

**Hildenborough**

**7 August 2023**

**TM/23/01673/FL**

Proposal: Demolition of existing buildings comprising Atcost barn and cart shed; erection of one 5-bed dwelling and part conversion and extension of existing barn to create one 4-bed dwelling (resubmission of approved application TM/21/00605/FL)

Location: Buildings At Trench Farm Coldharbour Lane Hildenborough Tonbridge Kent

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## **1. Description:**

- 1.1 Planning permission is sought to demolish an existing barn circa 1,071sqm in size (5823cu.m in volume) along with one remaining structure located within and the subsequent replacement with a new two-storey dwelling together with the conversion of a second barn (Plot B) which would also be extended.
- 1.2 The proposal is a re-submission following an earlier grant of planning permission in July 2021 and seeks to make changes to the design of both dwellings as well as some minor changes to the layout and landscaping. As part of the proposed changes, Plot B has been made 97sqm larger with Plot A having been reduced by the same amount. The submitted location plan indicates how the two plots would be divided.

## **2. Reason for reporting to Committee:**

- 2.1 The planning agent for the application is an elected Member and objections have been received on the application.

## **3. The Site:**

- 3.1 The application site is located on the western side of Coldharbour Lane and is dominated by an Atcost barn now understood (and previously accepted) to be used for commercial purposes. To the rear (west and south-west) of the site lies a number of residential properties and their curtilages. To the south is The Trench and approximately 50m to the north is Trench Farmhouse, both of which are grade II listed properties. On the opposite side of Coldharbour Lane to the east are agricultural silos and an open sided barn.
- 3.2 The site lies within the Metropolitan Green Belt and the Coldharbour Hildenborough Conservation Area which runs broadly north-to-south along Coldharbour Lane.

## **4. Planning History (relevant):**

73/10509/OLD	Approved	Unknown
Roofing in farm buildings and concreted area.		
85/10284/FUL	Approved	15 May 1985
Use of existing building for servicing and repair of mowing machines in addition to current use for servicing and repair of agricultural equipment.		
90/11289/FUL	Approved	23 January 1990
Change of use to mowing machine repair and service in addition to current use of agricultural equipment.		
TM/21/00605/FL	Approved	30 July 2021
Demolition of existing buildings comprising Atcost barn and cart shed; erection of one 5-bed dwelling and part conversion and extension of existing barn to create one 4-bed dwelling		

## 5. Consultees:

### 5.1 Ditton Parish Council:

“We refer to our comments made re the approved application TM/21/00605/FL and would add the NPPF clearly sets out the requirements for development in the Metropolitan Green Belt. As part of this, any developments in the MGB must meet the exceptions listed in Paragraph 149 Sections a-g. This development meets none of the exceptions listed and therefore should be considered inappropriate development in the Green Belt. As such the application should be refused. We would also note that the local strategies for development have not been met by the application, in particular we refer to TMBC Core Strategy Policy CP14.

Additionally, there is no justifiable housing need in the vicinity of the development. The Bat Scoping Survey submitted was produced in November 2019 with sampling being undertaken in that month. Clearly this data is now unreliable and the parish council would suggest an additional up to date survey prior to any planning decision. In summary the application does not meet the legislative requirements for development and the applicants have presented data which we feel is unreliable. As such the Parish Council object to this planning application and suggest the Planning Officer refuse it on the grounds stated above.”

### 5.2 TMBC Environmental Health:

“Noise

The application makes no mention of the agricultural buildings (grain silos and barn) on the opposite side of the road adjacent to the proposed development. Concern is raised around the potential noise effect the use of these buildings could have on future occupiers. It is considered necessary for the applicant to fully address these concerns through a suitable noise report.

