

ITEM NO: 08

Application No.
08

Ward:
Winkfield And Cranbourne

Date Registered:
23 September 2019

Target Decision Date:
18 November 2019

19/00817/FUL

Site Address:

**Kings Chase Winkfield Lane Winkfield Windsor
Berkshire SL4 4QU**

Proposal:

Erection of detached garage and swimming pool.

Applicant:

Mr & Mrs M Barney

Agent:

Mr Michael Pagliaroli

Case Officer:

Paul Corbett, 01344 352000

development.control@bracknell-forest.gov.uk

Site Location Plan (for identification purposes only, not to scale)



1. SUMMARY

1.1 The proposal comprises an alternative design for a detached garage to be erected to the front of the site and an open-air swimming pool to the rear of the site known as 'Kings Chase' (formerly The Elms) which is located within the Green Belt.

1.2 The Planning Committee on 18 July 2019 considered and approved the demolition of the existing bungalow on the site for a larger chalet style bungalow and cycle store. This included conditions removing all permitted development rights to ensure the Council could control any further development on the site.

1.3 The proposed garage (not built) and cycle store already have consent and therefore the only new development is that of the proposed open-air swimming pool to the rear of the site.

1.4 It is considered that the alternative design for the garage is acceptable as it results in a reduction in what could lawfully be built and the open-air swimming pool to the rear of the site is acceptable as it would be largely subterranean in nature therefore preserving the openness of the Green Belt.

RECOMMENDATION

Approve planning permission for the reasons set out in Section 11 of this report.

2. REASON FOR REPORTING APPLICATION TO COMMITTEE

2.1 The application has been reported to the Planning Committee as more than 5 objections have been received.

3. PLANNING STATUS AND SITE DESCRIPTION

PLANNING STATUS

Land Outside Settlement – Green Belt

Character Area Assessments SPD

SSSI (Chawridge Bourne) Outer 500m buffer

3.1 The site is located approximately 8km north of Bracknell Town Centre on the south side of Winkfield Lane. The site covers approximately 2 hectares, although not all of this area is considered to be residential curtilage, and contains a small single bungalow formerly known as The Elms.

3.2 The bungalow sits back from the highway (Winkfield Lane) by approximately 25m and is located between a number of residential properties with 1-6 Florence Cottages to the north and a large detached property to the south known as The Berkeleys.

3.3 Behind the bungalow lie a number of greenhouses and an orchard to the rear of Florence Cottages and several farm buildings positioned to the far end of the site, one of which has now been converted to a dwelling under prior approval reference 15/00413/PAA.

4. RELEVANT SITE HISTORY

4.1 The following are relevant to the application site:

Ref. No: 2479 | Status: Approval

Outline application for dwelling house.

Ref. No: 2598 | Status: Approval
Application for bungalow or small holding.

Ref. No: 2701 | Status: Permitted Development
Application for agricultural building. (Planning consent states development is permitted development).

Ref. No: 15/00413/PAA | Status: Prior Approval COU Granted Agric to C3
Application for prior approval change of use of existing agricultural building to use as a single dwellinghouse (C3).

Ref. No: 15/01057/CLPUD | Status: Approval
Application for a certificate of lawfulness for the proposed erection of a detached garage.

Ref. No: 15/01152/FUL | Status: Approval
Erection of 2no. timber framed agricultural buildings following the demolition of 2no. existing agricultural buildings.

Ref. No: 17/00043/LDC | Status: Approval
The extensions to the existing dwellinghouse comprising ground works and foundations were commenced in March 2015 in accordance with the provisions of the Town and Country Planning (General Permitted Development) Order 1995. The continuation of these works in accordance with the submitted plans would be lawful.

Ref. No: 18/00854/FUL | Status: Refusal
Erection of a two storey detached dwelling following demolition of existing bungalow

Ref. No: 19/00417/FUL | Status: Approval
Erection of 4 bedroom detached bungalow following demolition of existing bungalow.

