



Appeal Decision

Site Visit made on 26 August 2021

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/K3605/W/20/3257401

Units 1 & 2, Hampton Court Trading Estate, Summer Road, Thames Ditton KT7 0RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Turnhold Properties (Greater London) Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2019/2005, dated 19 July 2019, was refused by notice dated 14 February 2020.
 - The development proposed is demolition of existing buildings and erection of part three, part four storey buildings to create 78 residential units and ground floor unit for Class B1, with associated car and cycle parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and erection of part three, part four storey buildings to create 78 residential units and ground floor unit for Class B1, with associated car and cycle parking and landscaping at Units 1 & 2, Hampton Court Trading Estate, Summer Road, Thames Ditton KT7 0RG in accordance with the terms of the application, Ref 2019/2005, dated 19 July 2019, subject to the conditions in the Schedule to this decision.

Preliminary Matters

2. During consideration of the application by the Council amended plans were submitted by the then applicant. These were considered by the Council in making its decision. When the appellant submitted the appeal, it included revised versions of two of the drawings relating to the proposed first, second, third and roof plans. The only change was to add plot numbers. As this aids identification, and would not prejudice any party, I have utilised them in making this decision.
3. The appeal was accompanied by a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) by agreement with the Council dated 19 April 2021 relating to affordable housing and a late stage viability review. I will discuss this below.
4. The Council refused the application for five reasons, with the third dealing with air quality. At the appeal stage the appellant submitted an Air Quality Assessment which led to the Council no longer contesting this reason. The fourth reason for refusal related to the provision for affordable housing. The final reason for refusal related to the lack of a legal agreement relating to highway safety. The Council indicated that the Planning Obligation resolved the fourth reason for refusal and the fifth reason for refusal could be dealt with by

condition, although local residents object in relation to highways matters. I will deal with this below.

5. As the appeal site within the setting of Hampton Court Palace, a series of Grade I and II listed buildings, I have had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
6. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published by the Government. The main parties were given the opportunity to make representations of this and I have taken the responses into account.

Main Issues

7. The main issues are:

- the effect on the character and appearance of the area;
- whether the proposal would provide an appropriate standard of external amenity space for the proposed occupiers;
- whether the proposed development would be satisfactorily integrated into the local community;
- the effect on the setting of Hampton Court Palace;
- the effect on highway safety; and
- whether there are any other benefits of the proposal, including the housing land supply position, that would lead to a determination other than in accordance with the terms of the development plan.

Reasons

Character and appearance

8. The appeal site lies in the southern part of an elongated piece of land between Hampton Court Way, the A309, and the Hampton Court to London Waterloo railway line. There are various industrial and storage buildings on the site. The block of land is divided into two sections, a northern section which falls outside the appeal site, and a southern, slightly larger, section which makes up the appeal site.
9. To the south is Summer Road, and immediately to the east of the appeal site access is a level crossing which closes normally four times an hour to allow trains to access and egress Hampton Court Station, which lies a short distance to the north.
10. Beyond the western side of the appeal site between it and Hampton Court Way is a predominantly dry ditch and its environs which is well landscaped. This forms part of a green corridor with landscaping on both sides of Hampton Court Way. This corridor continues for some distance to the south. Most of the houses to the west of Hampton Court Way opposite the appeal site either back on or are side on to the road, although three dwellings have direct accesses.
11. To the east of the appeal site, beyond the railway line, are two buildings, Summer Crossing, which give the appearance of being flats. These are two and three storey in height, but this includes a ground floor which is raised above

ground level. To the east of Summer Crossing are the playing fields of Ditton Fields and some all-weather pitches. To the east of this is a strip of wooded land, beyond which is a public park adjacent to the River Thames. To the north of Ditton Fields is a more extensive wooded area, again with public access. To the east and north of the River Thames is Hampton Court Palace with its grounds. To the east of the railway line, both south and east, is an area of housing, while to the southwest of the appeal site is another sports ground.

