

PLANNING, DESIGN AND ACCESS STATEMENT to be read in conjunction with drawings submitted for:

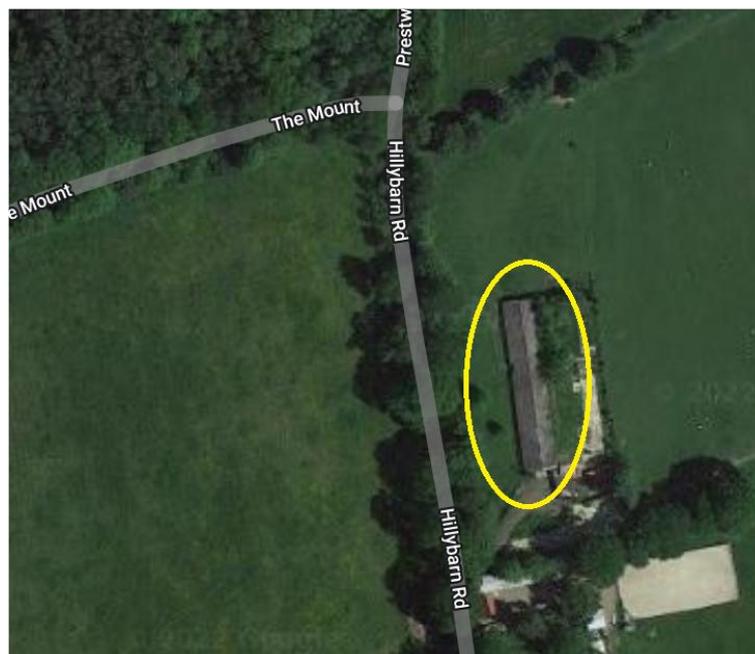
Hillybarn Farm, Land to the East of Land Parcel at 523169 138274, The Mount, Ifield, Crawley, West Sussex, RH11 0LF

Erection of 4 x new build dwellings along with contamination survey details and proposed amended access details in the alternative to permission granted under DC/22/1918 Prior Approval of Proposed Change of Use of Agricultural Building to form 5 dwellinghouses

EXECUTIVE SUMMARY - Site and Proposal

The application seeks full planning permission to erect 4 dwellings as an alternative to a prior notification for the change of use of an agricultural building outlined yellow below to 5 dwellings.

The site lies to the north of The Mount, Ifield. Site is located within countryside but no other statutory designations. The site is within a rural area characterised by farms and individually designed dwellings.



Above and below - The existing agricultural barn **outlined in yellow**



The proposal is for 4 new build dwellings similarly sited as the existing barn.

To fully establish the fallback:

1. A Habitats Regulation application was submitted in Aug 2024 under Reference **HRA/24/0010** (Application under Regulation 77 of the Conservation of Habitats and Species Regulations 2017) relating to **Prior Approval consent DC/22/1918** **Application Permitted - Decision Issued Date Mon 23 Dec 2024.**
2. A contamination report accompanies the application and relates to the same site area as the DC/22/1918 permission.

COMMENT – Application DC/24/0862 – for Erection of 1No. dwelling (in the alternative to permission granted under DC/22/0435 - Prior Notification for the change of use of an agricultural building to residential (Class C3) to form 1no. dwellinghouse) at South House Farm, Marringdean Road, Billingshurst RH14 9HH was **unanimously** permitted at Planning Committee on 17th December 2024.

Relevant extracts below; only part of the contamination condition was permitted as part of the fallback.

COMMENT – The applicants are agreeable to a ‘rolled over’ contamination condition with the same following wording. The reasons for this are two-fold, it is clear from the HRA application submitted back in August that the Council are struggling with workload throughput and secondly to fully discharge contamination the contamination it may be required to demolish the barn to check for contamination under the existing slab.

“Pre-Commencement Condition: No development, **other than the demolition of the existing building**, shall commence until the following components of a scheme to deal with the risks associated with contamination

DISC/22/0356 Approval of Details Reserved by **Condition 1(A)** to approve application DC/20/1238 Application Permitted on 06.02.2023

Notes to Applicant:

The Applicant is advised that this decision relates to Condition 1 (a) only. Further testing and verification is necessary and part(s) (b), (c) and (d) will require discharging at a later stage.

3.6 Environmental Health: Comment (summarised) - The application does not include any information in respect to contamination risks and it is unclear if the applicant is relying on previously submitted reports. If the application is approved the EH Officer would recommend that the ground contamination conditions are attached.

Conclusion and Planning Balance:

6.38 The application site benefits from an extant Prior Approval for the conversion of the existing barn on the site to one dwelling. This extant permission is considered to represent a realistic fallback which establishes the principle of residential development on this site. The proposed development would improve the quality of accommodation and would offer improvements in energy efficiency and sustainability, as well as design. The proposal would reflect a traditional housing vernacular anticipated within a rural location and is considered to relate sympathetically to the character and built form of the wider surroundings.

5 Pre-Commencement Condition: No development, **other than the demolition of the existing building**, shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site be submitted to and approved, in writing, by the local planning authority:

(a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- Potentially unacceptable risks arising from contamination at the site.

The following aspects (b) - (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.

(b) An intrusive site investigation scheme, based on (a) to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.

(c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.

(d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.

The scheme shall be implemented as approved. Any changes to these components require the consent of the local planning authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development

works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

The barn in question is not readily visible from public vantage points being screened by the adjoining mature boundary trees and hedging. The barn is acknowledged to have been last and solely used for agricultural purposes. The barn is not Listed nor within a Conservation Area.

Design and Development Objectives:

High quality rurally appropriate design with siting, layout, scale, form and appearance, enhancing the openness of the countryside (through demolition of existing buildings), absorbing the development in the landscape and respecting local vernacular.

The **traffic light highlighting** and bold type face throughout the Planning Statement emphasises the suitability of the proposal against the material planning considerations as part of the planning balance exercise. The proposed development would represent a planning gain in several respects as outlined within the main body of the statement.

Planning history

DC/22/1918 - Prior notification for change of use of agricultural buildings to five dwellinghouses (Class C3) - Hillybarn Farm, Land to the East of Land Parcel at 523169 138274, The Mount, Ifield, Crawley, West Sussex, RH11 0LF- Status: **PERMIT**

Executive summary to current proposal.

The siting of the proposed **new build dwellings substantially sited as per the existing barn would have the following 'planning gain' advantages:**

Analogous italicised extracts below from DC/24/0862 officer report approval at South House Farm:

6.11 The development would be contained within the existing site boundaries which surround the agricultural building and there would be no harmful encroachment into the open fields. There is potential for new landscaping across the site, including to add planting along the boundaries of the site, with further details sought through condition.

6.12 As set out above, the current scheme provides an opportunity to secure and deliver landscaping enhancements across the site, which could not be conditioned as part of a prior approval.