Ref. No: 19/00689/NMA | Status: Non Material Amendment Agreed.
Non Material Amendment comprising changes to the internal layout, window and door opening positions relative to condition 2 (approved drawings) of planning permission 19/00417/FUL.

5. THE PROPOSAL

5.1 The application is for the erection of detached garage and swimming pool.

6. REPRESENTATIONS RECEIVED

Winkfield Parish Council:

6.1 No objection to this application, provided that the application complies with all applicable Green Belt legislation.

Other representations:

6.2 6 letters of objection were received and raise the following concerns

- The proposal is an over development of the site.
- The proposal is out of character and scale to the area
- The proposal would extend beyond the residential curtilage
- The proposed garage would be very close to 1 Florence Cottages

The points of concern are addressed in the following sections of the report.

7. SUMMARY OF CONSULTATION RESPONSES

Highways Officer

7.1 Recommends approval.

8. MAIN POLICIES AND OTHER DOCUMENTS RELEVANT TO THE DECISION

8.1 The primary planning policies and associated guidance applying to this site are:-

	Development Plan	NPPF
General policies	CP1 of SALP, CS1 & CS2 of CSDPD	Not fully consistent Consistent
Green Belt	CS9 of CSDPD, Saved policy GB1 of BFBLP	Not fully consistent
Character & Design	CS7 of CSDPD, Saved policy EN20 of BFBLP	Consistent
Trees & Landscaping	CS7 of CSDPD, Saved policy EN1 of BFBLP	Consistent
Supplementary Planning Documents (SPD)		
Parking standards SPD		
Design SPD		
Character Area Assessments SPD - Northern Villages Area E, Winkfield Street/Maidens Green).		
Other publications		
National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG)		
Bracknell Forest Community Infrastructure Levy Charging Schedule (2015)		

9. PLANNING CONSIDERATIONS

9.1 The key issues for consideration are:-

- i. Principle of development
- ii. Impact on character and appearance of the area
- iii. Impact on residential amenity
- iv. Transport implications
- v. Landscape and Biodiversity Implications
- vi. Community Infrastructure Levy (CIL)

i. Principle of development

9.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise, which is supported by the NPPF. This is also reflected in Policy CP1 of the Borough Council's Site Allocations Local Plan (SALP), which sets out that a positive approach to considering development proposals which reflects the presumption in favour of sustainable development as set out in the NPPF should be taken, and that planning applications that accord with the development plan for Bracknell Forest should be approved without delay, unless material considerations indicate otherwise. This is in conformity with the NPPF.

9.3 The application site is located outside the defined settlement and within the Green Belt as designated by the Bracknell Forest Borough Policies Map. Therefore the Development Plan Policies considered applicable to this site are the CS DPD Policy CS9 which relates to land outside settlements, BFBLP Saved Policy GB1 which refers to avoiding new buildings in the Green Belt and both are considered consistent with the National Planning Policy Framework (NPPF).

9.4 The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

9.5 NPPF para 143 sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

9.6 NPPF para 144 sets out that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Garage Proposal

9.7 NPPF para 145 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt and the current proposal for a new building forming a new garage on site would not be acceptable in principle as one does not currently exist.

Swimming Pool Proposal

9.8 The proposed open-air swimming pool would ordinarily be considered to be permitted development under the General Permitted Development Order, however permitted development rights were removed under planning permission 19/00417/FUL for the replacement dwelling to safeguard the site from overdevelopment in the Green Belt.

9.9 Swimming pools appear to be a common feature within the area and the pool would remain incidental to the use of the host dwelling and open-air without any form of structure covering the pool itself and it would be largely subterranean in nature. It is therefore considered to preserve the openness of the Green Belt and as such would not warrant a reason for refusal.

Cycle Store

9.10 The proposed cycle store (shed) located to the rear of the site was previously approved under planning permission 19/00417/FUL for the replacement dwelling and therefore does not fall to be considered as part of this application.

