

Town and Country Planning Act 1990

Section 78 Planning Appeal

Appeal By:	Mr Mark Groves
Appeal Site:	Coach Road Farm Cut Lane Kirkby Knowsley L33 3AJ
Appeal Re:	Change of use and extensions (including raising of roof height) of former Dutch hay barn to 1 no. dwelling, conversion of former piggery to ancillary home office, means of access and external landscaping works
Knowsley Council Ref:	24/00342/FUL

Appellant's Statement of Case

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1.0 INTRODUCTION

1.1 Planning Application and Reasons for Refusal

- 1.1.1 This Appeal is made by Mr. Mark Groves (the Appellant) following Knowsley Council's (the LPA) decision to refuse planning permission (ref 24/00342/FUL) to allow the change of use and conversion of a former hay barn to 1 no. dwelling, conversion of former piggery to ancillary home office / domestic accommodation and means of access and external landscaping works at Coach Road Farm, Cut Lane, Kirkby, L33 3AJ.
- 1.1.2 The Appeal application follows a previous application for the site, (ref 23/01833FUL), which was refused 5 months earlier for the same reasons. The Appellant had hoped to work proactively with the LPA to overcome the refusal reasons, or at least minimise the matters that would form a subsequent Appeal.
- 1.1.3 The Appeal site comprises a vacant hay barn, piggery building and curtilage. The wider site comprises a former farmyard complex and includes the original farmhouse, a stone barn recently granted approval for conversion to a dwelling and other structures connected to the former farm use.
- 1.1.4 The Appeal application was refused on 30th August 2024 under delegated powers for the following reasons:
1. *The development is inappropriate development in the Green Belt as the building is not of permanent and substantial construction and the development would lead to a greater impact on the openness of the Green Belt. No very special circumstances have been demonstrated, in support of the proposal. Therefore, the development is contrary to Local Plan Core Strategy Policy CS5, Unitary Development Plan Policy G6 and National Planning Policy Framework paragraphs 152 to 155.*
 2. *The design of the development is unattractive, lacks harmony, symmetry and consistency and is incongruous to the surrounding built development, causing significant harm to the character of the area. The development is therefore contrary to Local Plan Core Strategy Policies CS17 and CS19, the Design Quality in New Development and New Residential Development Supplementary Planning Documents, and National Planning Policy Framework paragraph 130 and 139.*
 3. *The development, would fail to provide adequate privacy for future occupiers and neighbours, resulting in significant harm to their living conditions and would be contrary to Local Plan Core Strategy Policy CS19 and National Planning Policy Framework paragraph 130.*

4. *The application has failed to demonstrate that the ecological impacts from the development are or can be made acceptable. Therefore, the development is contrary to the Core Strategy Policy CS8, and National Planning Policy Framework para 186.*

1.2 Appeal Grounds and Summary of Case

1.2.1 This Appeal is made on the grounds that the LPA unreasonably refused planning permission because they misapplied and misinterpreted planning policy and cited other immaterial considerations. There is no statutory or policy impediment to granting consent for this proposal, which sustainably re-purposes a redundant building to a viable new use and complies with all the relevant planning policies.

1.2.2 Section 3 of this Statement responds in detail to the LPA's specific reasons for refusal and demonstrates how the proposal complies with local and national planning policy and that planning permission should have been granted, subject to pre-commencement conditions.

1.2.3 The case against the reasons for refusal is summarised as follows:

1.2.4 Refusal Reason 1:

- The LPA offered no convincing evidence to substantiate their assertion that the building is not of permanent and substantial construction. The application included a detailed structural engineer's report which confirmed the foundations, slab, existing supporting structure and blockwork walls would be retained and that the barn is capable of conversion to a dwelling without rebuilding the primary structure.
- The LPA failed to exercise a balanced judgement to assess impact on the visual and spatial aspects of the openness of the Green Belt in line with the National Planning Practice Guidance, recent appeals and case law. The application included extensive supporting evidence to assess spatial impact, including volume and solid-to-void ratio calculations and a landscape assessment to demonstrate no greater visual impact on openness, but this was disregarded by the LPA.

1.2.5 Refusal Reason 2:

- The LPA employed subjective and vague reasoning in their assessment of the design and cited an irrelevant policy. The application included a comprehensive design statement and character analysis which explained the rationale for the proposed design and how this related to its context and therefore accorded with planning policies on design quality.

- Amendments to the architectural design were made in the Appeal application to respond to the earlier refusal. These included not raising the roofline, introducing brickwork to the proposed elevations and adjustments to the fenestration proportions and detailing, but were disregarded by the LPA.

1.2.6 Refusal Reason 3:

- This was a refusal reason in the earlier application and the Appeal application fully resolved this by removing the ground floor study room and fitting obscured glass to the en-suite bathrooms.
- The LPA appear to have misread the drawings as there are no habitable room windows on the elevation facing the neighbouring dwelling, only bathrooms, a utility room and high-level windows to circulation space. Yet the Decision Report refers to habitable room windows facing each other at 12 metres, which is simply not true.

1.2.7 Refusal Reason 4:

- There was no dialogue from the LPA during the determination period and we had no sight of the detailed MEAS ecology comments until after the Decision Notice had been issued. An updated assessment in relation to barn owls, swallow nest boxes and breeding birds could therefore have been submitted prior to determination to address this reason for refusal.
- The Appellant's ecological consultant will liaise directly with MEAS and forward an updated assessment in relation to barn owls, swallow nest boxes and breeding birds to the Inspector.

2.0 APPLICATION SITE CONTEXT

2.1 The Appeal Site

- 2.1.1 The site and surrounding context is described in detail in the Planning Statement and the Design, Access & Heritage Statement which accompanied the planning application. In summary, the site area is 0.21 hectares (0.52 acres) and comprises a brick-built piggery, hardstanding areas and a steel-framed Dutch barn relating to the site's former use as a farm.
- 2.1.2 The site was formerly part of a larger agricultural holding, but has since been split off and the fields were sold to a neighbouring farm leaving the former farm buildings within an 'island' plot. The adjacent stone barn has been granted consent under 22/00299/FUL for conversion to a dwelling.
- 2.1.3 The site is in open countryside within the Green Belt, but is not isolated. The vicinity of the site is characterised by sporadic dwellings and agricultural buildings. The buildings within the site, together with mature trees and hedges forming the boundary, form a discernible 'island' group visible from various vantage points. This is typical of the dispersed and sporadic groups of buildings that contrast with the surrounding flat agrarian landscape that characterises this part of the Green Belt.

