

PLANNING COMMITTEE - Thursday 7 November 2024

24/1134/RSP – Retrospective: Temporary change of use of land to construct access track for construction vehicles to facilitate developments at Bullsland Farm (for a further 2 years) at BULLSLAND FARM, BULLSLAND LANE, CHORLEYWOOD, HERTS, WD3 5BG

Parish: Chorleywood Parish Council

Ward: Chorleywood South & Maple Cross

Expiry of Statutory Period: 17 September 2024

Case Officer: David Heighton

Recommendation: That Planning Permission be granted for a temporary period (2 years).

Reason for consideration by the Committee: The application has been called in by Chorleywood Parish Council due to concerns regarding the access being no longer temporary if an additional three years is granted, and Green Belt concerns.

To view all documents forming part of this application please go to the following website:

<https://www3.threerivers.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SGPP98QFKK100>

1 Relevant Planning History

1.1 Farm Complex

- 1.1.1 16/2516/FUL - Part conversion, part demolition and construction of new buildings to create four dwellings with associated access, parking and landscaping – Permitted - 24.03.2017, works substantially complete.
- 1.1.2 16/2517/LBC - Listed Building Consent: Part conversion, part demolition and construction of new buildings to create four dwellings with associated access, parking and landscaping – Permitted - 24.03.2017, works substantially complete.
- 1.1.3 21/2041/FUL – Comprehensive parking and access arrangements for Bullsland Farm complex – Permitted – 11.11.2021
- 1.1.4 21/2515/PDA – Prior Notification: Change of use of agricultural building to four residential dwellings with operational works to building and associated curtilage – Permitted - 22.12.2021, not implemented.
- 1.1.5 22/0563/FUL – Variation of Condition 2 (Approved Plans) pursuant to planning permission 16/2516/FUL (Part conversion, part demolition and construction of new buildings to create four dwellings with associated access, parking and landscaping) to convert garage into habitable accommodation with external alterations to parking – Permitted – 01.06.2022, works substantially complete.
- 1.1.6 22/1074/LBC – Variation of Condition 2 (Approved Plans) pursuant to Listed Building Consent: 16/2517/LBC: (Listed Building Consent: Part conversion, part demolition and construction of new buildings to create four dwellings with associated access, parking and landscaping) to convert garage into habitable accommodation with external alterations and alterations to parking – Permitted – 12.08.2022, works substantially complete.
- 1.1.7 23/0326/FUL – Redevelopment of site including demolition of existing barn buildings and construction of 4 no. single storey dwellinghouses with boundary treatments including garden wall, timber posts and rail fencing, with associated bin store, parking, curtilage and landscaping works – Refused 26.05.2023.

- 1.1.8 23/0347/FUL – Variation of Condition 2 (Plan Numbers) pursuant to planning permission 16/2516/FUL (Part conversion, part demolition and construction of new buildings to create four dwellings with associated access, parking and landscaping) to allow erection of front porch to plot 4 – Refused – 24.04.2023.
- 1.1.9 23/0542/PDA – Prior Notification: Change of use of agricultural building to four residential dwellings with operational works to building and associated curtilage – Permitted 25.05.2023.
- 1.1.10 23/0590/LBC – Listed Building Consent: Internal alterations and alterations to fenestration to the existing farm house to create four bed residential dwelling including alterations to external materials and installation of air source heat pump – Permitted 13.10.2023.
- 1.1.11 23/1063/PDA - Prior Notification: Change of use of agricultural building to four residential dwellings with operational works to building and associated curtilage – Permitted 20.10.2023.
- 1.1.12 24/0012/PDA - Prior Notification: Change of use of agricultural building to four residential dwellings with operational works to building and associated curtilage – Permitted 09.04.2024.
- 1.1.13 23/0929/FUL - Variation of Condition 1 (plan numbers) pursuant to planning permission 22/0563/FUL to include erection of front porch to Plot 4 – Permitted 29.08.2023.
- 1.1.14 24/0825/FUL - Variation of Condition 8 (External Materials) pursuant to planning permission 21/0703/FUL: To allow alterations to external materials including steel cladding – Withdrawn.