Other material considerations

9.11 Paragraphs 143 and 144 of the NPPF indicate that whilst inappropriate development is by definition harmful to the Green Belt, Very Special Circumstances (VSC) may exist in some cases so that the harm by reason of inappropriateness and any other harm can be clearly outweighed by other considerations. Appeal Inspectors have given weight to other material considerations that have amounted to VSC such as Lawful Development Certificates which exist for this site and are of particularly relevance in assessing this proposal.

Garage proposal

9.12 Lawful Development Certificate reference 15/01057/CLPUD granted on 22 January 2016 confirmed that the proposal to construct a 4 bay garage 12.11m (length) x 5.58m (width) x 3.90m (height) with attached log store on land between the residential bungalow known as The Elms and Winkfield Lane was permitted development as it was not forward of the principal elevation. The LPA is satisfied that the garage foundations were installed on 15th October 2015. Whilst only the wall foundations exist to date, the applicant could lawfully continue to build the garage through to completion. Therefore this remains the fallback position for the applicant.

9.13 The current proposal is to build an alternatively designed garage which is more traditional in design and appearance, enclosed on all sides with garage doors. This differs from that originally planned which comprised an open-sided barn style garage.

9.14 The notable difference is the reduction in length of the building from 12.11m to 9.85m to form an enclosed traditional garage from that of an open barn style design with a reduction of 1 parking space to 3. See Figure 1 below for a more detailed analysis.

Figure 1: Existing vs Proposed: Garage

Extant permission: garage (broken outline)	Proposed garage (solid outline)
Floorspace = 73.4 m ²	Floorspace = 54.96 m ²
Volume = 199.2 m ³	Volume = 200.55 m ³
Height = 3.90m	Height = 3.89m
Length = 12.11m	Length = 9.85m
Depth = 5.58m	Depth = 5.58m



9.15 Therefore weight has to be afforded to the above-mentioned Lawful Development Certificate 15/01057/CLPUD granted on 22 January 2016 for the 4 bay garage which is referred to as the 'applicant's fallback position' in assessing this proposal. This is considered to form very special circumstances which need to be taken into account in weighing the harm already identified. The principle of such a fallback position comprising very special circumstances in such cases has been established in previous high court appeal decisions where weight has been afforded to a new development which would result in an improved design that would not have a greater impact than that which could be lawfully constructed.

9.16 The figures and illustrations clearly show that the applicant's current proposal for the garage would not result in an additional increase in floor area, height, mass or bulk over that which could be lawfully constructed under Lawful Development Certificate 15/01057/CLPUD. In fact there will be a reduction in the length, floorspace and the volume of the building would

remain the same. Therefore, in this respect it is concluded that the new garage both in scale and location would counter balance the harm previously identified.

ii. Impact on character and appearance of area

9.17 Saved BFBLP Policy EN20 and CSDPD Policy CS7 emphasise the importance of safeguarding the appearance and character of the area. These Development Plan Policies are considered to be consistent with the NPPF.

9.18 The site is also affected by the Character Area Assessments SPD (Area E – Winkfield Street/Maidens Green) as the whole of the site falls within the study area. It acknowledges the loose linear characteristic of the settlement form and seeks to protect the setting from intrusive large scale development and advises any redevelopment should respect the local settlement form and layout and preserve the vegetation pattern.

9.19 The redesigned garage measures 9.85m in length (previously 12.11m), 5.58m in depth (previously 5.58m) and 3.89m in height (previously 3.9m) and setback from the front boundary by 6.7m (previously 4.6m) with a generous intervening gap of 11.4m between the garage and house (see Figure 2 below).