12. My overall impression of the appeal site and the land to the north is that they form an island of development effectively visually unconnected with any other built development in the wider area apart from the two buildings at Summer Crossing. To my mind there is effectively no relationship to other buildings in the area. It is physically separated by either Hampton Court Way or the railway line, and the site is well screened from Hampton Court Way by vegetation.
13. Because the site has so little relationship to adjoining land, I consider that the Elmbridge Design and Character Supplementary Planning Document is of little relevance in determining this appeal. This is because the appeal site does not form a cohesive part of the Thames Ditton, Long Ditton, Hinchley Wood & Weston Green area in which it is said to be located, and the design principles therein need not apply to this site.
14. The proposal is to demolish all the buildings on the site, and construct a series of three buildings, the northern two would be solely residential with the southern one having a B1¹ unit on the ground floor with residential above. The majority of the buildings would be four storeys in height, although the north and southern sections would have three storeys. The fourth floor would have accommodation in the roof structure with a double gable and the rooms lit by dormers. The ground floors would be to provide either access and servicing to the upper floors or parking.
15. While the buildings are linear in form, there would be some articulation along the overall length to break up the overall mass of building. The most southerly of the buildings would be closer to Summer Road than at present, although still set back by between 11 and 20 metres due to the angle to Summer Road.
16. In addition to that provided under the buildings there would be parking along the eastern side of the site, and an intervening access road would continue to provide access to the industrial/storage units beyond the northern end of the appeal site. There would be a separate pedestrian route along the western side of the proposed buildings.
17. During pre-application discussions with the Council the proposal was subject to design review by Design South East (d:se). This made various suggestions as to how the design could evolve through to formal submission. A number of these suggestions were incorporated into the design but others not. I note that paragraph 133 of the Framework indicates that local planning authorities should have regard to any recommendations made by design review panels. It seems to me that while such recommendations cannot be determinative, they can be given significant weight. However, where the final design is not subject to design review, as here, then this weight should be tempered.

¹ The application was submitted prior to coming into force of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. Under Regulation 4 of this Order, the application must be determined under the use classes existing prior to that date.

18. One criticism of the design is that it relates more to London than Elmbridge and Surrey. I consider that this would be more valid were the site to visually relate to other built development in the area, but it does not. The only visual relationship is to the Summer Crossing development which follows a similar aesthetic and, to my mind, this is appropriate.
19. Concern has been expressed about the quantity of development, particularly in relation to its density bearing in mind the overall density target of 40 dwellings per hectare set out in Policy CS17 of the Elmbridge Core Strategy (the Core Strategy). However, these would be smaller units, with two-thirds having one-bedroom, and only three having three-bedrooms. In that context a development of smaller units will always have a higher number of units per hectare than a scheme of larger units. In my view, a more appropriate measure for judging acceptability, within the overall aim of supporting development that makes efficient use of land (see paragraph 124 of the Framework), are the other criteria in Policy CS17 and other material policies relating to the effect on local character, design and living standards.
20. Because of the visually isolated nature of the site, any design has few design cues to follow and would have very little effect on local character. While I appreciate that I saw the site when vegetation was at its greatest, it seems to me, given the extent of landscaping along the western side, including understorey planting, that there would be sufficient landscaping to provide a filter and thereby retain the overall green corridor. Even if this landscaping were to fail, an unlikely occurrence, or be removed there would be sufficient design interest in the western elevations so that they would not intrude harmfully into the wider street scene.
21. The elongated nature of the site lends itself to the provision of a series of buildings set one behind the other. The height would also be appropriate being set back from Hampton Court Way as the effects of perspective would reduce its impact on the street scene so that it would not appear overbearing. I therefore conclude that the proposal would, in general, have an appropriate layout, scale and massing, making an efficient use of the land. I consider that describing the tops of the roof pitches as being "lopped off" misunderstands the design which seeks to reduce the overall scale of the buildings when viewed end on. The use of appropriate materials, which could be secured by condition, would ensure that the buildings would provide interest.
22. The one respect in which I consider that the Council's criticisms of the design are valid relate to the southern elevation of Block A. Taking into account the wide expanse of the ground floor window for the B1 unit, the disposition of the voids (windows and balconies) between each floor creates a haphazard arrangement with little vertical congruity. Given that this elevation would be very much in the public domain, seen by those waiting at the level crossing, I consider that the proposal would be harmful to the street scene. However, within the overall context of the proposal this harm is limited.
23. Except in that one respect the proposal would be appropriate to the character and appearance of the area. As such it would generally comply with Policy CS17 of the Core Strategy, which requires development to enhance the public realm, and Policy DM2 of the Development Management Plan 2015 (the DM Plan) which requires development to enhance the local character of the area. Similarly, in general terms the proposal would be in accordance with paragraph

130 of the Framework which requires development to be visually attractive. However, in that one element the proposal would be contrary to these policies.

Amenity Space

24. Amenity space for the proposed occupiers would be provided through balconies for all but six of the units, two roof terraces on the two flat roofs at either end of the proposal (Blocks A and C) and within the areas between the blocks. The area between Blocks B and C is not wide and the main ground level provision is between Blocks A and B.
25. I have not been provided with any development plan or other specific standard for the quantum of amenity space, but Policy DM10 of the DM Plan does require that developments will be expected to offer an appropriate standard of living externally.
26. The Council considers that requiring occupiers of Block B to travel through either Block A or Block C to get to either of the terraces would not be reasonable. However, it seems to me that occupiers of Block B are more likely to use the ground level provision between Blocks A and B. While this area would have four storey accommodation at either end, the appellant has demonstrated that it would obtain sufficient sunlight during those times of the year when it is mostly likely to be used as an external sitting out area. I consider that this area would provide a high quality area, and together with the balconies and terraces, the proposed occupiers would have an appropriate standard of outdoor amenity space.
27. Consequently, the proposal would provide an appropriate standard of amenity for the living conditions for the proposed occupiers. It would therefore comply with paragraph 130 of the Framework which requires planning decisions should ensure developments create places with a high standard of amenity.

