



Appeal Decision

Hearing held on 7 December 2022

Site visits made on 6, 7, 8 December 2022

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal Ref: APP/J1535/W/22/3294576

177 High Road, Chigwell IG7 6NX

- 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 White Square Investments Limited against the decision of Epping Forest District Council.
- The application Ref EPF/2868/20, dated 3 December 2020, was refused by notice dated 6 October 2021.
- The development proposed is mixed-use development to provide 35 residential dwellings (Use Class C3) and 512 sqm of commercial floorspace (Use Class E) together with cycle and car parking, landscaping, provision of new pavement and loading bay on Brook Mews and associated infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for 35 residential dwellings (Use Class C3) and 512 sqm of commercial floorspace (Use Class E) together with cycle and car parking, landscaping, provision of new pavement and loading bay on Brook Mews and associated infrastructure at 177 High Road, Chigwell IG7 6NX in accordance with the terms of the application, Ref EPF/2868/20, dated 3 December 2020, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. The description of the development was amended from 40 dwellings to 35 dwellings and from 500 sqm to 512 sqm of commercial floorspace during the consideration of the application by the Council. This is reflected in the banner heading and decision paragraph above.
3. The Hearing sat for one day. I made three unaccompanied visits to the site and surrounding area on 6, 7 and 8 December 2022. The appellant and the Council submitted a Statement of Common Ground (SoCG) prior to the hearing which I have considered in my Decision. The Council submitted a Community Infrastructure Levy (CIL) Compliance Statement in relation to the obligations contained in the S106 Unilateral Undertaking (UU) submitted by the appellant prior to the Hearing. The appellant has had the opportunity to comment on the CIL Compliance Statement.
4. An agenda for an Extraordinary Full Council Meeting of Chigwell Parish Council held on 30 November 2022 was submitted during the hearing. In addition, an extract from Development Control Practice (DCP) online was submitted by the appellant in

relation to vehicle related uses. As these documents are in the public domain, no party is prejudiced by accepting these documents.

5. In addition, the appellant submitted an A3 format of the Townscape Views Assessment at the Hearing. As this is simply a larger scale format of an already submitted document, no party is prejudiced by accepting the document.
6. The Epping Forest District Local Plan, Submission Version (SVLP) (2017) was considered at an Examination in Public in 2019. Following this the Council consulted on Main Modifications to the SVLP in 2021 and further Main Modifications in 2022. The SVLP is, therefore, at an advanced stage of preparation, although not yet adopted. I, therefore, attach significant, but not full weight, to the emerging policies of the SVLP in my Decision.

Preliminary matters

7. Reason for refusal 3 (RfR 3) of the decision notice states that the proposed car parking is inadequate for the proposed development. However, neither RfR 3 nor the Council's Statement of Case refers to any potential harm it considers would arise as a result. Furthermore, the Council agreed in the SoCG that the proposed development would not cause harm to highway safety. During the hearing the Council clarified that its concerns relate to the potential effect of any overspill parking on the living conditions of neighbouring occupiers, and this is the basis upon which I have determined the appeal. Parties agree that Policy DBE9 of the existing Epping Forest District Local Plan and Alterations (EPDLP) (1998/2006) and part H of Policy DM9 of the emerging Epping Forest SVLP apply in this respect.
8. The Housing Delivery Test 2021 result (Jan 2022) confirms that the Council delivered 847 homes in the monitoring period or 35% of the required amount (2,436 dwellings). The parties agree in the SoCG that at present the Council can only demonstrate 1.43 years housing land supply and that the presumption in favour of sustainable development would apply in accordance with paragraph 11d (ii) of the National Planning Policy Framework (the Framework).
9. Whilst the Council concedes that it cannot provide for a five-year supply of deliverable housing sites it, nevertheless, considers that it will have a clear strategy for delivering the necessary new homes through a plan led approach upon adoption of the SVLP. I note that the Inspector examining the SVLP has requested that the Council provide detailed calculations based on up-to-date information to demonstrate a five-year land supply. This information has not been provided at the date of this decision and so I must determine the appeal based on the current housing land supply situation.

Main Issues

10. Taking into account the above, the main issues in this case are:
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on the living conditions of neighbouring occupiers with specific reference to the availability of parking spaces.