6.14 It is therefore considered that implementation of the existing prior approval, which would retain a utilitarian agricultural building of no particular merit, would not be preferable to the current scheme, which would create a new-build development which (as amended) would respond sensitively to the rural setting of the site. Overall, the density and layout of the site is considered acceptable, and subject to a condition regarding materials to ensure that they reflect the appearance and quality of the local vernacular, and details of landscaping, would not harm the character of the area. The visual impact of the proposal is therefore considered acceptable and in accordance with the above policies.

Conclusion and Planning Balance:

6.38 The application site benefits from an extant Prior Approval for the conversion of the existing barn on the site to one dwelling. This extant permission is considered to represent a realistic fallback which establishes the principle of residential development on this site. The proposed development would improve the quality of accommodation and would offer improvements in energy efficiency and sustainability, as well as design. The proposal would reflect a traditional housing vernacular anticipated within a rural location and is considered to relate sympathetically to the character and built form of the wider surroundings.

6.39 The proposal would result in no adverse harm to the amenities of nearby residential properties and would not have a detrimental impact on the safety and function of the public highway network. Having been through the Appropriate Assessment process, the proposal can demonstrate water neutrality.

6.40 For these reasons, the development is recommended for approval as a departure from the development plan, subject to the conditions listed below and the completion of the legal agreement to secure the water neutrality offsetting.

- **There would be neutral effect of built form on the openness of the countryside**
- **Additional native hedge planting to enhance biodiversity**
- **By retaining the same orientation as the existing building which there would be a neutral impact on the openness of the countryside.**

- **Small residential curtilages will remain proposed with each dwelling so as to minimise the effects of domestic paraphernalia (such as bin storage and cycle storage), on the openness of the countryside.**

Planning history:

The current proposal in the alternative to a proposed conversion is a natural evolution in the context of the site; the site is well screened by the mature boundary trees and hedging along the wider field boundaries.

Based on the extant permissions referenced above a **fallback position** is engaged.

The proposal raises substantially similar issues as many new build in lieu of conversion permissions and approved scheme below:

DC/17/2354 [Erection of 2x detached single storey \(with mezzanine floor\) four bedroom dwellings following approval of previous application DC/17/1205 \(Prior approval for proposed change of use of agricultural building to 2 dwellinghouses \(Use Class C3\) and associated operational development. Revised application further to DC/17/0373\).](#) Hermongers Farm Hermongers Rudgwick Horsham West Sussex RH12 3AL - **PERMIT**

Similarly, the proposal raises substantially similar issues and as such compares very favourably against 3 recent appeal decisions (*) together with the recent Court of Appeal decision *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314 (summarised below) all of which are included in full with application bundle of submission documents.

[Martin Goodall's Planning Law Blog](#)

[Can PD rights represent a fall-back position?](#)

Posted: 29 Sep 2017 04:54 AM PDT

There have been disputes for a number of years as to whether permitted development rights, such as those for the residential conversion of agricultural buildings under Class Q in Part 3 of the Second Schedule to the GPDO, can be called in aid as a fall-back position where a planning application is submitted for other development on the same site. On 8 September, the Court of Appeal upheld a judgment of the High Court that such PD rights can properly be taken into account as a fall-back position where some alternative form of development is then proposed.

The case in question is *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314, in which the leading judgment was given by **Lindblom LJ**. The LPA had granted planning permission in this case for the demolition of an existing agricultural barn and of a bungalow on the application site and to construct four detached dwellings, with garages and gardens.

‘Planning gain’ advantages In recommending the LPA’s committee to grant planning permission, the planning officer had advised them that, in practical terms, the permitted development rights under Class Q meant that the existing agricultural barn could be converted into three residential units up to a limit of 450 sq m.

Furthermore, the existing bungalow within the site could be replaced in accordance with an adopted policy in the Local Plan with a new residential building, provided that it was not materially larger than the existing building. He advised that, taken together, these factors could, in effect, give rise to the site being occupied by a total of four residential units (albeit of a different form and type to that proposed by this application). This, the officer observed, provided a realistic fallback position in terms of how the site could be developed.

The claimant sought to challenge the grant of planning permission on several grounds. He alleged that the planning officer (and hence the council) had misinterpreted the provisions of Class Q; they had wrongly accepted that there was a real prospect of the fallback development being implemented; and they had also misunderstood or misapplied the “presumption in favour of sustainable development” (as defined by paragraph 14 of the NPPF).

Part of this argument turned on the interpretation of the 450 sq m floorspace limit (which, the claimant argued, applied to the entirety of the building in question, and was not confined to the actual floorspace that is actually converted). This argument was rejected both at first

instance and by the Court of Appeal. The argument was that an interpretation of the relevant provisions that confined the floorspace limit to the floor area actually converted would render sub-paragraph Q.1(b) of Class Q redundant, because sub-paragraph Q.1(h) already limits the residential floor space resulting from the change of use under Class Q to a maximum of 450 square metres. I confess that I was originally confused myself by the relationship between paragraph Q.1(b) and paragraph Q.1(h), but I then explained the distinction between these two provisions in the Second Edition of *A Practical Guide to Permitted Changes of Use* (in paragraph 9.6 on page 103).

At first instance, Garnham J. accepted that the council was entitled to conclude that there was a “realistic” fallback. The evidence had established that there had been prior discussions between the council and the planning consultant acting for the site owners. It was crystal clear from that contact that the owners were intending, one way or another, to develop the site. Alternative proposals had been advanced seeking the council’s likely reaction to planning applications. It was in the judge’s view wholly unrealistic to imagine that were all such proposals to be turned down the owner of the site would not take advantage of the permitted development provided for by Class Q to the fullest extent possible. It was not a precondition to the Council’s consideration of the fall back option that the owner had made an application indicating an intention to take advantage of Class Q. ***There was no requirement that there be a formulated proposal to that effect*** [my emphasis]. The officer was entitled to have regard to the planning history which was within his knowledge, and the obvious preference of the owners to make the most valuable use it could of the site.

The claimant sought to criticise this approach by reference to *Samuel Smith Old Brewery (Tadcaster) v SSCLG* [2009] J.P.L. 1326 (at paragraph 21) and *R. v SSE, ex p. P.F. Ahern (London) Ltd* [1998] Env. L.R. 189 (at p.196). However, Lindblom LJ could not accept that argument. In his view, the officer did not misunderstand any principle of law relating to a fallback development. His advice to the members was sound.

[I would simply add the observation that a prior approval application is not a necessary pre-requisite to establishing a fall-back position, because planning permission is granted in any event by Article 3(1) of the GPDO. In granting prior approval an LPA is not even approving the permitted

development as such, but only those matters that specifically require their attention. On the other hand, a prior approval application would clearly be positive evidence of an intention to

develop, and would certainly put the fall-back position beyond doubt.