#### Contaminated Land

The Phase I report presents the findings of a desk study and site walkover. It adequately reviews the history and environmental setting of the site. Potential onsite sources of contamination have been identified, including made ground from previous phases of development and the former use of the site for the sale and servicing of lawn mowers. It is recommended that an intrusive investigation be undertaken to determine the extent and severity of any contamination, details of which are provided in the Site Investigation Specification. I agree with the recommendations and request the following conditions should planning be granted:

#### **Standard Contamination 2 (no phasing) (Submission of Remediation Scheme & Implementation):**

No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

(b) prior to the commencement of the development the relevant approved remediation scheme shall be carried out as approved. The Local Planning

Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2021 (paragraphs 183-185).

**Standard Contamination 3 (no phasing) (Verification):**

Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2021 (paragraphs 183-185)."

5.3 TMBC Waste Services:

Guidance provided on the number and size of bins to be provided to serve the development.

5.4 KCC Archaeology:

No comments received.

5.5 Neighbours 6/1X/0S/1R:

Letters were sent to adjoining landowners; a site notice was posted at the front of the site; and a press advert was posted in the local newspaper. One objection and one 'neutral' comment have been received from the neighbours at Stable Cottage and The Trench which are summarised as follows:

- No information on the future of the granary building
- Would like confirmation on retention of old stone wall separating Plot B from neighbours to the west

- Overlooking of the 4 dormers on Plot B towards The Trench and Stable Cottage
- Atcost Barn has an asbestos roof – details on how it will be removed should be provided to neighbours
- Concerns over the displacement of pigeons which are currently causing a nuisance – pest control required

## 6. Determining Issues:

### Principle of development

6.1 As Members are aware, the Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). This means that the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2021) must be applied. For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2 It has been established that in the absence of a 5-year housing land supply it is out of date when considering housing developments.

6.3 With regard to the application of the presumption in favour of sustainable development, regard must first be had as to whether any restrictive policies within the Framework as stated under paragraph 11 d (i), (footnote 7), provide a clear reason to refuse the proposed development.

6.4 When applying paragraph 11 d (i), (and footnote 7), the restrictive policies referred to above relate to the protection of the following areas:-

- habitat sites, including potential Special Protection Areas (SPAs), and possible Special Areas of Conservation (SAC), listed or proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on habitat sites, potential SPAs or possible SACs, listed or proposed Ramsar sites;
- designated Sites of Special Scientific interest (SSSI);
- Green Belt, Local Green Space, AONB, National Park or within a Broads Authority, or Heritage Coast;
- Irreplaceable habitats, designated heritage assets, other heritage assets of archaeological interest, areas at risk of flooding or coastal change.

6.5 In this case, the site lies within the Metropolitan Green Belt.

Green considerations under paragraph 11(i)

- 6.6 The application site lies within the Metropolitan Green Belt wherein Policy CP3 of the Core Strategy states that the Council will apply national Green Belt policy. Paragraph 147 of the National Planning Policy Framework (NPPF) (2023) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 adds that when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 6.7 Paragraph 149 of the NPPF states that LPAs should regard the construction of new buildings as inappropriate in the Green Belt, however there is a closed list of exceptions to this which includes, but is not limited to, c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development.
- 6.8 With regard to the above exceptions, it is noted from the planning history, and in particular application 21/00605/FL that permission was granted for one new dwelling and the extension and conversion of a separate building under g) above. This was on the basis that the previous case officer considered the site to comprise Previously Developed Land (PDL) for Green Belt purposes and this planning permission is extant until 30<sup>th</sup> July 2024, meaning that the applicant could lawfully start constructing the two dwellings before that date. This is a material planning consideration that attracts significant weight in favour of granting consent.

6.9 It is acknowledged that the Parish Council have raised concerns above relating to the use and whether it meets the definition of PDL. The planning history set out above indicates that the site was used for the repairing of plant and machinery associated with agriculture. This would be considered a commercial use of the site (not agricultural) and even though this use may not have taken place for several years, it is nonetheless the 'existing' lawful use for planning purposes. There have been no recent Planning Enforcement investigations in this regard where the lawful use of the site has been challenged. Therefore, the LPA has no grounds with which to oppose the application and it is again accepted that the site is PDL for Green Belt purposes.

