

Corrections to Committee Report for DC/23/00740 – The Red Lion, The Street, East Bergholt

Page 15 – The planning Agent was changed through the course of the application and is no longer Ben Elvin. Quinlan Terry Architects are the Agent.

Page 28 para. 1.1 – The site is partly within the Conservation Area, not wholly.

Page 31 para. 31 – References to the Babergh Local Plan and Core Strategy have been replaced by the Babergh and Mid Suffolk Joint Local Plan – Part 1.

Page 34 para. 3.18 - Bullet points 4 and 5 should read four dwellings not five.

Page 40 para.7.1 – The site is partly within the Conservation Area.

**Clarification in relation to Policy SP01 (Housing Need)** of the Babergh and Mid Suffolk Joint Local Plan – Part 1 (2023)

Policy SP01 requires Babergh to *deliver 7,904 net additional dwellings over the course of the Plan period*. That equates to 416 dwellings per annum. *The mix of tenure, size and type of new housing development should be informed by the relevant District needs assessment, or any local housing needs surveys where relevant.*

Currently Babergh and Mid Suffolk do not have up to date land allocation documents, this will be coming forward in Part 2 of the Joint Local Plan.

The most recent Strategic Housing Market Assessment (SHMA) was carried out in 2019 by Babergh. The SHMA identified a need for two, three and four bedroom properties.

East Bergholt carried out a housing needs assessment as part of their work towards the Neighbourhood Plan that was “made” in 2016. This identified a need for smaller dwellings suitable for an aging population. Policy EB4 of the Neighbourhood Plan requires that *at least 40% of new dwellings should be one and two-bedroom homes.*

A Housing Needs Assessment was submitted with the application. However, this document was inconclusive of the actual need in East Bergholt specifically. Therefore, for this application the need identified by the Neighbourhood Plan and also the SHMA was used for assessment purposes. This is a small four dwelling scheme. Each dwelling would have two bedrooms and therefore fulfils an identified need for both the village and the district as a whole.

The NPPF recognises that small and medium size sites usually come forward more quickly in delivering housing and play an important role in land supply for housing. This is a small site with housing that would achieve the size of dwelling that has been identified as a need for the village and District. As noted in the agenda Strategic Housing colleagues have referred to comments in relation to DC/22/03043 (see Internal Consultation Responses).

**Clarification relating to Policy EB08 (Biodiversity)** of the East Bergholt Neighbourhood Plan (2016)

This policy is very similar to Policy LP16 of the JLP and officer comment follows each criterion below. The issues are addressed within the body of the agenda. For completeness Policy EB08 requires:

*Proposals for development should protect and enhance biodiversity and geodiversity to reflect the requirements of paragraphs 109, 117 and 118 of the National Planning Policy Framework and comply with all the following criteria:*

*1. Protecting and enhancing internationally, nationally and locally designated sites, protected species and ancient or species-rich hedgerows, grasslands and woodlands;*

Enhancement for biodiversity will be secured by condition as recommended by Place Services – Ecology.

*2. Preserving ecological networks, and the migration or transit of flora and fauna;*

Much of the existing hedgerow and trees on site are to be retained. Those that will be removed will be replaced and additional planting provided. It is considered that this is an acceptable approach.

*3. Protecting ancient trees or trees of arboricultural value;*

There are no Tree Preservation Orders on the site. However, there are trees within the Conservation Area that are marked for removal. All trees within a Conservation Area are protected and require permission from the Council to be pruned or removed. Babergh's Arboricultural Officer has been consulted on the application and has raised no objection to the removal of these trees

*4. Promoting the preservation, restoration and re-creation of wildlife priority habitats and the protection and recovery of priority species;*

The ecological survey of the site considered there was limited ecological value. Some recommendations were presented with the survey and included bat and bird boxes around the site and also species of flowering and seed-bearing native trees and shrubs. These recommendations would be conditioned.

*5. Providing a net gain in biodiversity;*

A biodiversity enhancement strategy would be required by condition that would secure the delivery of biodiversity net gain on the site.

