

Section 62A Applications Team  
The Planning Inspectorate  
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Temple Quay House  
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Temple Quay  
Bristol  
BS1 6PN

Our ref: PR02526  
Date: 10<sup>th</sup> September 2025

**Sent via e-mail**

Dear Sir/Madam,

**Town and Country Planning Act 1990**

**13 Risdale Road, Bristol BS3 2QU**

**Erection of a detached dwellinghouse**

I write on behalf of my client, Noogle Property Limited, to apply for the erection of a detached dwellinghouse, to the rear garden of the existing property, following demolition of the existing garage. I attach the following documents as part of this application:

- Application forms and certificates;
- Drawing no. 4306.PL 01 – site location plan;
- Drawing no. 4306.PL 02 Rev. E – existing and proposed site plan;
- Drawing no. 4306.PL 03 Rev. B – proposed plans and elevations;
- Drawing no. 4306.PL 04 Rev. A – existing and proposed streetscene;
- Preliminary Ecological Assessment, BNG statement and metric;
- Draft S106 BNG Agreement;
- Coal mining risk assessment;

- Energy statement.

## **Site and planning history**

The application site comprises part of the rear garden of 13 Risdale Road, an end-terraced dwellinghouse on a corner plot at the junction of Risdale Road with Tregarth Road, in the Bedminster ward of Bristol. The site addresses Tregarth Road, and lies to the east of an access lane serving the rears of Risdale Road and Tregarth Road. It is enclosed by close-timber board fencing, and the garage is accessed from the rear access lane. The surrounding area is exclusively residential.

The site is not within a Conservation Area, there are no Tree Preservation Orders, and no other policy designations apply. It falls within Flood Zone 1, and is shown to be at high risk from surface water flooding.

There are inbound and outbound bus stops within a short walking distance (135 metres), to the south on South Liberty Lane, with the 24 service running every 15 minutes between the Ashton Vale and Southmead Hospital via the City Centre. respectively. Ashton Vale Primary School lies 320 metres to the northwest, there is a convenience store on Ashton Drive, 250 metres to the northwest, and a Sainsbury superstore 420 metres to the northeast. The South Liberty Lane PIWA (employment area) lies 90 metres to the south.

This current application follows a recently dismissed appeal for a detached, 1.5 storey dwelling (ref: APP/Z0116/W/25/3362081), which is appended to this letter, and seeks to overcome the reasons for refusal (design and BNG).

A planning application to extend the host dwelling was allowed on appeal in March 2025 (LPA ref: 24/04200/H, Appeal ref: APP/Z0116/D/25/3358597). Otherwise, there is no planning history.

## **Proposal**

My client proposes the erection of a detached dwellinghouse with a hipped roof. A contemporary design is proposed, with concrete double Roman tiles in red, red multi-facing brickwork to the ground floor and through-colour render in white to the first floor. White UPVC windows and fascias are proposed, with black UPVC rainwater goods.

Internally, the ground floor plan includes a kitchen/dining area, a lounge, a WC, and a store. The first floor comprises two bedrooms and a bathroom, with Bedroom 1 having an area of 14.44m<sup>2</sup>

and Bedroom 2 having an area of 13.43m<sup>2</sup>. The dwelling would have a total floorspace of 74.4m. An air source heat pump (Worcester Bosch CS7400i AW-7kW) is proposed, attached to the side elevation (facing the access lane).

Externally, a 67sqm side and rear garden is proposed, including a secure cycle store for two bikes, with a galvanized steel frame, vertical timber cladding and a corrugated steel roof, fixed to a concrete base.

An open-fronted refuse and recycling store is proposed to the side of the house (adjacent to the access lane), to house the requisite number of waste and recycling bins, clad in timber with a roofing felt finish on top.

Two parking spaces (both for electric vehicles), are proposed, with permeable paving, to address surface water runoff. A fenced off area for Biodiversity Net Gain is proposed to the side boundary with the access lane.