1.2 Threshing Barn

- 1.2.1 19/1361/FUL - Conversion of existing former threshing barn to a self-contained dwelling including internal and external alterations to the building, construction of single storey extension and associated parking, landscaping and residential curtilage – Permitted - 25.10.2019, works in relation to this consent have commenced.
- 1.2.2 19/1362/LBC - Listed Building Consent: Conversion of existing former threshing barn to a self-contained dwelling including internal and external alterations to the building, construction of single storey extension and associated parking, landscaping and residential curtilage – Permitted - 25.10.2019, works in relation to this consent have commenced.
- 1.2.3 21/0703/FUL - Variation of Condition 2 pursuant to planning permission 19/1361/FUL: (Conversion of existing former threshing barn to a self-contained dwelling including internal and external alterations to the building, construction of single storey extension and associated parking, landscaping and residential curtilage) to include internal alterations including additional two storey pod, alterations to approved pod, increase in width of rear projection adjoining the building and addition of secondary glazing – Permitted 06.09.2021.
- 1.2.4 21/0750/LBC - Variation of Condition 2 (Approved Plans) pursuant to Listed Building Consent 19/1362/LBC: (Listed Building Consent: Conversion of existing former threshing barn to a self-contained dwelling including internal and external alterations to the building, construction of single storey extension and associated parking, landscaping and residential curtilage) to include internal alterations including additional two storey pod, alterations to approved pod, increase in width of rear projection adjoining the building and addition of secondary glazing – Permitted 06.09.2021.
- 1.2.5 24/0825/FUL - Variation of Condition 8 (External Materials) pursuant to planning permission 21/0703/FUL: To allow alterations to external materials including steel cladding. Withdrawn.

1.2.6 24/0843/LBC - Listed Building Consent: Alterations to agreed external materials including steel cladding. Withdrawn.

1.3 Hayloft

1.3.1 16/0203/FUL - New/replacement dwelling through conversion and extension of existing barns on the site, alterations to and refurbishment of curtilage Listed buildings, demolition of 20th Century agricultural buildings on the south of the site and associated landscaping – Permitted - 04.04.2016.

1.3.2 16/0204/LBC - Listed Building Consent: New/replacement dwelling through conversion and extension of existing barns on the site, alterations to and refurbishment of curtilage Listed buildings, demolition of 20th Century agricultural buildings on the south of the site and associated landscaping – Permitted - 04.04.2016.

1.3.3 17/1364/FUL - Conversion of Hayloft from a mixed use of residential and commercial to independent residential dwelling with associated parking and curtilage – Permitted - 20.10.2017, implemented.

1.3.4 17/1365/LBC - Listed Building Consent: Conversion of Hayloft from a mixed use of residential and commercial to independent residential dwelling with associated parking and curtilage - Permitted - 20.10.2017, implemented.

1.3.5 21/0302/FUL – Erection of two storey side extension – Permitted 16.04.2021.

1.3.6 21/0303/LBC – Listed Building Consent: Erection of two storey side extension – Permitted 16.04.2021.

1.3.7 24/0022/FUL – Erection of two storey side extension – Permitted 07.03.2024.

1.3.8 24/0023/LBC – Listed Building Consent: Erection of two storey side extension – Permitted 07.03.2024.

1.4 Wider Site

1.4.1 20/0439/FUL - Temporary change of use of land to construct access track for construction vehicles to facilitate developments at Bullsland Farm (3 year permission) - Permitted - 30.07.2020, implemented.

1.4.2 21/1025/FUL - Erection of solar array in an adjacent field, associated infrastructure and construction of single storey plant building including landscaping - Permitted - 14.01.2022, Implemented.

1.4.3 22/0269/RSP – Retrospective: Temporary change of use of land to construct extension to temporary access track for construction vehicles to facilitate developments at Bullsland Farm – Permitted – 05.05.2022, implemented.

1.4.4 23/0238/FUL – Erection of new passing bay with metal post, rail fencing and tarmac driveway on Bullsland Lane – Permitted 09.06.2023.

1.4.5 23/0577/RSP - Retrospective: Retention of temporary access track for construction vehicles to facilitate developments at Bullsland Farm for a further temporary period – Temporary permission granted for a further year until 26 May 2024.

1.4.6 24/0552/RSP - Retrospective: Retention of temporary access track for construction vehicles to facilitate developments at Bullsland Farm for a further temporary period of 3 Years – Refused - 20.06.2024.

R1: The continued retention of the access road and associated development for a further three years would be inappropriate development which is, by definition, harmful to the Green Belt. The development also has an impact on the openness of the Green Belt and conflicts with one of the purposes of the Green Belt by virtue of its continued encroachment into the countryside. No very special circumstances have been presented which would outweigh the identified harm. Therefore the development's continued existence, albeit for a temporary period, would be contrary to the NPPF (2023), Policy CP11 of the Core Strategy (adopted October 2011) and Policy DM2 of the Development Management Policies LDD (adopted July 2013).