*6. Avoiding potential impacts on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site. Proposals should demonstrate that ecological considerations have been properly assessed in relation to the application site and those adjacent to it where appropriate. Where necessary appropriate mitigation measures should be carried out. Where adverse impacts on biodiversity cannot be avoided, necessary appropriate mitigation measures or, as a last resort, compensation measures will be carried out as described in paragraph 118 of the National Planning Policy Framework; and*

A financial payment for RAMs is required prior to an approval being issued.

*7. In line with paragraph 118 of the National Planning Policy Framework, biodiversity features should be incorporated in and around new developments and biodiversity enhancements added wherever possible.*

This will form part of the Biodiversity Enhancement Strategy required by condition.

## **EAST BERGHOLT PARISH COUNCIL**

**To:**

Arthur Charvonia , Chief Executive, Babergh District Council

cc: Tom Barker, Phil Isbell, Samantha Summers, Chair of Babergh Planning Committee

9.12.23

**URGENT: Planning Application DC/23/00740, scheduled for Planning Committee 13/12/23**

Dear Arthur

You will recall that I wrote to you on 14 March 2003 (attached) on a previous application to make a complaint about the officer's report relating to the application DC/222/03043. To date I have received no response from you relating to our complaint of incomplete and unbalanced evidence presented on that case although I did receive a general response from Tom Barker on 12 July which said "I do not intend to go through every point that you have made but welcome the detail that you have provided to help inform the response that the Council makes to any appeal (if submitted). Officers will use their professional judgement to present the most robust defence of the committee decision and your detailed points will assist in that process."

It is therefore extremely disappointing to see that in the officer's report for this new application concerning the same site, DC/23/00740, the same omissions are now repeated. In advance of Babergh's Planning Committee Meeting on 13 December 2023 and it's consideration of Agenda Item 8a (Reference DC/23/00740) East Bergholt Parish Council wishes to highlight the misinterpretation in the evidence presented to the planning committee. In this letter we refer to the whole statement of Babergh's JLP policies and to the correct version of the East Bergholt Neighbourhood Plan policies adopted in full by Babergh District council. We also refer to the detail omitted from previous publication of the East Bergholt Parish Council's submission.

**East Bergholt Parish Council therefore request that this letter is placed before the Planning Committee so that it has full knowledge of the counter arguments prior to its consideration of the Application DC/23/00740 on 13 December 2023.**

The Case Officer's report begins by explaining that the Application has been referred to Committee because of its "controversial nature having regard to the planning reasoning expressed by the Parish Council". We would therefore wish that the Parish Council's submission is fully reported with the recommendation to Committee, with no omissions that lead to misinterpretation of our Neighbourhood Plan.

### **New JLP Policy Context**

The relevant Housing Policies in respect of this Application are **SP03** and **LP01**. The Case Officer has concluded that SP03, which directs all new development to locations



within settlement boundaries would allow this Application because it “scores well when assessed against policies in the Neighbourhood Plan”. This is a clear misunderstanding of the policies in East Bergholt’s Neighbourhood Plan.

Paragraph 3.18 of the Report, for example, refers to **Policy EB3** and states that it “specifically talks about housing development in the village heart”. What the Report omits to say is that **the policy does not** support development including backland development on large gardens that adversely affects the character of the Conservation Area. This is exactly what we have here and yet this point is omitted from the summary of evidence.

Policy **SP03** also refers to Local Plan policies permitting development outside settlement boundaries. This is relevant because the 4 houses proposed in this Application are outside the BUAB. The relevant policy from Table 5 of the recently adopted JLP is **LP01**. The Case Officer’s report is silent on **LP01**. The policy refers to windfall infill housing outside settlement boundaries, so it is unclear why the Report is silent. Perhaps because the Policy states that development would “usually be for one or two dwellings”. The Parish Council’s view is that this Application is contrary to **LP01** in any event, but even so this policy appears to rule against 4 houses outside the BUAB.