2.2 Outline of the Appeal Proposal

- 2.2.1 The proposal is to convert the disused Dutch barn into a new 2-storey dwelling by retaining the existing foundations, steel and concrete block support structure and re-cladding the walls and roof. A new ground floor extension would house a garage. The roof structure would be retained and re-clad, retaining its current ridge height and profile (the LPA cited an increase in the roof height as per the earlier application, but this is not the case). The adjacent piggery would be converted to a home office and the farmyard curtilage landscaped to provide a domestic garden and off-road car parking.
- 2.2.2 The barn is steel frame construction with lower level blockwork infill, over-clad with a mix of timber boards, steel sheets and cement board. The barn has a corrugated sheeted roof and a substantial concrete floor. The barn is partially open-sided and the supporting planning statement included a calculation of the current 'solid to void ratio'. This identified that at present 77% of the exterior surface area is formed from solid cladding while 23% is open.
- 2.2.3 A structural engineer's report supported the application and explained how the barn would be converted. This comprised retaining the existing concrete slab, foundations, blockwork walls, steel supporting structure and roof trusses and re-cladding this frame. The proposed cladding materials are intended to reflect the existing 'agricultural' aesthetic and provide a contrast to the adjacent brick and stone structures, minimise adverse impact on the nearby non-designated heritage assets and the visual openness of the Green Belt. A detailed heritage and design statement supported the application.

2.3 Planning History

- 2.3.1 There is no published planning history prior to 2021 when the site was last used for agriculture. In 2021 the Appellant sought pre-application advice from the LPA (ref. 21/00050/PREAPP) for two development options which included conversion of the stone barn and demolition of the Dutch barn and replacement with a new dwelling.
- 2.3.2 The advice concluded the conversion of the stone barn would be acceptable in principle, but a new dwelling would be inappropriate. During this pre-application, no assessment was made of the potential to convert the Dutch barn as this was not presented as an option.
- 2.3.3 The Appellant then submitted a full application 22/00299/FUL for the conversion of the stone and Dutch barns to new dwellings. The LPA expressed reservations about the Dutch barn element (citing Green Belt policy) and the Appellant decided to omit this from the application so as not to delay gaining consent for converting the stone barn. However, the LPA still took 7 months to determine and finally approve that application.
- 2.3.4 Following on from this, a subsequent application (23/01388/FUL) was made to convert the Dutch Barn. This was validated on 19/07/2023 and contained further supporting information to respond to dialogue during the determination of 22/00299/FUL. This was refused on 12th March 2024 citing four refusal reasons.
- 2.3.5 Rather than lodge an Appeal, the applicant wanted to work proactively with the LPA to try and overcome the refusal and submitted the application that is now subject to this Appeal. Although during the determination of the previous application, the LPA stated their intention to work together to at least overcome three of the refusal reasons to minimise the time and resources of all parties in any subsequent Appeal, this did not happen and they did not thoroughly review the amendments and additional supporting information.
- 2.3.6 In any event, even if three out of the four refusal reasons had been overcome, there would remain dispute between the parties with regard to refusal reason 1 (Green Belt), which carries the greatest weight in the planning balance.
- 2.3.7 For this reason, it is perhaps better for everybody if an independent Planning Inspector considers this proposal.

3.0 THE CASE FOR THE APPELLANT

3.1 Introduction

3.1.1 The key matters for this appeal are the LPA's reasons for refusal in the Decision Notice dated 30th August 2024. The appellant's case also cites the LPA's failure to work in a positive, proactive and collaborative manner.

3.1.2 There is no dispute between the parties in respect of the following matters directly referred to in the Decision Report:

- There would be no harm in relation to trees. This is supported by the views of the Council's arboricultural officer who has no objection to the development.
- The Authority's Environmental Health Officer raised no objections, subject to conditions in relation to contamination, a construction / demolition management plan and construction demolition hours.
- The Highway Authority raised no objections and the development is not considered to have any significant detrimental impact upon highway safety.
- Natural England raised no objections.
- The proposal, with mitigation / preventative measures, would not cause an adverse effect upon the integrity of national and international ecological sites subject to conditions.
- The decision report made no reference to any impact on the adjacent non-designated heritage assets.

3.2 Refusal Reason 1

3.2.1 The first reason for refusal relates to the proposal being inappropriate development in the Green Belt. The LPA cites the building is not of permanent and substantial construction and the development would lead to a greater impact on the openness of the Green Belt. The LPA refers to policy conflict with Local Plan Core Strategy Policy CS5, Unitary Development Plan Policy G6 and National Planning Policy Framework paragraphs 152 to 155 in their reason for refusal.

3.2.2 There are no local development plan policies that specifically address conversion of rural buildings to dwellings, but saved Policy G6 of the Knowsley Replacement Unitary Development Plan, adopted June 2006, relates to the conversion or change of use of existing buildings in the Green Belt. Policy G6 states that proposals for the conversion or change of use of

existing buildings in the Green Belt will be permitted provided they meet all nine criteria forming the Policy.

- 3.2.3 In terms of National Planning Policy, paragraph 155 of the NPPF sets out the forms of development that are not inappropriate in the Green Belt, provided that they preserve its openness and do not conflict with the purposes of including land within it. The re-use of buildings provided that the buildings are of permanent and substantial construction is considered to be not inappropriate development in the Green Belt.
- 3.2.4 The LPA's Policy G6 goes beyond the NPPF's 'permanent and substantial construction' requirement and G6 criterion (b) further states that "*major reconstruction would not be necessary to accommodate the proposed development*".
- 3.2.5 The key issues in refusal reason 1 therefore are:
- Is the building of permanent and substantial construction?
 - Is major reconstruction necessary?
 - Does the proposal conflict with the purposes of including land within the Green Belt?
 - Does the proposal preserve the openness of the Green Belt?

Is the building of permanent and substantial construction?