R2: The continued retention of the access road and associated development has a harmful impact at a localised level on the rural character of the area, contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

2 Description of Application Site

- 2.1 The application site forms a strip of land which comprises a temporary consented access track that cuts through a field that forms part of the Bullsland Farm complex and is used for construction related traffic. The land subject to the application forms part of a wider open agricultural field which contains open land, orchard trees and a pond feature.
- 2.2 The application site adjoins Bullsland Lane at the entrance to Bullsland Farm to the south east of Piggy Lane and a public footpath. The application site leads from Bullsland Lane to the west of the building complex; running parallel to the curtilage boundary that serves the Threshing Barn a Grade II Listed Building.
- 2.3 Bullsland Farm benefits from a number of planning permissions as set out above. A construction management plan was previously approved for the construction of four new dwellings within Bullsland Farm (application reference 16/2516/FUL and subsequent variations) which set out that the construction vehicles would access the site via a new access track from Bullsland Lane.
- 2.4 The access track connects from Bullsland Lane from the north and provides direct connectivity to the construction site which includes a complex of buildings which make up Bullsland Farm.
- 2.5 It is noted that the works pertaining to the four new dwellings on site are complete, and the works pertaining to the Threshing Barn (application references 19/1361/FUL and 19/1362/LBC) are substantially complete. The applicant has advised that the works still to be undertaken relate to an extension to the Hayloft (application reference 24/0022/FUL and 24/0023/LBC), some refurbishment works to Bullsland Farmhouse (application reference 23/0590/LBC) and the conversion of the Southern Barn into houses (application reference 24/0012/PDA). It is noted that none of the outstanding planning permissions are required by planning condition to use the temporary access.
- 2.6 With regards to policy designations, the application site falls within the Metropolitan Green Belt.

3 Description of Proposed Development

- 3.1 This application seeks retrospective planning permission for the retention of the temporary access track for construction vehicles to facilitate developments at Bullsland Farm for a further 2 years.
- 3.2 The current temporary planning permission for the track permitted via 23/0577/RSP expired on 31 May 2024.

- 3.3 The track is approximately 310m in length and 5m in width. It is constructed from hardcore, rubble and road plainings.
- 3.4 No alterations to Bullsland Lane are proposed as part of the current application.
- 3.5 A Grassland Restoration Plan has accompanied the application and sets out how the land subject to the application will be restored. Planting enhancement is also proposed as part of the restoration works.
- 3.6 During the course of the application, additional information was submitted in the form of an additional justification document, whereby the temporary time period of the application was amended from 3 to 2 years (24 months).

4 Consultation

4.1 Chorleywood Parish Council: [Objection]

The Committee had Objections to this application on the following grounds and wish to CALL IN, unless Officers are minded to refuse.

The development amounts to inappropriate development in the Green Belt as the extension of the period results in the effect being of a permanent change. There are no special circumstances to allow such development.

To become acceptable requires a condition placed on this development for a maximum of one year extension and require a full and clear construction timetable/workplan for the development the track will support to be submitted prior to consent of this application.

Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended.

4.2 National Grid: [No response received]

4.3 Hertfordshire County Council Footpath Section: [No response received]

4.4 Conservation Officer: [No response received]

5 Neighbour Consultation

5.1.1 Site Notice/Press Notice

Site Notice: Expired 23.05.2024 Press Notice: Expired: 01.06.2024.

5.1.2 Number consulted: 6.

5.1.3 No of responses received: 0.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38 (6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.2 S66(1) of Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPAs to have special regard to the desirability of preserving the listed building or its setting or any

features of special architectural or historic interest which it possesses when considering whether to grant planning permission.

6.3 The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

6.4 The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

6.5 The Environment Act 2021.

6.6 National Planning Policy Framework and National Planning Practice Guidance

In 2023 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.7 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM2, DM3, DM6, DM7, DM8, DM9, DM13 and Appendices 4 and 5.

The Chorleywood Neighbourhood Plan (referendum version, August 2020). Policy 2 is relevant.

6.8 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

7 **Planning Analysis**

7.1 Background

- 7.1.1 The access temporary track was originally granted planning permission via 20/0439/FUL for a 3-year period in July 2020 for construction vehicles to facilitate developments at Bullsland Farm. Construction access was thereafter required to use the access track rather than Bullsland Farm.
- 7.1.2 Subsequent planning permissions followed and were granted for further development of the wider site. As a result, further temporary permissions were granted to retain the track for temporary periods in 2022 and 2023 until 26 May 2024 to facilitate development and the approved planning permissions.
- 7.1.3 With regard to the above planning history, subsequent applications were granted earlier this year, 2024, for an extension and works at the hayloft and threshing barn respectively. A further permission within the farm complex for the construction of a further four residential dwellings was also subsequently approved and is considered relevant in terms of the submission of this application.