‘Planning gain’ advantages In this case, however, there was other evidence that entitled the LPA to conclude that there was **a realistic prospect that the PD rights would be exercised if planning permission was not granted for the alternative development that was now proposed, and so a fall-back position had clearly been established.**]

The remaining issue was the presumption in favour of “sustainable development”, as interpreted by paragraph 14 of the NPPF. The decision of the Court of Appeal in *Barwood Strategic Land LLP v East Staffordshire Borough Council* [2017] EWCA Civ 893 provides the answer (and supersedes all previous judgments on this issue). The “presumption in favour of sustainable development” did not apply to the proposal in this case, and the council’s officer did not advise the committee that it did. The instant case was clearly and materially different from *Barwood*, and the officer’s report had correctly advised on the application of the NPPF as a material consideration in the determination of this application.

The Court of Appeal unanimously upheld Garnham J’s judgment at first instance and dismissed the claimant’s appeal.

(*) Extracts below from one such appeal decision (full appeal decision at APPENDIX 1) relating to permission for prior approval barn conversions and the allowing of a new build dwelling in the alternative.

Appeal Decision

Site visit made on 21 December 2015

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: **10 February 2016**

Appeal Ref: APP/R3650/W/15/3133244

Garden Cottage Farm, Shillinglee Park Road, Chiddingfold, Godalming GU8 4TA

Decision

1. The appeal is allowed and planning permission is granted for the removal of existing agricultural buildings granted consent for conversion to 3 dwellings under PRA/2014/0004 and the erection of a single dwelling house at Garden Cottage Farm, Shillinglee Park Road, Chiddingfold, Godalming, GU8 4TA in accordance with the terms of the application, Ref WA/2015/1193, dated 11 June 2015, and the plans submitted with it, subject to the conditions set out in the attached schedule of conditions.

Preliminary matter

2. ***On 6 October 2014 the Council granted approval for the conversion of the existing agricultural buildings on the appeal site to 3 dwellings. The same agricultural buildings are the subject of the current appeal. As such, both parties are agreed that the prior approval represents a fall-back position which is a relevant material consideration within this appeal. Whilst there appears to be a dispute as to whether or not the approval has been implemented, the Council accepts that the approval is extant so this dispute is of no consequence. I accept that this is a material consideration which I shall take into account during my determination.***

Main Issues

3. *The main issues raised by this appeal are:*

- (i) whether the dwelling would be in an acceptable location;*
- (ii) the effect of the dwelling on the character and appearance of the surrounding area; and*
- (iii) the impact of the dwelling on the biodiversity of the area.*

Reasons

Location of proposed development

4. *The appeal site concerns an area of land with agricultural barns on it and with its own access from Shillinglee Park Road. The site is within a rural area, surrounded by woodland and open land, with a farmhouse and outbuildings directly south of the site. Given the location of the site, surrounded by open land and woodland and some distance from an existing town, village or other settlement, I have no doubt that the site is within the open countryside.*

6. *In light of the Council not having a 5 year supply of deliverable housing sites, I am required to give weight to the National Planning Policy Framework (the Framework); paragraph 49 of the Framework states that 'housing applications should be considered in the context of the presumption in favour of sustainable development' and 'relevant policies for the supply of housing should not be considered up-to-date if the local*

planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

7. Whilst, therefore, I find that the proposed development would be contrary to policy C2 in principle, I can afford limited weight to this policy in light of the Council not having a 5 year supply of deliverable housing sites.

8. Turning to the Framework, paragraph 55 promotes development within rural areas provided it will enhance or maintain the vitality of rural communities. The site is not close to an existing town, village or other settlement and therefore the development could not be considered to support services and facilities. I therefore find the proposal contrary to the Framework.

*9. Notwithstanding my findings above, there is an extant planning permission for 3 dwellings on the site in the same location as the appeal proposal **and this carries significant weight in my determination.** If the appeal proposal succeeds and the permission is implemented, the fallback position could not be implemented and the appeal proposal would result in one dwelling in an unacceptable location as against a fallback position whereby three dwellings could be built. There is nothing before me to suggest that the fallback position would not be implemented if this appeal fails.*

*10. Therefore, whilst the site is within an unacceptable location, **given the existence of a realistic fallback position, I conclude that it would not be appropriate to withhold planning permission for the appeal proposal on the basis of its location.***

Character and appearance

11. The site concerns an area of land which currently has agricultural barns on it and is accessed via a gate from Shillinglee Park Road. The three agricultural barns vary in size and respond to the change in levels on the site, the third barn is set on ground lower than the other two. The remainder of the site is a combination of hardstanding and natural grass.

15. The areas where the building could be read as a two storey building would be from within the site itself, and from the adjoining paddock and associated footpath. The two storey element would be seen against a backdrop of large mature trees, and in much longer distance views, alongside the existing two storey farmhouse. **Furthermore, the appellant has demonstrated that the scale and height of the proposal would not be dissimilar to the scale and height of the existing agricultural barns.**

16. **There are currently three barns on the site which occupy a large proportion of the site. The proposal would correspond closely to the footprint of two of the three barns; the third would be removed. In doing so, the proposal would reduce the footprint of the built development on the site, freeing up space for open space and landscaping. Consequently it is likely that more of the site would be in its natural state, corresponding more closely to its surroundings.**

19. **I have concluded that the design would be acceptable and would be readily assimilated into the rural setting. As such I conclude that it would not be harmful to the character and appearance of the area and would accord with the development plan objectives listed above and with national planning objectives designed to improve the quality of an area.**

21. **In occupying a similar footprint to the existing buildings, the appellant confirms that no digging into virgin ground would be necessary. I have no reason to disagree.**

22. **Given that the proposed building would occupy a similar position to the existing agricultural barn I have no reason to believe that the development would be an unreasonable distance to the trees to have a detrimental impact.**

Planning considerations

The proposed development in comparison to the dwellings fallback permission scores more favourably against both criterion. The proposal represents a sympathetic alternative development of a new build house in a situation, by remaining within the confines of the existing developed yard, where it would not intrude into areas where there is currently any greater undeveloped feel to the context.

Material considerations in favour:

- The realistic fallback position for residential development confirming the previously developed nature of the application site
- The high-quality design of the proposed development, which would be a significant improvement over the existing built form on the site and delivering an attractive residential development of traditional character suitable for the sites rural location
- The pro rata replacement of built footprint and reduction in concrete hardstanding ensuring a neutral / enhanced effect on the openness of the countryside
- Being away from the tree canopy so as not to impinge on root protection zones
- Visual improvements to the context and proposed street scene
- A real need for more market housing in the District
- More rationalised and attractive parking arrangement

The fact that as a result of the Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors [2017] EWCA Civ 141 (14 March 2017) judgement the site cannot be considered to be isolated.

Design context:

The proposed residential development designs have been derived with design cues taken from the surrounding area to create a balanced range of dwelling sizes both in terms of the built form and the plot size/amenity areas.