The Report does recognise that no case has been made for granting these homes on the basis of need. 229 homes are under construction in East Bergholt notwithstanding an evidenced need of circa 100 homes over 15 years and a Neighbourhood Plan requirement for a minimum of 86 homes. It is unarguable that no more homes are needed and no “exceptional case” has or could be made to build an additional 4 houses on this highly sensitive garden site.

### **East Bergholt Neighbourhood Plan**

The Case Officer’s report is evidently in favour of the scheme’s overall design, often using the architect’s words (unattributed) in its description of the scheme. Paragraph 6.9 endorses the proposed block paving and cobbled raised table in the car park as providing more appropriate and sympathetic materials (than tarmac) for the Conservation Area. It is a car park! In 6.11 the Report states that “the existing toilet block is unattractive and uninviting....the design and materials are not sympathetic to its setting”, but states that the new facility “would provide a more suitably subservient building.....and people are less likely to feel nervous about using the facility” Really! Paragraph 6.12 states that “The four cottages are of a design which creates a sense of community and paragraph 6.19 states “The houses have the typical local character of a vernacular terrace”.

The Parish Council question why the references to the Neighbourhood Plan in the Officer’s Report were not inclusive of the key policy points described below.

The Parish Council wrote and produced its Neighbourhood Plan in 2016 and is proud that the adopted Plan is a key part of the Development Plan and its local policies provide an essential document for appraising planning applications in the Parish on a dispassionate and rational basis.

Paragraph 3.25 of the Officer's Report concludes that the "overall scheme is considered to be acceptable" whilst 3.23 states that "the proposal overall is not completely policy compliant" and 13.3 states that "a need for further housing in East Bergholt has not been established". This is unclear. The Neighbourhood Plan however is clear.

**Policy EB1** states that a minimum of 86 homes will be developed over the plan period to 2030. In reality over 229 houses have been built or are under construction. No need has been established because there is none; it's been met twice over. For the Officer's Report to state in 12.3 that the application site "would appear to be an ideal location for new housing" is totally without regard to need which has been met and has no policy context.

Policy EB2 sets criteria for the size and location of housing that would be considered acceptable if a need existed as per **EB1**. There is no need for another four speculative market homes in East Bergholt. The policy also makes clear that affordable housing on sites adjacent to the BUAB, like this one, will be encouraged. But not for the type of housing proposed in this Application. The Parish Council strongly reject the Case Officer's assertion in 3.18 that "the proposed four dwellings are considered to comply with policy EB2. They do not.

**Policy EB3** excludes backland garden development as referenced above. It is of key importance not to overlook this policy constraint.

**Policy EB5** seeks to increase the housing options, explicitly for older people near the village centre. The Officer's report suggests in 3.23 that "these houses may be suitable for older people". The houses may well be bought by older people but the intent of policy EB5 is clearly to encourage purpose-built accommodation for the elderly and does not aim to promote houses suitable for all and sundry.

**EB08 Biodiversity.** The Case Officer's report fails to assess the scheme against this Neighbourhood Plan policy on Biodiversity. However section 7.0 of the Officer's Report refers to Landscape Officer's comments regarding the trees and habitats that will be lost and states in 7.10 that "the space for soft landscaping and tree planting (to replace those lost to the scheme) could have been more generous by keeping to the public parking layout as per the previous proposal. A wider planting area will provide a better growing environment for new trees and a bigger area to include a range of planting, enhancing biodiversity". Of course the previous parking layout was refused permission. The Case Officer's Report simply states that "to retain the full area of the public car park (now proposed) the Landscape Officer's comments cannot be implemented". So does this mean that landscape and biodiversity are considered by Babergh to be subservient to the Applicants desire to replace a perfectly acceptable car park only required to facilitate a housing scheme which in itself is contrary to Babergh's recently adopted local plan policies?