7.2 Impact on the Green Belt

- 7.2.1 The National Planning Policy Framework (NPPF) sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belt are their openness and their permanence. The NPPF sets out that Green Belt serves five purposes:
- To check the unrestricted sprawl of large built-up areas;
 - To prevent neighbouring towns merging into one another;
 - To assist in safeguarding the countryside from encroachment;
 - To preserve the setting and special character of historic towns; and
 - To assist in urban regeneration by encouraging the recycling of derelict and other urban land.
- 7.2.2 Paragraph 152 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. CP11 of the Core Strategy (adopted October 2011) sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purposes of including land within it. This is consistent with the NPPF. Policy DM2 of the Development Management Policies document outlines that the construction of new buildings in the Green Belt is inappropriate with certain exceptions. Policy DM2 is silent with regards to engineering operations. It is noted that Policy DM2 pre-dates the current NPPF but it should be noted that Policy DM2 was adopted following the publication of the 2012 NPPF and references the NPPF. Green Belt policy contained within the NPPF has not materially changed between the 2012 version and 2023 version, such that DM2 is therefore considered to remain consistent with the NPPF.
- 7.2.3 Paragraph 155 of the NPPF states:
Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:
- a) mineral extraction;
 - b) engineering operations;**
 - c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
 - d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
 - e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and

f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.

7.2.4 In this instance, paragraph 155 (b) is relevant and the works could be regarded as a form of development which is appropriate in the Green Belt. However, this caveated by the development a) preserving openness and b) not conflicting with the purposes of the Green Belt.

7.2.5 In relation to the assessment of the impact on openness of a development within the Green Belt, paragraph 001 of the NPPG states;

Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, 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 remediability – 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.*

7.2.6 The development consists of an access track that has the appearance of a roadway that cuts through the otherwise open, undeveloped field. The roadway has resulted in an urbanising feature within the open landscape. It also results in the intensification of the use of the land as it facilitates construction traffic passing through open fields.

7.2.7 From a spatial perspective, the roadway including associated bunding has introduced new development on what was previously an open and undeveloped field. The roadway at 5m in width and in excess of approximately 310m in length is an extensive form of development. When considering the absence of development prior to the road's construction, there has been a significant spatial impact on the openness of the Green Belt given the scale of the road.

7.2.8 From a visual perspective, the construction access is visible from the new dwellings within the Bullsland Farm Estate, in addition to the views available from the nearby public footpaths. Whilst it is noted that the visual impact of the construction access is more contained, it still makes a noticeable impact to the visual appearance of the rural field across which it extends. Furthermore, the bunding increases the visual prominence of the access track.

7.2.9 In terms of the duration of development, the applicant is seeking a further 2 years, on top of the 4 years since the road was constructed. Whilst recognising that the track is not proposed as a permanent feature, a further 2 years would have an impact upon the openness of the Green Belt for the reasons expressed above.

7.2.10 In light of the additional activity arising from the road, the retention of development on what was previously an undeveloped parcel of land, and its visual and spatial impacts, fails to preserve the openness of the Green Belt.

7.2.11 When considering the pre-existing condition of the site which was absent of development, the road and associated works have conflicted with one of the purposes of Green Belts, namely the encroachment into the countryside.

7.2.12 The impact on the Green Belt is however tempered by its temporary nature and the remediability of the land which is considered at section 7.8 below.

7.2.13 Notwithstanding, the development cannot be said to fall within paragraph 155(b) or any other exceptions set out within the NPPF. As such, whilst it is noted that the access road is and would remain temporary as proposed, the development constitutes inappropriate development, which is, by definition, harmful to the Green Belt. As per paragraph 153 of the NPPF substantial weight is given to any harm to the Green Belt. The development therefore is contrary to Policy CP11 of the Core Strategy, Policy DM11 of the Development Management Policies LDD and the NPPF (2023).