- 3.2.6 'Substantial construction' is not defined in the Framework and is inevitably a matter of planning judgement. The application was supported by a structural engineer's report which set out how the barn would be converted, namely the existing foundations, ground slab, block walls and steel supporting and roof structure would remain in situ and the elevations and roof would be re-clad.
- 3.2.7 This report was informed by an intrusive inspection, including exposure of the foundations, which confirmed the structure was substantially intact and sufficiently substantial to support a two-storey dwelling. Whilst the structural steelwork required repainting and rust treatment, it was capable of retention and the structural timber elements showed no signs of decay or woodworm attack. Also, whilst the cladding would to be removed, it was of no structural significance and did not affect the building's capability of conversion.
- 3.2.8 The report concluded that the barn is structurally stable and capable of being converted. The steel trusses and posts of the building frame are considered to be permanent and sufficiently substantial for conversion. The extent of works will clearly comprise retention of the main building elements including the steel frame, blockwork walls, and roof structure, with replacement of roof sheeting. This would not amount to a re-build.
- 3.2.9 The Dutch barn is an imposing structure and constitutes a 'building' under s336(1) of the Planning Act, and as such fits within the definition of a building that can physically be converted. There are numerous examples regionally of

similar Dutch barns in Green Belt locations having been successfully converted to residential use. The barn has existed for at least 50 years – a sufficient length of time to be of ‘permanence’ in the planning context.

- 3.2.10 The LPA offered no evidence to substantiate their assertion that the barn is not a building of permanent and substantial construction. There was no dialogue with the applicant’s own engineer and we are not aware if the LPA carried out any structural assessment of their own.
- 3.2.11 The LPA’s reasoning, which is somewhat muddled and confused, is set out in the case officer’s decision report, Under the heading ‘assessment’ on page 5 of this report it is stated *“it is considered that the remnants of the Dutch Barn are more of a structure than a building and the structure is not of permanent and substantial construction”*.
- 3.2.12 Section 336(1) of the 1990 Act includes in the definition of the word ‘building’ any structure or erection, and any part of a building, as so defined. This description has been interpreted by the Courts to include structures which would not ordinarily be described as buildings. In *Cardiff Rating Authority*¹, which was endorsed by the Court of Appeal in *Skerritts*², three primary factors were identified as decisive of what defined a ‘building’ and these are as follows:

- (a) that it was of a size to be constructed on site, as opposed to being brought on to the site,
- (b) permanence,
- (c) physical attachment.

No one factor is decisive, but given that the barn has been constructed on site, has existed for at least 50 years, and has considerable concrete foundations, it can reasonably be described as a structure that falls within the definition of the word ‘building’ in s336(1) and is therefore capable of being converted.

- 3.2.13 The decision report included further narrative which suggested that the removal of the asbestos roof which *“is the only solid part of the structure that does not have gaps in it”* somehow reduces the permanence and substantialness of the building. The report adds *“by removing the roof from the structure, the only elements that would remain would be partially built brick walls and support beams”*. As evidenced in the engineer’s report, the block walls and beams form a crucial part of the permanent supporting structure onto which the new roof and wall cladding would be applied.

Is major reconstruction necessary?

- 3.2.14 The decision report stated, *“the proposal would be a fundamental replacement and rebuild of the structure rather than a conversion”*. As stated

¹ Cardiff Rating Authority v Guest Keen Baldwin’s Iron and Steel Co Ltd [1949] 1QB 385.

² Skerritts of Nottingham Ltd v SSETR [2000] JPL 1025.

in 3.2.4 of this statement, Policy G6 criterion (b) requires that *“major reconstruction would not be necessary to accommodate the proposed development”*. There is no definition of ‘major reconstruction’ in the ‘explanation notes’ accompanying G6. Paragraph 9.34 of this explanation states *“the conversion of buildings which are not of permanent and substantial construction or which are incapable of conversion without major reconstruction would be contrary to Government policy on Green Belts. Therefore, applicants will be required to submit a full structural survey with applications to demonstrate that substantial reconstruction is not needed.* As previously stated, the application was supported by a qualified structural engineer’s intrusive survey and report which concluded that the building was permanent and substantial and capable of conversion. The ‘Government policy on green belts’ that is referred to in this explanation (written in 2006) clearly pre-dates the current NPPF and there is currently no requirement other than for a building to be of ‘permanent and substantial construction’ to be not inappropriate development under NPPF 155 (d).

- 3.2.15 The re-cladding would change the appearance of the building. It would not, however, amount to a re-building of the existing structure and therefore constitute a new building. It would transform the current unsightly spectacle of broken and missing panels whilst retaining its distinctive roof profile and so preserving its distinctive ‘barn form’.
- 3.2.16 The appellant would like to draw the Inspector’s attention to an Appeal Decision³ in a neighbouring LPA which considered whether works such as external cladding systems and new elevations indicated that the agricultural buildings in that particular case were not capable of conversion without substantial rebuilding to facilitate the proposed use and go beyond ‘re-use’ of the buildings. The Inspector held *“I find nothing unusual with such measures as part of a scheme of conversion of former agricultural buildings. It has not been demonstrated that the buildings are not of permanent or substantial construction, and the recladding of existing elevations does not, go beyond the ‘re-use’ of the buildings”*. The Inspector added *“in the same respect, nor would the insertion of door and window openings in the manner proposed for (the application proposal). These interventions would be inserted within the structural steel framework in the case of both buildings, and neither this nor the removal of non-structural sub-divisions from the buildings’ interiors would prejudice the appellant’s ability to re-use”*.

Does the proposal conflict with the purposes of including land within the Green Belt?

- 3.2.17 Both Policy G6 and NPPF paragraph 155 state that the re-use of buildings that are of permanent and substantial construction is not inappropriate development in the Green Belt, provided that they preserve its openness and do not conflict with the purposes of including land within it. In terms of any

³ Appeal Ref: APP/P2365/W/19/3226493 Tanpit Farm, Broad Lane, Downholland, Ormskirk, Lancashire, L39 7HS

conflict with the purpose of including land within the Green Belt, NPPF paragraph 138 confirms the Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns;
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

3.2.18 The barn conversion would not result in the unrestricted sprawl of a large built up area, would not result in neighbouring towns merging and would not harm the setting and special character of historic towns. As the development would take place within the land enclosed by the barn; and the guidance to Local Plan Policy G6 states that increases of less than 10% in the volume of the building will not normally be considered to have a materially greater impact, there would be no encroachment into the open countryside. Whilst the Appeal site is not 'previously developed / brownfield' as it retains its lawful agricultural use, it is certainly not virgin greenfield land and the proposal would recycle a currently unused and unattractive industrial type agricultural building into a sustainable new family home.