## **Planning analysis**

As noted above, the site has been the subject of a planning application and appeal, and this current application seeks to overcome the reasons for dismissing the appeal (design and BNG). The applicant has therefore increased the ridge height to a full two-storey, and supplied a draft S106 in respect of BNG provision and monitoring. No other revisions have been made, and therefore in every other respect, the scheme is as per the previous scheme, which was found to be acceptable in terms of principle, housing mix, highways impact, sustainable energy and unstable land. The following analysis is therefore as per the letter submitted with the original application, and updated where relevant (design, neighbour amenity and BNG)

### *Principle of development*

The site falls within the South Bristol. Policy BCS1 states that the area will be a priority focus for development, and seeks to deliver 8,000 additional homes over the plan period.

Consistent with the National Planning Policy Framework (NPPF), Core Strategy Policy BCS20 'Effective and Efficient Use of Land' states that opportunities will be sought to use land more efficiently across the city and that imaginative design solutions will be encouraged at all sites to ensure optimum efficiency in the use of land is achieved. Higher densities of development will be sought in or close to centres and along or close to main public transport routes. For residential development a minimum indicative net density of 50 dwellings per hectare will be sought. Net

densities below 50 dwellings per hectare (dph) should only occur where it is essential to safeguard the special interest and character of the area.

Paragraph 4.20.1 of the supporting text states that the policy aims to ensure that all development uses land in the most efficient way possible.

The proposal would make a more efficient use of land in an accessible location, which is not of high environmental value, and double the existing density (across the wider site) from 20 to 40dph, achieving closer compliance with the 50dph requirement. Consequently, the proposal would comply with the NPPF, and Policy BCS20.

Policy DM21 advises that the loss of gardens will not be permitted unless:

- i. The proposal would represent a more efficient use of land at a location where higher densities are appropriate; or
- ii. The development would result in a significant improvement to the urban design of an area; or
- iii. The proposal is an extension to an existing single dwelling and would retain an adequate area of functional garden.

It further requires that "In all cases, any development of garden land should not result in harm to the character or appearance of an area. Development involving front gardens should ensure that the character of the street is not harmed and that appropriate boundary treatments and planting are retained."

It is pertinent to the application that the policy requires only one of the three criteria to be complied with, by virtue of the inclusion of 'or' as opposed to 'and.'

South Bristol is recognised by policy BCS1 as a highly sustainable location where higher densities are appropriate, and the site (as outlined earlier in this letter) is within easy walking distance of bus stops providing frequent services into the City Centre; a designated employment area; a primary school; a convenience store and a large supermarket. As such it would represent a more efficient use of land in a sustainable location where a higher density would be appropriate, in compliance with the first proviso of policy DM21.

### *Housing mix*

Policy BCS18 supports a neighbourhood with a mix of housing tenure, types and sizes to meet the changing needs and aspirations of its residents.

The site is within the Bedminster ward, which has a good mix of dwelling sizes (14.1% being one-bed, 37.6% two-bed, and 48.3% three-or-more), which is broadly comparable with the city-wide figures (at the city level, the figure two-bed properties is 9 percentage points lower, and the for three-and-more bedroom properties, 7 percentage points higher). Given this, the constraints of the site, and the fact that a single dwelling would have little impact on housing mix in any case, the provision of a two-bedroom dwelling would not conflict with BCS18.

### *Design*

Tregarth Road comprises short terraces of four dwellings, bookended by semi-detached pairs, with a consistent building line. Presently, there is a 31 metre gap between 13 Risdale Road and 2 Tregarth Road, whereas the gap between 11A Risdale Road and 1 Tregarth Road (facing the site), is much smaller, at 10.5 metres (the south side of Tregarth Road was part of a 47 house scheme approved in 2010, following demolition of prefab bungalows, ref: 10/00111/R). Comparing the two sides of the road, there is in effect a semi-detached pair in the corresponding space on the opposite side of the road from the application site (see aerial image below).



*Aerial view of site and surrounding area (application site edged in red)*

Given the semi-detached pair of dwellings facing the site, it is considered that the principle of garden infilling would be acceptable. Paragraph 135c of the NPPF requires development to be sympathetic to the local character, but goes on to state that this requirement should not prevent or discourage appropriate innovation or change. The National Design Guide (NDG) reinforces the Framework, for example, at paragraph 44 by emphasising that well designed places do not need to copy their surroundings and that it is appropriate for new development to include innovation and change to reflect how we live today.

