

<b>Planning Reference No:</b>	<b>10/1292M</b>
<b>Application Address:</b>	<b>Baguley Farm Hocker Lane Over Alderley SK10 4SB</b>
<b>Proposal:</b>	<b>Replacement Dwellinghouse – amendment to approval 09/4124M</b>
<b>Applicant:</b>	<b>MR &amp; MRS N SKINNER</b>
<b>Application Type:</b>	<b>Full Planning</b>
<b>Grid Reference:</b>	<b>386400</b>
<b>Ward:</b>	<b>375682</b>
<b>Earliest Determination Date:</b>	<b>22 December 2010</b>
<b>Expiry Date:</b>	<b>26 May 2010</b>
<b>Date Report prepared:</b>	<b>22 February 2011</b>

#### **SUMMARY RECOMMENDATION**

Refuse as the proposal is inappropriate development in the Green Belt, and very special circumstances have not been demonstrated.

#### **MAIN ISSUES**

- Whether the proposal is acceptable in the Green Belt
- Impact upon the character of the area
- Impact upon nature conservation interests

## **REASON FOR REPORT**

The application has been brought to the Strategic Planning Board by the Head of Planning & Housing due to the particular circumstances of the application, notably the fact that the application is for a replacement dwelling in the Green Belt that includes a basement, in light of the High Court judgement last year *Feather v Cheshire East Borough Council* [2010] EWHC 1420 (Admin).

## **DESCRIPTION OF SITE AND CONTEXT**

The application site comprises a two-storey detached dwelling with 2 two-storey detached outbuildings (barns) and surrounding gardens. The site is located within an Area of Special County Value in the Green Belt as identified in the MBLP.

## **DETAILS OF PROPOSAL**

This application seeks full planning permission for a replacement dwelling. The application has been submitted as an amendment to 09/4124M, and the amendments to that permission comprise a rear dormer window and a basement. The application has been with the Council for some time, but has been delayed due to the implications of the Judicial Review last year which examined the issue of replacement dwellings with basements in the Green Belt.

## **RELEVANT HISTORY**

10/2773M - APPLICATION FOR REMOVAL OF PLANNING CONDITION NO. 13 (REMOVAL OF PERMITTED DEVELOPMENT RIGHTS) ON PLANNING APPROVAL 09/4124M – Refused 12.11.2010

This application was refused due to the dwelling approved under 09/4124M being identified as inappropriate in the Green Belt, but very special circumstances were considered to exist. In this context it was necessary to remove permitted development rights to protect the openness and character and appearance of the Green Belt.

09/4124M – REPLACEMENT DWELLING – Approved 18.03.2010

This scheme was identified as being materially larger than the existing as the proposed dwelling is attached to an existing barn building, which forms part of the resultant dwelling. Very special circumstances were considered to exist to outweigh the harm to the Green Belt.

09/3122M – REPLACEMENT DWELLING – Approved 26.11.2009

09/1403M - REUSE OF BARNS AS ANCILLARY RESIDENTIAL ACCOMODATION TOGETHER WITH VARIOUS ALTERATIONS AND EXTENSIONS - Approved 14.10.2009

09/0606M - REPLACEMENT DWELLING - Approved 10.06.2009

## **POLICIES**

North West of England Plan Regional Spatial Strategy to 2021 - RDF4 (Maintaining the general extent of the Region's Green Belt), DP1 (Spatial principles applicable to development management) & DP7 (Criteria to promote environmental quality)

Local Plan Policy – NE1 (Landscape protection and enhancement of Areas of Special County Value), NE11 (Conservation, enhancement and interpretation of nature conservation interests), BE1 (Design principles for new developments), GC1 (Control over new buildings in the Green Belt), DC1 (High quality design for new build), DC3 (Protection of the amenities of nearby residential properties), DC6 (Safe and convenient access for vehicles, special needs groups and pedestrians), DC8 (Requirements to provide and maintain landscape schemes for new development), DC9 (Protection of trees of amenity value), DC63 (Treatment, containment and control of contaminated land).

