[redacted]
Sent: 31 July 2025 12:23
To: East 2
[redacted]
Subject: Re: Proposed conditions - Planning Appeals APP/Z3825/W/25/3359667 & 3359671 - Site: Bayley Paddock, Mill Lane, Partridge Green RH13 8JU
Attachments: Appeal dec - water consumption conditions (APPD3125W223301266).pdf

Categories: Appeals

Dear Mr Devereux,

Notwithstanding the comments set out below, which build on my comments already made about the LPA proposed conditions, (See page 3, 4 & 5 of appellants' joint response to LPA statements dated 04 April 2025 - referred to below as RLPA), the LPA's proposed conditions relative to water neutrality arising from the Inspector's related requirements (See commentary on pages 2 & 3 of appellants' letter of 28 July 2025 - referred to below as RWN) and the conditions arising from the latest revised certificates regarding Great Crested Newts issued by NatureSpace Partnership (see related correspondence dated 29 July 2025 - referred to below as RGCN), I hereby confirm that I am content that if the Inspector considers any of the pre-commencement conditions 3, 4, 5, 6, 7, 8 and 9 as set out in your attachment are necessary to justify allowing either or both of the current appeals then they may be imposed on either decision letter as though I had agreed them.

The list of drawings in condition 2 for both appeals is correct.

Regarding the proposed pre-commencement conditions 3, 4, 5, 6, 7, 8 and 9, subject to the above proviso, I have the following comments (in italics) that have been drawn from comments already made in the RWN, RLPA & RGCN. Where the Inspector's condition number differs from the list of conditions proposed by the LPA, the LPA's number and source of the appellants' related comments is shown in brackets.

3 & 4 (RLPA 2 & 3). *These are not Schedule 1 or 2 EIA developments so at first sight it is not clear why conditions 2 & 3 are necessary.*

5 (RLPA 4) *Condition 4 is considered unnecessary in the light of the National advice regarding contamination. This notes that if contamination is present on a site then it should be on a list of contaminated land maintained by the Environmental Health Officer (EHO). This site is not on such a list and there is no evidence of contamination on the site. It would be sufficient to condition that if any contamination is found during the course of the development that it will be removed by licenced collection, if need be with any associated 'tickets' shown to the LPA as proof of such.*

6 (RLPA 5) Regarding condition 5, an Environmental Construction Plan has been submitted in connection with the NSP Great Crested Newt licences that shows, on drawing 0939.83/ECMP, the hatched areas which will be avoided if at all possible. This is considered to be a reasonable approach to construction controls. In any case, in view of the permitted development rights for temporary buildings and structures in connection with construction projects (Part 4 Class A of Schedule 2 of the GPDO) that apply to a development site or on land adjoining the site, the conditions is considered unnecessary and unreasonable because it seeks amongst other things to exert control outside the application site. If one plot is developed first it makes absolute sense to store building materials on the other plot that will be outside the development site and hence PD. Similarly, temporary storage of building materials might occur in an adjoining landowners property. If a nuisance is caused by building works the environmental health officer can act to remedy it.

7 (RLPA 6) Condition 6 must be discharged before the development can lawfully commence yet the wording requires various preliminary discharge details to be in place for the entirety of building works before building works commence or the condition is discharged. The law has it that the permission cannot be lawfully implemented until any pre-commencement conditions have been discharged in full yet the condition requires works to be carried out prior to commencement. It is considered this should not be a pre-commencement condition.

8 (RLPA 7) The matters sought to be controlled under condition 7 are governed under the Building Regulations that cannot be overridden by planning controls so appears unnecessary.

