

Report of the Strategic Director of Place to the meeting of the Area Planning Panel (KEIGHLEY AND SHIPLEY) to be held on 29 November 2023

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Summary Statement - Part One

APPLICATIONS RECOMMENDED FOR APPROVAL OR REFUSAL

The sites concerned are:

<u>Item</u>	<u>Site</u>	<u>Ward</u>
A.	Former Kashmiri Aroma Restaurant And Takeaway Coutances Way Burley In Wharfedale Ilkley West Yorkshire LS29 7HQ - 23/01734/FUL [Approve]	Wharfedale

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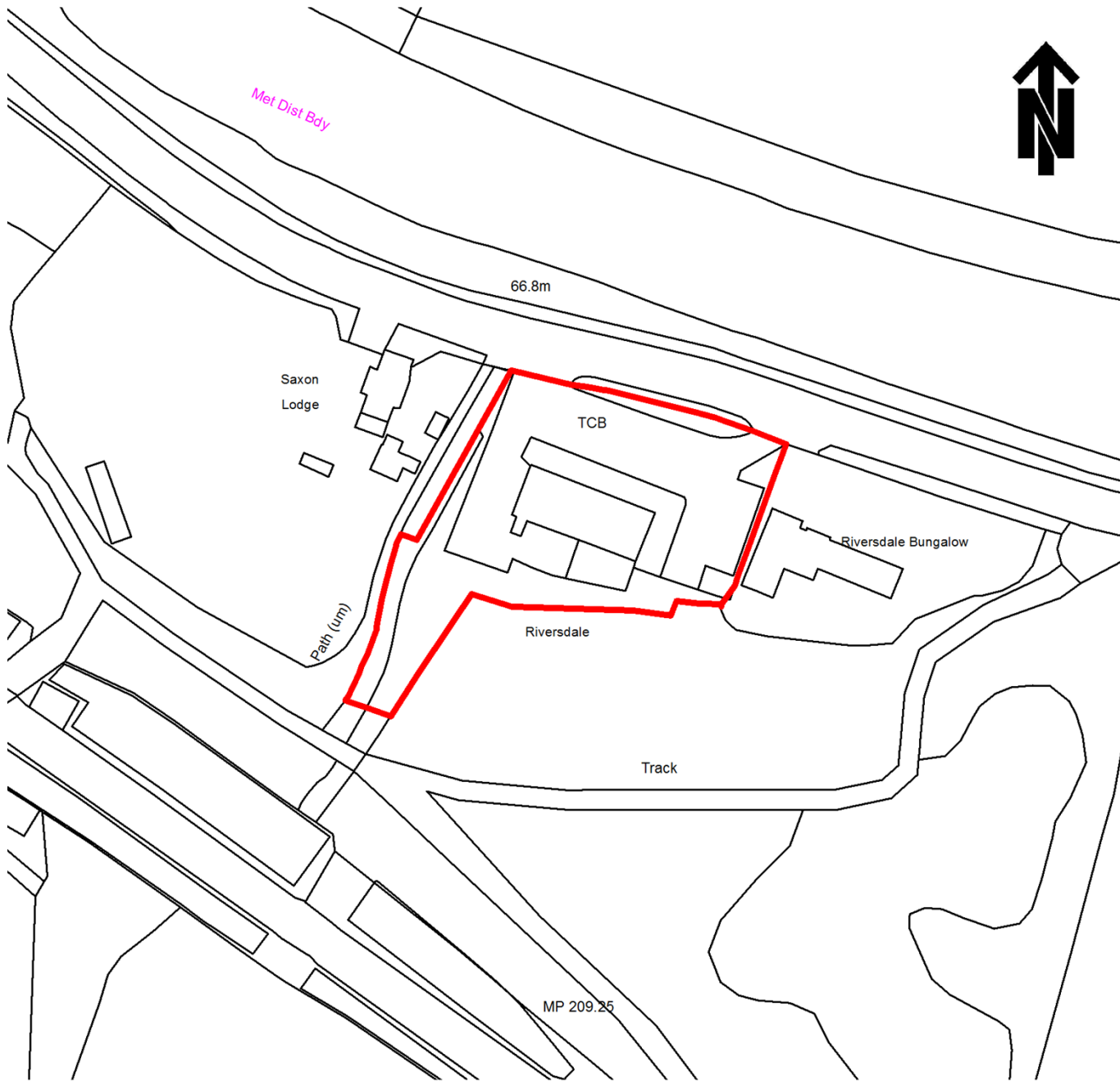
Portfolio:
Regeneration, Planning & Transport