National Planning Guidance PPG2 (Green Belts) is of direct relevance to this proposal. Guidance in PPS1 is also applicable.

Other material considerations – *R (on the application of Feather) v. Cheshire East BC and Mr Christopher Wren and Mrs Susan Wren* [2010] EWHC 1420

(Admin); and, *R (on the application of Heath and Hampstead Society) v. Vlachos* [2008] EWCA Civ 193

## **CONSULTATIONS (External to Planning)**

Contaminated Land – No objections subject to advice note

Over Alderley Parish Council – Make no comment on the merits of the proposal.

## **OTHER REPRESENTATIONS**

Two letters of representation have been received from a local resident from Broadheath Farm, Slade Lane objecting to the proposal on the following grounds:

- The proposal relates to the provision of a very extensive basement, of a similar nature to a scheme recently 'quashed' in the High Court following a Judicial Review in May 2010.
- Dwelling is materially larger than that which it replaces and therefore is considered to be inappropriate development in the Green Belt.
- The very extensive and disproportionate size of this basement proposal effectively provides an increased onus on the applicant to justify the granting of this particular permission.
- The planning consultant has failed to introduce any very special circumstances applying to the provision of a basement as part of this replacement dwelling proposal.
- The major part of the case put forward by the planning consultant suggests only what might be the alternative situation if the basement proposal was to be refused. These are not very special circumstances for the provision of basement facilities as they do not relate directly to the basement proposal that is the subject of this application.
- All planning applications where a basement is proposed, relate quite obviously to the possible provision of some form of accommodation, that is under the ground and therefore below ground level. Hence this circumstance, as introduced by the planning consultant, is as ordinary as any other circumstance surrounding a proposal for basement accommodation.
- 'Bratof' decision (submitted in support of the application) related to a viable fall back position of extensions, which would result in an identical building to that proposed as a replacement.
- In this current case, the fallback may or may not be viable, may or may not be clearly identifiable, and may or may not be permitted development.
- Above ground alternatives to the basement accommodation should not normally be considered to be a material consideration in the determination of 10/1292M.
- Once the development is defined as inappropriate it is of no consequence whether part, all or none of the elements that make up the proposal have a negative effect upon the openness or visual amenity of the Green Belt.

- Very special circumstances must mitigate harm caused by development, not in terms of openness or visual amenity, but in terms of size of proposed development.
- Being underground only shows that there is no 'additional' harm caused by basement.
- Very special circumstances are exceptional, unique or one off circumstances that make the attribute of the proposal such that it could not be brought forward anywhere else or in any other way.
- The application of Green Belt policy in relation to making a successful case for very special circumstances does not vary according to whether or not alternative rights exist under the GPDO.

In light of additional information received on behalf of the applicant, a further letter has been received from the owner of Broadheath Farm making the following additional objections:

- Revised basement drawing totally reconfigures the basement – not just a few minor changes.
- Reduction of 5% does not prevent proposal being judged to be materially larger than the building it replaces.
- Revisions would appear to be a move to differentiate this proposal from Broad Heath House permission that was quashed at recent Judicial Review.
- Basements of this proposal and the Broad Heath House development are not proportionate to original dwelling to be replaced. Both proposals also seek to significantly alter the location of the dwelling.
- Reading material largeness in the same spirit as being proportionate (as stated by the Judge in the JR), it is clear that both basement proposals fail the test.
- Applicant's agent suggests that, because the basement stays entirely within the footprint of the existing and proposed buildings, it would not have any material additional impact / harm to the Green Belt objective of protecting openness. I interpret openness here to mean land which is open in the sense of being undeveloped/untouched by built form.
- The basement will cause harm to the Green Belt by definition because of the size of the habitable accommodation that is being added to previous permitted proposals. This proposal will, however, not cause the 'additional' harm that would be associated with an increase of the same quantity of habitable floor space above ground, which would be in regard to the harm to openness and visual amenity.
- One of the aims of PPG2, as highlighted at paragraph 4 of the JR judgement in May 2010, is to channel development toward urban areas inside an inner Green Belt boundary, therefore away from the Green Belt itself. Residential development, or the provision of habitable floor space, should be directed away from the Green Belt to urban areas where it is sustainable.
- Previous comments relating to very special circumstances apply equally to this new layout of basement accommodation.
- 09/3122M was only granted by virtue of the existence of very special circumstances, as that was viewed by LPA as inappropriate.

## APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted a planning, design and access statement and supporting letters which outline:

- A dwelling of virtually identical appearance and size has planning permission
- The current proposal seeks to add a dormer window and a basement during the construction of the dwelling rather than having the equivalent accommodation created after the completion of the dwelling.
- The proposal represents an appropriate form of development.
- Alternatively there are very special circumstances that justify the grant of planning permission for inappropriate development, which are:
  1. Genuine fallback to permission 09/3122M together with permitted development rights.
  2. Alternative fall back to 09/4124M
  3. No impact of basement upon openness
  4. Barn exists and will be converted
  5. Built form on the site not increased above that already approved
  6. Lightweight link would provide visual break and a degree of openness between the dwelling and the barn
- Permitted development rights should not have been removed from 09/4124M as this dwelling was a reconfiguration of the dwelling approved under 09/3122M, without any increase in floor space
- Appeal decision at Bratoft makes it clear that the planning history of the property is capable of being a material consideration sufficient to outweigh the development plan policy for extensions. (The Council could therefore control further additions to the replaced dwelling). The Inspector also accepted that the fall back represented a very special circumstance.

The applicant has also submitted a Counsel opinion on the merits of the planning application, and an appropriate response to a refusal of the same. This opinion sets out the questions the decision maker must ask when faced with a proposal in the Green Belt. This approach is consistent with the format of this committee report. The Counsel opinion is summarised below:

- Consent 09/3122M did not remove permitted development rights
- The removal of permitted development rights on application 09/4124M requires the clearest justification and none are articulated in the relevant delegated report.
- 09/4124M was approved on the basis of very special circumstances rather than on the basis of it being appropriate in Green Belt terms. This seems odd as I cannot see that the provision of the glazed link in itself made the dwelling materially larger than the one it replaces. I acknowledge that the link ties the house to barn B but barn B already exists and has planning permission for domestic use in any event.
- The current application revises the design of 09/3122M by replacing single-storey elements with a totally glazed link between the dwelling and barn B. This reduces the perceived scale and massing of the building

because of the reduction in floor areas to be constructed within masonry. The other difference is the provision of enclosed basement living space.

- From the Hampstead case, it is evident that the meaning of the words “materially larger” must be assessed within the context of Green belt policy and its purposes.
- Size may be the “primary test” but by necessary implication it is not the sole test.
- Paragraph 31 of the Wren judgement states, “The expression “materially” invites a consideration of size in context; what is the relevant context? The relevant context necessarily has to be the object of and policies relating to establishing a Green Belt”.
- It is quite clear, as a matter of law, that a proposed basement has to be recognised and weighed in undertaking the PPG2 para 3.6 exercise but its weight has to be assessed by reference to its particular policy context, namely PPG2 which primarily determines what is and what is not appropriate in the Green Belt by reference to its impact upon openness.
- The basement will have no impact upon openness, and therefore it should be recognised but given very little weight. The proposal should be treated as appropriate development in the Green Belt.
- With regard to very special circumstances, there is no need for circumstances to be unique or incapable of being repeated.
- There is no need for a decision maker to ascribe precise weight to each element of very special circumstances. They can cumulatively amount to such.
- A fall back position, such as an extant planning permission or PD rights, so long as it has a real prospect of actually occurring is a material consideration in decision making. This has previously been recognised by Inspectors and Council officers.
- The applicant has confirmed he will build out 09/3122M in the absence of planning consent for the current proposal. In addition he will fully utilise his PD rights in respect of 09/3122M to increase the value of his investment of the site.
- Advantages of the current scheme include: less floor space than fall back consent; basement has no adverse impact upon openness; use of glazed link in place of single-storey elements reduces perceived scale and impact on openness; and the applicant is willing to accept a condition that the building should be constructed to Code Level 4.
- If the application is refused then a public inquiry ought to be granted because of the various legal issues that arise. With regard to whether costs will be recoverable on appeal. Much will turn upon the approach taken by the LPA. If the LPA suggest that the basement, without more, makes the proposal inappropriate then they will have committed, in my view, a legal error and such errors are punishable by a costs award.