9 (RLPA 8) Condition 8 appears unreasonable. The appeal applications were submitted prior to the introduction of the requirement to demonstrate 10% BNG and are therefore exempt from having to demonstrate such. There will however be biodiversity enhancement arising from the proposed landscaping that can legitimately be controlled through condition 15. (See drawings 0939.83 & 84/08)

11, 12, 13 & 14 (RLP 9,11,12,14) In other respects, conditions 9, 11, 12 and 14 relate to water neutrality. It appears the distinction between installation of the water harvesting system that the LPA is content with and subsequent controls on the post occupation controls that will be exercised through separate legislation such as the

Private Water Supplies Regulations administered by the EHO is being blurred in these planning conditions. Overall, it is considered condition 9 would be sufficient in the light of the water neutrality statement included with the application that includes G3 calculations, the position and size of underground storage tanks to cater for 35 days drought and amounts of harvested rain etc.
(RWN)*There are various recommended conditions in the committee report relative to water neutrality that appear to have been included in the list of recommended conditions promoted by the LPA for these current appeals. Comment has already been made on the LPA's list of proposed conditions but it is worth noting that proposed condition 9 replicates condition 4 of DC/23/2037 that has since been discharged by the LPA. However, at its own request, the LPA has already been provided with the details required by proposed condition 11 so this condition is contested, as is proposed condition 12. In this latter respect, once built and occupied, each appeal dwelling will be subject to the controls administered by the Environmental Health Department of the Council through The Private Water Supplies (England) Regulations 2016. It cannot be the case that the requirements of a planning condition can usurp or undermine the controls exercised by the above Regulations. Regarding condition 14, the ability to secure Part G controls on appliance consumption rates of water is more properly exercised through the Building Regulations from which they emanate and which will be applied if there is a planning condition limiting water consumption per person to 110 litres per day.* (The attached appeal decision endorses the suitability of the condition, which is also justified to ensure G3 restrictions, which control the consumption rate of appliances, can be applied through the building Regulations)

15 (RLPA 13) *In relation to condition 13, details of the proposed hedgerows have been submitted, which can be enforced but in other respects it is considered occupiers will more likely maintain the gardens if such is to their choice.*

Although not proposed, it is considered vital that the conditions and informatives required by NSP in its two revised Certificates for Great Crested Newts dated 24 July 2025 regarding Plots 2 & 3 Bayley Paddock, as attached to the correspondence of 29 July 2025 to PINS, (RGCN) must be applied to any permission.

There are no objections to other recommended conditions.

Kind regards,

Simon Brett

Brett Incorporated Ltd. 18 Seal Road, PO20 0HW
(NOTE: This is a mailbox only - preferred contact route is via email)



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On Wed, Jul 30, 2025 at 6:16 PM East 2 [redacted] wrote:

Dear Mr Brett,

Town and Country Planning Act 1990

Appeals by Mr & Mrs Wayne Bayley, Mr & Mrs Wayne Bayley - Delcraven Ltd

Site Address: Bayley Paddock, Mill Lane, Partridge Green, West Sussex, RH13 8JU

LPA Refs: DC/24/0480 & DC/24/0481

Our Refs: APP/Z3825/W/25/3359667 & APP/Z3825/W/25/3359671

Without prejudice to the outcome of the appeals, the Inspector would like the appellant's comments on the wording of the conditions attached to this email. In particular please could the appellant confirm that the drawing numbers are correct.

In addition, in accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, if the Inspector is minded to grant planning permission subject to pre-commencement conditions they may only do so with the written agreement of the appellant to the terms of the conditions. The Inspector has in this case proposed that conditions 3, 4, 5, 6, 7, 8 and 9 be pre-commencement condition/s.

In terms of these conditions can the appellant please either:-

i. State why you do not agree to the imposition of the proposed pre- commencement condition; or

ii. Provide comments on the proposed condition; or

iii. Provide written confirmation that the proposed condition is acceptable.

In relation to the pre-commencement conditions if we do not receive a response within **10 working days** from the date of this email in accordance with Regulation 2(1)(b) of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 the appellant will be deemed to have given consent and the Inspector will be able to impose the proposed pre-commencement condition without your express approval. If you are not agreeable a the pre-commencement condition, it will be a matter for the Inspector to decide whether the condition in dispute needs to be a pre-commencement condition. However, if the pre-commencement condition is considered necessary to make the development acceptable in planning terms, planning permission cannot be granted without it and the appeal may be dismissed.