The existing site is currently under-utilized, and it is therefore appropriate in policy terms to infill the space, however the depth of the space would naturally limit such development to a single dwelling. As such, this in itself should not be viewed as contrary to design guidance, so long as the design of the dwelling itself can be accommodated within the street scene.

In terms of building lines, the southwestern corner of the building would be in line with building line of the northwestern side of Tregarth Road, with the front elevation at a slight (5 degrees) angle relative to the remainder of the road, so that the dwelling can lie perpendicular to the rear boundary. The northeast (side) elevation of the dwelling would align with the northeast elevation

of 1 Tregarth Road, opposite, whilst the southwestern elevation would align with the garages to the rears of Risdale Road.

In dismissing the previous appeal, the Inspector noted that Tregarth Road had a uniform streetscene of hipped roofs (§4); and at §5, stated:

*"Within this context, the height of the proposed dwelling, at 1.5 storeys, would be incongruous with the prevailing height of other dwellings in the street. Contrary to the appellant's assertion, I do not consider that the principle of a two storey dwelling on the appeal site would result in an imposing or dominant visual impact on the street scene. This is particularly the case given the established character of the area, which is largely defined by two storey dwellings. Furthermore, the generous separation distances that would exist between the proposed dwelling and neighbouring properties would help to ensure the development does not appear cramped, dominant or visually incompatible with the existing pattern of development in the area."*

It is now proposed to erect a two-storey dwelling with a hipped roof. It would have the same eaves height as the remainder of Tregarth Road, though a lower ridge height, given the width of the dwelling relative to the neighbouring terrace. However, given the generous separation distances identified by the Inspector, the site could both accommodate a two-storey dwelling without appearing cramped, and support a lower ridge height without compromising the character of the streetscene.

As such, the proposed development would be in accordance with Policies BCS20, BCS21 and Policies DM26-29 and would be acceptable in design terms, and overall, the proposal is deemed to be of high quality, fully in accordance with the policy expectation for a high standard of design, responsive to the local context.

#### *Residential amenity of neighbours*

Other than the host dwelling, the nearest dwellings are to the north (the rear garden of 15 Risdale Road), and 2 Tregarth Road to the southwest. No side or rear elevation windows are proposed other than at ground floor level, so the proposed dwelling would not result in any overlooking or loss of privacy.

In terms of potential overbearing or loss of light, the property would be over 15 metres from the first floor elevation of 13 Risdale Road, and so would not have a harmful impact. There is a first floor side elevation window to 2 Tregarth Road, which would be within 9.2 metres of the side

elevation of the proposed dwelling, though available floorplans suggest that this window serves a non-habitable room (a landing). The dwelling would be stepped forward of the garden boundary to 15 Risdale Road by 4 metres, and would extend forward of that property's rear garage by 3.5 metres. Given the space provided between the new dwelling and 13 Risdale Road, the proposal would not result in harmful levels of overshadowing to the garden of no. 15. As the previous Inspector noted, and taking into account that the Council previously accepted that harmful overshadowing would not ensue, the *"difference between the overshadowing impacts of a 1.5 and 2 storey building upon No 13's garden would be immaterial"* (§8).

#### *Amenity of future occupants*

NPPF paragraph 135 states that policies and decisions should ensure, inter alia, a high standard of amenity for future and existing users. It advises that policies may also make use of the nationally described space standards, where the need for an internal space standard can be justified.

Policy BCS18 requires residential developments to provide sufficient space for everyday activities and to enable flexibility and adaptability by meeting appropriate space standards, though it does not formally adopt the National Space Standard. It also states in the supporting text that building to suitable space standards will ensure new homes provide sufficient space for everyday activities, and that homes can also be used more flexibly and adapted more easily by their occupants to changing life circumstances.