## **OFFICER APPRAISAL**

### **Green Belt**

The principle of a replacement dwelling has been established following the approval of 09/0606M, 09/3122M and 09/4124M.

This proposal seeks permission for the same dwelling as approved under application 09/4124M but with additional floor space provided within a basement, and a single dormer window to the rear elevation of the dwelling which would allow additional accommodation within the roof space.

Replacement dwellings may be an exception to the categories of inappropriate development in the Green Belt, so long as the replacement dwelling is not materially larger than the dwelling it replaces. The Local Plan does not contain a saved policy that defines “materially larger” or expands further on the advice within PPG2. Case law has established the factors that should be considered when assessing what is “materially larger”. It includes a comparative assessment of scale of the proposed dwelling against the existing dwelling on the site. This includes matters of floor space, footprint, height, massing, volume, design and position on the plot. Any or a combination of such factors could contribute towards a dwelling being materially larger than the existing dwelling. Floor space will normally be a key factor in this assessment. The general intention is that the new building should be similar in scale to that which it replaces.

If a replacement dwelling is considered to be materially larger than the dwelling it replaces, then it must be considered as inappropriate development for which there is a presumption against. Inappropriate development should not be permitted, except in very special circumstances. Very special circumstances will only exist if the harm, by reason of inappropriateness, and any additional harm is clearly outweighed by other considerations

The correct sequential approach to assessing a replacement dwelling in the Green Belt is:

1. Is the proposed development inappropriate?
2. If so, what harm to the Green Belt, if any (in addition to the in-principle harm arising from the fact of inappropriateness), is caused? Are there any material considerations in favour of the development?
3. Are there any material considerations in favour of the development?
4. If so, are they sufficient to outweigh the combined harm caused to the Green Belt by reason of inappropriateness and any other identified harm?
5. And if so, do those material considerations amount to very special circumstances?

#### Is the proposed development inappropriate?

In this case, the existing dwelling has a footprint of approximately 158 square metres (sqm) and a total floor area (over two floors) of 292sqm. Due to the sloping nature of the land, the existing eaves range from 4.4 to 5.5 metres and the ridge from 6.3 to 7.5 metres above adjacent ground level. The proposed dwelling has a footprint (including existing barn) of 357sqm and

would have a total floor area (over four floors) of 974sqm. This proposed floor space includes 357sqm in the basement, 166sqm in the converted barn and 32sqm in the roof space. In their submitted figures, the applicant has omitted the floor space within the barn and the other figures vary slightly, but the overall floor space still represents a significant increase above the existing. The height of the new build part of the proposed building has a constant eaves level of 5.3 metres, and a ridge height of 8.7 metres above ground level. The height from ground level to the eaves of the existing barn is 5 metres and to the ridge it is 6.9 metres.

Taking into account all of these factors, the proposed dwelling is materially larger than the dwelling it replaces. Given that the previously approved dwelling was deemed to be materially larger than the dwelling it replaces, and the current scheme is larger still, this can be the only logical conclusion. The proposed replacement dwelling is therefore inappropriate development in the Green Belt.