Reasons

Character and appearance

11. The appeal site is situated at the junction of High Road and Brook Mews and is currently in use as a car showroom and MOT centre with vehicle servicing and storage, in addition to accommodating one residential unit.
12. To the north of Brook Mews is Brook Parade, a three-storey terrace comprising of commercial units on the ground floor and two floors of residential properties above. The five- storey flatted developments of Claremont Place and Spanbrook are situated north along Brook Parade.
13. Chigwell House, a recently completed flatted development lies to the south and comprises of commercial on the ground floor with 14 residential flats on the three upper floors. The western boundary of the site backs onto the rear gardens of two-storey residential properties along Dickens Rise. The eastern boundary of the site fronts High Road overlooking Station Green, a large public amenity area. The Green is surrounded by mainly two storey development on Station Road and a flatted development of four storeys, Dolphin Court to the north. Chigwell Station, a single storey building lies to the south-east of the site.
14. The area is characterised by two to five storey buildings with an urban feel around the station and Brook Parade, a focus for significant activity associated with the commercial uses. The four storey Chigwell House is prominent in views from Chigwell Station and together with Brook Parade encloses The Green. Beyond the centre, the area is predominately suburban in character. Collectively, the station, the shopping parade and The Green contribute to the distinct sense of place.
15. Brook Mews provides access to the rear of properties on Brook Parade and Dickens Rise and comprises of rear yards, extensions, garages, bins and hard standing utilised for car parking. Domestic fencing encloses the back gardens of Dickens Rise to the west.
16. The L-shaped appeal site features a decline in its topography from south to north along the High Road and from east to west along Brook Mews. The one and a half storey central building contains an open-plan car show room with offices to the rear, in addition to a vehicle servicing centre. Attached to the central building is a two-storey bridging building with under croft vehicle access to the customer parking to the rear. The western section of the site features open-air customer parking for the showroom and additional car parking and further vehicle storage is located to the south of the site. The buildings have no particular architectural merit and together with the hardstanding and vehicular parking detract from the distinctive character of High Road.
17. It is proposed to demolish the existing buildings and construct an L-shaped main building fronting onto High Road and Brook Mews comprising residential with 512m² of commercial floorspace (Class E) at ground floor. To the rear, backing onto the railway line a separate two storey block is proposed comprising two additional flats. The proposal would have a raised central amenity space with parking under and surface level parking with vehicle access through a gated access with flats over. 29 parking spaces are proposed in total with cycle parking for all flats. The proposal would also include a pavement and loading bay along Brook Mews.

18. The appellant's evidence includes a series of verified views set out in Appendix 1 of the Townscape Assessment which provide a useful illustration of the effect of the proposal on the character and appearance of the area. The Council does not raise concerns with the methodology for undertaking the verified views which is also set out at Appendix 1. The verified views were discussed during the Hearing, and I refer to them in my reasoning below.
19. The proposed design takes account of the significant difference in site levels as demonstrated at Position 6, Brook Mews, of the verified views, which shows that the building would step down with a series of pitched roofs and gables towards the domestic scale of dwellings on Dickens Rise. The north-east elevation would provide a strong built edge and improve the existing back land character of Brook Mews. Furthermore, the active frontage would improve the pedestrian experience on the route from Dickens Rise to the station.
20. When viewed from Chigwell Station (Position one) the four-storey Chigwell House dominates immediate views with Brook Parade in intermediate views. From Chigwell Station, Station Road (Position 2) and The Green (Position 3) the proposal would appear similar in scale to Chigwell House with a three-storey massing and set-back fourth storey. It would also be of a similar scale to other four and five storey developments along High Road.
21. The Council considers that the proposal should include a set-back from the pavement similar to the five-storey Claremont Place and Spanbrook in order to lessen the mass and bulk of the building and also follow the site geometry to avoid a narrowing of the pavement. Whilst other four and five storey developments in the vicinity are set back from the road; a set-back would look uncomfortable against the immediately adjacent Chigwell House which abuts the pavement. Furthermore, there would be a small increase in the pavement width.
22. When viewed from Station Road (Position 2) and The Green (Position 3), the development would close the existing visual gap between Chigwell House and Brook Parade continuing the frontage to High Road. The ground floor retail would provide active frontage to High Road and continue the commercial element of Brook Parade.
23. Whilst the proposal would be wider than Chigwell House, I agree with the appellant that it would complete the urban block at a scale which reflects the precedent set by Chigwell House and other four to five storey developments along High Road.
24. Prior approval has been granted for an upward extension to 13-22 Brook Parade although this would be further north along the parade. There is also potential for similar upward extensions to be granted on Brook Parade close to the appeal site. Whilst the proposal would be higher than Brook Parade it would, nevertheless, provide an appropriate transition to the parade.
25. Looking towards the site from Brook Parade (Position 5) the exposed flank wall of Chigwell House is readily apparent. Whilst the appeal proposal would be prominent in views from this location, I agree with the appellant that it would provide visual enclosure to the parade. Indeed, the chamfered corner of the appeal proposal would provide a visual link with the Brook Parade chamfer and would enable the proposal to successfully turn the corner into Brook Mews.
26. The fourth storey of Chigwell House is set back around 4.2m with a protruding, overhanging canopy and balcony with associated railings. The upper storey of the