Overview & Scrutiny Committee Area:
Regeneration and Environment

23/01734/FUL



City of
BRADFORD
METROPOLITAN DISTRICT COUNCIL



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**Former Kashmiri Aroma Restaurant And
Takeaway
Coutances Way
Ilkley
LS29 7HQ**

29 November 2023

Item: A
Ward: WHARFEDALE
Recommendation:
TO GRANT PLANNING PERMISSION

Application Number:
23/01734/FUL

Type of Application/Proposal and Address:

The application is a full plans planning application for extensions and alterations to the existing building. The plans also include a new sub-surface waste water treatment unit and an underground attenuation tank; alterations to the car parking layout, landscaping and fencing to the rear at the Former Kashmiri Aroma Restaurant and takeaway, Coutances Way, Burley in Wharfedale, Ilkley.

Applicant:
McDonalds' Restaurants Ltd

Agent:
Lichfields

Site Description:

The site operates as a restaurant and take-away on the western outskirts of Burley-In-Wharfedale. The existing building sits in an elevated position from the highway on the south side of the A65 Coutances Way and this highway separates the plot from the River Wharfe. The car park for the premises is located to the front and sides of the building, with to the rear of the building, a paved service yard area with a series of flues, structures, and an external staircase evident.

On either side of the site are residential dwellings, with to the west and separated by a public footpath a grade II listed building (Saxon Lodge). To the east is a more modern bungalow dating from c.2017. There is an area of woodland to the rear of the plot.

Relevant Site History:

81/02962/FUL Little Chef restaurant GRANT 24 June 1981

07/04181/COU Change of use from A3 restaurant to mixed use as an A3 restaurant with A5 takeaway sales and addition of new porch entrance GRANT 21 June 2007

08/03172/FUL Replace existing conservatory with extension GRANT 11 July 2008

23/02694/ADV Installation of 1 x totem sign, 1 x Golden Arch fascia sign, 2 x accessible parking bay dot signs and 1 x entry/give way dot sign GRANT 18 September 2023

The National Planning Policy Framework (NPPF):

The NPPF is a material planning consideration on any proposal and confirms the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF says that local planning authorities should approach decisions on proposals in a positive and creative way to secure developments that will improve the economic, social and environmental conditions of the area. It requires that decision-makers at every level should seek to approve applications for sustainable development that accord with the statutory development plan.

Replacement Unitary Development Plan (RUDP)

The RUDP is the statutory Development Plan for the Bradford District. It was adopted by the Council on 15 October 2005. The site is not allocated for any specific land use but is within the designated Green Belt in the RUDP.

RUDP Policies

GB1: New buildings in the Green Belt

Local Plan for Bradford:

The Core Strategy Development Plan Document (DPD) was adopted in 2017 though some of the policies contained within the preceding RUDP remain applicable until adoption of Allocations and Area Action Plan DPDs.

Core Strategy Policies

SC7 Green Belt

SC8 Protecting the South Pennine Moors Special Protection Area/Special Area for Conservation (SPA/SAC)

DS1 Achieving Good Design

DS2 Working with the Landscape

DS3 Urban Character

DS4 Streets and Movement

DS5 Safe and Inclusive Places

EN2 Biodiversity and Geodiversity

EN3 Heritage

EN4 Landscape

EN5 Trees and Woodlands

EN7 Flood Risk

EN8 Environmental Protection

TR2 Parking Policy

The Burley-In-Wharfedale Neighbourhood Plan:

The Neighbourhood Plan was adopted on the 3 May 2018.