National Space Standards (NDSS) require 2-bed, 4 person dwelling to have 79sqm of internal floorspace, with 2-bed, 3 person dwellings requiring 70sqm of internal floorspace. The proposal would provide two double bedrooms and 74.4sqm of internal floorspace. Compliance with NDSS could be achieved by reducing bedroom two to 11.49sqm (and relabelling this as a single bedroom), however, on balance it is considered preferable in design and amenity to provide two good-sized bedrooms, rather than reducing one of the bedrooms to contrive compliance with NDSS. Looking at the development overall, it is considered to provide sufficient and well-arranged floor space, to justify non-compliance with NDSS.

A dual-aspect lounge and a triple-aspect kitchen/diner are proposed ensuring that the habitable rooms would benefit from good natural daylighting and outlook, winter solar gains, and natural cross-ventilation, whilst the 67sqm rear garden would ensure suitable levels of outdoor amenity space.



### *Sustainability and climate change*

Permeable block paving is proposed to all parking spaces in the front garden, to minimise surface water run-off on to the street, and to improve the existing situation in an area at high risk from surface water flooding. The Energy Statement confirms that the development will achieve a 60% reduction in carbon dioxide emissions, through the building fabric and the provision of an air source heat pump for both hot water and heating.

### *Highway safety and parking*

It is proposed to create 2no. parking space for the new dwelling (both with EV charging points). Appendix 2 of the Site Allocations and Development Management Policies (SADMP) sets a maximum parking standard of 1.25 spaces for a two-bed dwellings, though this is to be applied as an average across development. It goes on to state that, in respect of individual or small-scale developments these standards will be applied flexibly to allow for the best layout of the site, and that this may result in the provision of driveway space which exceeds that specified in the guidelines.

Notwithstanding, NPPF para 112 states that maximum parking standards for residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport. Notwithstanding that the SADMP pre-dates the NPPF, and is out-of-date, the supporting text for the approach to parking states that, *"the approach to the provision of parking aims to promote sustainable transport methods, such as walking, cycling and public transport, as encouraged by Core Strategy policy BCS10."* As this is neither a clear and compelling justification for managing the local road network, and the provision of an additional 0.75 spaces over the stated maximum would not impact on optimum density on the site, the proposal would be NPPF-compliant in respect of on-site parking.

The existing garage would be demolished as part of the works, however this is undersized (and available street view imagery suggests it has not been used for vehicle parking for several years). The host dwelling would retain parking spaces to the front garden, accessed from Risdale Road, and so the proposal would not impact on existing parking levels.

Future occupants would either have to reverse on to or off the site, however this would be common practice along Risdale Road, and the low number of daily trips generated by a two vehicles are unlikely to result in severe impact on the highway network through manoeuvring.

Traffic Accident data available on the Council's Pinpoint mapping service shows no record of any accidents, in the vicinity, within the last five years. Given the good visibility, it is not envisaged that a car reversing out in the road, nor a car reversing into the space, would result in significant adverse highway safety impacts, such as to warrant refusal.

A secure and covered cycle storage shed is proposed in the side garden for two bicycles, in accordance with parking standards, and a dedicated refuse and recycling storage is proposed within the front garden.

#### *Biodiversity net gain*

Under the Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) Biodiversity net gain (BNG) is mandatory for all sites from April 2024 (minor development having been exempted until the 2<sup>nd</sup> April 2024).

The proposal is accompanied by a BNG report, which confirms that the site has a baseline of 0.0364 habitat units. Following development, this would be reduced to 0.0197 habitat units. To address this shortfall, and to achieve the mandatory 10% BNG, it is proposed to exclude a strip of land from the garden curtilage (between the driveway and boundary fence in the south-west corner) and plant two trees (e.g. fruit trees or shrubs such as holly or hazel), to achieve 0.0452 habitat units and a 24.13% net gain. As trees planted within garden curtilages cannot be counted towards net gain under Defra guidance, this area would be demarcated as distinct to the rest of the garden and managed separately.

Whilst the LPA did not consider this method of BNG delivery to be appropriate, the Inspector stated,

*“While I see no obvious reason why in principle the above method could not potentially comply with the relevant regulations and guides, there is no mechanism before me, such as a legally binding Section 106 agreement to secure public access, management, maintenance and monitoring of the proposed BNG area along the south west boundary of the site for the requisite period. Therefore, I cannot be certain that the statutory BNG objective can be achieved or that the BNG condition is capable of being successfully discharged by the specific proposed method*

*which includes providing a narrow fenced off publicly accessible area of the site to be managed by the appellant for 30 years.” (§14)*

The current application is supported by a draft BNG S106, supplied by the Planning Advisory Service (PAS). The appellant is not aware if the LPA has yet produced a BNG S106 pro forma, but is open to using their own version if one is made available.