Does the proposal preserve the openness of the Green Belt?

3.2.19 In terms of Green Belt openness, the supporting planning and design statements covered this matter extensively and included a visual and spatial assessment. The test of 'substantial harm' to openness is a high bar. Paragraph 64-001 of The National Planning Practice Guidance, regarding the assessment of the impact of a proposal on the openness of the Green Belt, states:

"Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgement based on the circumstances of the case. By way of examples, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its irremediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation".

- 3.2.20 The starting point for the assessment is the existing development, i.e. the buildings, hardstanding and uses currently present on site. It is then necessary to compare this to the proposed development, before forming an overall view. We hereby do so with reference to the factors set out in the Practice Guidance.

Green Belt Spatial Openness

- 3.2.21 The application supporting documentation included a review of existing and proposed building volumes, reproduced below:

Existing = 1,380 m ³	Proposed = 1,456 m ³	% Increase = 5.5%
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The proposal includes the construction of a garage extension to the barn which represents an increase in volume of 76 cubic metres or 5.5% over the original volume of 1,380 sqm. This is not considered to be a disproportionate addition over and above the size of the original building in terms of NPPF 154(c). The explanatory notes to Policy G6 state that as a guideline, increases of less than 10% in the volume of the building will not normally be considered to have a materially greater impact on the openness of an area.

- 3.2.22 The decision report makes reference to *“a much greater volume of hardstanding and paving than currently”* and *“that there would be more traffic movements to and from the site than a typical residential dwelling, resulting in greater impact on openness”*.
- 3.2.23 The proposal includes a reasonable residential curtilage incorporating 200 sq. m. of paved surface, which is a 26 sq. m. increase over the former farmyard of 174 sq. m. This represents an increase of 15%. The formation of car parking hardstanding is an engineering operation. NPPF paragraph 155 (b) identifies engineering operations as one of the *‘other forms of development not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it’*. In this case openness is preserved, as the works are confined to surface level and are wholly within the former farmyard curtilage. Household use and domestic paraphernalia would not give rise to any greater urbanising impact on openness than the former agricultural use. All trees and hedgerows will remain. Householder permitted development rights can also be removed.
- 3.2.24 Turning to the LPA’s argument that *“5 parking spaces proposed ... greatly in excess of the 3 parking spaces that would normally be expected for a house of this type and suggests that there would be more traffic movements to and from the site than a typical residential dwelling, resulting in greater impact on openness”*. This could be resolved by reducing the parking to three spaces. The current lawful use of the site is for agriculture. This is unrestricted and the barn could continue to be used for agricultural storage, which would result in a greater volume of large agricultural vehicles than would be the case for a domestic dwelling. Notwithstanding the detrimental impact this would also have on residential amenity given the context of the site has become

residential following approval to convert the adjacent stone barn and the presence of the former farmhouse means there are two dwellings in proximity.

- 3.2.25 Finally, prior to engaging in the planning process and seeking professional planning advice, the Appellant removed two large silos and other agricultural structures. This has greatly reduced the overall building volume and mass within the site and it could be argued that had this formed part of the application, then the proposal would actually have increased openness and would therefore have gone beyond the Framework's requirement to merely preserve openness.

Green Belt Visual Openness

- 3.2.26 The application included an assessment of the visual impact on the surrounding landscape. This concluded the proposal would not diminish the visual openness of the Green Belt to any appreciable degree.
- 3.2.27 The barn forms part of a distinct 'island' group of buildings and is not itself an isolated structure in the Green Belt. The assessment identified key views from up to 500m away in which the group of buildings coalesces to create a strong visual contrast to the surrounding landscape. The barn forms part of this grouping and cannot be viewed in isolation. The perceived effect upon openness is negligible because the site is well-screened and the barn is also screened by its juxtaposition with adjoining buildings. There is a negligible effect upon perception of openness from beyond the boundary of the site.
- 3.2.28 The LPA's argument in relation to the visual aspect of openness is that the Dutch barn is open and transparent. The decision report states *"the structure is almost fully open the elements"* and *"is partially open on 3 sides with large gaps between the brickwork and the roof, and almost fully open on one side with only a small portion of brickwork and structural supports on this side. The structure allows views through from one side to the other"*.
- 3.2.29 The application supporting evidence included an assessment of the 'solid to void ratio' of the existing barn. This concluded that 77% of the external elevations are enclosed and it has a solid appearance and contrasts strongly with the landscape. The solid roof is particularly visible and the barn when viewed in this context is certainly not 'open' or indeed 'transparent'.
- 3.2.30 The table below, summarising this assessment, was also included.

The 'solid to void' ratio			
Elevation	Overall (sqm)	Solid (sqm)	Void (sqm)
North	62.5	58.5	4
South	62	51.5	10.5
East	122.5	98.5	24
West	122.5	49	73.5
Roof	126	126	0
Total	495.5	383.5 (77%)	112 (23%)