Connectivity

28. The appeal site has a single point of access to the south. In its design critique d:se stated: "At least one additional access point is advised along the western boundary of the site. ... There is concern about how well-integrated into the surrounding neighbourhoods and context a community of 82 homes would be in this location. Therefore, an additional link is considered a crucially important additional provision." The proposal has been reduced to 78 dwellings, but the point remains.
29. For those living at the southern end of the site in Block A, there would be no material difference in distance in travelling to Summer Road before walking or cycling along the footway/cycleway on the eastern side of Hampton Court Way to the facilities in East Molesey including Hampton Court Station. What is of more concern is for those living in Blocks B and C since they would have travel south to Summer Road before, effectively, retracing their steps to the north.
30. Policy CS25 of the Core Strategy indicates support for development that increases permeability and connectivity within the urban area, and Policy DM7 of the DM Plan states that access should be safe. No case has been made that the proposal would involve an unsafe access and consequently there would be compliance with Policy DM7.

31. It seems to me that in considering whether the proposal is well connected depends not only whether journeys involve going back on themselves, but on a wider consideration of all facilities. In this context while there is a centre in East Molesey there are other facilities nearby to the south and east, with a public right of way immediately to the east of Summer Crossing allowing access to public open space and other recreational facilities.
32. The maximum additional distance that an occupier of Block C would be required to travel to an equivalent northerly point would be approximately 650 metres. This would be from the entrance of Block C, down to Summer Road and back to an equivalent point on Hampton Court Way, less the distance from the entrance across any bridge to Hampton Court Way. This, along with the walk to the facilities in East Molesey, would take it outside a convenient walk but would be within a distance that some might travel. However, it would be within an easy cycle ride, particularly as there is cycleway provision beside Hampton Court Way. It must be remembered that the additional distance for the occupiers of Block B would be less.
33. Permeability, of course, works both ways, for the occupiers of the site and for those living outside. For those living outside, other than those visiting residents there is no attractor proposed at the northern end of the site, and thus little reason to visit. As explained above, there would be no material difference in distance to travel for those utilising the B1 unit in Block A either for work or to visit.
34. While a connection through from the northern part of the site to Hampton Court Way would improve the proposal, I have to judge what is in front of me. In this regard, I consider that the proposal taken as a whole would be reasonably well connected to local facilities and facilitate a range of non-car modes of travel. I have considered whether a condition requiring the provision of such a link would be appropriate, but in my view, it is not necessary to make the development acceptable, and, in any event, I do not have sufficient information to ensure that it could be delivered without other harmful effects, for example to trees.
35. Consequently, the proposal is reasonably well connected to local facilities and would encourage the use of non-car modes, and therefore complies with Policy CS25 of the Core Strategy.

The setting of Hampton Court Palace

36. The Framework defines the significance of a heritage asset as the value of a heritage asset to this and future generations because of its heritage interest. The national Planning Practice Guidance also notes that 'significance' derives not only from a heritage asset's physical presence, but also from its setting.
37. Paragraph 199 of the Framework indicates that great weight should be given to the conservation of a heritage asset and this is irrespective of the level of harm that may occur. It is also emphasised that the more important the asset, the greater the weight should be. Scheduled monuments and Grade I listed buildings and Registered Parks and Gardens are at the pinnacle of such importance. Paragraph 200 of the Framework indicates that any harm to the significance of a heritage asset, or from development within its setting, should require clear and convincing justification.