7.2.14 Consideration into whether any 'very special circumstances' exist is set out at paragraph 7.8 below.

7.3 Impact on Heritage assets, Landscape Character and Street Scene

7.3.1 Policy CP1 of the Core Strategy states to protect and enhance our natural, built and historic environments from inappropriate development and improve the diversity of wildlife and habitats. Policy CP12 of the Core Strategy relates to design that states that in seeking a high standard of design, the Council will expect development proposals to 'have regard to local context and conserve or enhance the character, amenities and quality of an area' and 'conserve and enhance natural and heritage assets'. Policy DM3 seeks the preservation of Listed Buildings.

7.3.2 Policy DM7 DMP LDD relates to landscape character and states:
In all landscape regions, the Council will require proposals to make a positive contribution to the surrounding landscape. Proposals that would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused planning permission.

7.3.3 The works appear at odds and out of context within the surrounding landscape. The track appears as an artificial incursion which, when combined with its hard surface and bunding, has urbanised this section of the field and thus has a localised impact on the rural character of the area. It also results in an intensification of use of the existing undeveloped field with the passing of construction traffic leading from Bullsland Lane to the site and back.

7.3.4 The Bullsland Farm complex includes two Grade II Listed Buildings. The Conservation Officer when considering the original temporary planning application (20/0439/FUL) previously advised that the undeveloped, agrarian landscape surrounding the listed buildings is an important aspect of their setting which contributes to their significance. However, the Conservation Officer raised no in principle objections as there would be no permanent changes to the landscape once the land has been returned to its former state following the removal of the temporary access track. As such, granting use of the track for a further period would not result in any greater harm to the heritage assets than that previously approved.

7.3.5 Thus, it is considered that the hardstanding and associated construction traffic using the access track fail to respect the rural qualities of the immediate area contrary to Policies CP1 and CP12 of the Core Strategy and Policy DM7 of the Development Management Policies LDD.

7.4 Impact on amenity of neighbours

7.4.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM9 of the Development Management Policies document outlines that the Council will refuse planning permission for development, including changes of use, which would or could give rise to polluting emissions to land, air and/or water by reason of disturbance, noise, light, smell, fumes, vibration, liquids, solids or

other (including smoke, soot, ash, dust and grit) unless appropriate mitigation measures can be put in place and be permanently maintained.

7.4.2 The granting of a further temporary permission would not affect the access arrangements or facilitate an intensification of use of the main aspect of the track granted under the previous consents. The use of the access track therefore, would not result in any demonstrable harm to the residential amenities of the surrounding neighbouring properties along Bullsland Lane. In order to safeguard neighbouring amenity, in the event of any approval it would be necessary to control the hours of use and no external lighting, in line with previous controls (conditions 3 and 6 of 23/0577/RSP).

7.4.3 Notwithstanding this, this does not alleviate the identified harm to the Green Belt and rural character of the area as outlined above.

7.4.4 In summary, subject to the above controls, the development would be in accordance with Policy CP12 of the Core Strategy and Policy DM9 of the Development Management Policies LDD.

7.5 Impact on Highway Safety

7.5.1 Policy CP10 of the Core Strategy relates to transport and states:
Development will need to demonstrate that:

i) It provides a safe and adequate means of access

l) It makes adequate provision for all users, including car and other vehicle parking, giving priority to people with mobility difficulties, pedestrians, cyclists and equestrians

7.5.2 The access arrangements into the site were approved under application 20/0439/FUL and the current application does not change these arrangements. Notwithstanding this, any retrospective permission would include a condition that the access track is only used when a banksman is present to control the use and restricting delivery times as per previously approved under application 20/0439/FUL.

7.6 Trees and Landscaping

7.6.1 No protected trees would be affected by the development. The Landscape Officer did comment on the application and advised that no trees should be removed or damaged to facilitate the construction of the development.

7.6.2 New landscaping is proposed as part of the enhancement works and this is considered in more detail below and forms a condition on the grant of planning permission for a temporary period.

7.7 Biodiversity

7.7.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.7.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning

application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application.

- 7.7.3 The application is supported by a Grassland Restoration Plan that was approved under application 21/1891/DIS. The restoration of the land following the cessation of use of the access track and extensions will be required to be carried out in full accordance with the details set out within the Plan. The application is also accompanied by a UKHabs Ecological Walkover Survey dated 19 March 2024. There would therefore be no long term harm to biodiversity as a result of the works.

7.8 Biodiversity Net Gain

- 7.8.1 Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to exemptions as set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

- 7.8.2 In this case, the applicant has confirmed that if permission is granted for the development to which this application relates the biodiversity gain condition would not apply because the application relates to retrospective development which already exists.