Neighbourhood Plan Policies

BW2: Development outside of the settlement

Publicity and Number of Representations:

The application was advertised by site notice and neighbour notification letters. The deadline for comments was the 13 July 2023. At the time of writing the report, 607 comments had been received. If any further representations are received, the Area Planning Panel will be verbally updated on the day of the meeting.

Summary of Representations Received:

Support comments (107):

1. Bring building back into use and bring jobs to the area.
2. Great addition to the area and reduce travel to other venues.
3. Like the items on the menu.
4. No views of the extension since they are on the back.
5. No real impact on the countryside.

Objections (500):

Highway Safety

1. The company will bring more traffic, more congestion, more accidents.
2. No footpaths, poor visibility, difficulty turning right, no pavements, no crossings.
3. Cannot be accessed by public transport.
4. Not enough parking provided, and parking will occur on the road.
5. Should be more disabled parking spaces provided.

Character of the area

1. Undermine historic character of the area.
2. This is a rural location and not appropriate for this multi-national company.

Ecology

1. Disturbance to wildlife in nearby nature reserves from lights, noise, and litter.
2. Impact on South Pennine Moors.
3. Impact on bats. Bat roots in building.
4. Known to flood. The development will increase risk of flooding.
5. Loss of biodiversity.
6. Removal of trees.

Allegations about the Applicant/Company

1. Promotes un-healthy food consumption.
2. Different type of clientele.
3. Significant concerns about the ethics and morals of the company.
4. Generates huge amount of litter.
5. Attracts un-sociable behaviour.
6. Not an appropriate chain for a Green Belt location.

Other matters

1. Impact on house prices.
2. The red line is inaccurate.
3. Allegedly 'steal' customers from Guiseley.
4. Council should not be supporting multinational businesses.
5. Impact in independent traders.

Burley-In-Wharfedale Parish Council:

Objects for the following reasons, and requests that the application is referred to the Area Planning Panel.

Highway safety

1. No traffic surveys submitted. It is not accepted that the trip generation associated with the lawful use has been accepted in planning terms.
2. Hours of operation will be longer than the previous owners further increasing levels of traffic.
3. Known accident hot spot.
4. No provision for crossing points.
5. No provision for a right-hand turn out of the site.
6. No visibility splays.
7. No comments from highways

Green Belt

1. The scheme does not fall within any of the exceptions as detailed in the NPPF. The replacement building will be larger than existing, and it would not be limited infilling or partial /complete redevelopment which would not have a greater impact on the openness of the Green Belt.

South Pennine Moors Considerations

1. EU Habitats Regulations need to be addressed to reduce any likely significant impacts arising from the development of the proposed development on the SPA/SCA.
2. Removal of trees and loss of hedges. Loss of biodiversity. No net biodiversity gain.

Litter

1. Hot food takeaways generate a lot of litter. The submitted Landscape Maintenance Plan makes provision for a little pick once a month. This is not sufficient. Insufficient detail with regard to bins.

Consultations:

Highways Development Control: Have no comments to raise following the receipt of car park layout revision C.

Drainage Team: No objection. The drainage proposals are acceptable.

Environmental Health Team: The 'Assessment of Plant Noise' document is comprehensive in scope of identifying and quantifying the potential impact on nearest noise sensitive premises. No objections or concerns to raise on grounds of potential nuisance.

Biodiversity Officer: Following the receipt of further details, the proposed works in this application are not considered likely to result in further ecological impacts.

Rights of Way Team: The proposal does not materially affect the public footpath. No objections.

Summary of Main Issues:

1. Planning Background and History
2. The Green Belt
3. Character and Appearance
4. Impact on Setting of Listed Assets
5. Highway Safety
6. Residential Amenity
7. Flood Risk
8. Protected Species
9. Biodiversity Enhancements
10. Trees
11. South Pennine Moors
12. Other Matters Raised in Representations

Appraisal:

This is an application for: -

Two storey rear extension to enclose an existing external staircase (14sq metres).