38. As well as being a series of Grade I and II listed buildings Hampton Court Palace is a Scheduled Monument and Grade I Registered Park and Garden. It is thus a collection of designated heritage assets amongst those of the highest import in the country. Its significance for the purposes of this appeal relate to the views that can be taken from the William and Mary southerly elevation by Sir Christopher Wren together with any views that can be seen from the gardens, in particular the Privy Garden. These views as a whole provide a rural setting to the Palace taken to the south. The appeal site lies some 300 – 400 metres to the south-southwest, slightly to the west of the main axis of the façade and Privy Garden.
39. The Gardens Trust objected to this proposal at the appeal stage on the basis of views of what it sees as a long building intruding into the rural setting, particularly in winter when leaves are missing. It is also very concerned about the possible loss of the tree screen between Hampton Court Palace and the appeal site, and whether there is any provision for its maintenance. The Gardens Trust also asserts that the verified views provided by the appellant are inaccurate.
40. Set against this are the views of Historic England. It has raised no objection on heritage grounds to the proposal. From this it must be concluded that it considers that the proposal would, in the terms of the legislation, preserve the setting. As the Courts have indicated this means doing no harm rather than not changing the situation. If Historic England had felt there was any harm it would have been expected to do have said so and then left any balancing of that harm to the decision maker in line with paragraphs 202 and 203 of the Framework. I am able to give considerable weight to the views of Historic England as the Government's specialist advisor.
41. I have carefully looked at the verified views and am satisfied, based on the relationship with other buildings, particular those at Summer Crossing, that the wires are shown in the correct place. The use of wires to show the extent of the proposed development is appropriate as it allows the location of the envelopes of buildings to be seen without either emphasizing or reducing their effect in relation to landscaping. This then allows the decision maker to use their judgement. Some of the base photographs were taken during winter months which allows for the effects to be fully appreciated.
42. From ground level I am satisfied that there is sufficient intervening vegetation so that the proposal would have no harm to the setting or significance of the Palace and its individual elements which would therefore be preserved. From the upper floors of the William and Mary elevation, the buildings could be glimpsed, but in the overall context of the panorama from east to west, this would be no more significant than the existing buildings and therefore the overall setting of Hampton Court Palace and each of its elements would be preserved.
43. While it is clearly desirable for the intervening vegetation to be retained this falls outside the remit of this appeal. If this area of woodland were to be lost the effect on the setting of Hampton Court Palace would not be just from this proposed development but from many other existing buildings. The effect of these buildings would be no greater than any other in that event.
44. Consequently, I am satisfied that the proposal would preserve the setting of all the elements that make up Hampton Court Palace and its grounds. That being

the case the proposal would comply with Policy DM12 of the DM Plan which indicates that planning permission will be granted for development that conserves the Borough's historic environment. The proposal would also comply with paragraph 197 of the Framework that indicates that in determining applications, local planning authorities should take account the desirability of sustaining the significance of heritage assets.

Highway safety

45. As noted above, the appeal site is in close proximity to the level crossing on the Hampton Court to Waterloo railway line with the crossing closed generally four times an hour to allow trains to pass. Because of the "Keep Clear" markers outside the appeal site and the short distance between the crossing and the junction of Summer Way with Hampton Court Way traffic often queues back onto Hampton Court Way. Indeed, this happened on each of the three occasions when I saw the crossing closed when I undertook my site visit.
46. Local residents are understandably concerned about the potential for accidents either by 'tail end shunts' from vehicles travelling south on Hampton Court Way and not realising that there is a queue, or from northbound turning traffic into Summer Way, this being a prohibited move.
47. In making decisions it is reasonable to assume that motorists will follow road traffic restrictions. While motorists approaching the site from the south would have to travel further north to turn, this would be a constraint that occupiers would be aware of.
48. Further, account should be taken for the traffic generated by the existing use of the site which would cease were the development to take place. To this end the then applicant submitted a Transport Assessment with the application. This shows only a minor change in vehicle flows in and out of the site when compared with the existing situation. That there might be changes in the direction of flow, with increases out of the site in the AM peak and into the site in the PM peak, the overall amount of traffic on the wider network is broadly comparable. On that basis the Highway Authority has raised no objection subject to a legal agreement and conditions.
49. I note that the Site Plan shows a different arrangement for the access to the site than at present. This may also allow the "Keep Clear" area to be reduced in size allowing more cars to wait in Summer Road, potentially reducing the number of vehicles queued into Hampton Court Way. This matter can be secured by condition and would avoid the need for a planning obligation.
50. Subject to conditions I am therefore satisfied that the proposal would not result in an unacceptable effect on highway safety or severe residual cumulative impacts on the road network; these are the tests set out in paragraph 111 of the Framework if development is to be prevented.

Benefits including land supply position

51. The appellant has set out a number of benefits which the proposal would provide. These include the provision of 78 new dwellings on previously developed land, with a housing mix weighted towards smaller properties to meet an identified need in the Borough, and the provision of the B1 floorspace. I give this significant weight in both social and economic terms.

52. The proposal would also provide for eight affordable dwellings. This is less than required by Policy CS21 of the Core Strategy which seeks 40% of dwellings on sites of this size. The explanatory text indicates that, in exceptional circumstances where delivery of a policy compliant level of affordable housing would make a scheme unviable, this may be acceptable but must be demonstrated. The applicant submitted a report, which the Council accepted, showing that the provisions of eight dwellings would be at the limit of viability. I have no evidence to show that this is not the case, and subject to a 'late stage review' as secured in the Planning Obligation I am satisfied in this regard. However, as this level of affordable housing is to make the proposal policy compliant this will only be neutral in the final balance.
53. The applicant considers that the proposal would improve the overall quality of the site, and subject to my criticism of the southern elevation of Block A this would be the case. The site is located in a generally accessible location.
54. The applicant also contends that the provision of the sums towards the Community Infrastructure Levy and other matters secured in the Planning Obligation should be considered to be benefits. However, these are to deal with the effects of the proposal and therefore I consider that they are neutral in the final balance.
55. I have also taken into account the other asserted benefits set out by the appellant, but it seems to me that all of these, including the proper landscaping of the site, car club spaces and electric charging points, are only matters a well-considered scheme should deliver and are thus neutral considerations.
56. The Council acknowledges that it cannot demonstrate a five year supply of land for housing, indicating a supply at just less than four years. The appellant does not dispute this figure. This is a significant, clear and demonstrable deficiency in supply. I will consider the implications of this below.

