevelopment of PDL where the proposal would contribute to meeting an identified affordable housing need, and is therefore relevant to the appeal proposal. The bullet point states that, in such circumstances, development would not be 'inappropriate' if it would not cause substantial harm to the openness of the GB. I therefore assess the effect of the proposal on openness below.

Openness

11. The GB element of the appeal site is within a wider parcel of land in the GB called 'Area 25' as identified in the Basildon Borough Green Belt Topic Paper, October 2018 (the Topic Paper 2018). The appeal site is a small area of land within this wider parcel. There is open countryside to the west and the south, however there is extensive, mature boundary planting to the west, and lesser, but still significant, boundary planting to the south. The land to the east and west of the site is already built-up. The site is therefore highly visually constrained and makes only a limited contribution to the openness of the GB. This is a view shared by the Topic Paper 2018.
12. The GB element of the appeal site contains a number of buildings and structures associated with its equestrian and other uses. These are largely single storey. The proposal would be for 28 buildings, including a mix of houses and two blocks of flats, at up to three storeys but mostly either two or two and a half storeys in height. Overall, the proposal would result in an 80% increase

in footprint and a 124% increase in volume of built-form on the GB element of the appeal site. The level of the proposed increase in built-form would therefore be relatively significant.

13. The proposed garages would link several of the buildings. The layout would be relatively dense, there would be runs of rooflines that would be fairly close together and prominent, and relatively limited landscaping, save for incidental street trees and an area of open space to the south west corner. These design detail considerations influence the harm to openness of the proposal but only to a limited degree, as was accepted by the Council under cross-examination.
14. In addition, the proposal would spread built form across the whole site, rather than being concentrated to the eastern edge adjacent to the existing housing. There would also be a significant increase in activity on the site in comparison to the existing use for equestrian purposes and the gardens of the proposed dwellings would likely also be the subject of residential paraphernalia once occupied, further negatively affecting openness on the site.
15. However, the appeal site is largely visually self-contained by the mature planting to the west and existing development to the north and east. The southern boundary also has a relatively mature hedgerow but is more open. The proposed landscaping scheme, including some trees, would lessen this openness but the proposal would still be more visible from the south through this boundary than the existing built form. Importantly, though, as viewed from the south the proposed development would be seen in the context of the existing housing of Billericay. The existing housing rises slightly up the hill as viewed from the south and is clearly visible and fairly prominent.
16. Overall, there is relatively significant existing built form and the GB element of the appeal site is only a small part of a much wider parcel of GB land. The proposal would result in an increase in built form on the site both in overall footprint and volume and spread across the site. However, the appeal site is largely visually self-contained, with existing housing to Billericay to two sides of the site and the extensive existing and proposed boundary landscaping to the other two sides. Where the boundary planting would be more open the proposal would be seen in the context of the existing housing to Billericay. The harm to openness on the appeal site itself would therefore have limited effect on the wider GB. Allowing for the slightly greater harm to openness of the appeal site itself, the overall harm to the openness of the GB would be moderate.
17. It is important to note that the threshold for the proposal to be considered as inappropriate development is substantial harm. This is a high bar and the proposal clearly falls below it. The proposal is therefore 'not inappropriate' development in the GB. I do not, therefore, need to further consider issues in relation to GB development or make a determination on 'very special circumstances'.

Character and appearance

18. The Council's case with regard to character and appearance relates primarily to the effect of the proposal on landscape character, which I assess in this section. The Council also raised matters regarding detailed design that fall outside the above, which I turn to in the Other Matters section later in my Decision.

Existing

19. The appeal site includes a detached house along the western side of Southend Road, with the majority of the site lying behind this house. The area behind comprises a number of buildings and stables and associated hardstanding, fences and other ancillary development. There are also two grass paddocks which take up the western and central part of the site. The existing buildings have an equestrian use character and are single storey apart from Maitland Lodge. Some buildings are in poor condition and the site has grown organically with no discernible pattern to the layout.
20. To the east and north of the rear part of the site lies the existing edge of Billericay, with a mix of houses lining Mill Road, Homefield Close and Southend Road. The Maitland Lodge house is one of the properties on Southend Road. The surrounding properties are of a variety of architectural styles, being either detached or semi-detached houses or bungalows, and there is little to unify the architectural character. It is a typical, unremarkable, suburb. To the south and west are fields with mostly open countryside beyond. The site sits within Landscape Character Area 12¹, defined as an area of sloping farmland. However, it is only a small part of this wider area, which includes the extensive open farmland surrounding Billericay. The appeal site does not contain most of the key characteristics of the area, such as large fields.
21. Other than the entrance element where Maitland Lodge sits, the appeal site is mostly visually self-contained. The dwellings to the north and east only afford glimpsed views through to the site. There is a very mature hedgerow including substantial trees to the western boundary and a less mature and lower hedgerow, but which is still relatively substantial, to the southern boundary. Even views from neighbouring properties are at least partially screened by existing vegetation and boundary features. The appeal site is, however, visible from the south, largely to drivers approaching Billericay along Southend Road, but there are also some footpaths at mid-distance from the site to the south and west. However, where the site is visible, it is seen in the context of the urban edge of Billericay. The existing properties are clearly visible, set on rising land towards the north.
22. The wider landscape to the south and west is largely open farmland and is of higher quality. However, whilst pleasant countryside, this is also largely unremarkable agricultural fields. It is common ground, and I agree, that the wider landscape is not a 'valued landscape' within the meaning of paragraph 174 of the Framework. I assess the wider area to have moderate sensitivity to change. The appeal site itself, however, is of low sensitivity, through a combination of the partly-urbanising effect of the existing buildings and ancillary structures and hard standing, the edge-of-settlement character and the visual containment.