### **The Red Lion Car Park**

This is a public car park, on a long lease (20 years/12 remaining) to the Parish Council. The Application proposes a comprehensive replacement of the existing facilities including resurfacing, new drains, new toilets, a reconfigured parking layout and includes the

essential new access arrangement to the housing scheme and its 8 car parking spaces. Without the houses absolutely no changes in the current facilities are necessary. The proposals would though;

- rip up the existing car park which was resurfaced with new drainage only two years ago at a cost of £80k to the public purse. This is not sustainable development and some might say it is tantamount to vandalism.
- demolish the existing public conveniences with 7 toilets to be replaced with a smaller facility with just two. A net loss of 5 toilets (not 3 as in Officer's Report). With large coach parties and many tourists visiting East Bergholt, the proposed toilet facility is too small and no evidence is provided to suggest otherwise.
- create an inferior car park layout with smaller car spaces than currently and which will involve the loss of 1 coach parking bay.
- position the smaller toilet block and several car parking spaces included for disabled parking on a protected right of way to the cemetery from The Street. The Officers Report paragraph 5.3 states that "These must be kept free of parked vehicles at all times for 24 hour access". In paragraph 12.6 it states "the public conveniences are not considered to block a right of way to the BT building". The Report ignores the issues for the right of way to the cemetery which are totally compromised by the location of the proposed car park spaces and public conveniences. A Map showing the car park layout from the Application overlaid with the rights of way in the Parish Council's Lease is appended, and so sets out the facts on this issue.

The changes proposed to the car park are unnecessary and will clearly diminish the existing facility and fail to safeguard the existing car and coach park. The proposals are contrary to new JLP Policy LP28 which prohibits development involving the loss of an existing community facility. Here we have just that, so on what basis does the Officers Report state (paragraph 4.1 is only reference in the a report) that "the proposal is considered to be compliant with policy LP 28"? It is not.

The Proposal also continues to contravene Neighbourhood Plan Policy **EB11**. The layout is unworkable, the proposals involve the loss of a coach bay, and a net loss of 5 public toilets and the public rights of way to the cemetery are compromised. EB11 safeguards the Car Park. These proposal are clearly contrary to this policy both in meaning and in spirit.

The Officers Report paragraphs 6.6 and 6.8 also restates its position regarding the two coach bays. This is a cut and paste from the report on Application DC/22/03043. The Report asserts this position but provides no evidence. This was also raised in the Parish Councils submission (albeit redacted) on this Application. The Parish strongly rejects the claims. 12.6 also states "Because of their position within the (existing) car park it would very difficult if both bays were occupied for vehicles to manoeuvre without hitting the brick wall with the Gables". 2 coaches parking here is not new. Coaches have been doing just that for decades. No resulting damage to the brick wall at the Gabbles has ever occurred. All of the Parish Councils observations on the detailed points regarding the Car Park and associated facilities are set out clearly in full in its Consultation Response dated 14/03/2023. It is requested that these are given due consideration now.

The Parish Council appreciate that this letter is detailed in nature, but would request that these views are not ignored, The reason this Application is referred to Committee is because

of the views expressed by the Council. It is therefore entirely reasonable that these views should be given full transparency so the decision facing Babergh on this Application is made in full knowledge of the facts in a fair and balanced manner.

Best regards

Joan Miller  
Chairman East Bergholt Parish Council

Attached:

1. Copy of my letter to you 14 March 2023
2. Map of Red Lion car park rights of way overlaid on planning application design for Red Lion car park.

**To Arthur Charvonia; cc Tom Barker, Phil Isbel, Samantha Summers**

Dear Arthur

I am writing on behalf of East Bergholt Parish Council to express the Parish Council's concerns about the events at the Babergh Planning Committee meeting on 25 January 2023 in relation to the presentation and debate about planning application DC/22/03043.

We note that the planning application was refused by the Planning Committee on the basis of the car park space reduction and the registered need in the village for the car park, it is an Asset of Community Value. We appreciate that councillors took notice of our Neighbourhood Plan policy 11 to protect this facility for the village.

However, and especially in view of the potential appeal and the new application DC/23/00740, we would like to express concern on three major points. The first points may help you with defending the appeal. The second is one of due process. Let me take them each in turn.