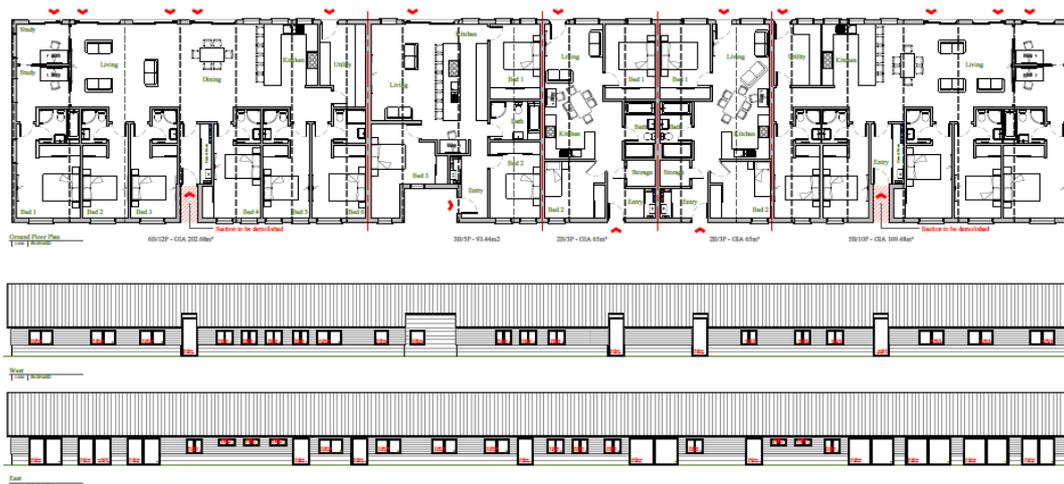
Design content

In-depth dialogue with the clients, the architect and myself has culminated in a proposed development that will enhance the built form together with improving the existing context whilst enabling further practical dwelling accommodation **which would optimise the efficient use of the land whilst enhancing the openness of the countryside.**



Above – Proposed new build dwellings plans i.e. in the alternative to conversion of the existing barn

Below - Extant permitted barn conversion plans



The residential redevelopment is being advanced to make the most efficient use of the land and will be laid out to provide separate amenity areas and respect privacy to adjoining properties. The redevelopment is proposed to improve and enhance the character of the area, together with providing enhance outlook and amenity, with a better built form that complements and respects the site rural environment whilst optimising a valuable previously developed site as advocated in the National Planning Policy Framework, for better quality residential purposes.

With regards to the proposal the demolition of the existing building and cessation of commercial agricultural activity **provides the opportunity to provide for better quality built form** that will enhance the character and appearance of the countryside in the locale of the application site. This along with the proposed landscaped context will ensure that it does not appear overbearing or dominant in views of the site from the surroundings.

There will be a material enhancement to the visual perception of the form of the buildings on the site from public vantage points. In this respect the proposals will at improve the character and appearance of the area.

Building form within the area is extremely varied. There is no fixed style within the areas around the site with properties taking many different forms and varied finishes. Materials used locally include facing brickwork, tile hanging and wooden boarding.

Principal Design Considerations

The development site would be served by two existing accesses with a third access proposed. The layout of the proposal has evolved around the retention and protection of landscape features within and adjacent to the site.

The mass of hard standing on the site and appearance of the existing buildings have a neutral to negative effect on the wider character of the area. Much of the site will be returned to soft landscaping with new tree and shrub planting throughout the proposed scheme. Due to the sensitive location of the site it is acknowledged that the finer details of this scheme will be very important and require further discussion. **The applicant is happy to work with the Council with regard to imposition of conditions in this regard.**

The residential development would benefit from a high-quality living environment, with private gardens, allocated parking, a range of nearby local amenities and good public transport links.

The design of the proposed new housing would be of a suitable style, mass and scale to fit in harmoniously with the surroundings. Materials and appearance would be in keeping with the site and other properties within the locality.

The development would be sustainable and would deliver economic development and higher living standards both now and in the future while protecting the surrounding environment and enhancing the local area.

Amount

Residential development is proposed that pro rata would occupy a materially similar floor area and volume in comparison with the existing agricultural barn with its extant prior approval permission.

The proposed residential development will remain sited within the existing historic developed yard area.

The proposal has been laid out to provide separate amenity areas and maintain privacy between the proposed properties. The proposed development will similarly be constructed in high quality materials sympathetic to surrounding residential properties.

Driveways shall be gravelled with permeable paving for patio's and walkways. Garden boundaries will be delineated with post and rail fences and/or native hedges as appropriate.

The form of the development enhances the openness of the countryside and absorbs the development within the landscape. **The external appearance has been designed to respect the local vernacular. The proposed residential development would maintain and enhance the rural character of the area.** The development will be moderate in scale. It will respect the form, rural character and local style of building of its immediate setting and would not materially harm the character of the countryside.

Scale, and Layout

The scale of the development has been designed to reflect the varied character of the area. The majority of buildings within the surrounding area are two storeys in height, this is reflected in the design of the proposal. The scale of the proposed buildings relate well with those in the surrounding area.

Separation has been provided from adjacent dwellings and boundaries to ensure that buildings do not have an overpowering or harmful impact on amenities. The massing of the scheme has been broken up with an effective placing of fenestration and stepping of the footprints creating visual balance and cohesiveness throughout the proposals.

The development has regard to and respects the scale, height and general proportions of other buildings within the surrounding area. A key feature of the area is the space which exists around the buildings within the area.

The neighbouring properties will not be affected by the proposed development. The proposed development will not cause overshadowing or overlooking. The proposed arrangement of accommodation and curtilage retains and offers high levels of privacy. Any anticipated associated use / enjoyment of land surrounding the building within the dwellings' proposed residential curtilage would not materially harm the character and amenities of the area and would not conflict with the openness of the countryside.

The NPPF advises that planning policies and decisions should aim to ensure that developments;

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;

- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping.

As illustrated in the application drawings the design and layout would provide building forms and styles taking references from the local vernacular. The form of the development enhances the openness of the countryside and absorbs the development within the landscape.

The proposed residential development will create an **attractive cohesive development** which will provide a positive contribution to the area. The design of the accommodation has been created to make the most efficient use of the site. The proposal will allow flexible accommodation and assist in the provision of an additional dwellings thereby reinforcing this sustainable rural community.

In addition to the redevelopment of the site the areas of concrete surrounding the buildings will be broken up to create garden areas to the proposed development. The breaking up of the expanses of concrete and their replacement with garden and permeable surfacing will assist with rainwater run-off.

The proposed development respects and works with the existing context so as to enhance the traditional character, setting and integrity of this rural site. The proposed arrangement of accommodation and curtilage retains and offers high levels of privacy.

Any anticipated associated use / enjoyment of land surrounding the building within the dwellings' proposed residential curtilages would not materially harm the character and amenities of the area and would not conflict with the openness of the countryside. In accordance with Local plan Planning and Crime Prevention policies the design, layout and use of buildings and spaces about and between buildings take account of the opportunities to reduce the incidence of crime.