In the alternative, the applicant would purchase off-site credits to satisfy mandatory BNG. As the baseline figures have been provided, it is known that the site has a baseline of 0.0364, and that as habitat creation cannot be created within private gardens, 0.04 off-site credits would need to be purchased prior to commencement (subject to the relevant multiplier). The applicant is not aware of any local BNG providers selling units of less than 0.1, and so would likely have to purchase statutory biodiversity credits.

#### *Unstable land*

Policy DM34 requires development to ensure that any existing contamination of the land will be addressed by appropriate mitigation measures, whilst policy DM37 requires proposals in the High-Risk Coal Mining Areas to be supported by a suitable desk-based assessment.

The accompanying Coal Mining Risk Assessment confirms that there is a low to moderate risk of shallow depth coal mining on site. Compliance with policy DM34 could be fully ensured with the standard pre-commencement conditions.

#### **Planning balance and conclusion**

The recent Written Ministerial Statement, “Building the homes we need”, made on 30th July 2024, set out clearly that *“We are in the middle of the most acute housing crisis in living memory. Home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home.”* It goes on to state that brownfield land should be the first port of call for housing, and that the default answer to such development should be ‘yes’. Changes to the NPPF are therefore imminent, *“reversing the change made last December that allowed local character to be used in some instances as a reason to reduce densities”*, and *“strengthening expectations that plans should promote an uplift in density in urban areas.”*

The Council has a stated 2.2-2.4 year housing supply, has not met any of the most recent Housing Delivery Test, and has an out-of-date Local Plan. As such, the presumption in favour of sustainable development contained within paragraph 11d of the NPPF is currently engaged.

The proposal would provide economic benefits in the form of construction jobs and local investment, increased local spending, and the inward investment that this invariably attracts.

In terms of social benefits, significant weight should be given towards the provision of housing in an area that has not delivered a sufficient supply of housing in any of the previous four years and has a shortfall of housing land supply of almost three years. Moderate weight should also be given to the contribution the development would make towards the mix and balance of the local area. The Council has recently published the "*City of Bristol Local Housing Needs Assessment Report of Findings*" (November 2023), as a background paper to the new Local Plan. This predicts that, for the period 2020-2040, single person households will represent almost a third of the overall household growth (15,000, 32%), and couples without dependent children will represent almost a further third of the growth (13,600, 29%). The proposed two-bedroom dwelling would meet both of these requirements.

Environmental benefits would ensue from the provision of an energy-efficient dwelling, and the more efficient use of land in a built-up area. These benefits would not be significantly outweighed by any adverse impacts.

Too often, limited weight is given to the provision of single dwellings, however when viewed collectively, these windfall sites make a significant contribution to housing figures, and help to preserve greenfield sites. They are often more affordable (being smaller, and constructed quickly by SME builders), and are in sustainable locations with existing infrastructure, as is the case with the application site. I attach a recent appeal decision where an Inspector gave significant weight to a single dwelling, in the context of the LPA having a less than 2.5 year housing supply.

In conclusion, the proposal would make a more efficient use of a site already used for housing, in accordance with policy expectations and objectives. Following revisions the design is now deemed appropriate for the site and local context.

A suitable level of residential amenity can be achieved, and there would be no harmful impact on neighbour amenity. Issues of highway safety, parking and sustainability are addressed as per policy requirements, and as such, the application should be supported.

The fee will be paid on request. If you have any further queries, then please do not hesitate to contact me.