proposed development would align with Chigwell House initially for some 4.5m and then reduce to 2m for the remainder of the building. Whilst the upper storey of Chigwell House is set further back, the overhanging balcony appears very heavy, which is compounded by the dark material erected across the balustrade. The prominence of the over-hanging balcony can be seen in Position 1 of the verified views. In contrast, due to the profile, materials and detailing, the upper storey of the appeal scheme would appear much lighter. The difference in set-back together with the chamfered corner detail would provide visual interest to the roofline. It would not, therefore, appear as a prominent or visually intrusive feature as suggested by the Council. Overall, I consider that it would appear as a simple, recessive element to the main building.

27. The elevational treatment onto High Road, would be subdivided into four bays, differentiated by different brick types together with the large window openings and stepped reveals. The elevational treatment onto Brook Mews includes pitched roofs, stepping down in height, responding to the site topography and more suburban character of Dicken's Rise. The articulation of both facades would help to reduce the mass and bulk of the proposal.
28. In summary, the proposed development would provide an appropriate design response for this corner site in an urban environment. Furthermore, it would enclose The Green, provide active frontage to this vibrant local centre and make a positive contribution to the character and appearance of the area.
29. For the reasons stated, the proposal would not harm the character or appearance of the area. It would, therefore, accord with Policies CP2, DBE1 and DBE5 of the Epping Forest District Local Plan and Alterations (EPDLP) (1998/2006) and Policies DM9 and DM10 of the LPSV (2017) which collectively seek to ensure a high quality of development which respects the character of the surrounding area and responds positively to its context. These policies are broadly consistent with paragraph 130 of the Framework which amongst other things seek to ensure that development is visually attractive, sympathetic to local character and establishes a strong sense of place.

Living conditions – car parking

30. Policy ST6 of the Local Plan expects all development proposals to provide on-site parking in accordance with the adopted 2001 standards or successor document. The most recently adopted standards are the September 2009 version of the Essex County Council (ECC) standards. Based on these standards, the parties agree that the residential element of the development would require 70 residential parking spaces. Since the parking standards were introduced, the land use classes have been updated through the introduction of Class E (commercial, business and service) which replaced former classes A1/2/3, B1, D1 (a-b) and 'indoor sport' from D2 (e). The Council have estimated the number of commercial spaces which would be required based on the revised use classes to be around 30 spaces. The proposed development would provide 29 spaces, a ratio of 0.82 spaces per unit for the residential element and the commercial element would be car free.
31. Policies ST1 and ST2 of the EPDLP recognise the importance of directing development to places that encourage walking, cycling and the use of public transport. Criterion iv of Policy ST2 requires parking standards to reflect location in relation to public transport, employment opportunities and town centres and that they are in accordance with the standards required by Policy T6. This approach is reflected in the Car Parking Standards which includes a note which

states that reductions of the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport.