**1. The balance of the Parish Council's representation and the applicant's representation were not fairly balanced in the presentation to Committee**

The Parish Council has misgivings that the full case with counter views (ours and other consultees) was not adequately represented. If they had been it would have strengthened the case to refuse.

- The applicant's submission were in places represented as facts in the Officer's report instead of just a point of view – for an example see the points on coach parking made below.
- We question the officer's simple dismissal of the relevance of housing need in considering the failure to meet CS11 as an "acceptable departure" from the Development Plan, so leaving EB11 to do all the work.
- We are concerned at the failure to address the impact of DC/22/01688 on car park capacity and the importance of Condition 5
- There was no consideration of car park capacity constraints with reference to survey of the car park use (today) supplied by the Parish Council, nor was the added pressure from Lion business growth, the cumulative impact and hence material consideration of DC/22/01688, the impact of Lion's staff (19)
- Nor was there any consideration of the future impact on car parking in the village centre with 241 new homes in play.

**2. Car Park and Toilets.**

The Parish Council is concerned that at the committee meeting the information presented to councillors relating to the space and manoeuvrability around the car park was misrepresented. There are a series of issues that were not mentioned. The evidence is all there in the material and emails sent to the planning officer but we believe it was not presented in a balanced way.

- **Building on Right of Access** The proposed new layout of the car park is impossible to achieve because it places the proposed new toilets and several car park spaces right on top of a right of access for vehicles driving from the entrance of the car park to the Cemetery gates. This right of way, established in 1986, runs along the northern boundary of the car park and then turns south along the western boundary of the car park to the cemetery gates. The proposed toilet block and car parking spaces are built right over the right of way which is regularly used by hearses and other vehicles needing to access the cemetery. This was material consideration was not pointed out to councillors.

- **Smaller and fewer car park spaces.** The proposed new car park arrangements provides no additional car park spaces, but it does propose to block parking in the entrance road which currently takes about 4 cars when the car park is full. Thus there is an overall reduction in spaces. The spaces have always been tight in the car park, hence the realignment of spaces at an angle in the middle part of the car park undertaken by the Parish Council last year in response to many car parkers requests. The new arrangements reinstate the difficult 90 degree angle to enter these spaces. This material consideration was not pointed out to councillors.
- **Coach parking.** The applicant provided swept path diagrams and his own assertion that there is no place for 2 coach spaces in the car park. The planning officer pointed this out in paras 6.7 and 6.8 of the officer's report and tabled two late additional papers of the applicant's evidence at the planning meeting (these papers do not by the way appear on the planning portal). However the Parish Council had challenged the assertions of the applicant on this point but this evidence was not presented, the planning officer in her paper, and at the planning meeting only said "there was a difference of opinion", without giving the Parish Council's view point. To summarise the Parish Council's evidence presented to Babergh in respect of this planning application is:
  - The applicant used a swept path diagram to try to demonstrate the lack of room for a coach to manoeuvre in and out of the spaces when a second coach was already parked in the other space. Swept path diagrams are only necessary on highways to show uncompromised movements of vehicles on roads. In car parks it is perfectly acceptable for a vehicle to make 2 or 3 manoeuvres to exit or enter a space, around other vehicles .
  - The coach parking space guidance produced by the applicant is from the British Parking Association which is a private advisory body or club rather than an official body. The coach spaces marked out by the Parish Council fully confirm to "Parking Standards UK" guidance and their websites show that both Suffolk County Council and Babergh District Council state that they have adopted this guidance.
  - There are only 2 coach spaces and there is additional room on the outer sides of each of the coaches for loading and unloading luggage, which would also meet the guidance from the British Parking Association. The white lines on the car park give guidance for vehicle parking. They do not restrict ancillary activities such as loading and unloading, which are not bound by the lines.
  - The current coach spaces have been used in this exact location for over 50 years. There is no record of an accident or complaint that the spaces are too small. On the contrary we have many satisfied coach drivers who use our car park. The assertion that Mr Peachey makes about the our space leading to a wall being knocked down is irrelevant as the wall is at the end of the coach space not the side, and is most likely to have been caused by a dustcart or delivery vehicle moving back to far in the space.