Other matters

57. Local residents have expressed concern that the introduction of residential development in proximity to the existing uses to the north of the appeal site may result in adverse effects. Paragraph 187 of the Framework states that planning decisions should ensure that new development is integrated effectively with existing businesses. Given the separation between Block C and those uses I am satisfied that this relationship would be acceptable.
58. Local residents are also concerned about the amount of parking which would be provided. The car and cycle parking provision would accord with the Council's adopted parking standards. Given the proximity to Hampton Court Station and bus routes I am satisfied that the proposal would deliver an appropriate parking solution.
59. In relation to air quality, I am satisfied that it has been demonstrated that redevelopment of the site would not cause a significant impact on local air quality and consequently this does not represent an impediment to the proposal.

Planning Balance

60. The proposal would overall comply with the terms of the development plan taken as a whole. The site is in a generally accessibility location within

reasonable proximity of facilities which any occupiers would use. The one element where I have found conflict with the development plan relates to the design of the southern elevation of Block A which means this element would not be beautiful. However, in the context of the overall proposal, and even giving substantial weight to the creation of beautiful buildings as set out in paragraph 126 of the Framework, this harm is only limited.

61. The lack of a five year supply of housing means that the tilted balance set out in paragraph 11 d) of the Framework applies. This means that the proposal should be granted unless, the application of policies in the Framework to protect assets of particular importance provides a clear reason for refusing the development proposals or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. For the reasons set out above, there would be no harm to any heritage assets or their settings, nor would there be any significant or demonstrable adverse impacts of granting permission. The lack of a five year supply of housing land adds weight substantially in favour of granting permission.
62. I therefore conclude that while contrary to the development plan in one specific respect, given the proposal complies with the development plan taken as a whole, and other material considerations only add weight in favour of granting permission, the appeal should be allowed and planning permission granted.

Conditions

63. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. The numbers given in brackets (X) refer to the condition being imposed, with the order being prescribed by the time when the condition needs to be complied with.
64. I have rationalised the conditions where more than one recommended condition dealt with a topic; for example, rather than a Construction Transport Management Plan and a Construction Environmental Management Plan, I have imposed a condition requiring a single Construction Method Statement. This also applies in relation to contamination with there being conditions recommended from various consultees. I have also sub-divided the recommended condition relating to contamination to several different conditions, set out at the appropriate point in the development.
65. In addition to the standard timescale condition (1), I have imposed a condition specifying the relevant drawings as this provides certainty (2).
66. In the interests of highway safety and the living conditions of neighbouring residents I have imposed a requirement for a Construction Method Statement (3). To ensure that any contamination on the site is dealt with in the interests of the health of the proposed occupiers I have imposed a condition requiring surveys and remediation (4). To protect trees in the interests of the character and appearance of the area I have imposed a condition relating to tree protection (5). Conditions 3 to 5 are all pre-commencement conditions as matters are required prior to development commencing and have been agreed by the appellant.

67. To ensure that the site does not increase flood risk I have imposed a condition dealing with surface water drainage (6); this can be submitted and approved post-demolition and site clearance but needs to be dealt with before any construction works take place.
68. In the interests of public health should previously unidentified contamination be found during construction the I have imposed a condition to deal with this scenario (7) and for the same reason I have imposed conditions relating to the importation of infill material and the undertaking of piling should that be required (8, 9). The piling condition is also imposed to minimise risk to underground sewerage systems.
69. To ensure appropriate living conditions for the occupiers the implementation of the measures set out in the Noise and Vibration Report which accompanied the application needs to be implemented (10).
70. In order to mitigate the effects of the development on biodiversity the recommendations of the Preliminary Ecological Appraisal need to be delivered (11).
71. In order to ensure that the materials used for the external surfaces of the buildings are appropriate to the area I have imposed a condition requiring submission and approval (12), and to ensure that the site is landscaped to provide external amenity space and to ensure it is in keeping with the character and appearance of the area I have imposed a landscaping condition (13).
72. To protect bats in the area there is a condition relating to external lighting (14) and to ensure appropriate ventilation for the residents given proximity to noise sources I have imposed a condition requiring a scheme to be submitted and approved (15).
73. I have imposed two conditions requiring verification reports to be submitted relating to contamination/remediation and the surface water scheme in the interests of public health and so as to ensure that the local lead flood authority has the necessary information to ensure the surface water scheme is properly maintained to avoid flood risk in the future (16, 17).
74. Similarly, to ensure that the site is properly maintained in respect of both landscaping and ecology I have imposed a condition requiring a Landscape and Ecological Management Plan to be submitted and approved (18).
75. As set out above, the Site Plan involves a re-arrangement of the access into the site. In the interests of highway safety, I have therefore imposed a condition requiring the details, including signage and pedestrian alterations, to be submitted and implemented (19).
76. In order to ensure that there is appropriate car and cycle parking I have imposed a condition requiring its provision and that electric charging points are delivered to enable the use of electric vehicles as this sector is de-carbonised (20, 21).
77. In the interest of the character and appearance of the area I have imposed a condition requiring trees and hedges in the area are maintained for the first five years following the occupation of the development (22).