#### Assessment of any additional harm

Whilst the footprint and floor space of the proposed dwelling are significantly greater than the existing dwelling, the impact on the openness of the Green Belt is considered to be limited. A large proportion of the new dwelling (357sqm) would be contained within the basement, which is entirely concealed beneath ground level. Floor space of 166sqm and massing above ground is also contained within the existing barn which would be linked to the main body of the dwelling. The glazed link itself also makes up approximately 75sqm of the floor space of the dwelling. The glazed link is a lightweight structure and has a limited impact on openness. Furthermore the proposed dwelling sits on lower ground, on a less prominent section of the site than the existing dwelling, and results in a more compact area of development on the site because there is a reduced distance between the existing barn and the proposed dwelling than the existing dwelling. Taking into account these factors, whilst the proposed dwelling is materially larger, the impact on the openness and visual amenity of the Green Belt as a result of the proposed development is limited. As a result it is considered that there is limited additional harm arising from the development beyond that of inappropriateness. This view is made taking into account the other site planning factors considered below, including nature conservation.

Representation has been made regarding the purposes of the Green Belt to focus development in sustainable urban areas. It is considered that the replacement dwelling does not raise any significant concerns in respect of sustainability, and PPG2 accepts the principle of replacement dwellings in the Green Belt. Whilst the replacement dwelling has a larger floor space, it does not automatically follow that this generates a less sustainable form of development. The basement accommodation would provide a swimming pool and other leisure facilities; in terms of sustainability the proposed dwelling is comparable to the planning permissions that have already been granted on the site. It is not considered that the proposal conflicts with any of the listed purposes of including land in the Green Belt.



### Assessment of considerations in favour of the development

In the event that the Council considers that the proposal is inappropriate in the Green Belt, the applicant has put forward a number of issues that they consider amount to the required very special circumstances to justify the grant of planning permission. These are:

- 1 A fallback to permission 09/3122M, together with permitted development rights.
- 2 Alternative fall back to 09/4124M.
- 3 No impact of basement upon openness.
- 4 Barn exists and will be converted.
- 5 Built form on the site has not increased above that already approved.
- 6 Lightweight link would provide visual break and a degree of openness between the dwelling and the barn.

The fallback permission of 09/3122M relates to an appropriate form of development in the Green Belt as opposed to the inappropriate development currently under consideration. The absence of any additional impact upon openness simply demonstrates that there is no additional harm arising from the appeal proposal. However, it is acknowledged that alterations could be made to the building approved under 09/3122M in addition to outbuildings being erected (all potentially without planning permission), which could have a significantly greater impact upon the openness and visual amenity of the Green Belt, and would provide the accommodation that the applicant is currently seeking in an alternative format. However no details have been put forward in relation to potential outbuildings or extensions and therefore only limited weight should be afforded to this as a genuine fall back position.

The extant permissions are a relevant material consideration, and the main difference between this current application and the latest extant approval (09/4124M) is the basement, which significantly increases the floor area of the proposed dwelling, of which it forms a part. The dormer window and floor area in the roof space is also a difference between the two applications.

Revised plans have been received which ensure that the footprint of the basement does not extent out beyond the footprint of the above ground element of the building. The basement will be totally enclosed and does not affect the above ground massing of the building. If planning permission 09/4124M was built out, the impact of the development on the Green Belt, in terms of visual amenity and openness, would be very similar to this proposal; the only visible difference being a dormer window. This is a material consideration which should be afforded weight in the balancing exercise of the proposal. Permitted development rights were removed from the previous consent (09/4124M) and therefore no weight should be given to any argument about the ability to build a swimming pool building above ground with this planning permission.

Very special circumstances were considered to apply to extant permission 09/4124M (which was also deemed to be inappropriate development in the Green Belt). These circumstances included the relationship between the barn and the approved dwelling, the fact that the barn building exists and will be converted, the lightweight link being single-storey still providing a visual break and a degree of openness between the new building and barn, and perhaps most significantly the fallback position of the previous scheme (09/3122M). When taken together these factors were considered to amount to the very special circumstances required to clearly outweigh the harm to the Green Belt caused by inappropriate development in that case.