32. Policy T1 F(iv) of the LPSV allows for reduced car parking, including car free development in sustainable locations. Where practicable and within 400m of a railway station, the Council will seek reduced car parking, including car free development. The approach in Policies ST1, ST2 and T1 is broadly consistent with paragraphs 104 and 107 of the Framework which seek to encourage opportunities to promote walking, cycling and public transport and for local parking standards to reflect the accessibility of the development.
33. The proposal is situated within 50m of Chigwell Underground Station which is situated on the Hainault Loop of the Central Line. The line provides a service of three trains per hour in each direction to a variety of destinations, including access to Central London. There is also a bus stop in proximity with high frequency bus services. Whilst there is no supermarket, there is a good variety of local shops in Brook Parade and supermarkets in nearby settlements can be reached by bus or by cycle. Overall, I consider that the appeal site is situated within an accessible location and a reduction in parking standards is, therefore, justified in principle.
34. The Council suggested at the Hearing that parking provision should be 1 space per residential unit. I acknowledge that there is no supermarket or GP surgery in Chigwell itself; however, given the proximity of Chigwell Station, bus services and the presence of local shops, I consider that 0.82 spaces strike the right balance between full parking provision and car-free development. In addition, the development would provide secure cycle parking for every unit. Furthermore, I note that the provision broadly aligns with the car ownership for the local Chigwell Village Area for this size of accommodation which is 0.76 cars per household¹
35. Car Parking Standards are maximum standards whereby provision below that level is acceptable and the same caveat is applied with regards to a lower provision of parking in urban areas for commercial development. The proposed development would be near Brook Parade, a service access road which provides parallel parking for use by customers of the various shops along the parade. Parking is limited to 2 hour stays with no return within 2 hours. Customers of the commercial units would be able to utilise the parking and make linked trips to the shops and services and Brook Parade. Consequently, it is justified for the commercial aspect of the scheme to be car-free.
36. Having established that a reduction in car parking standards is justified in principle, it is necessary to assess the potential implications of any overspill parking on the surrounding area. The Council confirms in the SoCG that it does not have highway safety concerns; however, it clarified at the hearing that it is concerned about the potential of any overspill parking on the living conditions of occupiers of neighbouring properties in Dickens Rise and Barnaby Way, a concern echoed by residents who also raise the matter of commuter parking. The Council does not specify the effects that any overspill parking may have on the living conditions of local residents. However, in my experience overspill parking can result in indiscriminate parking which may result in residents' driveways being blocked; stress caused by competition for spaces; and potential noise and disturbance due to car engines and car doors opening and closing.

¹ Transport Statement (paragraphs 2.34 and 2.35).

37. There are parking restrictions on Brook Parade and Brook Mews. Informal parking occurs to the rear of Brook Parade; however, surveillance is limited in this area which would make the area unattractive for overspill parking. The Council clarified at the hearing that due to the presence of a pathway which links Dickens Rise with Brook Mews, it considers that any overspill parking is likely to occur in Dickens Rise and to a lesser extent Barnaby Way.
38. Dickens Rise and Barnaby Way are comprised of predominately semi-detached and detached properties set back from the road behind front gardens. Most front gardens have been paved providing parking for one to two and sometimes three cars. Consequently, most of the parking needs of existing local residents can be accommodated off-street.
39. Whilst the Council and neighbours have raised concerns regarding overspill parking, neither has provided any cogent evidence of parking stress in these streets in support of their case. Furthermore, I visited Dickens Rise and Barnaby Way on a number of occasions at different times of the day (1600, 1800, 0930) and on all of those visits, I only noted a few cars parked on the street itself and there was no evidence of parking stress.
40. Furthermore, as the proposed parking provision aligns with the car ownership levels in Chigwell Village for this type of accommodation, it is unlikely that there would be any significant overspill parking arising from the development. However, even if some were to arise, based on my own observations and in the absence of any cogent evidence to the contrary, such parking could be accommodated without leading to parking stress or harm to the living conditions of existing occupiers.
41. In conclusion, I consider that the reduction in car parking spaces accords with the approach set out in Policy ST6 of the EPDLP and emerging Policy T1 of the SVLP. Furthermore, the proposal would not result in harm to the living conditions of existing occupiers due to the availability of parking. It would not, therefore, be contrary to Policy DBE9 of the EPDLP or part H of emerging Policy DM9 of the SVLP which together seek to ensure that development proposals take account of the privacy and amenity of the developments users and neighbours. These policies are broadly consistent with paragraph 130f of the Framework which seeks to ensure that developments have a high standard of amenity for existing and future users.

Other matters

42. Concerns have been raised by occupiers of Dickens Rise with regards to potential loss of light, privacy and outlook. The flank wall of the two and a half storey block would be around 1m from the rear boundary of No 26 and No 28 Dickens Rise. However, the outlook of the occupiers of those properties would not be affected due to the sloping roof of this element of the proposal and the long gardens of those properties.
43. Furthermore, there are no side windows in the flank wall so there would be no loss of privacy to occupiers. The main block fronting High Road would be a minimum of 35m from the rear boundaries of Dickens Rise and so there would be no loss of outlook or privacy arising to occupiers from this element of the proposal. The two storey Block B would be situated around 1.5m from the boundary of no 36 Dickens Rise; however, there would be more than 12m to the rear elevation of No 36 and due to the distance, the flat roof and the absence of flank windows there would be no harm to the living conditions of the occupiers of this property.