Figure 2: Site Layout: Garage (bold outline represents the previously approved garage)

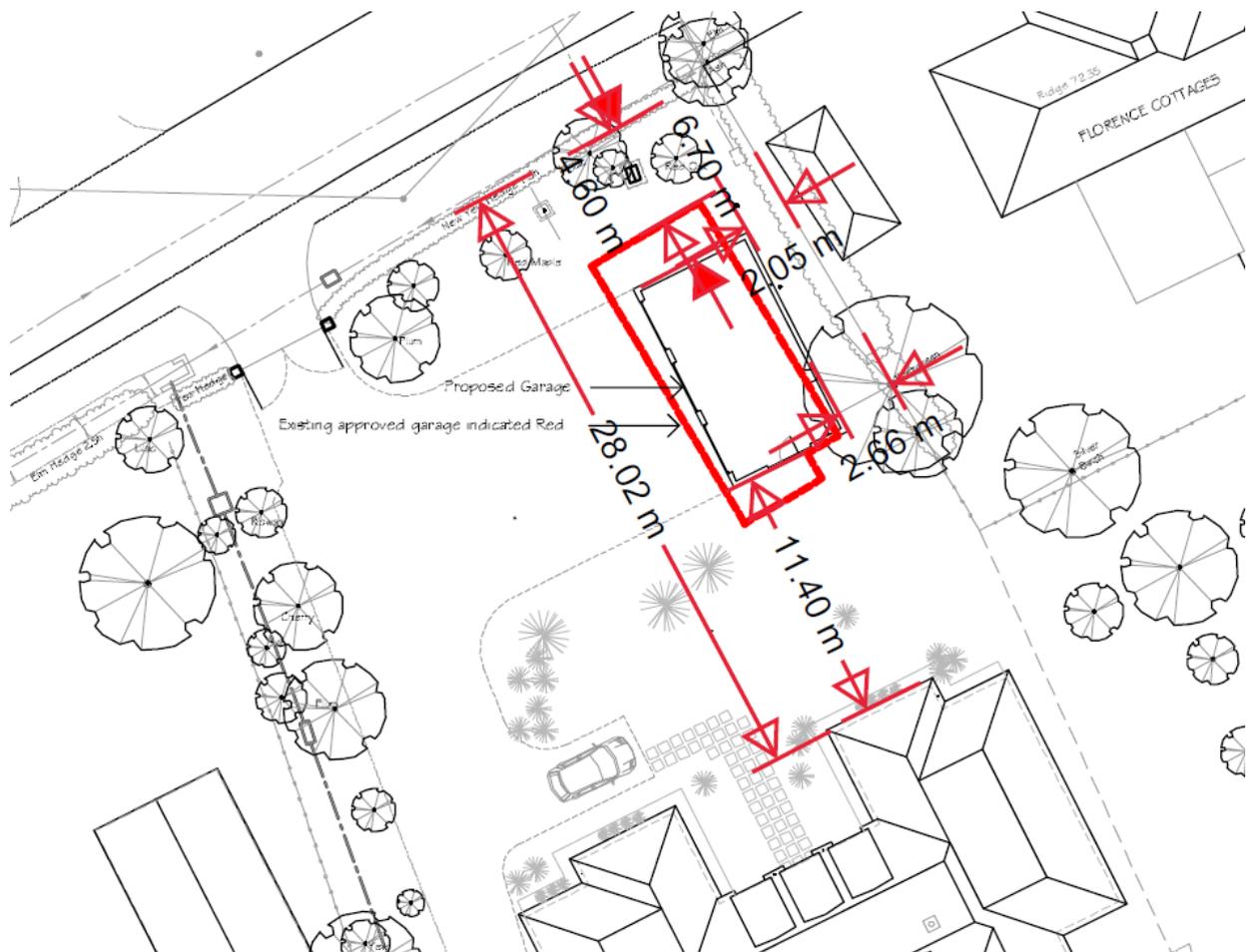
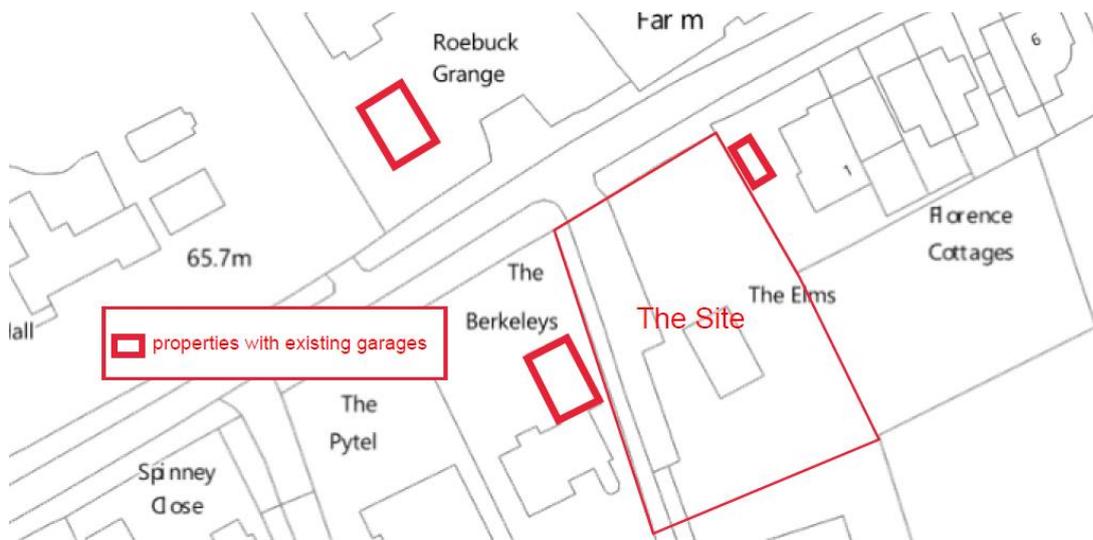