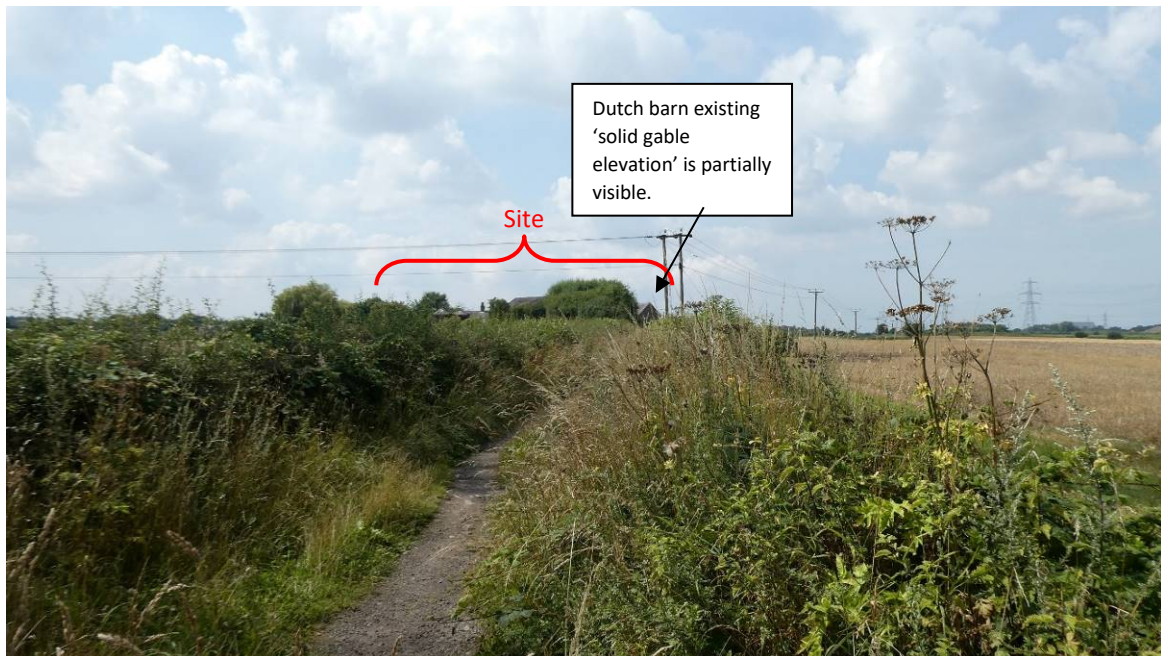
- 3.2.31 Matters of architectural design form Refusal Reason 2 and are covered later in this Statement. But it is of relevance to 'visual openness' that the proposed cladding materials are intended to complement and reflect the existing 'agricultural' aesthetic and minimise adverse impact on the nearby heritage assets and the visual openness of the Green Belt.
- 3.2.32 The landscape assessment identified key views from up to 500m away in which the group of buildings coalesces to create a strong visual contrast to the surrounding landscape. These are reproduced below and overleaf and demonstrate that the barn's solid roof is the most prominent element. This would be re-clad with new profiled roof cladding and other than a minor 200mm uplift, would remain visually the same. The photographs also demonstrate that when viewed in this overall context, the barn does not have an entirely open and transparent appearance.



View 1: Looking north from East Lancashire Road. The existing buildings to be retained provide the dominant features. This view will remain unchanged and the 200mm increase in roof height for the Dutch Barn will not be apparent.



View 2: Looking east from Cut Lane. The existing buildings to be retained provide the dominant feature and this view will remain largely unchanged



View 3: Existing view looking south west. The perimeter landscaping effectively screens the site



View 4: Looking north west from Coach Lane



View 5: Typical longer range view from within the Green Belt

- 3.2.33 In conclusion, the barn is substantial, permanent, and capable of conversion without major reconstruction when correctly assessed against G6 and NPPF 155 (d). The conversion works will take place largely within the confines of the existing structure and the bulk and mass would increase by 5.5% which is within the G6 policy limits. This would not have a greater impact on the spatial openness of the Green Belt. The visual appearance of the barn will change due to the application of new cladding, but given the site's context, it has been demonstrated that there would be no impact on the visual openness of the Green Belt. It must therefore be concluded that the proposal is a type of development that is not inappropriate in the Green Belt and no 'very special circumstances' need to be demonstrated.

3.3 Refusal Reason 2

- 3.3.1 The second reason for refusal relates to architectural design and materials. The LPA cites the design of the development is unattractive, lacks harmony, symmetry and consistency and is incongruous to the surrounding built development, causing significant harm to the character of the area. The LPA refers to policy conflict with Local Plan Core Strategy Policies CS17 and CS19, the Design Quality in New Development and New Residential Development Supplementary Planning Documents, and National Planning Policy Framework paragraph 130 and 139 in their reason for refusal.
- 3.3.2 The application's Design, Access & Heritage Statement included a detailed explanation of the design response. The architectural language is intended to reflect the existing 'agricultural' aesthetic and minimise adverse impact on the nearby heritage assets and preserve the visual openness of the Green Belt.
- 3.3.3 The new external cladding would appear in no way incongruous in this location. It has been designed to enhance the appearance of the site using the surrounding agricultural vernacular as reference, and would contribute positively to the visual amenity of the locality.
- 3.3.4 There are effectively three possible design responses. The retained barn structure could be clad with a masonry outer leaf comprising facing brick and stonework. Or it could be clad with a combination of masonry and another material, for example timber and / or profiled metal cladding. Or it could be entirely clad with timber or profiled metal cladding.
- 3.3.5 In this instance it was considered that the proposed architectural language should not disguise the strong agricultural / industrial 'form' of the barn, particularly its distinctive roof profile and vertical profile cladding. It was felt that wholly using stone or brickwork would not sit comfortably adjacent to the existing stone barn and farmhouse as these materials would 'visually merge' with these distinctive heritage assets, and harm their setting.
- 3.3.6 Following a robust character assessment, it was considered that a degree of visual contrast would improve the setting of the adjacent heritage assets and

using visually lightweight materials would not harm the visual or spatial openness of the Green Belt.