Single storey rear extension to replace an existing smaller cold room (10.4sq metres).

Construction of a hot water plant room (3.5sq metres).

Installation of new plant and equipment to the rear.

Installation of a sub-surface waste water treatment unit to the west of the building in roughly a similar location to existing.

New cellular underground attenuation tank in front of the restaurant.

Re-roofing of the building.

New entrance doors and other minor alterations to the building which include blocking up existing openings and repairing existing windows.

Re-surfacing of carpark.

2metre high boundary fence to the rear of the building and an acoustic 2.4metre high screen in the service yard.

Landscaping.

1. Planning Background and History

The site has a long-established use as a restaurant and takeaway with the company 'Kashmiri Aroma' operating from this site since c.2007. Prior to this, the site was occupied by a 'Little Chef' restaurant.

Kashmiri Aroma have recently vacated, and the site has been purchased by the applicant company, McDonalds. This company will be operating as a restaurant and takeaway. It is therefore emphasised that there is no material change of use taking place under the terms of the Planning Act. In this respect, it is not for the Local Planning Authority to ascertain in this application if the 'use' of the site is acceptable. This is already established, and the applicant could operate from the premises as it currently stands without further consent from the Local Planning authority.

A vast majority of representations received have raised concerns about the merits (morals and ethics) of the application company. It is not for a Local Planning Authority to ascertain if a particular company (or applicant) can or cannot operate from a premises.

The proposal is not proposing a drive-through facility. Neither is the development proposing to enlarge the building to accommodate additional seat covers for the restaurant.

The previous decision on the approved 'change of use' application in 2007 has some restrictions on the hours of operation for the takeaway element of the business. The new company is not proposing to depart from these hours.

The main matter for consideration in this application are the extensions and alterations to the building to help facilitate the existing use of the building for the new proprietors.

2. The Green Belt

The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt serves five purposes as set out in the NPPF.

Saved Policy GB1 of the RUDP reflect the approach of the NPPF insofar as they state that permission will not be given within the Green Belt other than for certain specified purposes. However, they are not fully consistent with the NPPF due to differences in wording and the more limited exceptions to inappropriate development listed in GB1.

Policy SC7 of the Core Strategy relates to the Green Belt but is concerned with the release of Green Belt land and review of its boundaries, rather than individual applications for development in the Green Belt. As such, this policy is of limited relevance. Policy BW2 of the Burley-In-Wharfedale Neighbourhood Plan focuses on development outside the settlement boundary and requires proposal to satisfy national and local policies relating to development within the Green Belt.

The determination of the application has therefore given weight to the provisions of the NPPF. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

Para. 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. There are exceptions, and those listed under para. 149 include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

The NPPF does not define what constitutes 'disproportionate'. Consequently, the assessment is made on the basis of the overall size increase in terms of volume, external dimensions and floorspace against the scale and character of the original building and the extent to which it would remain the dominant element.

The proposed extensions to the rear of the building largely replace existing structures. They would result in a very modest increase in the floor space of c. 21sq metres, 7% volume increase. This is deemed as proportionate and would not result in a disproportionate addition to the building. The proposed enlargement would form an exception in the Green Belt and thus would not result in inappropriate development. It's scale, siting and proximity to the existing building provides the necessary assurances that it would not cause harm to the openness of the Green Belt.

There is no identified conflict with the fundamental aim of safeguarding the Green Belt from inappropriate development. The principle of development is acceptable.

3. Character and Appearance

The design and layout of the proposal is acceptable and sympathetic to the existing building and area. The visible elements (extensions and plant equipment) would be sited to the rear of the building in the service yard area and would not be highly visible from a public vantage point. With such limited impact on the appearance of the existing building and site, there would not be an adverse effect on the character of the area, to include the Wharfedale Landscape Character Area.

4. Impact on Setting of Listed Assets

To the west of the plot and separated by a public footpath is Saxon Lodge, a grade II listed property; the Gate piers on this site are also grade II listed.