6.10 The appropriate test is that there should be 'no greater impact' on Green Belt openness. Amendments are sought to the previously approved scheme as set out in the submission and at the top of this report. It is necessary to look at floor area and volume to consider the proposals against what is being demolished in this case. This has been set out in the table below:

<b>Plot A</b>	<b>Square Metres (GIA)</b>	<b>Cubic Metres (approx.)</b>
2021 (extant)	409	1305.35
2023 (proposed)	386	1598.6
Difference (%)	- 5.6 (smaller)	+22.47 (larger)
<b>Plot B</b>	<b>Square Metres (GIA)</b>	<b>Cubic Metres (approx.)</b>
2021 (extant)	382.1	1087.5
2023 (proposed)	437.7	1282.4
Difference (%)	+ 14.5 (larger)	+ 17.9 (larger)
<b>Other built form</b>	<b>Square Metres (GIA)</b>	<b>Cubic Metres (approx.)</b>
Garages to both plots (unchanged)	108sqm	367.7m3
Rebuilt bothy	47sqm (Increase of 8.6sqm)	164.9m3 (Increase of 32.46m3)

Note: Comparison figures (Difference %) provided are against the previously approved scheme (not existing buildings on site)

6.11 Whilst the figures above do indicate that the two dwellings would be larger overall than was previously approved in 2021, it should be noted that this is still significantly less built form than the existing Atcost Barn which has a floor area of around 1071.7sqm and a volume of around 5823 cubic metres. There would still

be a significant reduction in both floor area and in terms of volume when compared with the existing buildings that occupy the site, equivalent to a reduction in floor area of 131.4sqm and a reduction in volume of 2541.84m<sup>3</sup>.

- 6.12 Aside from the changes in floor area and volumetric terms, it is also important to note other changes to the physical appearance. The footprint of Plot A would be reduced by around 10sqm but the eaves height would be increased by around 850mm and the ridge height increased by circa 450mm. This would mean additional bulk and mass to the dwelling, as reflected in the above table. Notwithstanding this, the proposed dwelling, together with the extension to Plot B would still result in a significant reduction of built form at the site compared with the existing Atcost Barn. It should also be noted that the figures above are not reflective of the actual usable space with adequate head-height at first floor level (in the case of Plot A). For example, the plans state that the Gross Internal Area of Plot A is actually 328.1sqm. This is why it is also important to consider the changes in volume as well as floor area.
- 6.13 It is also important to make a distinction between the part of Plot B which already exists (to be converted) and the part of Plot B which is new built form i.e. the extension. It is the extension to Plot B which should be measured against the reduction of built form in removing the Atcost Barn and other associated buildings contained therein. The existing building remains unchanged in physical terms, hence the increases in floor area and volume set out in the table above are in fact indicative of the changes to the size of the extension proposed to Plot B.
- 6.14 Therefore, having regard to the above and notwithstanding the proposed increases to both dwellings from what was previously approved, it is considered that the proposal would still represent a significant reduction of built form overall such that it can be said there would be 'no greater impact' on Green Belt openness. The proposal is therefore considered to comply with Policy CP3 of the Core Strategy and with Paragraphs 147-149 of the NPPF.
- 6.15 Policy CP14 of the Core Strategy seeks to resist the construction of new buildings in the countryside unless they meet a number of exceptions. It does however allow for conversions and extensions of buildings for residential uses. In any case, the LPA acknowledges that Policy CP14 is not consistent with the 'language' of the NPPF as the national policy does not apply a blanket restriction to development in the countryside. As such, Policy CP14 is given significantly diminished weight for decision-making purposes.
- 6.16 Therefore, there is no clear reason to refuse the development in accordance with paragraph 11 d (i) of the NPPF with regard to the Green Belt.