- 3.3.7 Indeed this is the approach that has been preferred by other neighbouring LPA's where the Appellant's architectural designer has undertaken numerous conversions of similar agricultural buildings in the same landscape character area. Although these LPA's have their own planning policies, they are very similar. But crucially the wider landscape character of the 'Lancashire and Amounderness Plain' in which the Appeal site is located, (although is split arbitrarily between local government administrative boundaries), is identified as a distinctive character area in the *National Character Area Profile*⁴.
- 3.3.8 Furthermore, *Historic England Guidance*⁵ states the successful adaptive reuse of farm buildings requires an understanding of their relationship to the wider landscape setting and their capacity for change. This guidance contains examples of best practice, including the conversion of partially open and semi-industrial types of farm buildings, including a barn that has had a new steel and corrugated metal roof added with a continuous strip of glazing maintaining its simple industrial character. This is very similar to the Appeal proposal.
- 3.3.9 The guidance also states in many cases it is probably best to follow existing patterns on the building or other similar farm buildings ... without resorting to making them appear 'historic'. The best examples within this guidance seek to retain the original agricultural / semi-industrial character and not attempt any form of pastiche.
- 3.3.10 The Appellant tried to work with the LPA to overcome their concerns during the earlier application. This was the approach taken during the determination of 22/00299/FUL for conversion of the stone barn, whereby the applicant worked closely with the LPA's Conservation & Design Officer over a 7-month period to fine tune and refine the design. However, this was reliant on the Conservation & Urban Design Officer's input, who unfortunately went on long-term sickness leave from September 2023 and had still not returned to work by the time the Appeal application was submitted in June 2024.
- 3.3.11 Following the earlier refusal, the Appeal application included changes to the proposed cladding and introduced facing brickwork to provide a visual base. Previously it had been proposed to over-clad the existing blockwork base with profiled metal cladding. The amended design removed the Juliet balconies and amended the proportions of the fenestration to provide better symmetry to the principal elevation and hopefully overcome the LPA's concern. Unfortunately there was no dialogue with the LPA in relation to these issues during the determination period.
- 3.3.12 The LPA uses subjective terminology and vague reasoning in its assessment of the design. The decision report states "*the materials are considered to be*

⁴ <https://publications.naturalengland.org.uk/file/5916627778404352>

⁵ Adapting Traditional Farm Buildings, Best Practice Guidelines for Adaptive Reuse, Historic England, September 2017

inappropriate for a residential building and are more suited to an industrial or agricultural use". The design statement described at length how the 'agricultural / industrial' form of the existing barn should inform the design.

- 3.3.13 The LPA did not expand on what materials they considered to be 'appropriate for a residential building' and as previously stated very little guidance was forthcoming during the earlier application due to a key officer's sickness. We would certainly not advocate using any type of 'residential pastiche' design, as that would be totally inappropriate with regard to its impact on the immediate historic environment and would urbanise the Green Belt.
- 3.3.14 The decision report made reference to the proposed design of windows. This stated *"The barn would also have many large windows on one elevation and many small but wide windows on the other side. The windows and rooflight are also arranged in irregular and uneven clusters with a lack of harmony, symmetry and consistency. It is considered that the number and arrangement of the windows would look out of place and unusual for a residential building"*.
- 3.3.15 The LPA did not expand on what window arrangement they considered to be 'usual for a residential building'. The proposed window openings are intended to relate to the functional internal layout of the building – both providing maximum daylighting to the internal spaces to minimise artificial light as well as framing views from these internal spaces. The windows on the west elevation facing the stone barn serve non-habitable rooms and have been kept to a minimum to avoid overlooking and to maintain privacy (this issue is covered separately in refusal reason 3). Larger windows capture views from principal rooms on the east-facing elevation.
- 3.3.16 The LPA's reasoning is confused and muddled and they have disregarded the supporting design information in the application. The decision notice states the design is *"unattractive, lacks harmony, symmetry and consistency"*, yet this reasoning is not substantiated in the case officer's report. There is only a vague statement about 'appropriateness for a residential building', rather than any comment about relationship to its surrounding character, historic environment, landscape views, etc. 'Unattractive' is a subjective phrase, 'lacking harmony, symmetry and consistency' is also open to interpretation. The proposed design is harmonious as it uses a simple palette of materials which give unity to all elevations. The window arrangement is asymmetrical on three of the elevations, whilst more symmetrical on the east-facing elevation. This could be interpreted as a reflection of traditional farmstead design where the window arrangement is often sporadic and this is certainly the case with the adjacent historic stone barn.
- 3.3.17 The decision notice refers to conflict with Local Plan Core Strategy Policies CS17 and CS19 and the LPA's *'Design Quality in New Development'* and *'New Residential Development'* Supplementary Planning Documents. Neither of these policies or guidance relate specifically to the conversion of rural agricultural buildings. Policy CS17 is entitled 'Housing Sizes and Design Standards' and relates to housing mix and is a largely irrelevant policy consideration for this development. CS19 is entitled 'Design Quality and

Accessibility in New Development’ and is an extensive policy that covers a plethora of issues. The most relevant issue is that CS19 requires new development to “*respond to and integrate positive characteristics of immediate surroundings, including local materials, scale, mass, form, layout, alignment and density of the existing built environment*” and “*complement and enhance (where possible), existing landscape, topography, Green Infrastructure; and features of local importance and historic interest*”. The application’s supporting Design, Access & Heritage Statement clearly sets out how this has been achieved.

- 3.3.18 The ‘*Design Quality in New Development*’ SPD states that in rural areas “*where development does occur, it should respect the historical rural character*”, and the SPD contains a general principle to ‘respect the character and distinctiveness of places and landscapes’. As the application was accompanied by extensive supporting information explaining the design approach, the relevant policy tests have been satisfied.
- 3.3.19 The LPA has not cited any negative impact from the proposed design on the adjacent non-designated heritage assets (stone barn and farmhouse), which must also carry great weight in the assessment. Therefore it can be concluded the design has no negative impact on the setting of those heritage assets.

3.4 Refusal Reason 3

- 3.4.1 The third reason for refusal relates to failure to provide adequate privacy for future occupiers and neighbours. The LPA refers to policy conflict with Local Plan Core Strategy Policy CS19 and National Planning Policy Framework paragraph 130.
- 3.4.2 This was also a refusal reason in the earlier application. The Appeal application resolved this by removing the ground floor study room and fitting obscured glass to the en-suite bathrooms.
- 3.4.3 The LPA appear to have misread the drawings as there are no habitable room windows on the elevation facing the neighbouring dwelling, only bathrooms, a utility room and high-level windows above eye level to illuminate internal circulation space. It is acknowledged that there is a typo error on the proposed elevation drawing (MG2024/PL09) which has the ‘east’ and ‘west’ elevations incorrectly annotated. However, the internal floor plan and site layout clearly shows the habitable room layout and the LPA did not bring this error to the Appellant’s attention. The Decision Report refers to habitable room windows facing each other at 12 metres, which is simply not true.