44. Policy H2 of the LPSV requires development of 11 or more homes to provide 40% of homes to be affordable and provided on-site. For proposals not meeting that requirement a financial and viability assessment is required. A Financial Viability Assessment has been prepared by the appellant and this has been subject of an independent review by surveyors appointed by the Council. The independent review agrees that the proposal cannot viably provide any affordable housing and on the evidence before me, I have no reason to disagree.
45. The supporting text to Policy H2 refers to the need for planning obligations for new larger scale residential development that will be delivered on a phased basis to include a mechanism for viability reviews and 'clawback' mechanisms to ensure that affordable housing is provided where the viability of the scheme improves before completion. In my experience, developments of this scale are not normally undertaken in phases, particularly flatted developments. Consequently, the viability review mechanism would not apply in this case. The proposal, therefore, accords with Policy H2 of the LPSV.
46. Concerns have been raised regarding the potential for noise and disturbance during the construction phase of the development. However, conditions relating to the hours of work and requiring a Construction Method Statement have been applied to ensure that the proposal does not have an adverse effect on the living conditions of the occupiers of neighbouring properties.

106 Obligation

47. The s106 UU seeks to secure a number of planning obligations. A contribution to Essex County Council as the education authority totalling £90,116.40 is sought including early years and childcare provision, primary education and libraries. The proposal would result in additional dwellings and an increase in population and so create additional demand for educational places and library space. Specifically, Essex County Council have highlighted a deficit in Early Years and Childcare places and that the development would generate a need for 1.17 places. A contribution of £20,204 index linked to Q1-2020 is sought to mitigate the impact of the development on Early Years and Childcare provision. This has been calculated using the ECC's Developers' Guide to Infrastructure Contributions (2020) (DGIC) which sets out the expected contribution per pupil/dwelling for each type of provision.
48. Chigwell Primary school is forecast to require additional places in addition to the demand forecast by this development which would result in the need for 3.9 primary school places. Using the DGIC a contribution of £67,345 index linked to Q1 2020 is sought to mitigate the impact of the development on primary school provision.
49. The population increase arising from the development would create additional demand for Chigwell library. Using the DGIC a contribution equating to £2,567.40 is required to improve and enhance the library facilities and services. Consequently, I am satisfied that the need for the education and library contributions arise from the development; are necessary to make the development acceptable; are directly related to the development; and fairly and reasonably related in scale and kind to the development.
50. A significant proportion of Epping Forest is designated as a Special Area of Conservation (SCA) under the EU Habitats Directive (92/43/EEC). It comprises of around 2,400 hectares of wood pasture including areas of woodland, grassland,

heath, rivers, bogs and ponds. The Atlantic acidophilous beech forest, an Annex 1 habitat, is identified as a primary reason for selection of the site. Annex 1 habitats present as a qualifying feature include Northern Atlantic wet heaths with *Erica tetralix* and European dry heaths and the Stag beetle is identified as an Annex II species that is a primary reason for site selection.

51. Whilst the scale of development is relatively small, as identified in the Interim Approach to Mitigating Recreational Pressure in the Epping Forest SAC, any additional homes built in the Zone of Influence, when taken in combination with other plans and projects have the potential to increase pressure and have a likely significant effect on the health of the Forest. The Council's Habitat Regulations Assessment identified two environmental pathways from development. Firstly, atmospheric pollution from vehicle emissions and secondly, physical disturbance caused by increased recreational and urbanisation.
52. The appellant's Preliminary Ecological Appraisal concludes that the proposed development would not result in the loss of significant habitats or ecological value. It goes on to say that to mitigate for recreational impacts on Epping Forest SAC the development should make a financial contribution to the Strategic Access Management and Monitoring Strategy (SAMMS).
53. Further to the adoption of the Interim Approach, the Council has adopted a Partnership Agreement for the delivery of Site Access Management and Monitoring ("SAMM") measures for the SAC, specifically relating to recreation pressures. This was agreed by the Council in April 2002. The agreement sets a tiered level of financial contributions to be sought from net increases in new dwellings within 0-3km and 3-6.2km radius of the SAC. On this basis the recreation mitigation contribution figure of £1,852.63 per unit for development would apply to the development. The IAMRP sets out a number of costed schemes and people resources need to support the implementation of mitigation measures. I am satisfied that by undertaking the appropriate SAMM mitigation measures, secured through the s106 Obligation and as agreed with Natural England through the IAMRP, would ensure that the proposal would address the recreational impact of development on the SAC.
54. As set out in the appellant's Transport Statement and Epping Forest Special Area of Conservation Technical Note the proposed development would result in a reduction in vehicular movements compared to the existing use. Consequently, I am satisfied that the proposal would not have an adverse effect on the SAC as a result of vehicle emissions.
55. With the mitigation measures identified above, the proposed development would not have an adverse effect on the integrity of the SAC. Furthermore, on the basis of the approach set out in the IAMRP and Partnership agreement, I am satisfied that the contribution is fairly and reasonably related in scale and kind to the development.
56. A contribution is also sought towards the North Essex Parking Partnership for £10,000 in order to implement parking restrictions if it transpires that there are issues with parking overspill which may have the potential to affect the living conditions of neighbouring occupiers. However, as I have found that the proposal would not cause harm to the living conditions of neighbouring occupiers, the contribution does not meet the requirements of Regulation 122 (2) of the Community Infrastructure Levy. Consequently, no weight is attributed to the contribution in my decision.