Proposed

23. It is proposed to demolish all the existing buildings and structures on the site and comprehensively redevelop to provide 47 dwellings. The proposed layout includes an access road from Southend Road which turns into a circle within the main/rear part of the site. A building, containing two houses, is proposed to the Southend Road frontage, adjacent to the proposed access road. A variety

¹ As set out in the Landscape Character and Green Belt Landscape Capacity Study December 2014

of dwellings are proposed within the site, including detached and semi-detached houses at two or two and a half storeys, and two blocks of flats at two and three storeys. Many of the proposed houses are also provided with car ports and there would be additional off and on-street car parking, including on driveways and in small car parks. An area of communal open space is proposed to the south west corner, which would also incorporate a balancing pond drainage feature. Some new planting is proposed, including trees, to the southern boundary.

Assessment

24. There would be a fair degree of consistency in the proposed architectural style of the buildings in terms of scale and layout but a certain amount of variety through different fenestration patterns and materials. The Essex Design Guide 2018 advises to avoid or conceal wide gable ends to roofs. Some relatively wide gable ends are proposed, but these are largely to side elevations not viewed directly from the proposed street. These side elevations often also would have car ports, adding articulation. There would be a variety of roof forms, silhouettes and detailing which is a positive factor which contributes to the architectural interest of the proposal. Overall, the architectural approach achieves a successful balance and would be in-keeping with the varied detailed design but consistent suburban character and appearance of the wider area.
25. The proposal is relatively dense and the proposed car ports would visually and physically link many of the buildings. However, these would be set back and would be lower than the host buildings and would remain subservient to them. The density would be similar to the surrounding area. The proposed open space would be relatively limited, but it is in the location of the site that would most benefit from visual softening, in the south west corner surrounded by open fields, and as stated in the Basildon Outline Landscape Appraisals of Potential Strategic Development Sites 2017. Paragraphs 119 and 124 of the Framework promote the effective and efficient use of land to provide homes. In this physical and policy context, the proposal would be of an acceptable density.
26. Nevertheless, the proposal would undeniably result in a change in character and appearance to the appeal site from the current equestrian use and building styles, and an increase in density and built form across the site, particularly to the currently open paddocks to the west and centre of the site. However, the overall density and detailed design of the proposal would be in-keeping with the character and appearance of the area. The appeal site is also of low sensitivity, is highly visually self-contained and, where more visible from the south, would be seen in the context of the existing housing of Billericay to the north, limiting any effects on the wider area.
27. Consequently, the proposal would not result in material harm to the character and appearance of the area, with regard to landscape effects. The proposal would therefore comply with Policy BE12(i) of the LP, which resists residential development that would harm the character of the surrounding area.

Other Matters

Housing

Market housing

28. A housing land supply range has been agreed between the parties, of between 1.6 and 2.33 years. Anywhere within this range is a very substantial shortfall against the target to identify a five year supply of housing land as set out in paragraph 68 of the Framework. In numerical terms, the shortfall equates to between 3,345 and 4,200 homes. There is also an under-delivery of housing in the Borough. The Government's 2021 Housing Delivery Test figures confirm a delivery rate of 41% against the housing requirement. Footnote 8 of the Framework states that even a delivery rate of 75% should be considered as substantially below the requirement. 41% is therefore a very substantial under-delivery. The delivery is also on a downward trend, with the most recent results being 45% in 2020, 44% in 2019 and 75% in 2018.
29. Under cross-examination, the Council accepted that housing delivery has been persistently poor over several years. This is also stated at paragraph 2.4 of the Council's Draft Housing Delivery Test Action Plan July 2021 (the Action Plan 2021). It would be difficult to come to any other conclusion on the basis of the above evidence. The shortfalls in housing land supply and housing delivery are stark. There is also no evidence before me that there is likely to be a marked improvement in the delivery of housing in the short to medium term. The Council's Action Plan 2021 states that the level of supply is not expected to significantly improve until a new Local Plan is adopted. In this regard, the Council's emerging Local Plan was recently withdrawn and its tentative timetable for the production of a new Local Plan would result in adoption, at best, in 2027.
30. It is important to remember that there are real world implications from the under-delivery of homes, including increased house prices, decreased affordability and an increasing number of individuals and families being forced to remain in unsuitable accommodation for their current needs. I therefore place very substantial positive weight on the proposed 26 open market homes.