We believe presentation of this evidence is critical to balance out the misleading views put forward by the applicant.

- **Toilet Design.** The current toilets were built by Babergh District Council in the 1980s. In stark contrast to most toilets built at that time (typically flat roofed) the toilets in East Bergholt were built in red and brown brick under a steeply pitched pyramidal shaped clay tile roof, intended to reflect the famous East Bergholt Bell Cage. Taste is a personal concept, and clearly the applicant does not like them, but none the less the toilets in our car park are well built and have an authentic local historic interpretation. The interpretation made by the planning and heritage officers missed this historical connection.
- **Toilet size.** There are currently 3 ladies toilet spaces, 2 gents urinal spaces, 1 toilet cabin and 1 separate (access with a RADAR key) disabled toilet. These toilets were built with enough

numbers to serve coach parties. The proposed new toilets offer only 2 toilets. This is insufficient for the purpose. There is no dedicated disabled toilet. This significant decrease in toilet facilities is unacceptable for the use that is made of current facilities but this decrease was not highlighted to councillors, albeit it being in the Parish Council's submission

There is of course more to say, and we would be happy to advise you further on evidence for any planning appeal.

### **3. Applicant's misrepresentation of the truth in his evidence.**

In his evidence to the Planning Committee, Mr Peachey made several errors of fact and misinterpretations of reality. Having been questioned by one of the planning committee members a couple of days after the meeting I can guarantee that these misrepresentations influenced at least one committee member. The issue is that Mr Peachey is reported as having said that both I and the East Bergholt Neighbourhood Plan say that the sort of housing in the application is welcomed/needed in the centre of East Bergholt. This is not true, in fact it is a complete reinterpretation of the truth.

Policy EB3 says:

#### **EB3 Village Heart**

Within the Village Heart, housing development that satisfies the requirements of Policy EB2 will be supported only for small scale infill development that does not harm the character or appearance of the Conservation Area (Map 18), nor adversely impact on the setting of a designated heritage asset. Development should reflect the traditional scale, form, massing and siting of buildings in the area.

Development, including backland development, on large gardens that adversely affects the character of the Conservation Area (Map 18) and setting of listed buildings will not be supported.

And Policy EB5 says:

#### **EB5 Increasing the choice of housing options for older people**

Up to one third of new housing developed in the plan area should be designed to meet the needs of older people. The development of homes suitable for older people, including affordable and market housing, of types and sizes that meet local housing need will be supported on sites that satisfy the requirements of Policy EB2. Small scale infill development of older people's housing within 400 metres of St Mary's Church (Map 8) will be supported where they provide homes with easy access to the facilities in the Village Heart (Map 7), subject to conforming to other policies of the development plan.

Subject to the need and viability being demonstrated, the development of a care home in the village will be supported.24/1/23

You can see from the highlighted yellow paragraphs that the NP (a) does not support backland development in the heart of the village, which is precisely what this application is, and (b) that the only housing we support in the heart of the village is for older people. 2 storey houses with steep stairs do not qualify as houses suitable for older people. Nor would I, as an experienced Parish Council chair, say anything that the NP would disagree with, and I confirm that I did not.

There is one final issue. One of the Planning Committee councillors is quoted as having a personal antagonistic view of East Bergholt. Our Vice-Chairman has made a specific complaint to the monitoring officer about this point. However we do not see how this can affect a planning appeal so I will leave it with the monitoring officer to deal with.

Please do let me know if you have any questions or require any further evidence.