The question is whether these same very special circumstances are sufficient to outweigh the harm to the Green Belt arising from the inappropriate nature of development in this current case? Whilst the fallback of an extant permission, which would result in a replacement dwelling that would have virtually the same impact upon the openness and visual amenity of the Green Belt may be considered, on its own, to amount to a very special circumstance, proper and full regard must be given to the likelihood of the fallback position actually being taken up. In this context officers are mindful of the number of applications made on this site for a replacement dwelling, the timescale that they have been submitted within and the incremental changes that have been proposed.

Permission was first granted in June 2009 (09/0606M) for a replacement dwelling on a similar footprint to the existing dwelling. A redesigned dwelling that was also moved closer to the existing barns was then considered under application 09/3122M, which was submitted on 1 October 2010 and approved on 26 November 2010. On 10 December a third application was received (09/4124M), for a similarly designed dwelling but one which was linked to the existing barn. This latest submission was identified as being inappropriate development in the Green Belt, but was approved on 18 March 2010 as very special circumstances were considered to exist. Then, on 31 March 2010, the current application was received that added the basement and dormer window.

Whilst amendments to approved development proposals are commonplace within the planning process, the above history of successive amendments does serve to question whether there is truly a realistic likelihood of any of the fallback positions actually being taken up. Once permission is obtained, another application is made within a short timescale to amend the previous approval. Substantial weight needs to be given to the fallback positions in order for them to clearly outweigh the identified harm to the Green Belt. However, there is no sign or evidence of this process stopping, conditions have not been discharged, and development has not commenced on site. Furthermore, this proposal adds a significant amount of floor space to the previous approvals and is of a different nature to permission 09/3122M, which is contended to be the most likely fall back position, together with PD rights, by the applicant. Therefore, having regard to the planning history of the site, the likelihood of the fallback positions being taken up at this time is very limited. As a result, the very special circumstances required to outweigh the

harm to the Green Belt arising from the identified inappropriate development have not been demonstrated and the proposal is therefore considered to be contrary to policy GC1 of the Macclesfield Borough Local Plan and the national guidance contained within PPG2.

Due regard has been given to the comments received in representations relating to very special circumstances above. However, it should also be clarified that the Courts have also established that “very special” is not the converse of commonplace. Therefore, whilst rarity may be a contributory factor in the assessment of what constitutes very special circumstances, it is not essential.

### **Highways**

The existing access is to be retained as with the previous approval. Sufficient space exists within the site for adequate parking and turning to serve the proposed dwelling. Given that the parking area is shown on the plans, and the existing accesses are to be retained, no highway safety issues are raised.

### **Design**

As already discussed, the design of the dwelling remains the same as the existing permission, with the addition of the dormer window being the only visible change. The design of the proposed dwelling is considered to be appropriate and adequately in keeping with the character of the area. The dwelling has a traditional design but utilises large areas of glazing in places. The external appearance will be of a traditional pitched roof dwelling, but a small section of flat roof is proposed within the central section to enable the height and massing of the building to be reduced.

The proposed dwelling would utilise natural materials of brick, oak framing, stone roof tiles, and hardwood doors. It also incorporates modern materials with pre-cast coping stone and aluminium framed windows. The scale and appearance of the proposed building sits well within the plot and is sympathetic to the scale of other buildings in the local area. A visual impact assessment and landscaping proposals have been submitted, which are considered to demonstrate that the proposal will comply with Local Plan policies BE1, DC1 and DC8.

### **Landscaping and trees**

As with the previous permission, additional landscaping is considered to be required to ensure any views of the flat roof element of the dwelling are appropriately screened from higher vantage points. In terms of trees, the proposed development is located closer to the nearby bank of protected trees, than the approved scheme, however, the Arboricultural Officer has confirmed that as with the previous scheme it is unlikely to have any significant impact on these trees providing protective fencing is erected in accordance with BS5837:2005 Trees in Relation to Construction.

### **Amenity**

Due to the distance to and relationship with neighbouring properties no significant amenity issues are raised.

## **Ecology**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, if there is

- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range
- a specified reason such as imperative, overriding public interest.

The UK implemented the EC Directive in The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection

- a licensing system administered by Natural England which repeats the above tests
- a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements.