78. In order to protect the living conditions of occupiers I have imposed a condition relating to the sound generation of mechanical equipment (23), and to ensure that air quality is maintained a condition relating to the emissions of gas-fired boilers and the implementation of the Air Quality Assessment (24, 25).
79. Finally, in order to protect the living conditions of the occupiers I have imposed a condition relating to the operating hours of the B1 unit (26). I have not just restricted this to visitors as workers within the building outside these hours could create noise and disturbance harmful to the living conditions of the occupiers of the adjacent dwellings.
80. I have not imposed conditions restricting the use of the commercial unit as this, in my view, would not pass the test of necessity, and I similarly consider neither a car parking design management plan nor a delivery and servicing management plan is necessary, since the layout is set out on the approved drawings and conditions requiring their delivery and maintenance will be sufficient to ensure appropriate provision.
81. I have also not imposed a condition relating to Secure by Design since as a full application the details are set out and incorporating this may lead to material changes.

Conclusion

82. For the reasons given above I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

18017-20 P0-010 Rev P1	Site Location Plan
18017-20 P0-011 Rev P2	Existing Plan
18017-20 P0-012 Rev P2	Existing Elevations
18017-20 P0-013 Rev P1	Demolition Plan
18017-20 P0-014 Rev P1	Existing Roof Plan
18017-20 P0-015 Rev P1	Existing & Proposed Street Scene
18017-20 P0-020 Rev P3	Proposed Site Plan
18017-20 P0-021 Rev P1	Proposed Parking & Refuse Storage
18017-20 P0-100 Rev P7	Proposed Ground Floor
18017-20 P0-101 Rev P5/6	Proposed First and Second Floor Plan
18017-20 P0-102 Rev P6/7	Proposed Third Floor and Roof Plan
18017-20 P0-200 Rev P7	Proposed Site Elevations
18017-20 P0-201 Rev P6	Proposed Site Sections & Elevations
18017-20 P0-202 Rev P3	Proposed Site Sections & Elevations
18017-20 P1-200 Rev P2	Proposed Building A_Ground Floor
18017-20 P1-201 Rev P1	Proposed Building A_Typical Floor
18017-20 P1-202 Rev P1	Proposed Building A_Third Floor
18017-20 P1-203 Rev P2	Proposed Building B_Ground Floor
18017-20 P1-204 Rev P1	Proposed Building B_Typical Floor
18017-20 P1-205 Rev P1	Proposed Building B_Third Floor
18017-20 P1-206 Rev P1	Proposed Building C_Ground Floor
18017-20 P1-207 Rev P1	Proposed Building C_Typical Floor
18017-20 P1-208 Rev P1	Proposed Building C_Third Floor
18017-20 P2-100 Rev P4	Proposed Building A_Elevations
18017-20 P2-101 Rev P3	Proposed Building A_Elevations
18017-20 P2-102 Rev P3	Proposed Building B_Elevations

18017-20 P2-103 Rev P2	Proposed Building B_Elevations
18017-20 P2-104 Rev P4	Proposed Building C_Elevations
18017-20 P2-105 Rev P3	Proposed Building C_Elevations
18017-20 P4-100 Rev P1	Proposed Facade Details
18017-20 P4-101 Rev P1	Proposed Facade Details
18017-20 P4-102 Rev P1	Proposed Facade Details
18017-20 P4-103 Rev P1	Proposed Cycle Store Details
18017-20 P4-104 Rev P1	Generic Slab Build-Ups
18017-L101 Rev P02	Landscape General Arrangement Plan
18-T072 12	Swept Path Analysis (16.5m Articulated Vehicle)
18-T072 13	Swept Path Analysis (Refuse Vehicle and Pumping Appliance)
18-T072 14	Swept Path Analysis (Skoda Octavia)

- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) the programme of works, including measures for traffic management to deal with for HGVs approaching the level crossing;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing;
 - vi) wheel washing facilities;
 - vii) measures to control the emission of dust and dirt during construction; and
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No demolition or site clearance shall be commenced until a scheme for the assessment and remediation of contamination has been submitted to and approved in writing by the local planning authority.

