

North Yorkshire Council

Community Development Services

Harrogate and Knaresborough Area Constituency Planning Committee

**ZC23/04288/DVCMAJ - VARIATION OF CONDITION NUMBER 2 OF
APPLICATION 20/01033/DVCMAJ TO ALLOW FOR THE CONSIDERATION OF
REVISED PLANS**

**AT LAND COMPRISING FIELD AT 441716 462728 MARTON CUM GRAFTON
NORTH YORKSHIRE ON BEHALF OF BRIERLEY HOMES LTD**

Report of the Assistant Director – Planning

1.0 Purpose of the Report

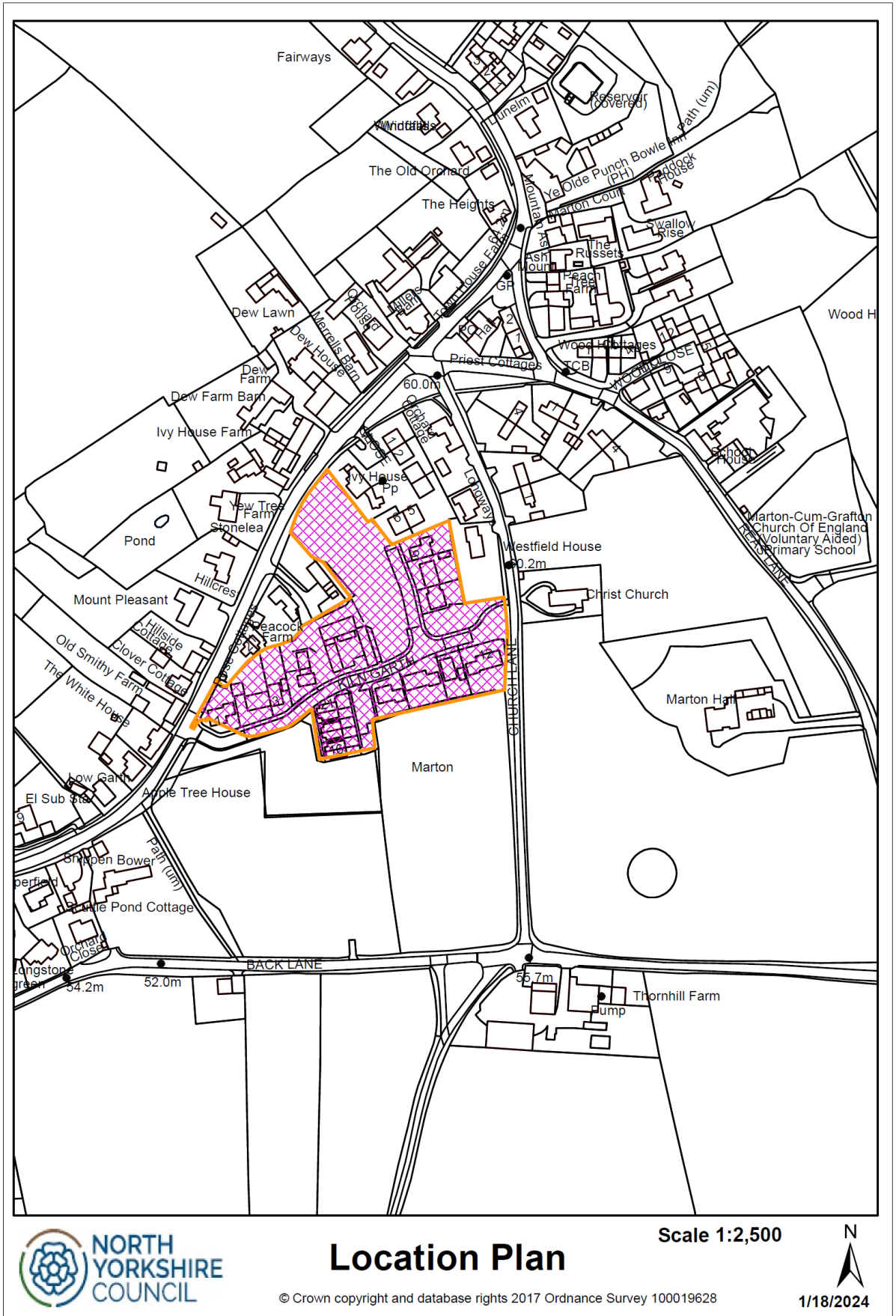
- 1.1 To determine a planning application for Variation of Condition Number 2 of Application 20/01033/DVCMAJ to allow for the consideration of revised plans on land comprising field At 441716 462728 Marton Cum Grafton on behalf of Assistant Director – Planning
- 1.2 This application is brought to the Planning Committee as the applicants, Brierley Homes Ltd, is a subsidiary of North Yorkshire Council