Figure 3: Existing garages in the area (bold outline)



9.20 The above illustration also shows that garages to the front of dwellings is a relatively common feature within the immediate vicinity.

9.21 There is local concern that the proposal and associated residential curtilage is greater than that of the original residential curtilage associated with the existing bungalow. This matter was addressed under the recent planning permission application reference 19/00417/FUL and the Council is satisfied that this proposal does not go beyond the defined residential curtilage that was lawfully defined under Lawful Development Certificates 17/00043/LDC and 15/01057/CLPUD. The applicant has confirmed that the residential curtilage will be defined on the ground by 1.2m high iron parkland fencing to rear and side of the site.

Figure 4: Residential curtilage (hatched)



9.22 Given the applicant's fallback position the current proposal is not considered to result in a development that would adversely impact upon the character and appearance of the area to a greater extent than that which could be lawfully constructed. The proposals are therefore considered to comply with Policy EN20 of the BFBLP and Policy CS7 of the CSDPD and the NPPF.

Swimming Pool Proposal

9.23 The proposed open-air swimming pool would ordinarily be considered to be permitted development under the General Permitted Development Order. However, permitted development rights were removed under planning permission 19/00417/FUL for the replacement dwelling to safeguard the site from uncontrolled additional development that could occur and potentially harm the Green Belt setting.

9.24 Swimming pools appear to be a common feature within the area and the pool would remain incidental to the use of the host dwelling and would be open-air without any form of structure covering the pool itself. It would also be largely subterranean in nature. In light of these factors the proposed pool is considered to preserve the openness of the Green Belt.

9.25 The proposed swimming pool would be located immediately to the rear of the dwelling. Concerns were raised that it would occupy quite a large proportion of the rear garden area and place additional pressure to extend the garden further back beyond what is defined as the lawful residential curtilage. However, when looked at holistically the overall ratio of incidental amenity land around the host dwelling is considered proportionate and as such would not necessarily be a cause for concern. Furthermore, the extent of the rear boundary is to be physically defined on the ground by fencing that adheres to what is lawfully defined as residential curtilage.

9.26 The proposed open-air swimming pool is therefore considered to comply with Policies GB1 and EN20 of the BFBLP and Policy CS7 of the CSDPD and the NPPF.

iii. Residential amenity

9.27 BFBLP 'Saved' Policy EN20 refers to the need to not adversely affect the amenity of the surrounding properties and adjoining areas. BFBLP 'Saved' Policy EN20 and CSDPD Policy CS7, require the development to be sympathetic to the visual amenity of neighbouring properties through its design implications. These requirements are considered to be consistent with the general design principles in the NPPF.