A preliminary investigation shall be carried out prior to any site clearance or demolition, to assess the condition of the land to be re-developed, in respect of contamination. The preliminary investigation must, as a minimum, include

a desk-based evaluation, site walkover and Conceptual Site Model and may include intrusive investigation. A written report of the investigation shall be submitted to the local planning authority for written approval.

If the local planning authority considers that there is a significant possibility that the site could pose a significant risk to future occupiers of the proposed development as a result of contamination, then the following additional steps shall also be carried out.

- i) A written site-specific investigation plan using the information obtained from the preliminary investigation, providing details of the investigation for soil, gas and controlled waters where appropriate, shall be submitted to and approved by the local planning authority;
- ii) the site investigation shall be undertaken in accordance with the scheme agreed by the local planning authority. The results of the site investigation, a refined conceptual model and a risk assessment of any contamination found shall be submitted in writing to and approved by the local planning authority; and
- iii) a written Method Statement with Verification Plan, detailing any remediation requirements and how their successful implementation shall be demonstrated, shall be submitted to and approved by the local planning authority.

The development of the site shall be carried out in accordance with the approved Method Statement, and any addenda submitted by the developer, and agreed in writing by the local planning authority. Any post remediation monitoring identified in the Method Statement, shall be installed within the timescales identified in the Method Statement and maintained and operated for as long as identified by the Method Statement.

- 5) No development including groundworks and demolition shall take place until an Arboricultural Assessment and Method Statement has been submitted to and approved in writing by the local planning authority. This shall include details of the:
 - i) measures taken to protect existing trees and hedges during demolition, delivery/storage of materials and machinery, and construction including a Tree Protection Plan;
 - ii) location and installation of services/utilities/drainage, including services to any automated gates;
 - iii) details of construction and installations including methodologies within a root protection area or that may impact on retained trees;
 - iv) full specification for the construction of any roads, parking areas, driveways, hard surfacing, including details of no dig specification and extent of the areas to be constructed using no dig surfacing;
 - v) all arboricultural site monitoring and supervision required for the duration of the development; and
 - vi) methods to improve the rooting environment for retained and proposed trees and landscaping.

- The development thereafter shall be implemented in strict accordance with the approved details and shall be maintained throughout the construction period.
- 6) No development other than demolition and site clearance shall commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The design must satisfy the Sustainable Drainage Systems (SuDS) hierarchy. The required drainage details shall include:
- i) evidence that the proposed final solution will effectively manage the 1 in 30 and 1 in 100 (+ 40% allowance for climate change) storm events, during all stages of the development. Associated discharge rates and storage volumes shall be provided using a maximum discharge rate of 2.3 l/s;
 - ii) detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.);
 - iii) a plan showing exceedance flows (for example during rainfall greater than design events or during blockage) and how property on and off site will be protected;
 - iv) details of drainage management responsibilities and maintenance regimes for the drainage system;
 - v) details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.
- 7) If, during development, contamination not previously identified, is found to be present at the site, then no further development shall be carried out until a written addendum to the Method Statement submitted pursuant to condition 4) detailing how the previously unsuspected contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. The addenda shall thereafter be complied with.
- 8) No piling shall take place unless a piling method statement has been submitted to and approved in writing by the local planning authority. The statement shall detail the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure or discharges from contaminants, and the programme for the works. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 9) No infill material shall be imported on to the site until a sampling programme, including appropriate import criteria for the proposed end use and frequency of sampling, has been submitted to and approved in writing by the local planning authority. Any such infill material shall only consist of clean, uncontaminated rock, soil, brick rubble, crushed concrete or ceramic. The development shall be implemented in accordance with the approved sampling programme to check that all imported material conforms to the agreed

criteria. The sampling program shall also include samples taken from the imported material after final placement. Written confirmation of the suitability of all imported materials shall be provided to the local planning authority as part of condition 16). This shall include both the results of the sampling program and also details of the origin, transport, final deposition and any temporary stockpiling of the imported materials.

- 10) The development shall be built in accordance with the acoustic report Noise and Vibration Assessment (SLR Ref 425.08627.0001 July 2019) and follow up communication (SLR Ref: 425.08627.00001-L-Noise-Queriesv1 dated 14 October 2019). The required noise levels including sound insulation levels will be a minimum standard.
- 11) The development shall be carried out in accordance with the conclusions and recommendations set out in the Preliminary Ecological Appraisal prepared by Greengage dated July 2019 (reference 551205dpJul19FV01_PEA) and in particular sections 5.2 - 5.10.
- 12) No development above slab level shall take place until samples of the materials to be used on the external faces and roof of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 13) No development above slab level shall take place until full details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. This scheme shall include indications of all hard surfaces, walls, fences (including acoustic barriers), secure and covered cycle storage, refuse/recycling bin storage and collection, access features, the existing trees and hedges to be retained, together with the new planting to be carried out.