In terms of such a heritage asset there is a duty imposed by 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving its setting. This is reiterated in Core Strategy policy EN3 and Policy BW2(e) of the Burley-In-Wharfedale Neighbourhood Plan.

Given the notable degree of separation from Saxon Lodge, the subservient nature of the extensions and siting of the extraction equipment in the existing service yard area to the rear of the building and thus the lack of any substantial visual alteration to the site as result of this scheme, there is sufficient confidence that there would be no adverse harmful impact on the setting of the grade II listed building or gate piers and no conflict with the above policies.

5. Highway Safety

The use of the site as restaurant and take away is firmly established as already noted above; there is no material change of use taking place. The works to the building, to include the location of the extensions and equipment to the rear will not reduce the number of existing parking spaces on site and neither will the proposed development generate additional traffic. The development hereby put forward in the application does not raise any highway safety implications.

However, all parties acknowledge that the layout of the existing car parking is dated and could be improved. Although not material to this proposal, it is acknowledged that the new owners will likely generate more traffic than the previous. For this reason, the applicants and agents have been working with the Council's Highway Engineers to create, within the existing constraints of the site, a better layout which will provide suitable parking and improved space for the manoeuvring of delivery vehicles.

The new owners have also agreed, at their own expense, to promote a scheme for a Traffic Regulation Order (TRO) pursuant to the Road Traffic Regulation Act 1984 to: -

- (a) protect the access/egress junctions including visibility splays and revisions to parking regulations on the A65; and
- (b) implement a bus clearway to the frontage of the site.

The agreement to this undertaking has been received by the Council and is being processed by the Highways Department. This is independent of the planning application but the merits of this are acknowledged and together with the amended car parking layout (Rev C) would be a clear betterment to the existing situation.

6. Residential Amenity

On either side of the site are detached residential properties. Both properties have been in situ since at least the 1980's when the site was occupied by The Little Chef restaurant and with Riversdale Bungalow, to the east, re-configured/re-built following the granting of planning permission in 2017.

There is no material change of use taking place and there are no changes to the already approved hours of operation. The access and egress to the site remain the same, as does the general siting of the car parking and servicing areas.

The proposed extensions and alterations, as well as siting of replacement equipment (flues) will be sited to the rear of the existing building within the current service yard area, away from the common boundaries with the residential plots and with additional acoustic fencing suggested. There are no foreseen impacts with regards to resulting dominance or overshadowing from these elements and they would not result in loss of outlook or light. The Council's Environmental Health Officer has raised no objections to the development on noise disturbance grounds. The proposal will not harm the amenity of existing or prospective neighbouring residents to any significantly greater degree than the existing situation. There is no identified conflict with policies DS5 and EN8 of the Core Strategy.

7. Flood Risk

The site is located to the south of the River Wharfe. The curtilage plot sits within flood zones 1, 2 and 3. However, the existing building and the land to the rear of the building where the extensions are proposed are sited in Flood Zone 1, this being an area with a low probability of flooding.

The proposed extensions, which are to the rear of the building, will not be at a high risk of flooding or increase flood risk elsewhere. The remainder of the site would be used for car parking and be open plan, as per the existing arrangement. There is no conflict with policy EN7 of the Core Strategy.

8. Protected Species

The application is supported by a well presented, proportionate and good standard Bat Survey Report (Encon, 14 August 2023). It identifies the location of three pipistrelle day roosts in the roof of the south aspect of the building and moderate to high levels of bat activity in the habitats surrounding the site. These represent low numbers of common bat species and so the Council's Biodiversity Officer contends that their ecological value is low. However, appropriate mitigation and registration of the site will be required in order to comply with the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). A series of conditions (as detailed below) are deemed necessary, which include obtaining a Licence from Natural England and the provision of a method statement prior to works commencing to the upper courses of the building. It is also suggested that a suitable lighting strategy is agreed. With these conditions in place, there is the necessary compliance with policy EN2 of the Core Strategy.