9.28 It is acknowledged that the proposed garage would be slightly closer to the common boundary with 1 Florence Cottages, however this still maintains an offset from this boundary of between 2m and 2.66m.

9.29 It is therefore considered that this proposal would not adversely impact upon the residential amenity of the occupiers of residences bordering this site. As such the proposal is considered to comply with Bracknell Forest Local Plan Policy EN20 and the NPPF.

iv. Transport implications

9.30 This replacement dwelling would use an existing access off Winkfield Lane, which is subject to a 30mph speed limit; and continued use of this existing access would be acceptable.

9.31 The applicant can lawfully complete the construction of a 4 bay garage which commenced on 15th October 2015 and could provide the requirement of 3 onsite car parking spaces

required for a 4 bedroomed dwelling as well as cycle storage in accordance with the Council's parking standards. However, the applicant has chosen to redesign the garage and reduce its scale to better relate in visual terms with their recent approval for a replacement chalet bungalow on the site.

9.32 The proposed garage does not adhere to the internal measurements set out in the Council Parking Standards and therefore cannot be counted towards the parking requirement. However, there is sufficient parking provision to the front of the garage building as well as adequate on site turning for the proposed dwelling.

9.33 Vehicular access is shown to be retained to the rear of the site and would continue to provide access for the dwelling at the back of the site which has been implemented under prior approval 15/00413/PAA for a change of use of an existing agricultural building to use as a single dwellinghouse.

9.34 The Highway Authority has no objection and recommends that this planning application be approved.

9.35 This proposal is considered to accord with Saved Policies M4 and M9 of the BFBLP, Policy CS23 of the CSDPD and the NPPF in respect of highway related matters

v. Landscape and Biodiversity Implications

9.36 CSDPD Policy CS1 seeks to protect and enhance biodiversity and CS7 seeks to enhance and promote biodiversity. These policies are considered to be consistent with the NPPF which states that planning should contribute to "minimising impacts on biodiversity and providing net gains in biodiversity" contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.37 This application does not give rise to any landscape or biodiversity implications that would conflict with the previous application (19/00417/FUL) which secured ecological measures contained within the Peach Ecology Great Crested Newt Mitigation Plan dated May 2019 and a scheme depicting hard and soft landscaping, and no external lighting. The Biodiversity Officer recommends that The Great Crested Newt Mitigation Plan is secured by condition as this development could be implemented independently of the replacement dwelling.

9.38 Subject to conditions, the proposal is considered to comply with BFBLP Policies EN1, EN20 and CSDPD policies CS1 and CS7 in respect of landscape and biodiversity implications

vi. Community infrastructure levy (CIL)

9.39 Bracknell Forest Council commenced charging for its Community Infrastructure Levy (CIL) on 6th April 2015. CIL applies to new builds including those that involve the creation of additional dwellings.

9.40 CIL is applied as a charge on each square metre of new development. The amount payable varies depending on the location of the development within the borough and the type of development. The charging schedule states how much CIL will be charged (in pounds per square metre of net additional floorspace) based on the development type and location within the borough.

9.41 The proposal is not considered to be CIL liable.

10. CONCLUSIONS

10.1 This proposal is considered to be contrary in principle to Green Belt policy when assessed against the NPPF and policies GB1 of the BFBLP and CS9 of the CSDPD. However, other material considerations, namely the fallback position, comprise 'very special circumstances' which are considered to counterbalance the initial harm identified so that planning permission can be granted for this development.

11. RECOMMENDATION

APPROVE the application subject to the following conditions: -

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

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out only in accordance with the following approved plans and other submitted details received by the Local Planning Authority.

990-7-LP01 Rev A – Site Location Plan (Residential Curtilage) – LPA Received 16.10.19

990-7-LP01 Rev A – Proposed Site Layout Plan – LPA Received 28.11.19

990-7-NG01 Rev A – Proposed Garage Plan and Elevations – LPA Received 28.11.19

Great Crested Newt Mitigation Plan dated 6 May 2019

REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

03. No structure hereby permitted shall be built above existing ground level 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. The submitted samples shall include details of brickwork and roof tiles including hard surfaced areas. The development shall be carried out in accordance with the approved details.