Impact on the Coldharbour Hildenborough Conservation Area and setting of Listed Buildings

- 6.17 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPAs to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which it possesses whilst Section 72 of the Act requires LPAs to pay special attention to the desirability of preserving and enhancing the character of Conservation Areas.
- 6.18 Paragraph 194 of the NPPF states that LPAs should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.19 Paragraph 197 requires LPAs to take account of, amongst other things, c) the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 199 meanwhile states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.20 As set out at the top of this report, the site lies within the Coldharbour Hildenborough Conservation Area. The case officer for the previously approved application considered that the existing Atcost barn did not contribute positively to the 'significance' of the Conservation Area due to its height, massing and siting and officers agree with this. It is instead considered to detract from the Conservation Area.
- 6.21 The application is supported by a Heritage Statement produced by HCUK Group, although this does not appear to have been updated since it was submitted as part of the 2021 application. Nonetheless, it appears as though nothing has materially changed in two years which would significantly alter the description of the local area in general terms. The Statement notes, amongst other things, that The Trench's list description mentions how the site was used by the trainer of Lord Derby's horses.
- 6.22 The Coldharbour Hildenborough Conservation Area does not benefit from a character appraisal however the Heritage Statement sets out that the significance of the Conservation Area lies in its architectural interest and historic interest which officers agree with. This can be seen in the age, design, style, materiality and positioning of buildings reflective to their more historic use.
- 6.23 The significance of the listed buildings also lies in their architectural interest and historic interest. The setting comprises a largely rural character. Having regard to the previously approved scheme at this site, it is considered that the proposals are acceptable in heritage terms. The removal of the Atcost barn would open up the

site in visual terms and represents an enhancement to the Conservation Area and to the setting of the listed buildings. This is slightly diminished by the new built form proposed but overall, it is still considered that there would be a slight enhancement. The proposal is therefore considered to be acceptable in heritage terms.

- 6.24 The proposal would preserve the setting of the listed buildings and would also conserve the character and appearance of the Conservation Area. As such, the LPA has discharged its statutory duty under Sections 66 & 72 of the Planning (LB and CA) Act 1990, as special regard has been paid to preserving this Listed Buildings and the desirability of conserving the Conservation Area.
- 6.25 After carrying out the 11(d)(i) exercise and subsequently concluding that there are no “restrictive policies” in the NPPF which provide a clear reason for refusal, the application must therefore be considered against paragraph 11(d)(ii) of the NPPF and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, which are discussed below.

#### Provision of housing

- 6.26 Paragraph 60 of the NPPF sets out that, to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 6.27 Paragraph 69 of the NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. It adds that LPAs should support the development of windfall sites through policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes.

#### Design, character and appearance

- 6.28 Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, layout, siting, character and appearance be designed to respect the site and its surroundings.
- 6.29 Policy SQ1 of the Managing Development and the Environment Development Plan Document 2010 states all new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its historical and architectural interest and prevailing level of tranquillity; and the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form, and important views.

- 6.30 Paragraph 130 of the NPPF seeks to ensure that decisions result in developments which are visually attractive as a result of good architecture, layout and landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.31 As shown on the plans, Plot A would be amended so that the eaves and ridge height would be increased. Whilst this dwelling would have a more contemporary appearance through the use of large glazed openings, it would still feature traditional gables, as was previously featured in the 2021 application. Moreover, the gables would now appear more consistent across the design rather than appearing at odds with one another as shown in the previous scheme. This is considered a slight improvement to the design. The crown roof would also be made slightly larger but again, the already approved scheme did comprise a crown roof to Plot A anyway.
- 6.32 Notwithstanding that the dwelling would be slightly larger as already set out above in this report, the proposed design is still considered to be acceptable in this case. The previous planning permission imposed a condition requiring details of materials to be submitted and this is still considered to be necessary and appropriate.
- 6.33 With regard to Plot B, again it is important to note that the existing structure remains unchanged however the extension itself would be slightly larger with a width of around 17.15m compared with 13.55m approved previously. With that being said, the plot has also been made around 97sqm larger due to proposed changes to the boundaries within the site itself. The design is practically identical to the earlier approved scheme including the use of stable style shutters to the sides of doors (of the extension) and the use of dormers above. Impacts on neighbours are discussed below in this report but from a design perspective, the proposal is otherwise acceptable with regard to Plot B.
- 6.34 In wider terms, the changes to the plot sizes is not considered to raise any issues in amenity terms and the dwellings would not be considered to appear cramped within their generous plots. The reduction in the amount of hardstanding is also seen as a positive change between the schemes. Furthermore, there are no particular issues with relocating the bothy in this case, although it is acknowledged the dwelling on Plot A would become more visible as a result. Views of this dwelling would have already been possible from Coldharbour Lane.
- 6.35 The proposal is therefore considered to comply with Policy CP24 of the Core Strategy, Policy SQ1 of the MDE DPD and with paragraph 130 of the NPPF.