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That Planning permission be granted subject to the conditions listed below

- 2.1. Planning permission was originally granted in 2020 for the development of 20 houses including the conversion of the barn the subject of this application (Planning reference 18/00335/FULMAJ). The scheme was later amended under 20/01033/DVCMAJ to allow alterations to the new build elements on various plots and rationalisation of parking for the revised units.
- 2.2. This application seeks to amend Condition 2 of application 20/01033/DVCMAJ to enable the substitution of revised plans to allow for a small extension and the construction of a garage to serve plots 19 and 20, forming part of the barn conversion of the scheme.
- 2.3. No other changes to the scheme are proposed that would affect the nature of the development as approved. The principle of residential development remains acceptable. The relevant issues for consideration relate to the design of the extension and garage and their impact upon both amenity and the setting of the barns which form a non-designated heritage assets.
- 2.4. It is concluded for the reasons given in the report and taking into consideration of all matters relevant to the proposal, that the alterations are in accordance

with the provisions of the development plan and as such it is recommended that planning permission is granted.



3.0 Preliminary Matters

- 3.1. Access to the case file on Public Access can be found [here](#)

4.0 Site and Surroundings

- 4.1. The application site lies on the edge of the village of Marton Cum Grafton, and is bound by Grafton Lane to the north and Church Lane to the east. The site lies within Marton Cum Grafton conservation area. Christ Church, which is located to the east of the site is a Grade II listed building. Residential property is located to both the east and west of the site with new dwellings constructed to the south forming part of the consented scheme originally granted planning permission under 18/00335/FULMAJ (see below).
- 4.2. The application site forms part of site allocation MG8 in the Harrogate and District Local Plan 2014-2035 that already benefits from planning consent under 18/00335/FULMAJ for the erection of 20 dwellings, including the part demolition and part conversion of existing outbuildings, public open space and landscaping. Consent was granted subject to a S106 Agreement securing:
Affordable Housing provision
Open Space Contributions
Open Space Management Plan
- 4.3. An application to vary the above consent was submitted and approved under 20/01033/DVCMAJ. This later application sought alteration to the parking arrangements and variation to the dwellings sited on plots 15.16 19 and 20. A further dwelling was granted consent on the site under 20/03911/FUL. The development of the overall site is now reaching an advanced level of completion.
- 4.4. The buildings the subject of this application are centrally located within the site and consist of a range of former agricultural buildings that obtained consent to be converted under the enabling and partly implemented scheme.
- 4.5. Within the developer site requirements for the site under allocation MG8, the traditional farm buildings associated with Yew Tree Farm were considered to represent non-designated heritage assets.

5.0 Description of Proposal

- 5.1 The application seeks to vary the approved details in so far as they relate to the Plots 19 and 20. These plots relate to the existing barns which are identified as non-designated heritage assets. The works will include the addition of a single storey extension to plot 20 together with the construction of a detached garage to serve plot 19. In addition minor changes to the fenestration detailing to plot 20 is proposed together with alterations to the boundaries of the gardens to serve the units.

- 5.2 The barns are arranged in a courtyard with the two-storey barn (plot 19) located to the north and two single storey wings to either side forming units annotated as plot 20 and 21 on the submitted plans. The single storey extension is to be located within the internal courtyard of the barns and would represent a simple lean to design of approx. dimensions 3.2 x 3.6m under a clay pant tile roof. The detached double garage is to be located to the west of the courtyard adjacent to the gable end of plot 16 (one of the new build units approved as part of the scheme). Revised fenestration detailing is proposed to the outer courtyard elevation to plot 19 and 20 to accommodate new window openings. Internally within the courtyard low walls are proposed to demark new domestic boundaries.

6.0 Planning Policy and Guidance

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:
- The Harrogate and District Local Plan 2014-2035

Emerging Development Plan – Material Consideration

- 6.3. The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

- 6.4. Relevant guidance for this application is:
- National Planning Policy Framework 2023
 - National Planning Practice Guidance
 - Conservation and Design Guidance Note 4: Non-designated heritage assets
 - Marton cum Grafton Conservation Area Character Appraisal: November 2011

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below.

7.2. **Parish Council:** No Comments have been received

7.3. **Consultee:**

7.4. Highways: The garage elevations show an internal size that is considered too small to accommodate current private cars and should be larger. If space is at a premium a car port could offer solution. The plans require up dating to show a vehicle swept path. The changes to the layout result in the loss of visitor parking to plot 16.

7.5. MOD: the proposed development would be considered to have no detrimental impact on the operation or capability of a defence site or asset. The MOD has no objection to the development proposed.