57. A monitoring contribution of £3,242.10 towards the monitoring compliance of obligations in the s106 UU which relate to contributions payable to Epping Forest District Council. A further monitoring contribution of £2,200 is payable to Essex County Council for the monitoring of obligations relating to its responsibilities. The contributions are necessary to ensure that the monitoring and reporting of the planning obligations secured in the s106 UU are adequately resourced. The contributions are proportionate to the cost value of the planning obligations included in the UU. Consequently, I am satisfied that they meet Regulation 122 (2) of the CIL Regulations.

Conditions

58. In addition to the standard time condition, a condition requiring the development to be carried out in accordance with the approved plans has been attached in the interests of certainty. Conditions relating to the submission of materials details (3), hard and soft landscaping details (5), site levels (9) and requiring the development to be carried out in accordance with the submitted Arboricultural Impact Assessment (15) are required to ensure a high standard of development in the interests of the character and appearance of the area.
59. Conditions relating to a Construction Method Statement (8), privacy screens (10), controlling hours of operation of the commercial units (11), air conditioning/extraction systems (14), ensuring the development is carried out in accordance with the Noise and Vibration Assessment (22), double glazing/ventilation (23/24), mechanical plant (25), (27); the timing and frequency of deliveries; refuse collection and servicing (26) are required in order to protect the living conditions of existing and future occupiers.
60. A condition (4) requiring that the ground floor units shall only be used as Class E and for no other purpose is required in order enable the Local Planning Authority to give full consideration to an alternative use to ensure the vitality of Brook Parade. A condition (6) requiring details of surface water drainage is necessary to ensure the satisfactory provision and disposal of surface water. In addition, as the proposal is situated within an area of severe water stress a condition (7) requiring a water efficiency standard of 110 litres (or less) per person per day is justified in accordance with emerging Policy DM19 of the Local Plan Submission version 2017.
61. A condition (12) requiring a scheme to enhance the ecological value of the site is required in order to maintain and improve the biodiversity of the site. Conditions relating to cycle stores/parking (13, 29) and requiring the provision of residential Travel Information Pack for sustainable transport (21) are necessary given the reduced parking provision and to reduce the need to travel and promote sustainable transport. To help support improvements to air quality a condition (16) relating to Electric Vehicle Charging Points is necessary. A further condition (17) requiring a strategy for the provision of superfast broadband is required to support improved digital connectivity and help reduce car-led pollution.
62. Condition 18 requiring a Phase II Geoenvironmental Ground Investigation and any remediation work which may be required is necessary to protect existing and future occupiers and the environment from contamination. Conditions (19, 20) relating to the access arrangements and the reinstatement of the redundant dropped kerb along the frontage and side of the site are necessary in the interests of highway safety.

63. Finally, a condition (28) requiring detailed design and method statements for works in close proximity to the London Underground cutting is necessary to ensure that the development does not impact on London Underground transport infrastructure.
64. The Council has suggested a condition requiring a contribution of £10,000 to be potentially used by North Essex Parking Partnership to implement parking restrictions; however, a condition requesting a financial contribution would not meet the tests and I have found that the proposal would not have an adverse impact on the living conditions of neighbouring occupiers. Consequently, the condition is not necessary.