Affordable housing

31. The Council's affordable housing need is agreed between the main parties to be 860 dwellings per annum (dpa), based on removing the backlog in addition to ongoing requirements. The current overall shortfall is 2,494 homes. Over the past seven years, the net delivery of affordable housing, ie after accounting for Right to Buy sales, is just 5 dpa. Affordable housing delivery is abysmal. The shortfall is acute and persistent. As with market housing, there is no evidence before me that there is likely to be a marked improvement in the delivery of affordable housing in the short to medium term.
32. The length of the waiting list on the housing register is up by 44% in the past year. The multiple of the income of people on lower quartile incomes necessary to buy a home in the Borough is 32% higher than seven years ago. These statistics sit in the middle of a much wider socio-economic and political conversation, not all which, I accept, will have been driven by the lack of affordable housing delivery. However, the persistent extremely low affordable housing delivery in the past years has contributed towards this real-world

harm. Each of the 2,494 affordable homes that should have been built, but have not, represent a missed opportunity to help alleviate the housing concerns of individuals and families. The situation represents a significant conflict with the economic and social overarching objectives set out in paragraph 8 of the Framework.

33. Policy BAS S5 of the LP sets a requirement for affordable housing of between 15 to 30% of the total number of units on a development site. The 'split' of the affordable housing between different affordable tenure types is not prescribed in policy and all tenures of affordable housing contribute to the affordable housing supply for the Borough. The proposed provision of 45% of total units, at 21 homes, is in excess of the policy requirements. However, given the critical situation regarding affordable housing delivery in the Borough, I place very substantial positive weight on all of the proposed affordable homes, not just those over and above policy requirements.

Appeal site location and nature

Previously Developed Land (PDL)

34. As established above, the element of the appeal site in the GB is PDL. Most of the remainder of the appeal site is also PDL, as it is land with existing built form and associated hard standing. However, there are two small residential garden areas associated with Maitland Lodge that lie outside of the GB, both of which do not constitute PDL, as defined by the Framework. Nevertheless, a significant majority of the site is PDL. Despite this, the site is not particularly intensively used, with large relatively open spaces for the paddocks. The proposed development to provide 47 houses would therefore represent an efficient use of land for homes, on a mostly brownfield site, partly within and partly directly adjacent to an existing settlement.
35. In light of the above, and as directed by paragraph 120(c) of the Framework, I place substantial positive weight on the proposed dwellings on the part of the appeal site within Billericay. I also place significant positive weight on the remainder of the development in this regard, which accords with the promotion of the effective use of land to provide homes at paragraph 119 of the Framework.

Sequential preference

36. The Council's Development Plan is out-of-date. The Local Plan was adopted in 1998, based on the period 1991-2001, with a housing requirement based on a previous Structure Plan adopted in 1982. The GB boundaries are therefore based on very old housing requirements and a completely different planning policy and political backdrop. Most of the Borough outside the three main towns is GB. It is common ground, and I agree, that due to the significantly higher housing requirements that the Council now faces, and that it cannot demonstrate a five year supply of housing land, significant GB release is inevitable.
37. It would be preferable if the GB release could be managed through the emerging Local Plan process, as set out at paragraphs 15 and 140 of the Framework. However, as set out above, a new Local Plan is at least five, and potentially many more, years from being adopted. It is therefore necessary to

consider proposals that come forward in the GB ahead of adoption of the new Local Plan.

38. In this regard, the now withdrawn Local Plan and its evidence base is still a material consideration. The evidence base allocated the site for development² and the withdrawn Plan carried this through to a site allocation (Site H21b), albeit for around 20 self-build homes rather than the 47 dwellings proposed as part of the appeal proposal³. However, the important consideration is that the site was found to be suitable for development and to be removed from the GB. In addition, this inquiry has established that the GB element of the appeal site is all PDL.
39. Therefore, the appeal site in general is sequentially preferable to non-PDL sites in the GB, which make up the majority of GB land in the Borough. In any event, as established above, the specific appeal proposal is 'not inappropriate' development in the GB. I therefore find no harm from the location of the proposal in the GB in addition to its sequential preference over non-PDL GB sites. This is a significant positive benefit of the proposal in the context of a Borough where GB release is accepted as being inevitable to meet its housing needs.

Accessibility

40. The appeal site is directly adjacent to Billericay and accessible to its large range of services and facilities, and also easily accessible to a range of bus routes and also Billericay train station. It is common ground, and I agree, that the appeal site is in a highly accessible location. I place significant positive weight on this factor.

Economic

41. The proposal would create short term employment during construction and would result in long term economic benefits from expenditure from the future occupants on goods and services in the area. Some of the future occupants would potentially have only moved a short distance and already be in the local area, but many are likely to be from further afield. As required by paragraph 81 of the Framework, I place significant positive weight on the economic benefits.

Biodiversity

42. A package of mitigation measures, such as tree protection fencing or sensitive site clearance, is set out in the Ecological Impact Assessment May 2022 and could also be secured by condition. Compensation is also proposed, for example through the contribution towards the Essex Coast RAMS. It is therefore proposed to follow the hierarchy set out at paragraph 180 of the Framework by first mitigating ecological effects and only then compensating for them. In addition, a biodiversity net gain of 10% is proposed and could be secured by condition. The Framework only requires 'a' net gain, rather than a gain of 10%. The proposal therefore goes beyond policy requirements in this regard. I place significant positive weight on this benefit.