The amount of hard surfacing within the development has been kept to a minimum, providing the footpaths and parking zones, with gardens within the site to be soft landscaped.

Density and mix of housing

The NPPF states that in order to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should plan for a mix of housing based on current and future demographic trends; identify the size, type,

tenure and range of housing that are required in particular locations, reflecting local demand.

The proposal compares very favourably against the main Local Plan policies against which the application is to be assessed.

Planning history and case law on fallback position:

Based on the extant permission referred to above a **fallback position** is engaged.

The Development Control Practice Manual emphasises the fallback position point by confirming that, ***“Previous planning permissions are important material considerations to be applied in any decision making process. There is, of course, an important distinction to be made between those permissions that are still capable of implementation, and those that have expired. In South Oxfordshire v SOS & Flaherty Bros 1981 an expired permission was referred to as a “relevant consideration”, but not a “vital material consideration” as the SOS had concluded. The term “vital material consideration” had been used in Spackman v SOS 1977 with regard to an extant permission”.***

Comment - The recent conversion permission **would** be implemented in the alternative; as such the permission under **MO/2015/0811/PNQ** represents an extant permission and for the purposes of this application, **‘a vitally material consideration’**.

Further extracts from the The Development Control Practice Manual state:

“6.351 Extant permissions

The existence of an extant planning permission relating to the site of a proposed development is a particularly important material consideration for two reasons. These are: a) natural justice – It is not fair administration to allow one thing and then to turn round and deny something similar, b) that the development for which permission has been given could be implemented should any later proposal be refused”.

Comment - There is a need to look at the proposal realistically and proportionately in respect of the context of the site. **As such there are material planning benefits arising from the proposal in contrast to the extant permission.**

Central to the proposal is that in comparison with the extant permissions, the proposed new build dwelling in the alternative would maintain the openness of the countryside. Whilst the circumstances are peculiar they are considered to represent the very special circumstances, in this instance, such that the proposal can be supported.

It is clear from planning case law that the weight that can be given to fallback position arguments **as significant material considerations** has notably increased in planning appeal reporting in the last couple of years, particularly where as in this scenario the proposed alternative development shares a common footprint with an extant permission.

The following case summary extract from the Development Control Practice Manual further emphasises the point we are making.

4.1481 **Fallback** of existing planning permission

The following cases illustrate the fall back implications of existing planning permissions.

- A replacement dwelling in an AONB was proposed and an existing small cottage was to be retained as garaging and stabling. The local authority argued that the impression would be that there would be two dwellings on the site which was contrary to severely restrictive policies. It was argued that two fallback positions provided by a previous planning permission were material considerations. An inspector noted that planning permission already existed for a replacement dwelling at the appeal site, which included a separate double garage on the site of the cottage. This was a material consideration giving strong support to the proposal as it provided two fallback positions. The first of these was that the replacement house could be erected, but not the double garage. Provided that the remainder of the proposal was carried out completely in accordance with the approved drawings the cottage could remain, there being no condition requiring its demolition. **The second position was that the previous permission could be implemented in full.** The appeal scheme was to be preferred to either of these two alternatives in terms of impact on AONB character, see South Shropshire 16/10/1997 DCS No [033-180-863](#).

The provision of new market and more affordable local housing will assist in addressing the Council's housing land supply requirements. The National Planning Policy Framework, indicates that Councils need to work "**to boost significantly the supply of housing**".

The proposed development will contribute to meeting the need for new homes in the Council's administrative area and this is a material consideration to be weighed against the other considerations for this application.

The proposed development will enable it to be better integrated into the rural setting of the site thereby improving the design relationship with existing residential dwellings.

It is advanced that the proposed development, together with the reduction in associated vehicular activity will have an enhanced and reduced impact on the openness of the countryside and the purpose of including land within it than the existing development.

It is acknowledged and welcomed that the Council's stance in respect of other recent redevelopment permissions within the District that the very special circumstances outlined within this statement would seem to be similarly acceptable in this regard.

General Housing Need.

In terms of Housing need it is clear that the proposed development will incrementally assist in reducing pressure for new Housing development on previously undeveloped land. The NPPF requires Councils to continue to identify a 5 year housing supply.

The additional residential development proposed, as well as improving the quality and range of existing accommodation, would help in a valuable way to provide housing that the Council needs to find. **This is considered to be an additional material consideration to which significant weight should be given in favour of permitting the proposed development.**

Use and Housing Need:

In terms of Housing need it is clear that the proposed development will incrementally assist in reducing pressure for new Housing development on previously undeveloped land. **The NPPF requires Councils to continue to identify a 5 year housing supply.**

The residential development proposed, as well as improving the quality and range of existing accommodation, would help in a valuable way to provide housing that the Council needs to find. **This is an additional material consideration to which significant weight should be given in favour of permitting the proposed development.**

Key policy considerations:

It is considered that the application will need to be assessed against the following policies. The proposed development suitably meets the requirements of each of the policies. The **traffic light highlighting** and bold type face throughout the Planning Statement emphasises the suitability of the proposal against the material planning considerations as part of the planning balance exercise.

In terms of the need for an overall planning balance, particularly given the multitude of applicable considerations in this instance, it is respectfully and forcefully made out that the proposed development suitably meets and creates positive outcomes against the requirements of each of the policies.

The NPPF promotes housing applications in the context of the presumption in favour of sustainable development.

National Planning Policy Framework (NPPF 2024)

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) **a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and**
- c) an environmental objective – **to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity,** using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The presumption in favour of sustainable development

11. Plans and decisions should apply a presumption in favour of sustainable development.

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 importance⁷ provides a strong 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing

well-designed places and providing affordable homes, individually or in combination.

COMMENT – It is accepted that the Council cannot show a 5 year housing land supply; as such the ‘tilted balance’ applies

Interim statement on Climate Change / Sustainable House design

Sustainability, Energy Efficiency and Renewable Energy

In accordance with Local plan policy relating to Sustainable Construction, Renewable Energy and Energy Conservation the proposed residential development will minimise energy use through its design, layout and orientation; maximise on-site recycling facilities and the re-use and recycling of materials used in construction and meet Level 4 of the Code for Sustainable Homes for housing / BREEAM 'Very Good' construction standards. The proposed development will include a 10% reduction in total carbon emissions through the on-site installation and implementation of decentralised and renewable or low-carbon energy sources.

The proposed design embraces as many climate neutral principals as are possible given the existing/proposed positions and orientations of the buildings. Renewable energy sources will be incorporated within the new dwelling.

A ground source heat pump system is being considered; the heat pump would use embodied energy within the earth to pre-heat the heating system. There will also be under-floor heating which is an efficient, low energy way of providing heating and combines well with ground source heat pumps.