Local Representations

7.6. No local representations have been received.

8.0 Environment Impact Assessment (EIA)

8.1. The application does not constitute development falling under the Town and Country Planning (Environmental Impact Regulations) 2017

9.0 Main Issues

9.1. The key considerations in the assessment of this application are:

- Principle of Development
- Impact Upon Heritage Assets
- Impact upon Amenity
- Other Matters

10.0 ASSESSMENT

Principle of Development

10.1. An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. In this instance, the applicants seek to vary condition 2 (approved plans) of planning consent 20/01033/DVCMAJ.

- 10.2. There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development, which is not substantially different from the one, which has been approved.
- 10.3. It is considered that the variation of the approved plans under condition 2 to allow for a small lean-to extension and detached garage to serve plots 19 and 20 can be considered under Section 73. The amendments do not alter the nature of the original enabling consent or principle of development. The quantum of residential development remains as previously considered.
- 10.4. The principle of residential development, including the conversion of the barns has already been established on the site through the earlier approved applications. It is noted that in the developer guidelines identified under the site allocation MG8 that the barns were considered to represent non – designated heritage assets that are located within Marton cum Grafton conservation area.
- 10.5. The key assessment is the impact of the proposed extension upon the character of the non-designated heritage asset and whether it would have an adverse impact upon amenity. Secondly whether the proposed garage can be sited without harm to amenity or setting of the non-designated asset.

Heritage

- 10.6. Policy HP2: Heritage Assets identifies that proposals for development that would affect heritage assets (designated and non-designated) will be determined in accordance with national planning policy.
- 10.7. Policy HP3: Local Distinctiveness advises that development should incorporate high quality building, urban and landscape design that protects, enhances or reinforces the local distinctiveness of the area. Matters relating to scale, visual relationships, views, and context are key considerations here. In addition, regard must be taken of the initial developer guidelines for the site, which in reference to the barns noted that:
- “The traditional farm buildings associated with Yew Tree Farm are non-designated heritage assets. Development of the site should minimise harm and where possible, seek to enhance the significance of this asset”.
- 10.8. The barns are constructed of brick under clay pantile roofs with elements of stone rubble on the outward facing elevations. The barns are arranged forming a courtyard consisting of a central two storey unit with single storey side wings. The approved scheme provides for three separate units which, to provide amenity, has resulted in the construction of an internal wall within the courtyard toward the southern boundary to create private amenity space. The consented scheme was to provide internal estate railing boundary features to demark the boundaries within this enclosed area.

- 10.9. In consideration of the enabling consent a limited intervention approach was adopted in the conversion of the units, making use of existing openings in the fabric of the buildings with no additional extensions. By adopting this methodology it ensured that minimal alterations were required in their conversion. Such an approach ensured compliance with developer requirements for development. In granting consent, permitted development rights were not removed for future alterations once occupied. The courtyard was however to be enclosed through the construction of boundary wall to demark private amenity space.
- 10.10. The barns are yet to be occupied and the applicants seek consent to construct a single storey lean to extension within the internal courtyard formed by the three barns. The extension is to be constructed from materials to match the existing structure, which in this case is bricks under a clay pantile roof. The simple lean to form of the structure does not extend as far the principle barn opening of the two storey structure. The small ancillary nature of the extension would not unduly harm the character of the group of barns as a whole. Internally within the courtyard instead of estate railings to demark boundaries a small wall is to be constructed centrally to divide the courtyard into relevant garden areas. These walls are screened from wider public vantage points by the presence of the existing wall to the south which encloses the courtyard.
- 10.11. The construction of the detached garage to the immediate west of the group would not be harmful to their setting and would be viewed in context of not only the converted structures but the adjacent new build dwellings built as part of the enabling consent. The materials used are considered sympathetic to the locality and a domestic garage sited in this location would be deemed acceptable. The highway authority have requested alterations to the garages to ensure that they are more usable for motor vehicles. As originally submitted the garage was deemed to small to accommodate modern vehicles and would have presented issues of vehicles parked on the roadside. Amended details have now been received which have increased the size of the garage accommodation.
- 10.12. Amenity
- 10.13. Policy HP4 of the Local Plan: Protecting Amenity advises that development proposals should be designed to ensure that they will not result in significant adverse impacts upon the amenities of occupiers and neighbours. Amenity considerations include overlooking, overbearing, loss of privacy and pollution impacts.