Yours faithfully,

**Stokes Morgan Planning Ltd**

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# Appeal Decision

Site visit made on 30 July 2025

by **U P Han BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

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**Appeal Ref: APP/Z0116/W/25/3362081**

**13 Risdale Road, Ashton, Bristol BS3 2QU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Noogle Property Ltd against the decision of Bristol City Council.
  - The application Ref is 24/04949/F.
  - The development proposed is erection of a detached dwellinghouse.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are:
  - the effect of the proposed development on the character and appearance of the surrounding area; and
  - whether the proposed development would be capable of complying with the general condition of planning permission set out at paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (as amended) in respect of Biodiversity Net Gain (BNG).

## Reasons

### *Character and appearance*

3. The appeal site relates to part of the rear garden of 13 Risdale Road (No13) which is a two-storey end-of-terrace dwelling situated on the corner of Risdale Road and Tregarth Road. The rear garden is enclosed by timber fencing and lies adjacent to an alleyway located between 2 Tregarth Road and the appeal site.
4. The proposed dwelling would face Tregarth Road which contains a mix of two-storey semi-detached and terraced houses set consistently back from the road with driveways or gardens at the front. The more recently developed dwellings on the south side of Tregarth Road are simple in design and modest in size. The remainder of the street comprises largely post-war semi-detached dwellings and short terraces featuring ground floor bay windows with canopy roofs. While there are two main eras of development in the street, the roofscape is fairly uniform and defined by a series of hipped roofs to the end terraces and over the semi-detached properties. Overall, the street exhibits a visually cohesive character, derived from the consistency of architectural styles, building lines, heights, rhythm of built form and materials within the two periods of development.

5. Within this context, the height of the proposed dwelling, at 1.5 storeys, would be incongruous with the prevailing height of other dwellings in the street. Contrary to the appellant's assertion, I do not consider that the principle of a two storey dwelling on the appeal site would result in an imposing or dominant visual impact on the street scene. This is particularly the case given the established character of the area, which is largely defined by two storey dwellings. Furthermore, the generous separation distances that would exist between the proposed dwelling and neighbouring properties would help to ensure the development does not appear cramped, dominant or visually incompatible with the existing pattern of development in the area.
6. The proposed dwelling incorporates gabled dormer windows, a design feature that is notably uncharacteristic of the surrounding properties. This architectural element introduces a visual departure from the established aesthetic of the area, where such features are generally absent, impacting the overall cohesion and streetscape harmony.
7. According to the related appeal decision<sup>1</sup>, the extension allowed at No 13 would be subservient in massing and scale to the host building. As such, it should not be used to determine the height of the proposed dwelling. Instead, the proposed height ought to reflect the prevailing scale and proportions of other dwellings along the street, ensuring consistency with the established character of the area.
8. The appellant contends that the height of the proposed dwelling has been designed to avoid overshadowing neighbouring rear gardens. However, the appellant's Shadow Study demonstrates that the proposed dwelling would cast shadow upon a large proportion of the garden of No 13. Therefore, the difference between the overshadowing impacts of a 1.5 and 2 storey building upon No 13's garden would be immaterial.
9. I have been referred to a fallback position that exists through a Certificate of Lawfulness<sup>2</sup> issued for the erection of a double garage within the appeal site. The proposed plans indicate the garage would be single storey in height. The appeal scheme would be 1.5 storeys in height, so it would not be comparable with the fallback position. Furthermore, the double garage, with its utilitarian form and absence of fenestration, would appear as an ancillary outbuilding to No 13 rather than a self-contained dwelling. The garage and proposed dwelling would differ significantly due to their form, function, scale and architectural expression. Therefore, the fallback would be less harmful to the character and appearance of the surrounding area than the appeal proposal. Consequently, I ascribe limited weight to the fallback position.
10. While the proposal for a new dwelling on the appeal site is supported in principle, and its alignment and materials would be in keeping with the existing character of the area, the new dwelling by reason of its incongruous height and roof design, would appear anomalous and disruptive within the street scene.
11. For the reasons given, the proposed development would harm the character and appearance of the surrounding area. Accordingly, it would conflict with Policy BCS21 of the Bristol Development Framework Core Strategy (June 2011) (the CS) and Policies DM26, DM27, DM8 and DM29 of the Site Allocations and

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<sup>1</sup> APP/Z0116/D/25/3358597.

<sup>2</sup> 25/11311/CP.