² Housing and Economic Land Availability Assessment (HELAA) Review 2018, September 2018 (Site SS0189)

³ Basildon Borough Revised Publication Local Plan 2014 – 2034, October 2018 (Site H21b) and Housing Options Topic Paper November 2018 (New Site 3)

Detailed design

43. The proposed layout with a circular road leading to a single access point logically responds to the square shape of the rear part of the site and the narrow access area to Southend Road. The proposed building along Southend Road retains a building fronting onto the road, in-keeping with the established character of the road. Nevertheless, there would be limited harm to the character and appearance of this frontage through the proposed relatively wide access road.
44. The proposed three storey block of flats would be slightly taller and more bulky than the proposed and existing semi-detached properties in the area. However, it would be relatively small, towards the centre of the site and not readily visible from public or private views. The proposed public open space would be relatively small but is proposed in the south west corner of the site which is the most appropriate location for open space as it is furthest away from Billericay and one of the most visible parts of the appeal site. The open space would also incorporate a drainage feature but the detail of this could be controlled by condition to be attractive and there would be sufficient remaining space for recreational use by the future residents. The proposed shared surface approach to the internal road would work well in the context of the relatively small scale of the proposal. The Highways Authority raises no objection to this approach in terms of highway safety.
45. Matters of detailed design of the proposed buildings and the proposed hard and soft landscaping could be controlled by condition(s). Overall, the detailed design of the proposal would be in-keeping with the character and appearance of the area and would be acceptable. This weighs neutrally in the planning balance.

Appropriate Assessment

46. The appeal site falls within the Zone of Influence (ZoI) for the Blackwater Estuary Special Protection Area and Ramsar (the SPA). The proposal is for residential development and the future occupants are likely to travel to the SPA for recreation purposes, due to the proximity and as established by the appeal site falling within the ZoI. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment (AA) in such circumstances. As the Competent Authority, I have therefore undertaken an AA.
47. The conservation objectives for the SPA include maintaining or restoring the habitats for a number of breeding and non-breeding birds. The specific qualifying features likely to be affected by the potential increase in recreational pressure include the mudflat habitat that supports internationally and nationally important numbers of overwintering waterfowl, and semi-improved grassland that includes nationally scarce plants and rare invertebrates. The proposal would therefore likely result in adverse effects on the SPA, by itself and in combination with other development projects.
48. Consequently, I am satisfied that a mitigation payment is required to avoid an adverse effect on the integrity of the SPA. In this regard, the s106 secures a financial contribution, proportionate to the number of dwellings proposed, towards mitigating the effects of the likely increased recreational pressure. The payment has been calculated in accordance with the Essex Coast RAMS, which

applies to a number of protected areas include the SPA relevant to this appeal. The RAMS is a detailed strategy which has carefully considered the mitigation measures necessary to protect the designated sites. Natural England has confirmed that the contribution is appropriate and proportionate, and that, subject to the contribution, the proposal would not have an adverse effect on the integrity of the site. I am therefore satisfied that the mitigation would be effective. I am also satisfied that the planning obligation meets the tests set out in Regulation 122(2) of the CIL Regulations and paragraph 56 of the Framework.

49. Consequently, I consider that, subject to the s106, there would be no adverse effect on the integrity of the protected site, both on its own and in combination with other developments.

Interested parties

50. Several objections have been submitted, including from the Billericay District Residents Association, Great Burstead and South Green Village Council and the Campaign to Protect Rural England. The objections have commented on the issues covered above and also on drainage, flooding, highway safety, free-flow of traffic, harm to living conditions of neighbouring occupiers through lack of light and noise and outlook, contamination of groundwater, impact on local infrastructure eg schools and doctors, disruption during construction, and deterioration in air quality. Some neutral comments were also submitted requesting a horticultural scheme.
51. I have taken all of these factors into consideration. Most are not in dispute between the main parties. The Council concluded that there would be no material harm in these regards and I also note that both the Local Lead Flood Authority and Highways Authority have no objection to the proposal. No substantiated evidence has been submitted that leads me to any different view. Other concerns are addressed in my reasoning above, can be addressed by conditions or are dealt with by the planning obligations secured.