Planning Balance

65. I have concluded that the proposal accords with the existing and emerging policies of the development plan and so accords with the development plan taken as a whole. Whilst paragraph 11d of the Framework is engaged, the policies referred to in the reasons for refusal and my reasoning have a great deal of synergy with the Framework. Moreover, the policies do not seek to control housing land supply. I, therefore, attach significant weight to the accordance of the proposal with the policies of the development plan.
66. The proposal would make contributions to education and library provision and measures to mitigate the effect of the development on the Special Area of Conservation. These contributions are merely required to mitigate the effect of the development. The parties agree that the proposal would meet the Nationally Described Space Standards; have no adverse effect on highway safety and provide sufficient amenity space and landscaping. These are all neutral factors in this case.
67. The proposal would contribute to the supply of housing land where there is currently a significant shortfall consistent with paragraph 60 of the Framework which seeks to significantly boost the supply of housing, a matter to which I attach significant weight.
68. The commercial element would increase the employment capacity of the site by around 6-13 full time employees and create temporary jobs during the construction phase consistent with paragraph 81 of the Framework which seeks to support economic growth. The proposed commercial units would provide active frontage, facilitate linked trips and complement commercial activity on Brook Parade, thus having a positive effect on its vitality. I attribute significant weight to these matters.
69. I have determined that the proposal would not have a harmful effect on the character and appearance of the area nor harm the living conditions of existing occupiers consistent with paragraph 130 and 130f of the Framework. Overall, the proposal accords with the Framework taken as a whole.
70. As I have found that there would be no harm in respect of the main issues or other issues brought to my attention there would be no adverse impacts of granting planning permission. Consequently, there are no adverse impacts which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal, therefore, benefits from the presumption in favour of sustainable development.

71. In any event, the proposal garners support from both the existing and emerging development plan. There are no material considerations which indicate that the development should be determined other than in accordance with the development plan.

Conclusion

72. For the reasons stated and taking all other considerations into account the appeal is allowed.

Caroline Mulloy

Inspector

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

James Maurici KC (Landmark Chambers)
Michael Smith (White Square Investments Limited)
Adam Shafron
Barry Murphy (DWD) BA (Hons) MRUP MRTPI
Robert Miller (DWD) MPLAN MRTPI
Kuldip Malhotra (KKM Architects) BA (Hons) Dip Arch (Oxon) ARB & RIBA
Sarah Jackson (The Townscape Consultancy) BSc, BArch, MSc, ARB
Ian Wharton (Ardent) BA (Hons), MCIHT
Nicholas Pell (BNP Paribas) BSc (Hons), MSc, MRICS, RICS Registered Valuer

FOR THE LOCAL PLANNING AUTHORITY:

James Rogers, Principal Planning Officer

INTERESTED PERSONS:

Adele Davis
Councillor Jefcoate

Documents submitted at the hearing:

- 1) A3 format Townscape Views Assessment
- 2) Agenda for the Extraordinary Full Council Meeting of Chigwell Parish Council 30 November 2022.
- 3) Extract from DCP online in relation to vehicle related uses.

Schedule

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:

220054/PP/001
220054/PP/010
220054/PP/020
220054/PP/030 (Existing)
220054/PP/031 (Existing)
220054/PP/032 (Existing)
220054/PP/110 B
220054/PP/120 B
220054/PP/121 B
220054/PP/122 B
220054/PP/123 B
220054/PP/124 B
220054/PP/125 B
220054/PP/130 B
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- 3) No development shall commence above slab level until details and a schedule of materials and products of all external facing materials to be used in the construction of the building hereby approved, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied/used until it has been carried out in accordance with the approved details. The development shall thereafter be retained as such.
- 4) The ground floor units shall be used for Class E and for no other purpose (including any other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 5) Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and

schedules of plants, including species, plant sizes and proposed numbers/densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

- 6) Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 7) Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 8) 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 approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 1. The parking of vehicles of site operatives and visitors
 2. Loading and unloading of plant and materials
 3. Storage of plant and materials used in constructing the development
 4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 5. Measures to control the emission of dust and dirt during construction, including wheel washing.
 6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
 7. Tree protection measures.
 8. Measures to control noise to nearby sensitive receptors.
- 9) No ground works shall take place until details of levels have been submitted to and approved by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.
- 10) Details of privacy screens (with a minimum height of 1.7m) between all connected balconies, the podium and between flats 1.02 and 1.03, 1.06 and 1.07, 2.02 and 2.03 and 2.05 and 2.06 shall be submitted and agreed in writing by the Local Planning Authority prior to first occupation. The agreed screens shall be installed prior to first occupation and shall be permanently retained in that agreed position and form.
- 11) The E Class use hereby permitted shall not be open to customers / members outside the hours of 7am to 10pm on Monday to Saturday and 8am to 10pm on Sundays and Bank Holidays.
- 12) Prior to first occupation of the development, a scheme to enhance the ecological value of the site shall be submitted to and agreed in writing by the Local Planning Authority. The ecological value shall be quantified using the

Biodiversity Impact Assessment Calculator (BIAC) where appropriate. The scheme shall be implemented in full prior to the occupation of the development hereby approved.