7.9 Do 'Very Special Circumstances' exist?

- 7.9.1 In accordance with paragraph 153 of the NPPF when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very Special Circumstances (VSC) will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm such as the impact on the character of the area resulting from the proposal, is clearly outweighed by other considerations.

- 7.9.2 It is recognised that several temporary planning permissions have been granted for the access track. On this point, the PPG sets out that:

"It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently."

- 7.9.3 The guidance provided within the PPG is noted, however, the initial clear rationale for granting the access track for a temporary period remains relevant today, as on-going works continue across various parts of the site. It is evident from the identified harm that a permanent permission is wholly unacceptable and unjustifiable in planning terms. The application therefore turns on whether there are still material considerations in favour of granting a temporary planning permission and if so, for what length of time. If not, the application should be refused.

Material considerations:

Previous decisions:

- 7.9.4 Very Special Circumstances were identified in granting the previous temporary consent for a period of one year (application reference 23/0577/RSP). The Officers Report for this application summarised that:

Taking into consideration the fact that access road would only be a temporary feature and the harm would be rectified following its removal and reinstatement of the land and that the proposal seeks to prevent conflict between construction traffic and other users of Bullsland Lane, it is considered that there are material considerations which constitute very special circumstances that would outweigh the inappropriateness of the development and the temporary harm to the opens of the Green Belt and the conflict with the purposes of the Green Belt.

- 7.9.5 No Very Special Circumstances were presented, which outweighed the identified harm in refusing the previous application at the site for the retention of temporary access track for construction vehicles to facilitate developments at Bullsland Farm for a further temporary period of 3 years (application reference 24/0552/RSP). The Officers Report for this application summarised that:

It has not been demonstrated that the access road is required to prevent conflict between construction traffic and other users of Bullsland Lane due to the scale and nature of the remainder of the extant planning permissions, it is not considered that there are material considerations which constitute very special circumstances that would outweigh the inappropriateness of the development and the temporary harm to the opens of the Green Belt and the conflict with the purposes of the Green Belt.

- 7.9.6 It is acknowledged that the access road was originally granted under application reference 20/0439/FUL for a temporary period of 3 years, with an extension to the length of the road approved in May 2022. The original temporary permission expired on the 30 July 2023 and this was renewed under application reference 23/0577/RSP for a period of a further year and expired on the 26 May 2024.

- 7.9.7 Notwithstanding, the principle of why temporary planning permission was granted previously is still relevant today, although as time has progressed the material considerations and extent of works need to be reviewed.

Extent of outstanding works to be undertaken:

- 7.9.8 Since the previous renewal application for the temporary access road was determined, the works to the Threshing Barn have progressed such that they are now substantially complete. It is noted that there are still extant planning permissions for refurbishment works to the Farmhouse and a two storey extension to the Hayloft. The applicant has advised that the conversion of the southern barn, previously permitted under application reference 21/2515/PDA and most recently reconsidered under application reference 24/0012/PDA has commenced and would require significant servicing over the next three years. Notwithstanding this, it is noted that the works to the Threshing Barn and Southern Barn are conversion works, and not new buildings. As such, the scale of works to facilitate the conversion of these buildings would not be of the same scale as that for the construction of new buildings.

- 7.9.9 Additional information in the form of a further justification, dated 25/09/2024, has been submitted during the course of the application. This highlights the four projects referred to above that are ongoing at the site:

1. The conversion of the Southern Barn to 4 residential units
2. The redevelopment of the Grade II listed farmhouse
3. The erection of a substantial side extension to the Hay Barn involving removal of the last agricultural building
4. Installation of the solar array.

- 7.9.10 The applicant estimates that the build time, fit out and completion of these above projects will take approximately 2.5/2.7 years and suggested 3 years to allow for some flexibility.

- 7.9.11 However, officers have challenged the extent of outstanding works required.
- 7.9.12 Works have commenced recently for the conversion of The Southern Barn which is timetabled to be undertaken within a period of 18-24 months (at the time when the application was submitted in July). The repair, maintenance and upgrade of the farmhouse are estimated to run until the end of 2024/beginning of 2025. A timetable of 6 months is given to extend the Hayloft. Lastly, the consented solar panels have been installed and there are no further outstanding applications to expand or alter the installed array.
- 7.9.13 It is recognised that each build is a separate project meaning they each have their own team working on different areas of the farm; however, from the information submitted it would appear that the extent of works required across the farm will take no longer than 2 years from November, recognising that some further flexibility is required.