Impact on neighbouring amenity

- 6.36 Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 requires that all development must be well designed and respect the site and its

surroundings. It outlines that development by virtue of its design which would be detrimental to amenity will not be permitted.

6.37 Paragraph 130 (f) of the NPPF advises that:

*“Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”.*

6.38 As noted above, some concerns have been raised with regard to the 4 proposed dormers. The previously approved scheme contained two dormers in the southern elevation of the extension to Plot B, although this extension was located farther away. Notwithstanding that the extension has been repositioned to form a ‘T’, the dormers would still be located around 16.7m away from the southern boundary, around 23m away from the boundary of The Trench, around 38.3m away from the nearest part of the building forming The Trench and around 35.5m away from the nearest part of Courtyard Cottage. At these distances, it is not considered that the proposals would result in undue overlooking of neighbours. There are no windows located in the western end of the extension to Plot B and the nearest dormer would provide oblique views towards the west in any case.

6.39 With regard to Plot A, it has been acknowledged above in this report that this dwelling would be slightly taller than previously approved but given the separation distance from ‘Martins’, it is not considered that the physical built form itself would appear imposing or overbearing. The positioning of the dwelling to Plot A has been revised so it would be moved slightly farther east, albeit slightly farther south too. Again, this does not raise any issues with regard to overlooking that weren’t considered previously and it is considered that the revised scheme is still acceptable in this regard.

#### Living conditions of the future occupiers

6.40 The previous application did not raise any concerns in terms of the amenity of the future occupiers of the development. Indeed, it appears that all windows serving habitable rooms would have adequate access to light as well as outlook and the gardens serving each dwelling would be ample in size too. Therefore, no concerns are raised in this regard.

#### Highway safety and parking provision

6.41 Paragraph 111 of the NPPF states:

*“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

- 6.42 Policy SQ8 advises that development proposals will only be permitted where they would not significantly harm highway safety.
- 6.43 Notwithstanding that there are changes proposed to the layout and areas of hardstanding, both dwellings would still be provided with adequate parking provision. The dwelling on Plot A would be served by garaging for 5 along with additional spaces on the hardstanding. Meanwhile Plot B would be served by a double garage and at least a further two spaces on the driveway to the front of the garage.
- 6.44 The proposal would utilise existing accesses onto the highway which appear to be well established and as such the LPA could not reasonably resist the application for this reason. The provision of two dwellings would likely result in a reduction of vehicular movements compared with an existing lawful commercial use of the site, albeit it might not currently be being used intensively. The proposal is therefore acceptable from a highway safety and parking provision perspective.