- 13) The cycle store hereby approved shall be retained so that it is capable of allowing the storage of bikes, and shall at no time be converted into a room or used for any other purpose.
- 14) No air conditioning units or extraction systems shall be installed without the prior written approval of the Local Planning Authority.
- 15) The development hereby approved shall be carried out in accordance with the submitted Arboricultural Impact Assessment by TMA dated November 2020. The development shall be carried out only in accordance with the approved AIA unless the Local Planning Authority gives its written consent to any variation.
- 16) Details and location of all parking spaces equipped with active EVCP must be submitted prior to above ground works commencing on site, including details which shall demonstrate that the development will deliver active EVCPs from occupation.

The details shall include:

1. Location of active and passive charging infrastructure;
2. Specification of charging equipment; and
3. Operation/management strategy.

A management plan for the charging points shall be included which will address:

1. Which parking bays will have active and/or passive charging provision, including disabled parking bays;
2. How charging point usage will be charged amongst users;
3. The process and the triggers for identifying when additional passive charging points will become activated; and
4. Electricity supply availability.

The electricity supply should be already confirmed by the Network Provider so that the supply does not need to be upgraded at a later date.

The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first occupation.

- 17) Prior to the works above slab level, a strategy to facilitate super-fast broadband (with the potential to provide superfast speeds of 24 Mbps and above) for future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out

in accordance with the approved strategy unless otherwise agreed in writing by the Local Planning Authority.

- 18) No development (other than demolition, site clearance and enabling works) shall commence until a Phase II Geoenvironmental Ground Investigation is undertaken in accordance with the submitted Phase I Geoenvironmental Desk Study dated 2 December 2020. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 19) Prior to the first occupation of the development the access arrangements, including the footway and service bay, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in perpetuity for their intended purpose.
- 20) Prior to the first occupation of the development the redundant dropped kerb along the frontage and side of the site shall be fully reinstated, including full footway construction and with full height kerbing.
- 21) Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers, and/or Oyster Cards, for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.
- 22) The acoustic performance of the design and construction of the development shall be carried out strictly in accordance with those set out in the submitted Noise and Vibration Assessment by Ardent dated December 2020.
- 23) All rooms within the development hereby approved shall be provided with sufficient double glazing and acoustically treated trickle ventilators, or other means of ventilation that will provide adequate ventilation with the windows closed, to ensure that the occupiers are provided with reasonable resting/sleeping conditions with reference to British Standard BS8233:2014 – Guidance on Sound Insulation and Noise Reduction for buildings – Code of practice (or such other standard which may supersede it from time to time) in accordance with the submitted Noise and Vibration Assessment by Ardent dated December 2020.
- 24) Details of the double glazing and acoustically treated trickle ventilators, or other means of ventilation, referred to within the above condition shall be submitted to and agreed in writing by the Local Planning Authority and

installed in accordance with the agreed details before any of the proposed residential development is occupied.

- 25) The cumulative rating level of any mechanical plant installed on the site (as defined by BS4142:2014) shall not exceed the prevailing background noise level. If the background noise level is exceeded, the use of the mechanical plant shall cease until it is brought below this level. The measurement position and assessment shall be made according to BS4142:2014.
- 26) Prior to the occupation of the Class E commercial units a management plan outlining the frequency and timing of deliveries, refuse collection and servicing shall be submitted to and agreed in writing by the Local Planning Authority. Deliveries, refuse collection and servicing shall be carried out in accordance with the agreed management plan thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 27) All mechanical plant (save for fridges/freezers/chillers) used within the Class E commercial units shall be turned off 30 minutes after food preparation and cooking ceases.
- 28) The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for works on top of the cutting for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:
 - provide foundation and groundwork details for all structures close to the top of London Underground cutting
 - provide details on the use of tall plant/scaffolding
 - demonstrate access to elevations of the building adjacent to the property boundary with London Underground can be undertaken without recourse to entering our land
 - demonstrate that there will at no time be any potential security risk to our railway, property or structures
 - accommodate ground movement arising from the construction thereof

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

- 29) Prior to the occupation of the Class E commercial units hereby approved, details of the visitor cycle parking for the Class E commercial units, shall be submitted to and agreed in writing by the Local Planning Authority and installed in accordance with the agreed details. The installed visitor cycle parking for the Class E commercial units, shall be permanently retained in the approved position and form unless otherwise agreed in writing by the Local Planning Authority.