3.5 Refusal Reason 4

- 3.5.1 The final reason for refusal relates to failure to demonstrate that the ecological impacts from the development can be made acceptable. The LPA refers to

policy conflict with Local Plan Core Strategy Policy CS8, and National Planning Policy Framework paragraph 186.

- 3.5.2 Natural England offered no objection to this proposal. The LPA relied on the Merseyside Environmental Advisory Service (MEAS) to process the statutory ecology consultation. The sole issue was that MEAS requested ecological assessments in relation to barn owls, swallow nest boxes, and breeding birds prior to determination. Unfortunately there was no dialogue from the LPA and we had no sight of the detailed MEAS comments until after the Appeal application had been determined.
- 3.5.3 A Biodiversity Enhancement Plan was submitted for the previously-approved application to convert the adjacent stone barn to a dwelling. This included mitigation measures such as a barn owl box and covered the whole site. An updated assessment and mitigation plan could therefore have been submitted prior to determination as required.
- 3.5.4 The decision report stated *“several ecological mitigation measures previously included in the application for the stone barn (22/00299/FUL) have now been removed and the application is worse in relation to ecology than the previous scheme (when the Dutch barn was originally part of the planning application)”*. This was not raised during the determination of the Appeal application, but the Appellant would be happy to accept a suitably-worded condition to require additional biodiversity enhancements.
- 3.5.5 In conclusion and to resolve this matter, the Appellant’s ecological consultant will liaise directly with MEAS and forward to the Inspector an updated assessment in relation to barn owls, swallow nest boxes and breeding birds. If this identifies the presence of these species, the Appellant will work within the legislation and apply for the relevant Natural England Licences, as was the case for the previous stone barn conversion where bats and owls were present. The presence of these species should not be an impediment to the conversion work, which would be re-programmed to enable the approval of the relevant licences. The previous stone barn conversion already includes mitigation including new barn owl roosts and the Appellant would be willing to provide additional mitigation as directed by the ecological consultant.

3.6 Lack of Working in a Positive and Proactive Manner

- 3.6.1 A positive and proactive approach to managing new development is enshrined in the NPPF, which states (in paragraph 38) *“Local planning authorities should approach decisions on proposed development in a positive and creative way...and work proactively with applicants...”*. The Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 6, Article 35 requires a Decision Notice to include a statement explaining, whether, and if so how, in dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.

3.6.2 It would be reasonable that during determination of a planning application, positive, proactive and collaborative engagement could involve:

- Collaborative dialogue between the LPA and applicant early on in the application process to seek amendments where there are specific concerns to see if a more sustainable solution can be agreed;
- LPA making the applicant aware of issues that make the development unacceptable such as where development is unsustainable or there is clear policy conflict and discussing these with the applicant.

3.6.3 The Appellant did not experience a collaborative approach from the LPA in their determination of the Appeal application, which was a marked contrast to their determination of earlier planning applications on this site. There was no contact whatsoever from the LPA with regard to any policy concerns, let alone to seek solutions to any problems. This is evidenced by the fact that the MEAS ecology consultation response was not even forwarded until the Appellant specifically requested it after the Decision Notice had been issued.

3.6.4 It is disappointing the LPA did not actively engage to discuss any concerns prior to issuing their decision. The LPA simply repeated their exact same policy reasons for refusal of the preceding application, despite fundamental changes to the second application. The appeal application was submitted following careful review of the previous refusal reasons and included additional supporting information to overcome their concerns, yet this was disregarded and no reference was made in the Decision Report. We strongly disagree with the LPA's Article 35 Statement included in the Decision Notice.

4.0 CONCLUSION AND PLANNING BALANCE

4.1 The Case for the Proposal

- 4.1.1 In applying the planning balance to determine whether or not the proposal is fully compliant with planning policy which only allows sustainable development, the greatest weight should be given to maintaining the openness of the green belt and ensuring no conflict with the purposes of including land within it. Significant equal weight should then be given to ensuring the amenity of neighbouring occupiers, ecology and appearance.
- 4.1.2 The LPA has misapplied and misinterpreted planning policies in their assessment of the impact of the proposal on the openness of the Green Belt. The narrative in the decision report with regard to the planning officer's assessment of whether the barn is a 'structure' or a 'building' or a 're-build' rather than a 'conversion' is muddled and not substantiated.
- 4.1.3 The application included a detailed and intrusive structural engineer's survey, which confirmed the foundations, slab, existing supporting structure and blockwork walls would be retained and that the barn is capable of conversion to a dwelling without rebuilding the primary structure. This demonstrated that the barn is of substantial and permanent construction and meets the definition of a building under s336(1) of the Planning Act. It has also been demonstrated that simply over-cladding the retained structure is not a re-build and does not go beyond conversion and re-use of the building.
- 4.1.4 The application included a comprehensive landscape visual character assessment and calculations of the 'solid to void' ratio of the barn elevations. This demonstrated that the barn has a primarily solid appearance and cannot be viewed in isolation as it is part of a readily discernible cluster of buildings. All this provided evidence to support a balanced planning judgement that the proposal would not lead to a greater impact on the openness of the Green Belt and does not conflict with the five purposes of including land within the Green Belt set out in the NPPF.
- 4.1.5 The LPA employed subjective and vague reasoning in their assessment of the architectural design of the re-cladding and cited an irrelevant policy. The Appellant's case has demonstrated the proposed design has been carefully crafted to reflect the existing 'agricultural' aesthetic and minimise adverse impact on the nearby heritage assets and the visual openness of the Green Belt. This accords with best practice in the conversion of rural agricultural buildings. It is also of relevance that the LPA did not refer to any detrimental impact on the adjacent non-designated heritage assets which must carry great weight in the assessment.
- 4.1.6 With regard to assessing impact on residential amenity, the LPA have misread the drawings as there are no habitable room windows on the elevation facing the neighbouring dwelling, only bathrooms, a utility room and high-level windows to circulation space. The Decision Report refers to habitable room windows facing each other at 12 metres, which is not true.