Highway safety

- 7.9.14 The applicant advises that the access track is required to prevent the construction traffic, associated with the implementation of extant planning permissions associated with the Bullsland Farm complex, having to use the private part of the Bullsland Lane, which is also a narrow road and a bridle path. Bullsland Lane, where it branches off from the adopted spur is used by a number of other users including walkers, equestrians and cyclists.
- 7.9.15 Originally, it is noted that none of the outstanding planning permissions required the use of the construction access, nor was the submission of a construction management plan imposed on the planning permissions at Bullsland Farm. Since the original grant of a temporary planning permission a passing bay within Bullsland Lane was granted as part of planning permission 23/0238/FUL has been implemented which would, to some extent, assist vehicular traffic to and from the site, if required.
- 7.9.16 It is acknowledged that as part of an initial/early phase of works the track helped facilitate the site access for larger vehicles. However, as the builds progresses it is anticipated that smaller internal fit contractor vehicles could use Bullsland Lane, making use of the passing bay to avoid any conflicts with other road users, similar to other properties within the wider District that have to utilise smaller vehicles given their access situation. Where there is the potential for some conflict between road users, it can be necessary to use banksmen to ensure the safe flow of traffic, or to carefully manage the comings and goings of personnel and deliveries, and the potential to do this for the later stages of the developments to ensure safe access whilst the track is removed does not appear to have been considered. Given the width of the lane, and the presence and location of the passing bay, Officers do not consider that Bullsland Lane is wholly unsuitable for smaller vehicles. Notwithstanding this, whilst a passing place exists, the road is a bridle way and a public footpath also adjoins onto it. It was also evident from the site visit of the presence of members of the public in the vicinity of the application site including dog walkers.
- 7.9.17 Importantly, the use of the access track as an alternative and direct means of access providing clear separation of construction traffic would ensure no conflict with highway users. The keeping of the lane free from all types of construction vehicles would be to the benefit to the safety of horses, riders, the general public and other users of the road. As such, it is considered that significant weight should be attributed to mitigating the impact of construction vehicles with regards to highway safety as a means of alternative access.

Remediability and restoration of land

- 7.9.18 From the outset the applicant has maintained that the road is temporary and will be removed. It is accepted that whilst the track has remained in situ longer than first planned, it is a temporary form of development which can easily be restored.

- 7.9.19 It is noted that when works are completed on a particular permission and the need for the use of a particular spur off the haul road ceases and is not required, the agent has confirmed that these elements would be restored and re-instated to its previous form within the time limit of this application.
- 7.9.20 It is also acknowledged that further landscape enhancements in the form of additional tree planting in the orchard would be undertaken, both of which would be secured by way of a landscaping condition. This would be an added benefit in favour of the development.
- 7.9.21 It is therefore considered that the improvement and betterment of soft landscaping enhancement, along with when practical, the restoration of parts of the haul road within the two-year temporary period would attract moderate weight in favour of the application.

Consistency with decision making

- 7.9.22 Furthermore, consistency in planning decisions is an important consideration. The reasons for granting planning permission for a temporary period of time previously are still relevant today. This would weigh heavily in favour of the development, for a temporary period.

Planning balance:

- 7.9.23 Whilst it is accepted that there is a need to extend the use of the access track, details with regards to the length of time required has been challenged.
- 7.9.24 It is therefore not considered that there is a clear need for the access track to remain for a period of up to 3 years, particularly bearing in mind that one of the four developments listed has limited remaining works and one has been completed.
- 7.9.25 As such, it is not considered that it has been demonstrated that the works would be of such a substantial scale that would require the retention of the access track for a further three years. However, it is considered reasonable and proportionate, given a) the extent of permissions granted and outstanding works required by different project teams, b) the significant highway safety benefits arising from the development, c) its remediability, d) soft landscape enhancements and e) consistent approach to decision making, to extend the use of the access track for a further 24 months (2 years).
- 7.9.26 It is also noted that the justification also considers that if any part or spur of the access track is no longer required, then that can be reinstated as soon as is practicably possible. Therefore, the access road and spurs would only be a temporary feature, and the harm would be rectified following its removal and reinstatement of the land.
- 7.9.27 It is also recognised that the harm to the Green Belt and rural character must be tempered by the temporary nature of the development.
- 7.9.28 It is therefore considered that there are material considerations, which collectively constitute very special circumstances, that would outweigh the harm to the Green Belt and the harm that is caused to the rural character of the immediate area.
- 7.9.29 It should however be acknowledged that the grant of the temporary access road for a further 2 years to facilitate construction traffic entering and exiting the site does/would not set a precedent or future justification for the temporary access to be permanently retained to serve the residential properties permitted at the site.