Conditions

52. A schedule of conditions was agreed between the parties ahead of the inquiry. This was discussed through a round-table session at the inquiry. I have considered the conditions against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and in the interests of clarity, precision, and simplicity. The appellant has confirmed acceptance of the pre-commencement conditions. I set out below specific reasons for each condition:
- In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty;
 - Construction Management Plan (CMP) and Site Waste Management Plan (SWMP) and Construction Environmental Management Plan (CEMP) conditions are necessary to protect the living conditions of neighbours, biodiversity, highway safety and the free-flow of traffic during construction;
 - The Biodiversity Survey and Biodiversity Enhancement Strategy, Landscape and Ecological Management Plan (LEMP), lighting design, Arboricultural Impact Assessment, and Ecological Impact Assessment conditions are necessary to protect existing biodiversity, to secure the proposed 10% biodiversity net gain, and to ensure maintenance of the relevant measures;

- Land contamination and remediation, archaeology, Secured by Design and waste and recycling conditions are necessary to ensure the proposal would have acceptable effects with regard to these technical considerations;
 - Tree protection, hard landscaping, soft landscaping, waste and recycling conditions, and Arboricultural Impact Assessment conditions are necessary to ensure a satisfactory standard of development protect and to protect and enhance biodiversity;
 - The materials and finished floor levels conditions are necessary to ensure a satisfactory standard of development;
 - The surface water drainage systems, maintenance of surface water drainage systems and finished floor levels conditions are necessary to ensure that suitable mitigation is provided regarding surface water drainage and flooding;
 - An Energy and Sustainability Strategy condition is necessary to ensure that the proposal reduces carbon dioxide emissions and therefore to mitigate climate change and assist in moving to a low carbon economy as set out in paragraph 8 of the Framework;
 - The visibility splays, access junction details and internal road and footway layout condition is necessary to protect highway safety and the free-flow of traffic;
 - The cycle parking and Residential Travel Information Pack conditions are necessary to encourage the use of a range of modes of transport other than the car; and,
 - The condition requiring details of upgrade works to nearby bus stops and pedestrian crossings is necessary to encourage the use of a range of modes of transport other than the car and to partially mitigate the increased pressure on public transport from the future occupiers of the development. It is necessarily worded as a Grampian type condition, since it relates to land outwith the control of the appellant.
53. A condition requiring electric vehicle charging points for all the proposed car parking spaces was requested by the Council but it is unnecessary because this provision is already set out in Requirement S1 of The Building Regulations 2010, Approved Document S 2021 Edition.
54. The CMP/SWMP, CEMP, Biodiversity Survey, land contamination and remediation, archaeology, tree protection, and hard and soft landscaping conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

Planning Balance

55. The proposal would not conflict with any Development Plan policies, including the four identified as most relevant to the appeal in the Statement of Common Ground, namely Policy BAS GB1 which sets the GB boundaries but has no specific control over GB development, Policy BAS S5 which sets affordable housing thresholds which the proposal exceeds, Policy BAS BE12 which requires proposals to conserve the character of the area, and Policy BAS BE24 which is in relation to crime prevention which could be adequately controlled by condition.
56. The proposal would not harm the character and appearance of the area, either with regard to landscape or detailed design. It would be 'not inappropriate'

development in the Green Belt. The s106 secures appropriate mitigation against any harms from the proposal on the SPA. These factors all weigh neutrally in the planning balance.

57. The proposed open market housing and affordable housing would be very substantial benefits of the proposal. The part of the proposal outside of the GB to be developed for housing would be a substantial benefit due to the use of suitable brownfield land within settlements for homes.
58. The remainder of the appeal site represents the effective use of land to provide homes. The appeal site is sequentially preferable to non-PDL sites in the GB in a Borough where GB release is inevitable to meet its housing needs. The appeal site is easily accessible to public transport, services and facilities, a biodiversity net gain over and above minimum policy requirements is proposed, and there would be both short term and long term economic benefits. These are all significant benefits.

Conclusion

59. The Council cannot demonstrate a five year supply of housing land and there is no clear reason for refusing the proposal related to areas or assets of particular importance. Having regard to paragraph 11d of the Framework, I have found no conflict with the Development Plan and a number of weighty benefits. Therefore, for the reasons above, the appeal is allowed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Giles Atkinson, of Counsel. He called:

Emily Beavan ARB	Principal Urban Design Officer, Basildon Borough Council (BBC)
Louise Cook MRTPI	Principal Planning Officer, BBC
Christine Lyons MRTPI	Head of Planning, BBC
Adeola Pilgrim MRTPI	Principal Planner, BBC
Lisa Richardson	Principal Planner, BBC
Charlotte McKay cFILEX	Principal Lawyer, BBC
Anne Cook	Principal Infrastructure Planning Officer, Essex County Council

FOR THE APPELLANT:

Zack Simons, of Counsel. He called:

Colin Pullan	Head of Urban Design and Masterplanning, Lambert Smith Hampton
Charles Crawford CMLI	Director, LDA Design
Hywel James MRTPI	Associate, Nexus Planning
Oliver Bell MRTPI	Director, Nexus Planning
James Stacey MRTPI	Senior Director, Tetlow King Planning Ltd
Ben Standing	Partner, Browne Jackson
Dominick Veasey MRTPI	Director, Nexus Planning
Hywel James MRTPI	Associate, Nexus Planning

ANNEX B: DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Addendum to Statement of Common Ground – Housing Issues, dated 20 September 2022
- 2 Affordable Housing Proof of Evidence Addendum and Errata Note of James Stacey BA (Hons) Dip TP MRTPI
- 3 *Herbert Hiley and The Secretary of State for Levelling Up, Housing and Communities vs East Lindsey District Council* [2022] EWHC 1289 (Admin)
- 4 Appellant's Opening and List of Appearances
- 5 Opening Statement on behalf of the LPA
- 6 Site Visit Routes, dated September 2022
- 7 Email regarding conditions 27 and 28 from Hywel James, dated 23 September 2022
- 8 Open Space Plan/Management Plan Ref 1760/L/02
- 9 Closing submissions on behalf of the LPA, by Giles Atkinson, dated 23 September 2022
- 10 Appellant's Closing Submissions, by Zack Simons and Isabella Buono, dated 23 September 2022

ANNEX C: CONDITIONS SCHEDULE

- 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: Refs 16007/400; 1760/P/01 Rev B; 16007-10, 11 Rev B, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 Rev A, 35, 36, 37, 38, 39, 100, 101.