- 4.1.7 It is in nobody's interest for this site to remain vacant. The Appellant has carefully considered how this disused agricultural site can be sustainably re-purposed as a much needed new family home and spent considerable time in trying to work with the LPA to develop a solution. The adjacent stone barn has been granted consent for residential conversion and together with the original farmhouse, the wider site is now residential in its use, whilst still retaining its historic agricultural character. There is also a well-established pattern of existing dwellings along the lane, so the conversion of an existing building within this group to a new dwelling would not be inherently harmful to the rural character of the area.
- 4.1.8 This has resulted in a very peculiar situation where the Dutch barn and curtilage still remains in lawful agricultural use. This is unrestricted and the barn could continue to be used for agricultural storage purposes, which would result in large agricultural vehicles and a more intensive use than residential. That would have a far greater detrimental impact on residential amenity and the openness of the Green Belt than this proposal.
- 4.1.9 Whilst the Appeal site is not 'previously developed / brownfield' as it retains its lawful agricultural use, it is certainly not virgin greenfield land. The proposal would recycle a currently unused and unattractive industrial type agricultural building into a sustainable new family home that will add to the Borough's housing supply in a modest way. Whilst the LPA would probably argue they have a 6.57 year housing land supply, this proposal for a bespoke conversion would supplement the range and choice of housing available. There are also no objections to this development on highways, arboricultural or environmental health grounds.
- 4.1.10 The NPPF promotes sustainable development and recognises how important small sized sites are in boosting housing supply. NPPF Paragraph 83 promotes sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of rural communities. The application site is situated adjacent to a small cluster of residential properties to the south and west of the site and is therefore not considered to be an isolated position.
- 4.1.11 NPPF paragraph 70 notes that small windfall sites like this can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. To promote the development of a good mix of sites, NPPF encourages local planning authorities to support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites for homes. The application site is a windfall site, and while it is outside of any settlement boundary, it is not 'isolated' and therefore the LPA should 'support' and attach the 'great weight' as advocated in the NPPF.
- 4.1.12 The proposal is sustainable development and complies with the relevant local and national planning policies. The Appellant's case (together with the

supporting material in the original planning application) demonstrates that there are no planning policy reasons which would suggest the proposal is so unsustainable and would cause such significant harm that planning permission should not be granted. This is a very high bar.

- 4.1.13 In conclusion, the LPA's decision to refuse permission following the misapplication and misinterpretation of their own planning policies and citing immaterial considerations is unreasonable and resulted in the appellant incurring unnecessary additional time and expense. The Inspector is respectfully requested to grant planning permission, together with appropriate conditions to further enhance biodiversity, ensure residential amenity and control the proposed building materials.

-- End of Appellant's Statement of Case --

Appendix 1

Application 24/00342/FUL documents register

The information listed below is included in the support document bundle sent to the Planning Inspectorate.

(A) Planning Application Documents	
Ref	Title
A1	Planning Application Form
A2	Location Plan
A3	Structural Engineer's Report
A4	Planning Statement
A5	Design, Access & Heritage Statement
A6	Arboricultural Impact Assessment
A7	Arboricultural Method Statement
A8	Coach Road Farm - Dusk Survey Results
A9	Preliminary Roost Assessment
A10	Habitats Regulations Scoping Assessment
A11	Phase 1 Contamination Report
A12	Phase 2 Contamination Report
A13	Existing and Proposed Plans
A14	Proposed Elevations - Fence and Gate
A15	Existing Plan and Sections
A16	Existing Elevations
A17	Piggery - Existing and Proposed Plans and Elevations
A18	Dutch Barn - Proposed Plans
A19	Dutch Barn - Proposed Sections
A20	Dutch Barn - Proposed Elevations - Detailed
A21	Delegated Report
(B) Correspondence between the Applicant's Agent and the LPA during determination	
None	

Appendix 2

Decision Notice

Reproduced overleaf.

The Case Officer's Report is included in the supporting document bundle (ref. A21)



Knowsley Council

**REGENERATION AND ECONOMIC
DEVELOPMENT DEPARTMENT**

TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION

Application No: 24/00342/FUL

Name and address of applicant

Mr Mark Groves
Newhouse
Outlet Lane
Bickerstaffe
Ormskirk
West Lancashire
L39 0HA

Name and address of agent

BHL Technical Design Consultant
14 Cobden Road
Southport
PR9 7TJ

Date of Receipt: 24 June 2024

Date Valid: 9 July 2024

Address/Location Of Development

Coach Road Farm
Cut Lane
Kirkby
Knowsley
L33 3AJ

Nature And Particulars Of Application

CHANGE OF USE AND EXTENSION (INCLUDING RAISING OF ROOF HEIGHT) OF FORMER DUTCH HAY BARN TO 1 NO. DWELLING, CONVERSION OF FORMER PIGGERY TO ANCILLARY HOME OFFICE, MEANS OF ACCESS AND EXTERNAL LANDSCAPING WORKS.

The Council of the Metropolitan Borough of Knowsley hereby give notice in pursuance of the above Act(s) that Planning Permission has been **refused** for the carrying out of the development referred to above for the following reasons:-

1. The development is inappropriate development in the Green Belt as the building is not of permanent and substantial construction and the development would lead to a greater impact on the openness of the Green Belt. No very special circumstances have been demonstrated, in support of the proposal. Therefore, the development is contrary to Core Strategy Policy CS5, Unitary Development Plan policy G6 and National Planning Policy Framework paras 152 to 155.

2. The design of the development is unattractive, lacks harmony, symmetry and consistency and is incongruous to the surrounding built development, causing significant harm to the character of the area. The development is therefore contrary to Core Strategy Policies CS17 and CS19, the Design Quality in New Development and New Residential Development Supplementary Planning Documents, and National Planning Policy Framework paras 130 and 139.
3. The development, would fail to provide adequate privacy for future occupiers and neighbours, resulting in significant harm to their living conditions and would be contrary to Core Strategy Policy CS19 and National Planning Policy Framework para 130.
4. The application has failed to demonstrate that the ecological impacts from the development are or can be made acceptable. Therefore, the development is contrary to the Core Strategy Policy CS8, and National Planning Policy Framework para 186.

ARTICLE 35 STATEMENT

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.



Executive Director - Regeneration and Economic Development

Date: 30 August 2024