- 10.14. The construction of the extension does not impact on the residential amenity of the remaining units within the barn, to some extent amenity is already limited due to the nature of the conversion and relationship between dwellings.
- 10.15. The garage is sited adjacent to plot 16 which presents a blank gable elevation to the structure. The construction of the garage which is to be sited at a lower level than the existing dwellings to the immediate north would not have an adverse overbearing impact and is deemed in compliance with Policy HP4.
- 10.16. The revised fenestration detailing does not impact upon the character of the barn conversion or create unacceptable issues of overlooking.
- 10.17. Other Matters
- 10.18. Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted. Conditions under the original enabling consent have been discharged under 20/02009/DISCON: Condition 3 (Materials), Condition 4 (Civil Engineering Details), Condition 6 (Surface Water), Condition 9 (Prevention of Mud on Highway), Condition 10 (Highways condition survey), Condition 11 (Contractor's Compound Plan), Condition 12 (Construction Vehicle Access Statement), Condition 13 Parts A and B ONLY (Site Investigation and phase 3 remediation statement), Conditions 16 & 17 (Drainage Details), Condition 22 (Ecological Statement) and Condition 23 (Landscape Details) and also under 22/02740/DISCON Approval of details under Condition 14 (EV charging points). As such it is not necessary to repeat these in the determination of the current application.
- 10.19. As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. As stated above works have commenced on site and have reached an advanced state of completion, as such there is no need to impose the start date condition in this instance.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. The principle of the development has already been established through the previous permissions for residential development on the site. The proposed extension is subservient to the group of barns and is to be constructed of materials

sympathetic to the host structure. It is considered that the extension would not adversely affect the character of the group or setting of the conservation area. Neither the extension or the detached garage to serve the unit will impact upon the residential amenity of existing or future occupiers of adjacent dwellings.

- 11.2. Revised details have been received following receipt of the initial comments of the local highway authority. Subject to the receipt of no objections from the Local highway Authority on the revised details the proposed development is considered to be in accordance with the development plan and approval of the application is recommended.

12.0 RECOMMENDATION

- 12.1 That planning permission be GRANTED subject to receipt of no objection from the Highway Authority and conditions listed below.

Recommended conditions:

- 1 The development hereby approved shall be carried out in accordance with the following submitted plans as amended by other conditions of consent:
Location Plan : 1728-LOR-ZZ-ZZ-DR-A-102 Revision A
Block Plan: Drawing No 1728-LOR-ZZ-ZZ-DR-A-103 Revision B
Plots 19 Garage: Drawing No 1728-LOR-ZZ-ZZ-DR-A-105 Revision A
Planning Drawing No 1728-LOR-ZZ-ZZ-DR-A-104 Revision B
- 2 No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.
The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.
- 3 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 2.4 metres x 31 metres measured along both channel lines of the major road. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 4 No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved layout plan. Once created these

parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

- 5 If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until section D below has been complied with in relation to that contamination.

C. IMPLEMENTATION OF APPROVED REMEDIATION SCHEME

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise approved in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. REPORTING OF UNEXPECTED CONTAMINATION

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with section C.

- 6 Construction activity shall only take place between the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 Saturdays and not at all on Sundays and Bank Holidays.
- 7 No operations shall commence on site or any development be commenced before the developer has implemented the report detail including root protection area (RPA) (as per Barnes Associates Tree Report) fencing in line with the requirements of British Standard BS 5837: 2012 (section 6.2.2 figure 2) Trees in Relation to Construction - Recommendations, or any subsequent amendments to that document, around the trees or shrubs or planting to be retained, as indicated on the approved plan and for the entire area as

specified in accordance with BS 5837:2012. The developer shall maintain such fences until all development the subject of this permission is completed.

- 8 No operations shall commence on site in connection with the development hereby approved (including any demolition work, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the root protection area (RPA) works required by the approved tree protection scheme and ground protection detail (no dig) are in place. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority.
- 9 The proposed tree planting scheme is to be implemented in accordance with the detail set out within drw BA6320LAN-TP within the first planting season after the completion of each plot.
- 10 In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to survive for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced by the developer with such live specimens of such species in such number as may be approved by the Local Planning Authority.

Reasons for Conditions:-

- 1 To secure the satisfactory implementation of the proposal.
- 2 To ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.
- 3 In the interests of road safety
- 4 To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.
- 5 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Harrogate District Local Plan Policy NE9.
- 6 To safeguard amenity for neighbouring residents.
- 7 To ensure the protection of the trees or shrubs during the carrying out of the development.
- 8 To ensure the protection of the trees or shrubs during the carrying out of the development.
- 9 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 10 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

INFORMATIVES

- 1 This development is subject to a Planning Obligation made under Section 106 of the Town and Country Planning Act 1990.
- 2 All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 41 (1) of the Conservation of Habitats and Species Regulations 2010. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and in the first instance contact the National Bat Helpline on 0845 1300 228. Developers/contractors may need to take further advice from Natural England on the need for a European Protected Species Licence in order to continue the development in a lawful manner. Natural England can be contacted at consultations@naturalengland.org.uk, or by calling 0300 060 3900, or Natural England, Consultation Service, Hornbeam House, Crewe Business Park, Electra Way, Crewe, Cheshire, CW1 6GJ.

Target Determination Date: 23 February 2024

Case Officer: Andy Hough
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Appendix A –