REASON: In the interests of the visual amenities of the area.

[Relevant Policies: BFBLP EN20, Core Strategy DPD CS7]

04. 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, addition, improvement or other alteration permitted by Classes A, B, C, D and E of Part 1 of the Second Schedule of the 2015 Order shall be carried out to the development hereby permitted.

REASON: The site is located within the Metropolitan Green Belt where strict controls over the form, scale and nature of development are required to maintain the openness of the Green Belt.

[Relevant Policies: BFBLP GB1, Core Strategy DPD CS9]

05. No part of the development hereby permitted shall be begun until details showing the finished floor level and ridge heights of the garage building in relation to (i) a fixed datum point in the surrounding area and (ii) the finished floor levels and ridge heights of any adjacent buildings 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.

REASON: In the interests of the character of the area

[Relevant Policies: BFBLP EN20, Core Strategy DPD CS7]

06. The development hereby permitted shall not be occupied until the associated vehicle parking spaces and turning area have been provided and surfaced in accordance with the

approved drawing. The parking spaces and turning area shall thereafter be kept available for parking and turning at all times.

REASON: To ensure that the development is provided with adequate onsite parking and turning in the interests of highway safety

[Relevant Policies: BFBLP M9, Core Strategy DPD CS23]

07. No trees, shrubs or hedgerows shall be removed during the main bird-nesting period of 1st March to 31st August inclusive unless in accordance with a scheme to minimise the impact on nesting birds which has been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of nature conservation

[Relevant Plans and Policies: BFBLP EN3, Core Strategy DPD CS1, CS7]

08. The development hereby permitted shall not be begun until the approved scheme of boundary treatment as shown on the approved drawing has been implemented in full.

REASON: To ensure that the residential curtilage that was lawfully defined under Lawful Development Certificates 17/00043/LDC and 15/01057/CLPUD is easily distinguishable on the ground and continues to safeguard the Green Belt setting.

[Relevant Plans and Policies: BFBLP GB1, Core Strategy DPD CS9]

09. The areas shown for soft landscaping purposes on the approved plans shall thereafter be retained as such and shall not be used for any other purpose. If within a 5 year period of the completion of the development any soft landscaping that is removed, uprooted, is destroyed or dies shall be replaced by plants of the same species and size as that originally planted in the same place.

REASON: In the interests of good landscape design and the visual amenity of the area.

[Relevant Policies: BFBLP EN2 and EN20, CSDPD CS7]

10. The development hereby permitted shall be carried out in accordance with the mitigation measures specified in the approved Great Crested Newt Mitigation Plan dated 6 May 2019, which shall thereafter be retained in accordance with the approved details. Within three months of occupation of the development an ecological site inspection report shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of nature conservation

[Relevant Plans and Policies: Core Strategy DPD CS1, CS7]

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that order), no external lighting shall be installed on the site or affixed to any buildings on the site except in accordance with details set out in a lighting design strategy for biodiversity that has first been submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

REASON: In the interests of nature conservation

[Relevant Plans and Policies: CSDPD CS1, CS7]

Informative(s)

01. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the applicant, acceptable amendments to the proposal to address those concerns. The proposal has been assessed against all relevant material considerations, including planning policies and any representations that may have been received. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

02. Compliance with conditions:

(i) Details will be required before development commences in respect of the following conditions: 3 (Materials), 5 (Levels),

(ii) Details will be required before the development is brought into use in respect of the following conditions, 10 (Ecological site inspection report)

(iii) No details are required in respect of the following conditions but will need to be complied with: 1 (time), 2 (Approved details), 4 (PD Restriction), 6 (Vehicle parking), 7 (Site Clearance – bird nesting season), 8 (boundary treatment), 9 (Landscape retention), & 11 (External lighting).