Best wishes  
Joan Miller  
Chairman East Bergholt Parish Council

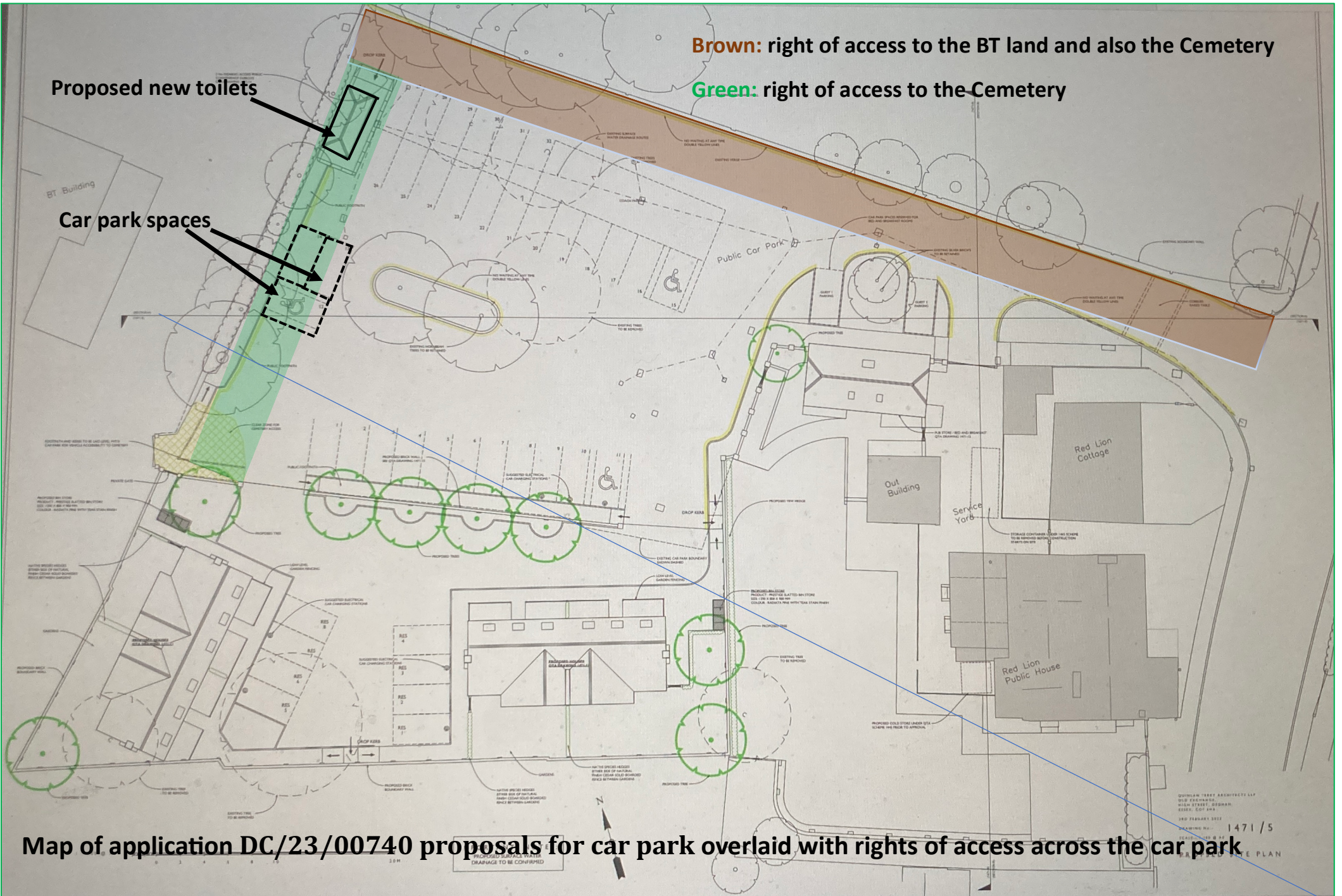


**Brown:** right of access to the BT land and also the Cemetery

**Green:** right of access to the Cemetery

Proposed new toilets

Car park spaces



Map of application DC/23/00740 proposals for car park overlaid with rights of access across the car park

QUINNAN TERRY ARCHITECTS LLP  
2010 EXETER PLACE  
HIGH STREET, BEDFORD  
BEDFORD, GUT 41A  
100 FEBRUARY 2023  
DRAWING NO. 1471 / 5  
SCALE: 1:1000  
SITE PLAN