Rain water Harvesting is being considered - Rainwater from the roofs will be collected and stored for use in the garden areas. Water consumption will also be further reduced with the installation of dual flush cisterns and aerated taps.

Additional sustainability features of the development will include:

- Low levels of heat loss through the fabric of the building as a result of high insulation levels and air tightness performance
- Low energy heating and hot water systems
- Low energy lighting
- Excellent access to public transport and amenities
- Use of durable materials of low environmental impact and long life.

Materials Specification - The “Green Housing” specification guide - The choice of materials is intended to accord, wherever possible, with the Green Guide to housing specification with the use of an overall summary rating of A for the

composition of the external walls, roof and glazing systems, etc in order to minimise environmental impact, the summary of the rating includes for longevity of material, recycled input, recycle ability, currently recycled and energy saved by recycling.

Insulation – The construction will be traditional brick and block with super-insulated blocks and high performance cavity wall insulation exceeding current Building Regulations standards. The roof structures will also be super-insulated in excess of current Building Regulations standards. It is intended to use natural insulation; Warmcell (re-cycled newspaper) or sheep's wool wherever possible.

Timber - All timber to be used is to be sourced from suppliers affiliated to certified schemes such as Forest Stewardship Council, Canadian Standards Association, Sustainable Forest Initiative etc.

Lighting - Use of compact fluorescent, low energy / LED lighting throughout the proposed development in particular within the circulation spaces with PIR detectors where appropriate to turn lights off automatically when not occupied.

Windows - The Windows will be installed with double glazed low E coated sealed units.

Access and parking:

The traffic generated will remain compatible with the environmental character of the area and can be accommodated adequately on the surrounding road network.

General Access Principles - The design should facilitate the use, access and mobility around the dwellings by all users including those with disabilities. The design should integrate with the existing road and footpath infrastructure to provide ease of movement within the local community infrastructure. The proposal should support convenient and safe travel for all users in a balanced manner. Adequate provision would be retained for access by emergency services.

Access to the dwellings will be via a flat path/driveway to the public highway and associated footpaths with disabled access being provided via the front or rear of the property. Where appropriate all principal entrances will be provided with a level access threshold to conform to Building Regulations Part M and will be well illuminated. Disabled users and older/less mobile users are amply catered for with the open-plan living areas and rear patio on what is essentially a level plot. Downstairs WC facilities will be provided for older people and/or those with disabilities.

The design features consistent floor levels to facilitate unhindered access and simple communal circulation areas to facilitate easy movement around the dwelling. The open-plan areas provide generous manoeuvrability for wheelchair users. The driveway to the rear of the dwelling is spacious with ample area for manoeuvring and parking adjacent to the dwelling. Adequate provision has been made for parking for occupants and visitors without detracting from the character of the immediate area. Wheelchair access comfortably exceeds LTH requirements. Internal doorway dimensions conform to or exceed LTH standards.

Landscaping:

Existing hedging to the wider boundaries of the site is to be retained and enhanced where possible.

The proposed development will offer the opportunity to enhance soft landscaping as an integral part of the design with a **traditional, simple curtilages** with appropriate native landscaping sympathetic to the surrounding area. New soft landscaping to delineate the proposed garden curtilages would be native and complement existing planting in the area.

With regards to amenity space, the proposed dwellings will be provided with a commensurate area of private curtilage to be delineated with post and rail fences and/or hedges as appropriate. Hard landscaping within the site has been kept to a minimum, in the form of suitable surfacing for footpaths and parking. The proposals will return the site back to its rural setting and the removal of vast areas of hard standing which currently exist on the site will make it more in keeping with its surroundings.

In accordance with Local plan policies relating to Landscape design of new developments particular care will be taken in the provision, use and design of spaces between buildings and that the hard and soft landscape design is suitable for the site and form of development.

Ecology considerations:

An ecological walkover survey has been undertaken which confirms:

Potential impacts of development –

No bats or evidence of bats was recorded.

The site is surrounded by an area of quality bat habitat although the immediate area has little to offer, I would therefore conclude that any development would not impede on local bats and measures could be put in place to make the new development more attractive to bats.

Mitigation

No mitigation is needed in this instance as the existing building does not offer much in the way of roosting opportunities for bats. But there is a great opportunity to increase the attractiveness of the new development to bats, with the inclusion of various means such as special bat bricks and tiles which allow bats to utilise various parts of the roof space and walls.

Any lighting around the new development should be of low lumens and downward facing so as not to impede on commuting and foraging bats.

When landscaping the site the inclusion of native trees and shrubs will increase the amount of available invertebrates on which bats feed. Also bat boxes could be installed on suitable trees if included in the landscaping

The applicant is happy to accept planning conditions that would enhance the habitat and ecological value / biodiversity of the site.

Flood Risk considerations:

From the Environment Agency Flood Map it appears that the site is located **outside** any flood zone or area potentially subject to flooding.

Infrastructure:

Adequate services and infrastructure already exist and public resources will not be required to improve services.

Conclusion:

In terms of the need for an overall planning balance, **particularly given the multitude of applicable considerations in this instance**, it is respectfully and forcefully made out that the proposed development suitably meets and creates positive outcomes against the requirements of each of the policies.

Central to the proposal is that in comparison with the extant permissions, the proposed new build dwellings in the alternative would maintain the openness of the countryside.

It is clear from planning case law that the weight that can be given to fallback position arguments **as significant material considerations** has notably increased in planning appeal reporting in the last couple of years, **particularly where as in this scenario the proposed alternative development shares a similar footprint with an extant permission.**

The proposed building **to be demolished and rebuilt, *within the existing developed yard area / over the existing built footprint, in the alternative to being converted*** is not readily visible from public vantage points being screened by the adjoining mature boundary trees and hedging.

The advantages to the current proposal are as follows:

Material considerations in favour:

- **The realistic fallback position for residential development confirming the previously developed nature of the application site**
- **The high quality design of the proposed development, which would be a significant improvement over the existing built form on the site and delivering an attractive residential development of traditional character suitable for the sites rural location**
- **The pro rata replacement of built footprint ensuring a neutral / enhanced effect on the openness of the countryside**
- **Being away from the tree canopy so as not to impinge on root protection zones**
- **Visual improvements to the context and proposed street scene**
- **A real need for more market housing in the District**
- **More rationalised and attractive parking arrangement**

The fact that as a result of the **Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors [2017] EWCA Civ 141 (14 March 2017)** judgement the site cannot be considered to be isolated.

The proposed development has been given **detailed consideration** so that it will enhance and reflect its location both in context, scale and design and will not have a detrimental effect on the area. The proposal, together with the other elements of the scheme, **amount to significant improvements.**

The improvement in amenity through the cessation of commercial activity would be considered a material consideration in favour of the proposed development.

The proposal is **appropriate rural development** and compares very favourably against the main National Planning Policy Framework policies against which the application is to be assessed.