9. Biodiversity Enhancements

In accordance with the NPPF and policy EN2 of the Core Strategy, biodiversity enhancements are required for this development. Two integral swift bricks and three bat roost boxes (in addition to those required to mitigate for the loss of roosts) are suggested by the Council's biodiversity officer. No objections to this have been raised by the agent and this can be dealt with by condition.

10. Trees

There are no protected trees on the plot. The landscaping plan suggests some works to existing trees which are in poor health and some re-planting. These works do not require planning permission and can be carried out at any time.

11. South Pennine Moors

The site is in close proximity to the South Pennine Moors SPA/SAC. Policy SC8 of the adopted Core Strategy sets out a zonal approach to development which may affect the South Pennine Moors SPA/SAC. The site lies within buffer zones B and C of the SPA/SAC as described in Policy SC8 of the Core Strategy.

Zone B requires an assessment of whether the land proposed for development may affect foraging habitat for qualifying species of the SPA. There is ample confidence that the site and location for the extension would provide unsuitable land for foraging SPA birds and so there is no conflict with Policy SC8.

Zone C deals with the resulting recreational pressure on the SPA/SAC and how such pressures arising from additional housing can be effectively mitigated, which is not applicable in instance as no residential use is proposed.

13. Other Matters Raised in Representations

A number of concerns have been raised about the levels of litter generated, allegations regarding the type of clientele and unsociable behaviour this company will generate. These are ultimately management issues for the company and, where necessary, regulated by other legislation to the Planning Act.

The loss of property value is not a material planning consideration.

Community Safety Implications:

None

Equality Act 2010, Section 149:

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance quality of opportunity between different groups and foster good relations between different groups. It is not however considered that any issues with regard thereto are raised in relation to consideration of this application.

Reason for Granting Planning Permission

The proposed development would not conflict with the fundamental objectives of safeguarding the Green Belt from inappropriate development and would not harm the character of the building, street scene, wider landscape area or setting of the nearby listed heritage assets.

Noting the well-established use of the site, the amenity of neighbouring residents would not be significantly harmed from the proposed development. Neither would this scheme result in substantial highway safety implications, noting the additional highway works separately agreed between the owners of the site and the Council's Highways Engineers, and which taken together result an overall betterment to the existing arrangements.

For the reasons detailed above, and subject to the conditions below, the development accords with the above policies and so is recommended for approval.

Conditions of Approval:

1. The development to which this notice relates must be begun not later than the expiration of three years beginning with the date of this notice.

Reason: To accord with the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. The development hereby approved shall only be carried out in accordance with the approved plans listed below; -

Plan Type	Reference	Version	Date Received
Location plan	0002	Q	23.10.2023
Existing site plan	0003	J	08.09.2023
Proposed site plan	0004	T	23.10.2023
Floor plans	0006	M	08.09.2023
Roof plans	0007	D	08.09.2023
Sections	0012	G	23.10.2023
Elevations	0005	K	08.11.2023

Reason: For the avoidance of doubt as to the terms under which this planning permission has been granted.

3. Works to the eaves or roof of the building shall not commence unless the Local Planning Authority has been provided with either: -
- a) A licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified development to go ahead, this may include evidence of the registration of the site on a Low Impact Class License; or
 - b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specified development will require a licence.

Reason: To provide verification that bats found to be actively using the building are being adequately safeguarded and to accord with Policy EN2 of the Core Strategy Development Plan Document.

4. No works to the eaves or the roof of the building shall take place until a method statement for roof stripping and installation of compensatory and enhancement roost and bird nest features has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include: -
- a) Purpose and objectives of the proposed works.
 - b) Detailed design(s) and/or working method(s) necessary to achieve the stated objectives.
 - c) Extent and location of proposed works shown on appropriate scale maps and plans.
 - d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction; and
 - e) Persons responsible for implementing the works.
- the works shall be carried out strictly in accordance with the approved details.

Reason: To ensure an appropriate approach to bat mitigation during works to the roof and upper layers of the building is implemented in order to protect roosting bats during the works and ensure appropriate provision of mitigation and enhancement features and in accordance with Policy EN2 of the Core Strategy Development Plan Document.