Regards

Planning Inspectorate

Neil Devereux (He/Him)

Appeals Case Officer, Team East 2

Planning Inspectorate

[redacted]

[redacted]

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The Planning Inspectorate

Appeal Decision

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2022

Appeal Ref: APP/D3125/W/22/3301266
31 Worcester Road, Chipping Norton, Oxfordshire OX7 5YF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Ben Ricketts against the decision of West Oxfordshire District Council.
- The application Ref 22/00583/FUL, dated 24 February 2022, was approved on 29 April 2022 and planning permission was granted subject to conditions.
- The development permitted is erection of a detached dwelling and garage together with formation of new access.
- The condition in dispute is No 4 which states that: "No dwelling hereby approved shall be occupied until the means to ensure a maximum water consumption of 110 litres use per person per day, in accordance with policy OS3, has been complied with for that dwelling and retained in perpetuity thereafter."
- The reason given for the condition is: "To improve the sustainability of the dwellings in accordance with policy OS3 of the West Oxfordshire Local Plan 2031."

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Due to the nature of the appeal, it was agreed with the main parties that a site visit was not required. My decision has therefore been determined on this basis.

Background and Main Issue

3. Planning permission has been granted for the erection of a detached dwelling at 31 Worcester Road. The appeal seeks permission to carry out the development without complying with condition 4 which requires the dwelling to not be occupied until the means to ensure a maximum water consumption of 110 litres use per person per day has been complied and then retained in perpetuity thereafter.

4. Therefore, the main issue is whether the condition is reasonable and necessary in the interests of maximising resource efficiency, most notably water.

Reasons

5. The National Planning Policy Framework 2021 identifies the prudent use of natural resources as a key element of achieving sustainable development. The appellant states that they would comply with the required mandatory national water efficiency standard set out by Building Regulations of 125 litres/person/day. Guidance set out in the Planning Practice Guidance[1] allows

[1] Paragraph: 014 Reference ID: 56-014-20150327

for local planning authorities to require new dwellings meet the tighter Building Regulations optional requirement of 110 litres/person/day, where there is a clear local need. Consequently, due to West Oxfordshire falling within an area of demonstrable 'water stress', there was evidence tested as part of the examination of the West Oxfordshire Local Plan 2031 (Local Plan) (adopted September 2018), which supported a policy to meet the optional Building Regulations requirement for water efficiency of 110 litres/person/day.

6. Accordingly, Policy OS3 was adopted as part of the Local Plan, of which one of the criteria is to maximise resource efficiency, including water. It states that all new residential development will be expected to achieve the optional Building Regulations requirement for water efficiency of 110 litres/person/day. As the permitted scheme granted permission for a new residential unit, a condition for the development to provide the means to ensure a maximum water consumption of 110 litres/person/day was achieved was consequently attached.

7. The condition does not place a restriction on actual levels of water use. It simply ensures that future occupiers are provided with the means to reduce their water usage to a maximum of 110 litres/person/day. As such the condition is enforceable. A lower water consumption would be achievable through improved water efficient fixtures and appliances, which are commonly met by development.

8. The appellant, in their Grounds of Appeal, uses the example of a small bath which may have a capacity of 150 litres. They state that when full it would exceed the daily threshold of 110 litres and a person would then have no water available for drinking or washing until the next day. This however misinterprets the objective of the condition and Policy OS3, to ensure that the means to reduce water usage are available, not to control actual water use. In any event, people rarely fill a bath to maximum capacity, and a range of other options are available to achieve water efficiency.

9. Given the above, I conclude that the disputed condition is both reasonable and necessary in the interests of maximising resource efficiency, most notably water. There is no justification for setting aside the requirements of the adopted policy in these circumstances. I therefore dismiss the appeal.

Laura Cuthbert

INSPECTOR