Pre-commencement

- 3) No development shall commence, including any works of demolition, until a Construction Environmental Management Plan (CEMP) and Site Waste Management Plan (SWMP) for the proposed development has been submitted to and approved in writing by the Local Planning Authority. The Plans shall incorporate details of:
 - a) the parking of vehicles of site operatives and visitors (construction traffic management);
 - b) loading and unloading and the storage of plant and materials used in constructing the development;
 - c) the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate;
 - d) wheel and underbody washing facilities;
 - e) measures to control the emission of noise, dust and dirt during construction;
 - f) a scheme for recycling/disposing of waste resulting from demolition and construction works; and,
 - g) details of a nominated developer/resident liaison representative with an address and contact telephone number to be circulated to those residents consulted on the application by the developer's representatives. This person will act as first point of contact for residents who have any problems or questions related to the ongoing development.

The approved CEMP and SWMP shall be implemented for the entire period of the construction works.

No materials produced as a result of the site development or clearance shall be burned on site.

- 4) Prior to the commencement of development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority following the recommendations made within the Ecological Impact Assessment ref. INL20854_EcIA dated 17.05.2022. The CEMP: Biodiversity shall include the following:
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of "biodiversity protection zones";

- c) 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);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and,
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 5) A. No above ground new development, including demolition, shall commence until an updated Biodiversity Survey has been submitted to and approved in writing by the Local Planning Authority.

B. A Biodiversity Enhancement Strategy for any identified protected and priority species in accordance with the Biodiversity Survey approved at A., shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the relevant part of the development. The content of the Strategy shall include the following:
 - a) measures equivalent to a 10% net gain in biodiversity;
 - b) purpose and conservation objectives for the proposed enhancement measures;
 - c) detailed designs to achieve stated objectives;
 - d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - e) locations of proposed enhancement measures by appropriate maps and plans;
 - f) persons responsible for implementing the enhancement measures; and,
 - g) details of initial aftercare and long-term maintenance (where relevant).
C. The Strategy shall be implemented in accordance with the approved details and timetable and, where appropriate, shall be retained in that manner thereafter.
- 6) No development shall commence, including any works of demolition, until an updated desk-top study has been submitted to and approved in writing by the Local Planning Authority, to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the proposed development.
- 7) If identified as being required following the completion of the desk-top study required pursuant to condition 6, a site investigation shall be carried out prior to commencement of development and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk

assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed, taking into account the sites existing status and proposed new use. The site investigation and findings shall be submitted to and approved in writing by the Local Planning Authority within three months of their completion.

- 8) If identified as being required following the completion of the site investigation pursuant to condition 7, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. Development shall be carried out in accordance with the written method statement. If, during redevelopment, contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately, and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and approved in writing by the Local Planning Authority and all requirements shall be implemented and completed in accordance with the approved method statement.
- 9) Following completion of measures identified in the remediation scheme pursuant to condition 8, a full closure report shall be submitted to and approved in writing by the Local Planning Authority. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved method statement(s).
- 10) A. No development shall commence until:
 - i. A programme of archaeological investigation has been secured in accordance with a Written Scheme of Investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority; and,
 - ii. Any fieldwork required in accordance with the submitted WSI has been completed.

B. A Final Archaeological Report shall be submitted to and approved in writing by the Local Planning Authority, prior to occupation of the development.

C. The deposition of a digital archive with the Archaeological Data Service must be submitted within six months of the completion of any fieldwork required.
- 11) No development shall commence, including any works of demolition, until all trees to be retained have been protected by secure, stout exclusion fencing erected at a minimum distance equivalent to the branch spread of the trees and in accordance with BS5837:2012 Trees in relation to design, demolition and construction – Recommendations. The protective fencing shall be retained for the duration of the construction process.
- 12) The hard landscaping scheme set out in drawing Ref INL20854-12-Sheets 1, 2 and 3 and drawing Ref INL20854_10 shall be updated to accord with the additional landscaping features shown on drawing Ref 1760/P/01 Rev B. The updated hard landscaping scheme shall be submitted to and

approved in writing by the Local Planning Authority prior to the commencement of development. The approved hard landscaping scheme shall be implemented prior to occupation of the development in accordance with the approved details.