8 Recommendation

That **RETOSPECTIVE PLANNING PERMISSION IS GRANTED** subject to the following conditions:

- C1 The development hereby permitted shall be maintained for the permitted temporary period, as specified within Condition 3, in accordance with the following approved plans: TRDC001 (Location Plan) and 22.015A.

Reason: For the avoidance of doubt and in the proper interests of planning, to protect the Green Belt, visual amenities of the landscape and residential amenities of neighbouring properties and in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM3, DM6, DM7, DM8, DM9, DM13 and Appendices 4 and 5 of the Development Management Policies LDD (adopted July 2013).

- C2 Prior to the expiration of the two-year temporary period as set out within Condition 3, a soft landscaping scheme specifying the proposed planting within the application site, shall be submitted to and approved in writing by the Local Planning Authority.

All soft landscaping works approved by this condition shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner.

If any of the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).

Reason: This condition is to ensure that the enhancements from the restoration of the land are realised to preserve the character and appearance of the wider application site and to protect the openness of the Green Belt in accordance with Policies CP1, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2 and DM6 of the Development Management Policies LDD (adopted July 2013).

- C3 By the 30 November 2026, the temporary haul road hereby permitted (including all associated materials (i.e. sub base) and temporary fencing) as shown on drawing number REF: 22.015A, shall be permanently removed from the application site, with the land restored to its former condition in accordance with the details set out within the approved Grassland Restoration Plan, by agb Environmental, dated 3 June 2021 along with the agreed enhanced landscaping as secured by Condition 2.

Reason: Temporary permission is to facilitate the construction works and protect the users of Bullsland Lane from construction traffic and to protect the openness of the Green Belt, residential amenities of the neighbouring properties and character and appearance of the Listed Building in accordance with Policies CP1, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM3 and DM9 of the Development Management Policies LDD (adopted July 2013).

- C4 The access track, hereby permitted, shall not be used at anytime when not manned by a banksman at the entrance with Bullsland Lane. No deliveries to the Bullsland Farm development shall take place before 1000 hours or after 1500 hours Monday to Friday with no deliveries on Saturday/Sunday or Bank Holidays.

Reason: In the interests of highway safety, to protect the other users of the public right of way and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C5 All construction traffic associated with the construction works at Bullsland Farm shall only access and exit Bullsland Farm via the temporary access road.

Reason: In the interests of highway safety, to protect the other users of the public right of way and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

C6 No external lighting shall be installed on the site or affixed along the access track.

Reason: In the interests of visual amenity and biodiversity and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policies DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

8.1 Informatives:

11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £145 per request (or £43 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 01438 879990 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this (cil@threerivers.gov.uk). If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Following the grant of planning permission by the Local Planning Authority it is accepted that new issues may arise post determination, which require modification of the approved plans. Please note that regardless of the reason for these changes, where these modifications are fundamental or substantial, a new planning application will need to be submitted. Where less substantial changes are proposed, the following options are available to applicants:

- (a) Making a Non-Material Amendment
- (b) Amending the conditions attached to the planning permission, including seeking to make minor material amendments (otherwise known as a section 73 application).

It is important that any modifications to a planning permission are formalised before works commence otherwise your planning permission may be unlawful and therefore could be subject to enforcement action. In addition, please be aware that changes to a development previously granted by the LPA may affect any previous Community Infrastructure Levy (CIL) owed or exemption granted by the Council. If you are in any doubt whether the new/amended development is now liable for CIL you are advised to contact the Community Infrastructure Levy Officer (01923 776611) for clarification.

Information regarding CIL can be found on the Three Rivers website (<https://www.threerivers.gov.uk/services/planning/community-infrastructure-levy>).

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work. Further information on how to incorporate changes to reduce your energy and water use is available at: <https://www.threerivers.gov.uk/services/environment-climate-emergency/home-energy-efficiency-sustainable-living#Greening%20your%20home>

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:
 - a) a Biodiversity Gain Plan has been submitted to the planning authority, and
 - b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Three Rivers District Council.

There are statutory exemptions and transitional arrangement which mean that the biodiversity gain conditions does not always apply.

Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemption or transitional arrangement is considered to apply.

The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out applies).

Where the local planning authority considers that the permission falls within paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990, the permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun, and, if subject to phased development, before each phase of development may be begun.

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

More information can be found in the Planning Practice Guidance online at <https://www.gov.uk/guidance/biodiversity-net-gain>.