The proposed residential development would enhance the existing context **together with having a neutral impact on the openness of the countryside and the purposes of including land in it.** The associated uses of land surrounding the proposed development would not materially harm the character and amenities of the area.

The proposed use and the form, bulk and general design of the proposed development is in keeping with its surroundings. All works will be carried out in a manner appropriate to the character of the setting and have no adverse impact on its surroundings; the proposal will retain and enhance the intrinsic features and architectural integrity of the existing context.

Design considerations that are often an after-thought in the development process, have been considered from the outset. The use of space within the site has been designed to provide as much soft landscaping and usable amenity as possible whilst ensuring appropriate levels of parking and vehicle turning are available. The footprint of the proposed scheme is less than the existing structure on site to be demolished. The development density is wholly appropriate to the site and the amount of buildings on the site would balance the distinct areas around the site.

The scale, appearance and massing of the buildings would reflect and respect the character of the area. The buildings have been designed to integrate different styles as is seen locally. A traditional palette would finish the buildings.

As the application demonstrates, the proposal has evolved through a thorough appreciation of local character and the objective of adopted planning policies and guidance to positively shape new development.

Thank you in advance of your balanced consideration of the proposed application.

Please maintain a dialogue with myself and the applicants if you have any questions, concerns or matters that require further elaboration.

APPENDIX 1

Appeal Decision

Site visit made on 21 December 2015

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: **10 February 2016**

Decision

1. *The appeal is allowed and planning permission is granted for the removal of existing agricultural buildings granted consent for conversion to 3 dwellings under PRA/2014/0004 and the erection of a single dwelling house at Garden Cottage Farm, Shillinglee Park Road, Chiddingfold, Godalming, GU8 4TA in accordance with the terms of the application, Ref WA/2015/1193, dated 11 June 2015, and the plans submitted with it, subject to the conditions set out in the attached schedule of conditions.*

Preliminary matter

2. ***On 6 October 2014 the Council granted approval for the conversion of the existing agricultural buildings on the appeal site to 3 dwellings. The same agricultural buildings are the subject of the current appeal. As such, both parties are agreed that the prior approval represents a fall-back position which is a relevant material consideration within this appeal. Whilst there appears to be a dispute as to whether or not the approval has been implemented, the Council accepts that the approval is extant so this dispute is of no consequence. I accept that this is a material consideration which I shall take into account during my determination.***

Main Issues

3. *The main issues raised by this appeal are:*

(i) whether the dwelling would be in an acceptable location;

- (ii) the effect of the dwelling on the character and appearance of the surrounding area; and*
- (iii) the impact of the dwelling on the biodiversity of the area.*

Reasons

Location of proposed development

4. The appeal site concerns an area of land with agricultural barns on it and with its own access from Shillinglee Park Road. The site is within a rural area, surrounded by woodland and open land, with a farmhouse and outbuildings directly south of the site. Given the location of the site, surrounded by open land and woodland and some distance from an existing town, village or other settlement, I have no doubt that the site is within the open countryside.

5. Policy C2 of the Waverley Borough Local Plan 2002 (the Plan) strictly controls development in the open countryside and away from existing settlements but permits development in such a location provided it meets the relevant policies of the Plan and the given criteria. Policy RD7 concerns the re-use and adaptation of buildings in rural areas and permits such development provided certain requirements are met. It is not directly relevant here given that the proposal would result in the removal of the rural buildings.

6. In light of the Council not having a 5 year supply of deliverable housing sites, I am required to give weight to the National Planning Policy Framework (the Framework); paragraph 49 of the Framework states that 'housing applications should be considered in the context of the presumption in favour of sustainable development' and 'relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

7. Whilst, therefore, I find that the proposed development would be contrary to policy C2 in principle, I can afford limited weight to this policy in light of the Council not having a 5 year supply of deliverable housing sites.

8. Turning to the Framework, paragraph 55 promotes development within rural areas provided it will enhance or maintain the vitality of rural communities. The site is not close to an existing town, village or other settlement and therefore the development could not be considered to support services and facilities. I therefore find the proposal contrary to the Framework.

*9. Notwithstanding my findings above, **there is an extant planning permission for 3 dwellings on the site in the same location as the appeal proposal and this carries significant weight in my***

determination. *If the appeal proposal succeeds and the permission is implemented, the fallback position could not be implemented and the appeal proposal would result in one dwelling in an unacceptable location as against a fallback position whereby three dwellings could be built. There is nothing before me to suggest that the fallback position would not be implemented if this appeal fails.*

10. Therefore, whilst the site is within an unacceptable location, **given the existence of a realistic fallback position, I conclude that it would not be appropriate to withhold planning permission for the appeal proposal on the basis of its location.**

Character and appearance

11. The site concerns an area of land which currently has agricultural barns on it and is accessed via a gate from Shillinglee Park Road. The three agricultural barns vary in size and respond to the change in levels on the site, the third barn is set on ground lower than the other two. The remainder of the site is a combination of hardstanding and natural grass.

12. The site has a rural character. Shillinglee Park Road supports mature trees and hedges and accessed off the road are a number of moderately scaled developments including individual domestic properties and small clusters of outbuildings, nestled within fields and woodland. The site adjoins ancient woodland, as well as a paddock and other outbuildings. The other outbuildings adjoin the appeal site but overlook the main farmhouse and its associated grounds, which are further south.

13. Policy C3 of the Plan, refers to Areas of Great Landscape Value (AGLV), which includes the appeal site This policy seeks to protect the distinctiveness of such areas. Policies D1 and D4 of the Plan follow in a similar vein; seeking to avoid development that would harm the visual character and distinctiveness of a locality and that would be inappropriate on matters such as design and scale.

14. The proposal would vary between one and two storeys in height. The building immediately opposite the entrance to the site would be single storey, corresponding to the single storey outbuildings nearby. In using the change in levels across the site, the two storey element of the proposal would not extend above the single storey building. In taking

advantage of the change in levels, much of the bulk and mass of the building would be concealed from outside the site. Consequently, when viewed from the entrance and from public footpaths within the adjacent woodland, the proposal would read as a single storey building. This would be in-keeping with the scale of the adjoining single storey outbuildings and would ensure that the proposal remained subservient to its surroundings.

15. The areas where the building could be read as a two storey building would be from within the site itself, and from the adjoining paddock and associated footpath. The two storey element would be seen against a backdrop of large mature trees, and in much longer distance views, alongside the existing two storey farmhouse. Furthermore, the appellant has demonstrated that the scale and height of the proposal would not be dissimilar to the scale and height of the existing agricultural barns.

16. There are currently three barns on the site which occupy a large proportion of the site. The proposal would correspond closely to the footprint of two of the three barns; the third would be removed. In doing so, the proposal would reduce the footprint of the built development on the site, freeing up space for open space and landscaping. Consequently it is likely that more of the site would be in its natural state, corresponding more closely to its surroundings.