Development Management Policies Local Plan (July 2014) (the DMP) insofar as they require development to respond appropriately to the scale, form and character of the street.

*The general condition of planning permission in respect of BNG*

12. Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (as amended) states that every planning permission granted for development in England shall be deemed to have been granted subject to the following condition, subject to exceptions: development may not be begun unless a biodiversity gain plan has been submitted and approved. As this is a general condition which would apply to the proposal, if I were to grant planning permission, it is not necessary for me to consider the acceptability of any proposed method of complying with that condition. I merely need to be satisfied that the proposal is capable of complying with the general condition.
13. To achieve the minimum 10% mandatory BNG, the proposal relies on the creation of a publicly accessible species-rich flowering lawn with three new trees along the south west boundary of the appeal site. The appellant indicates that the proposed BNG area would be fenced off from the rest of the appeal site but managed by the appellant for the requisite 30 year period.
14. While I see no obvious reason why in principle the above method could not potentially comply with the relevant regulations and guides, there is no mechanism before me, such as a legally binding Section 106 agreement to secure public access, management, maintenance and monitoring of the proposed BNG area along the south west boundary of the site for the requisite period. Therefore, I cannot be certain that the statutory BNG objective can be achieved or that the BNG condition is capable of being successfully discharged by the specific proposed method which includes providing a narrow fenced off publicly accessible area of the site to be managed by the appellant for 30 years.
15. As an alternative, the appellant has suggested the imposition of a pre-commencement condition requiring the appellant to purchase the requisite off-site credits. However, such a condition is unlikely to pass the tests set out in the National Planning Policy Framework (the Framework) as it lacks the necessary precision and would be difficult to enforce in practice. Furthermore, PPG indicates that 'no payment of money or other consideration can be positively required when granting planning permission.'
16. Notwithstanding the above, if planning permission were to be granted, the appellant would need to comply with the general condition set out in the legislation before commencing development. If planning permission is granted, the appellant would be entitled to secure appropriate off-site biodiversity gains or statutory biodiversity credits in compliance with the general condition. Nothing in the information before suggests it is unlikely that the general condition could be capable of being complied with in this instance.
17. For the reasons given, while the proposed method for delivering BNG, including through the provision of the narrow fenced off publicly accessible area, would be unlikely to comply with the relevant regulations and guides in practice, I find that the proposed erection of a dwelling at the site would likely remain capable of complying with the general condition relating to BNG by other means if planning permission were to be granted.



## Planning Balance and Conclusion

18. The Council is understood to be unable to demonstrate a five-year supply of deliverable housing sites with only an estimated supply 2.2 - 2.4 years supply. In this circumstance, paragraph 11 d) ii) of the Framework is engaged and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. Compliance with the development in relation to the living conditions of neighbouring occupiers and future occupiers of the proposed dwelling, drainage, flooding, highway safety, parking, and land contamination are expectations for all development that would weigh neither for nor against the proposal and is therefore considered neutral in the planning balance.
20. The proposal would cause harm to the character and appearance of the area surrounding area, conflicting with the development plan when considered as a whole. This weighs heavily against the proposal.
21. The CS dates from 2011 and the DMP from 2014 but the weight to be attached to them do not hinge on their age. Rather paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The identified policies from the CS and the DMP are, in the circumstances of this case, broadly consistent with the Framework in seeking to ensure developments are sympathetic to local character. I therefore attach significant weight to the conflict with these policies and to the associated harm.
22. The proposal would deliver one additional house, positively contributing to the housing mix and the overall housing supply, which is in shortage in the area. It would align with Framework's objective of boosting the supply of homes and making effective use of land. The site has good accessibility to local services and facilities including public transport links. The development would bring associated social and economic benefits both during and post construction. Carbon dioxide reductions would be achieved through the sustainable design and construction of the proposed dwelling. These are all positive benefits of the scheme. However, given the small scale of the development, the benefits would be modest and carry moderate weight in the planning balance.
23. Even if I were to attribute significant positive weight to the benefit of a single additional dwellinghouse, the adverse impacts of the proposal would, in my consideration, significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
24. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with the development plan.
25. For the reasons given above, the appeal should be dismissed.

*U P Han*

INSPECTOR