- 13) The soft landscaping scheme set out in drawing Ref INL20854-11-Sheets 1, 2 and 3 and drawing Ref INL20854_10 shall be updated to accord with the additional landscaping features shown on drawing Ref 1760/P/01 Rev B. The revised soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Specific triggers

- 14) Prior to installation of external façade surfaces, full details, including samples, specifications, annotated plans and fire safety ratings, of all materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The external façade surfaces shall only be implemented in accordance with the approved details and shall be retained at all times thereafter.
- 15) No above ground new development shall commence, until an updated and detailed surface water drainage scheme for the proposed development, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a) Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event;
 - b) Final modelling and calculations for all areas of the drainage systems for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change; and,
 - c) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

The approved scheme shall be implemented prior to occupation of the development.

- 16) No above ground new development shall commence until an Energy and Sustainability Strategy has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation of the development and shall be maintained at all times thereafter.
- 17) No above ground new development shall take place until details of the existing and finished site levels and the finished floor and ridge levels of the proposed development have been submitted to and approved in

writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Pre-occupation

- 18) Prior to occupation of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. This must include details of management of trees on site. The content of the LEMP shall include the following:
- a) Description and evaluation of landscape and ecology to be managed to include all woodland;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management (The southern and western boundary hedgerows will be protected from the development with garden fences, to prevent inappropriate management by the residents. The hedgerows will be appropriately managed long term by a management company);
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organisation responsible for implementation of the plan; and,
 - h) Ongoing monitoring and remedial measures.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved LEMP shall be implemented in accordance with the approved details.

- 19) A. Prior to occupation of the development, the access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 63 metres to the north and 2.4 metres by 64 metres to the south, as measured from and along the nearside edge of the carriageway to a 1 metre offset, as shown in principle on planning application drawing Ref 151883/PD02 rev A prepared by Vectos. Such vehicular visibility splays shall be retained free of any obstruction at all times.
- B. The width of the access at its junction with the highway shall not be less than 6 metres and shall be provided with two appropriate kerbed radii as shown in principle on planning application drawing Ref 1760/P/01 rev B prepared by Archtech.
- C. Prior to occupation of the development, footways a minimum of two metres wide shall be provided on both sides of the vehicular access. The footways shall extend from the site around the bellmouth junction, include a dropped kerb pedestrian crossing point and tie in with the existing footways on Southend Road.

- D. Prior to occupation of the development the internal estate road and footways shall be constructed as shown in principle on planning application drawing Ref 1760/P/01 rev B prepared by Archtech.
- E. Prior to occupation of the development, vehicular turning facilities, as shown on planning application drawing Ref 1760/P/01 rev B prepared by Archtech shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- 20) Prior to first occupation of the flats, details of the proposed secure and covered cycle parking for future occupiers of these units shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be made available prior to first occupation of the flats in accordance with the approved details and thereafter permanently retained.
- 21) No dwelling shall be occupied unless and until the existing bus stops known as Factory Site located on Southend Road adjacent to the site have been upgraded to provide raised Kassel kerbs, associated footway reprofiling, installation of bus stop clearway markings for both northbound and southbound stops, and a dropped kerb pedestrian crossing point provided on both sides of Southend Road in the vicinity of the northbound and southbound bus stops, in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
- 22) Prior to the first occupation of the relevant dwelling, a Residential Travel Information Pack (RTIP) for sustainable transport shall be submitted to and approved in writing by the Local Planning Authority. The RTIP shall subsequently be provided to the first occupant(s) of the relevant dwelling prior to first occupation of that dwelling. The RTIP shall include six one day travel vouchers for use with the relevant local public transport operator.
- 23) Prior to the first occupation of the proposed development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. No external lighting shall be installed other than in accordance with the specifications and locations set out in the approved scheme and maintained thereafter in accordance with the scheme.
- 24) Prior to occupation of the development, a Maintenance Plan detailing the maintenance arrangements, including who is responsible for different elements of the surface water drainage system, and the maintenance activities / frequencies, shall be submitted to and approved in writing by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should also be provided. Drainage maintenance shall be carried out thereafter in accordance with the approved details. The applicant(s) or any successor(s) in title must maintain yearly Drainage Logs of maintenance which should be carried out in accordance with any approved

Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

- 25) Prior to occupation a detailed residential refuse and recycling strategy for the development, including the design and location of the refuse and recycling stores, shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse and recycling stores shall be provided before the occupation of the development and thereafter permanently retained.