All hard and soft landscaping works shall be carried out in accordance with the approved details. Arboricultural work to existing trees shall be carried out prior to the commencement of any other development above slab level. All hard landscaping work shall be carried out prior to the occupation of any part of the development and all soft landscaping shall be carried out in the first planting or seeding season following occupation of the development.

Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species.

- 14) No development above slab level shall commence until an external lighting scheme for the development has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented before any of the external lighting is brought into use and thereafter the lighting shall be operated in accordance with the approved scheme and maintained. The scheme shall include the following:
 - i) details of pillar and pole lighting; and
 - ii) the proposed hours of operation of the luminaires.
- 15) No development above slab level shall take place until details of the passive ventilation system has been submitted to and approved in writing by the local

planning authority. The system shall be designed to achieve the required acoustic mitigation in addition to allowing a greater degree of protection to air quality. The development shall be carried out in accordance with the approved details.

- 16) The development shall not be occupied until a written Verification Report relating to contamination has been submitted to and agreed in writing by the local planning authority. The report shall include details of the remediation set out in the Method Statement approved pursuant to condition 4) and, if necessary, condition 7) together with a report providing verification that the required works regarding decontamination and installation of post remediation monitoring and demonstrate it has been carried out in accordance with the agreed Method Statement and any addenda thereto.
- 17) The development shall not be occupied until a Verification Report relating to the surface water system has been submitted to and approved in writing by the local planning authority. This must demonstrate that the drainage system has been constructed in accordance with the agreed scheme, provide the details of any management arrangements and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
- 18) The development shall not be occupied until a Landscape and Ecological Management Plan (LEMP) for the site has been submitted to and approved in writing by the local planning authority. The content of the LEMP should include the following:
 - i) description and evaluation of features to be managed;
 - ii) ecological trends and constraints on site that might influence management;
 - iii) aims and objectives of management;
 - iv) appropriate management options for achieving said aims and objectives;
 - v) prescriptions for management actions, together with a plan of management compartments;
 - vi) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - vii) details of the body or organisation responsible for implementation of the plan; and
 - viii) ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured. The plan shall also set out where the results from monitoring show that conservation aims and objectives of the LEMP are not being met how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

- 19) The development shall not be occupied unless and until a scheme for the modification of the access to Summer Road, including associated signage and pedestrian alterations, has been submitted to and approved in writing by the local planning authority. This shall be constructed and provided with visibility splays in accordance with the approved scheme and thereafter the visibility splays shall be kept permanently clear of any obstruction over 1.05m above ground level.
- 20) The development shall not be occupied unless and until space has been laid out within the site in accordance with the approved plans, including any plans approved pursuant to conditions hereby imposed, for vehicles and cycles to be parked and for vehicles to turn so that they may enter and leave the site in a forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 21) The development shall not be occupied until each dwelling has a car parking space provided with a fast charge socket in accordance with a scheme to be submitted and approved in writing by the local planning authority and thereafter retained and maintained.
- 22) All existing trees, hedges or hedgerows shall be retained, unless shown as being removed on the approved drawings, including any plans approved pursuant to conditions hereby imposed. Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the first occupation of the development.
 - i) No retained tree, hedge or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars;
 - ii) if any retained tree, hedge or hedgerow is removed, uprooted or destroyed or dies, another tree, hedge or hedgerow of similar size and species shall be planted at the same place, in the next available planting season.
- 23) Before any fixed plant, machinery, air-moving extraction or filtration, refrigeration equipment, or air-conditioning units are used as part of the permitted development, a noise assessment shall be carried out at 1 metre from the façade of the nearest noise sensitive receptor, which demonstrates that the following noise criteria can be complied with.

The measured or calculated rating level of any plant and equipment, as part of this development shall be equal to, or lower than, the background by 5dB(A) at any time or by 10 dB(A) if there is a particular tonal, impulsive or discrete component to the noise. The assessment shall be submitted to and approved in writing by the local planning authority and any such equipment shall be maintained to ensure such standard is complied with thereafter.

Should the assessment identify mitigation measures are required then they must be submitted to and approved in writing by the local planning authority prior to installation. The development shall be carried out and maintained in accordance with the agreed details.
- 24) All gas-fired boilers installed as part of this development shall meet a maximum emissions standard of 40mg NO_x/kWh.

- 25) Prior to occupation the mitigation measures identified in the Air Quality Assessment by XCO₂ reference 9.289 dated 6 August 2020 shall be fully installed.
- 26) The commercial premises shall only be open between the following hours: 07.00 - 19:00 Mondays to Saturdays with no use on Sundays and Bank or Public Holidays.

END OF SCHEDULE

Richborough Estates