17. With the exception of a glass link and a contemporary two storey element, the proposal would constitute larch clad and oak framed buildings. This would respond to the rural character of the site and its natural surroundings. The more contemporary elements of the building would be enclosed by the larch clad and oak framed buildings and therefore would be obscured from views around.

18. I have no doubt that the proposed development would change the character of the site; a residential use and the activities associated with it would create a more permanent use. The design of the proposal, however, would use the change in levels across the site to ensure that the proposal remained subservient to its surroundings. The design and scale of the buildings have been found to be in-keeping and the trees and mature planting would continue to give character to the local area, as would the open paddock. As such, I have no reason to consider that unreasonable harm would be caused to the character of the site or the surrounding area as an Area of Great Landscape Value.

19. I have concluded that the design would be acceptable and would be readily assimilated into the rural setting. As such I conclude that it would not be harmful to the character and appearance of the area and would accord with the development plan objectives listed above and with national planning

objectives designed to improve the quality of an area.

Biodiversity

20. Policy D4 of the Plan seeks development which has regard to existing features on site, including trees and policy D5 seeks to avoid any material harm to protected plants and their habitat. Currently the branches from the mature deciduous trees in the adjoining woodland overhang the existing agricultural barns. In occupying a similar height and footprint to the existing agricultural barns, it is likely that some lopping and topping of the trees would be necessary in order to carry out the site works. Indeed the appellant confirms that some crown lifting may be required. It would be possible to secure any planning permission with a condition to ensure that any works to the trees was carried out in a way that avoided damage to the trees. I do not consider that some lopping and topping of the trees, carried out in accordance with an agreed arboricultural method statement, would cause material harm to the trees or the ancient woodland overall.

21. In occupying a similar footprint to the existing buildings, the appellant confirms that no digging into virgin ground would be necessary. I have no reason to disagree. It is likely, however, that the roots to the trees extend beyond the woodland and into the site. The appellant notes that specialist piled foundations would be required given the proximity of the trees to the proposed development. It would be possible to secure any planning permission with a condition to ensure that the appropriate precautions are taken during construction and that appropriate foundations are built to ensure that long term damage is not caused to the tree roots and therefore the trees.

22. Given that the proposed building would occupy a similar position to the existing agricultural barn I have no reason to believe that the development would be an unreasonable distance to the trees to have a detrimental impact. Furthermore, with appropriate measures put in place to protect the trees and their roots during construction, I am satisfied that the proposal would not result in the loss of, or damage to, the trees. Nevertheless, in the absence of a detailed tree survey and detailed drawings showing the existing and proposed relationship between the buildings, the retaining wall and the trees, I consider that it would be necessary to secure any planning permission with a condition that requires a detailed survey of all relevant trees so that sufficient protection could be afforded to the trees, during and after construction.

23. On this basis I am confident that the proposal could be realised without causing material harm to the ancient woodland or resulting in the loss of trees and therefore I consider that the proposal would comply with policies D4, D5 and D7 of the Plan.

Conclusion

24. I have found that the proposed development would be in an unacceptable location, contrary to development plan and national policies which seek to restrict new residential development in the open countryside. Nevertheless, the extant permission would result in the introduction of three additional dwellings into the open countryside. **In light of this fall-back position, the location of the proposal is not sufficient reason to justify dismissal of the appeal. Furthermore, the proposal would be appropriate in design and scale and would not have a detrimental impact on the character of the site or its surroundings.** There would also be no loss of, or damage to, existing trees.

25. In all, in having regard to the fall-back position I find that the proposed development is acceptable. The appeal is allowed.

Conditions

26. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Policy Practice Guidance and the Town and Country Planning (Development Management Procedure) (England) Order 2015. As a result I have amended some of them for clarity and eliminated others to avoid duplication.

27. In addition to the standard time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans for the avoidance of doubt and in the interests of proper planning.

28. I have imposed a condition requiring the submission and approval of hard and soft landscape works, samples of materials and finished ground floor levels in order to safeguard the character and appearance of the proposed development and immediate area. For the same reasons I have also included a condition limiting alterations to the dwellinghouse or the construction of outbuildings unless previously approved by the local planning authority.

29. I attach a condition regarding the hours for demolition or construction to avoid noise and disturbance to the neighbour's at unreasonable times of the day or week. In the interests of protecting the existing trees and in the absence of a tree survey I have included a condition requiring a tree survey, as well as a condition seeking the submission and approval of an arboricultural method statement. To ensure that appropriate provisions are provided on the site for drainage and communications infrastructure, a

condition has been included accordingly, requiring the submission and approval of such details.

R Walmsley
INSPECTOR

CONDITIONS SCHEDULE

- 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 9998.L, EX01, EX02, existing and proposed site plan & building A02, A03, A04, A05, dated 10th June 2015 and proposed building presentation A01, A02, A03, A04, A05, A06, A07, dated 10th June 2015.*
- 3) *No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include boundary treatments; hard surfacing materials (including sub-base and depth of construction); planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species; plant supply sizes and proposed numbers/densities where appropriate and an implementation programme. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, in accordance with the agreed implementation programme. Any trees or plants which, within a period of 5 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.*
- 4) *Development shall not commence until samples 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. Development shall be carried out in accordance with the approved samples.*
- 5) *Development shall not take place until detailed plans and sections of the finished ground floor levels of the proposed building, above ordnance datum and in relation to existing ground levels across the site and relative to adjoining land, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.*
- 6) *Demolition or construction works shall take place only between 08.00-18.00 on Monday to Friday, 08.00-13.00 on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.*
- 7) *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), no enlargement of the dwellinghouse and no erection of outbuildings shall be constructed without the written permission of the Local Planning Authority.*
- 8) *No site clearance, preparatory work or development shall take place until a tree survey has been submitted to and approved by the local*

planning authority. The tree survey shall include (a) a plan showing the position of every tree on the site and on land adjacent to the site that could influence or be affected by the development, indicating which trees are to be removed;

(b) a schedule in relation to every tree identified, listing information as specified in paragraph 4.4.2.5 of British Standard BS 5837: trees in relation to design, demolition and construction - recommendations (or in an equivalent British Standard if replaced) and any proposed pruning, felling or other work in relation to every existing tree identified to be retained on the plan referred to; (c) details of any proposed alterations to existing ground levels and the position of any proposed excavation that might affect the root protection area, to include foundation design and retaining wall details; (d) all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837, or in an equivalent British Standard if replaced); and (e) areas of existing landscaping to be protected from construction operations and the method of protection. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

9) No site clearance, preparatory work or development shall take place until an arboricultural method statement (in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: trees in relation to design, demolition and construction - recommendations, or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The arboricultural method statement shall be carried out as approved.

10) No development shall commence until details of existing and proposed functional services above and below ground (eg drainage, power, communications cables, pipelines etc, indicating alignments, levels, access points and supports as relevant, 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.