Impact on ecology

- 6.45 Policy NE2 of the MDE DPD states that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced. Meanwhile policy NE3 adds that development which would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. Proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.
- 6.46 Paragraph 174 of the NPPF states, amongst other things, that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.47 Both the current application and previously approved application were supported by a Bat Scoping Report, produced by The Ecology Co-op. This sets out that a survey was carried out and presence of bats was confirmed within the 'Traditional Barn' being the building on Plot B of the application site. The other structures on site had a low or negligible potential for bats or bat roosts. The previously approved application considered that the application was acceptable, provided that a planning condition was imposed to require the development to be carried out in accordance with a number of recommendations set out in Section 4 of the Report.
- 6.48 Given that almost 4 years have passed since the survey was carried out, officers requested an update on the site in this regard. An advice note was then provided which confirmed that nothing has materially changed in this regard, with bats being

spotted during an evening survey. Importantly, it should be noted that the applicant could lawfully implement the previous consent (which is valid until 30 July 2024) and comply with the conditions of that consent. This is therefore a significant material consideration in this case, and it would be unreasonable for the LPA to impose any further conditions or restrictions in this regard.

6.49 It should be noted that the applicant is still bound by other legislation including The Conservation of Habitats and Species Regulations (2017) and the Wildlife and Countryside Act (1981), meaning any harm to bats is an offence, although this would be dealt with outside of the planning process.

6.50 Subject to a planning condition, it is therefore considered that the proposal is acceptable in this regard.

#### Other material considerations

6.51 As noted at the top of this report, the Environmental Health Officer raises concerns with the potential for noise to arise from the agricultural uses on the opposite side of Coldharbour Lane. It appears that their concerns are likely to be specific to the dwelling shown as Plot B. Whilst it would usually be the case that a noise report would be requested, this was not required as part of the previously approved application at this site. As already mentioned above, the applicant could lawfully convert this building into a dwelling (with or without the extension) and as such, it appears unreasonable in this case to require a report on noise. It is nonetheless in the interests of the developer to ensure noise mitigation measures are in place. In this regard, it can quite clearly be seen that the openings in this eastern elevation are limited.

6.52 With regard to contaminated land, the applicant has provided a Phase 1 Assessment which was required under the previous consent. This has been reviewed by the Environmental Health team who agree with the findings of the desk study and walkover survey. It is therefore concluded that Condition 6 on the previous approval is no longer required, however Conditions 7 and 8 relating to site investigations (intrusive) and a subsequent verification report are still required and imposed accordingly.

#### Climate Change

6.53 Paragraph 153 of the NPPF requires Development Plans to take a proactive approach to mitigating and adapting to climate change. It encourages new development to avoid increase vulnerability to the range of impacts associated with climate change. Where there are proposals in vulnerable areas care is to be taken to mitigate and consider green infrastructure. In addition, proposals should help to reduce greenhouse gas emissions and increase the use of renewable and low carbon energy.

6.54 The Government has adopted the Future Homes and Building Standards in line with its commitment to achieve net zero emissions by 2050. This seeks to reduce CO2 emissions from new homes by 75-80% from 2021 standards, and new homes will need to be “zero carbon ready”, meaning that no further retrofit work will be necessary to enable them to become zero-carbon homes. The first stage of this transition towards the decarbonisation of buildings came into force on 15 June 2022 via a suite of revised Building Regulations, which require that CO2 emissions from new build homes must be 30% lower than under previous standards. The Building Regulations relevant sections are:

- Part L (Conservation of Fuel and Power) Volume 1 Dwellings;
- Part F Ventilation;
- Part O Overheating;
- Part S Electric Charging points.

6.55 The efficiency levels now required encourage the installation of zero-carbon technology through Building Regulations. Thus, no conditions or informatives are recommended in relation to the incorporation of zero carbon technologies.

6.56 The amended Building Regulations under Approved Document S also require that new developments must include spaces with access to electric vehicle charging points equal to the number of new dwellings and that cable routes/infrastructure should be provided to other parking spaces. Where charging points would have previously been secured by condition, this is no longer reasonably required.