Pre-completion

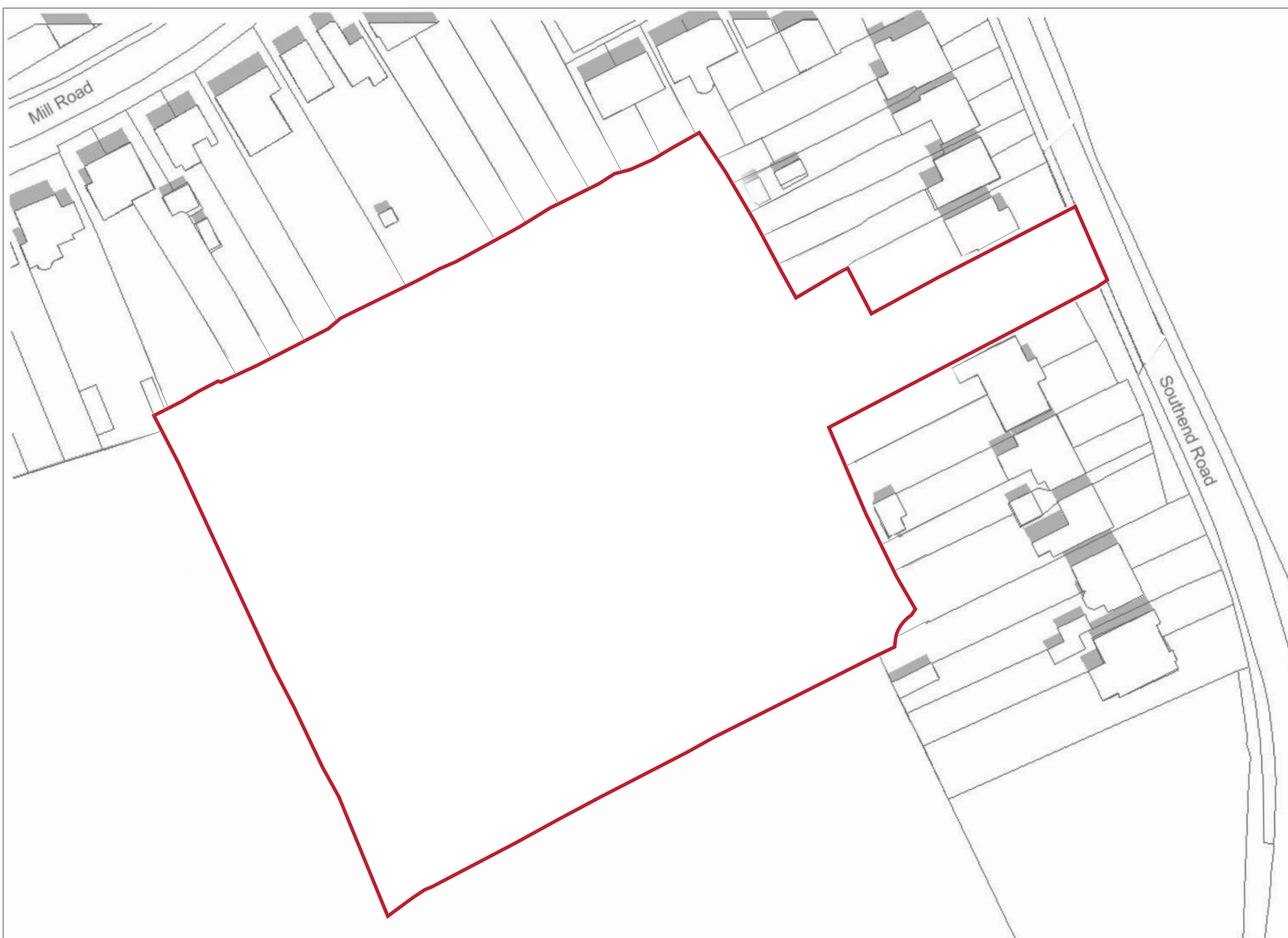
- 26) A. The development hereby permitted shall use reasonable endeavours to achieve a Gold award of the Secured by Design for Homes (2019 Guide) or any equivalent document superseding this Guide.
- B. A certificated Post Construction Review, or other verification process agreed with the Local Planning Authority, shall be provided upon completion of the development confirming that the agreed standards at A. have been met.
- C. In the event that the agreed standards at A. are not achievable then prior to completion of the development the applicant shall submit to the Local Planning Authority for approval in writing justification for this and details of the highest award of the Secured by Design for Homes (2019 Guide) or any equivalent document superseding this Guide which is achievable for the development.
- D. A certificated Post Construction Review, or other verification process agreed with the Local Planning Authority, shall be provided upon completion of the relevant Phase of the development, confirming that the agreed standards at C., as relevant, have been met.

For observation

- 27) All works shall take place in accordance with the recommendations set out in the approved Arboricultural Impact Assessment and Method Statement Ref INL20854aia-amsA Rev A dated 10/02/2022 and the associated Tree Protection Plan Ref INL-20854-03 Rev B. Any works connected with the approved scheme within the branch spread of the trees shall be by hand only. No materials, supplies, plant or machinery shall be stored, parked or allowed access beneath the branch spread or within the exclusion fencing. Any trees that are damaged or felled during construction work must be replaced with semi-mature trees of the same or similar species in the next planting season, if not sooner.
- 28) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the updated Ecological Impact Assessment (May 2022).

=====END OF SCHEDULE=====

EP7



Site Boundary

0m	25m	50m

bluepencil
DESIGNS



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Rev	Description
A	Layout revised to address LPA comments.
B	Minor hard and soft landscaping amendments.

	Date
	30.05.18
	14.06.22

Proposed Development at
Maitland Lodge
Southend Road
BILLERICAY

Title	Proposed Site Layout
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Date Feb.'18

Scale 1:250

Drawing No. 1760/P/01

Rev	B
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