Circular 6/2005 advises LPAs to give due weight to the presence of a European protected species on a development site to reflect.. [EC] ...requirements ... and this may potentially justify a refusal of planning permission."

In PPS9 (2005) the Government explains that LPAs "should adhere to the following key principles to ensure that the potential impacts of planning decisions on biodiversity are fully considered..... In taking decisions, [LPAs] should ensure that appropriate weight is attached to .... protected species... ... Where granting planning permission would result in significant harm .... [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm..... If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

With particular regard to protected species, PPS9 encourages the use of planning conditions or obligations where appropriate and advises, "[LPAs] should refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

The converse of this advice is that if issues of species detriment, development alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

A bat survey was carried out by a qualified ecologist on behalf of the applicant who has identified limited bat activity on the site.

The proposed scheme to demolish the existing dwelling and habitat of the bats could have some impact upon the protected species present if some form of mitigation is not incorporated on site.

The proposal to replace the existing dwelling will allow for an improvement to the existing housing stock within the Over Alderley area at the expense of the applicant together with the achievement of modern day energy efficiency standards.

The alternative to the proposed replacement dwelling would be of course to revert back to the extant permission for a replacement dwelling, which would have an equally significant impact upon the presence of the bats.

The mitigation proposes the supervised demolition of the property and the provision of replacement roosts in the form of bat boxes incorporated into the replacement dwelling. The proposed mitigation is acceptable and provided the proposed mitigation is implemented in full the residual impacts of the proposed developments on bats is likely to be very minor. The benefits of the mitigation will provide a new appropriate roost for the bats which will be site adjacent to existing mature tree line and pond which offer a high value of foraging. The proposed mitigation will provide a new habitat which will allow the future protection of the bats in perpetuity.

Having regard to the above it is considered that the proposed replacement roosting facilities is an appropriate form of mitigation which in the long term will provide a more satisfactory habitat for the bats than the existing dwelling. It is considered that the mitigation put forward is a material consideration which if implemented will further conserve and enhance the existing protected species in line with Local Plan policy NE11 and is therefore on balance, considered to be acceptable.

The Council's Ecologist has been consulted on this application and raises no objection to the proposed mitigation subject to a condition to ensure work is carried out in accordance within the submitted scheme.

### **Other considerations**

The Contaminated Land Officer has commented on the application and notes that the application site has a history of use as a farm and therefore the land may be contaminated, and that the site is adjacent to an in-filled former sand pit that has the potential to create ground gas. No contaminated land objections are raised subject to a condition requiring a phase 1 contaminated land survey to be submitted, in order to ensure that the development is suitable for its end use and the wider environment and does not create undue risks to site users or neighbours during the course of the development and having regard to policy DC63 of the MBLP.

### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

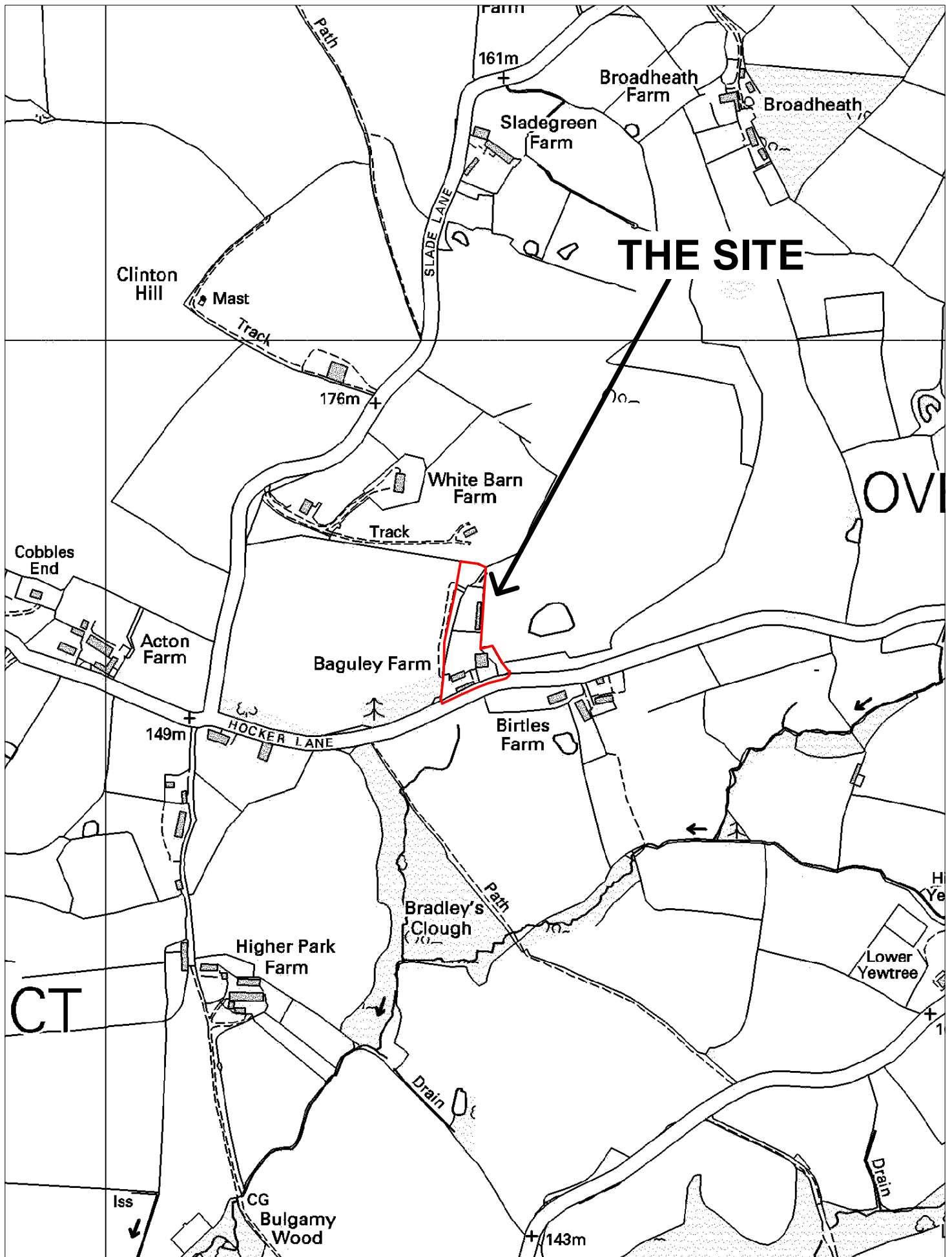
The proposed replacement dwelling amounts to inappropriate development in the Green Belt because it is materially larger than the dwelling it would replace. Only limited harm has been identified beyond the harm to the Green Belt by reason of inappropriateness. Planning permission exists for a replacement dwelling (also deemed to be inappropriate development) which

would have a very similar impact on the openness and appearance of the site and the Green Belt. The key difference in floor space terms is the provision of a basement and dormer window in this application. However, for the reasons outlined above relating to the recent planning history of the site, the likelihood of the fall back position (of the extant permissions) actually being taken up is limited, and therefore these factors are not considered to be sufficient to clearly outweigh the harm to the Green Belt by reason of inappropriateness and the limited additional harm.

## **RECOMMENDATION**

The application is therefore recommended for refusal for the following reasons:

1. The proposal is an inappropriate form of development within the Green Belt, as defined by the Development Plan. Very special circumstances have not been demonstrated that would clearly outweigh the harm to the Green Belt arising from the proposed inappropriate development. The development is therefore contrary to policy GC1 of the Macclesfield Borough Local Plan and would cause harm to the objectives of those policies. The development is similarly contrary to national policy guidance relating to development within the Green Belt.



10/1292M - BAGULEY FARM, HOCKER LANE, OVER ALDERLEY  
 N.G.R. - 386,420 - 375,680

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