#### Planning balance

6.57 The Council does not have an up-to-date local plan and cannot presently demonstrate a five-year supply of housing. Consequently, in accordance with paragraph 11 d) of the NPPF, much of the adopted development plan is out of date for the purposes of determining applications for new housing development. For the purposes of this assessment Paragraph 11 d) of the NPPF sets out that planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

6.58 Footnote 7 provides a list of those polices that relate to protected areas and assets of particular importance, and includes impacts on designated heritage assets none of which relate to the current application. However, as set out in the report, there would be a small enhancement to the conservation area and setting of listed buildings such that the application is not refusible for this reason. It is therefore acknowledged that the provision of two new dwellinghouses on previously

developed land is a benefit of the scheme which weighs in favour of the proposal. This is a matter to be attributed significant positive weight in the overall planning balance. There would also be economic benefits from the construction of the development itself and subsequent occupation, whose occupants will contribute towards the local economy.

6.59 The report sets out that there would be no adverse impacts in design terms, nor in relation to neighbour impacts, parking provision, highway safety or ecology. However, the absence of harm in relation to these matters is not a benefit of the scheme and so weighs neutrally in the overall planning balance.

6.60 Taking all of the above into consideration, it is therefore considered that the adverse impacts do not significantly and demonstrably outweigh the benefits of the scheme as a whole and so the application should be approved.

6.61 Had it been found that there would be harm in this case, then it is likely that this would have been outweighed by the fact that there is already a planning consent in place, which can be implemented prior to 30 Jul 2024, and this is a material planning consideration to be afforded significant weight.

## **7. Recommendation:**

7.1 Planning permission be **GRANTED**, subject to compliance with the following conditions and reasons:

### **Conditions/Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. No development shall take place above slab level until details of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

3. The development shall be carried out in accordance with the plans listed in this condition:

- Proposed Floor Plans PLB100 Plot B dated 07.08.2023;
- Proposed Floor Plans PLB101 dated 07.08.2023;
- Proposed Elevations PLB200 Plot B dated 07.08.2023;

- Proposed Elevations PLB201 Plot B dated 07.08.2023;
- Planning Statement dated 03.08.2023;
- Bat Survey dated 03.08.2023;
- Heritage Statement dated 03.08.2023;
- Site Investigation dated 03.08.2023;
- Desk Study Assessment Phase I Geo-environmental Part 1 dated 03.08.2023;
- Desk Study Assessment Phase I Geo-environmental Part 2 dated 03.08.2023;
- Location Plan EX001 dated 07.08.2023;
- Existing block plan EX099 dated 07.08.2023;
- Existing Site Plan EX100 dated 07.08.2023;
- Existing Elevations EX200 Context dated 07.08.2023;
- Proposed block plan PL098 dated 07.08.2023;
- Proposed Elevations PL200 Context dated 07.08.2023;
- Proposed Site Plan PLA99 dated 07.08.2023;
- Proposed Floor Plans PLA100 Plot A dated 07.08.2023;
- Proposed Floor Plans PLA102 Plot A dated 07.08.2023;
- Proposed Elevations PLA201 Plot A dated 07.08.2023;
- Ecological Advice Note dated 21.09.2023.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

4. No development shall take place above slab level until relevant details of all external lighting have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the visual amenity of the locality.

5. The development hereby approved shall be carried out in accordance with the slab and floor levels shown on drawings PLB200, PLB201 A and PLA201 B.

Reason: To ensure that the development does not harm the visual amenity of the locality.

6. No development of the residential element shall commence until details of a scheme for the disposal of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to the occupation of the dwellings.

Reason: In the interests of pollution prevention.

7. No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:

- a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

- (b) prior to the commencement of the development, excluding any demolition works required, the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2023 (paragraphs 183-185).

8. Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2023 (paragraphs 183-185).

9. The development hereby approved shall be carried out in accordance with the mitigation measures in Section 4 of the submitted Bat Scoping Report by The Ecology Co-op dated 11.12.2019 and the Ecological Advice Note dated 21.09.2023.

Reason: To safeguard protected species.

10. No development shall take place above slab level until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment including vegetation and existing boundaries to be retained. All planting, seeding and turfing comprised in the approved scheme of soft landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of any dwelling.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality and to preserve the residential amenity of neighbouring properties.

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