



Appeal Decision

Hearing held on 16 January 2024

Site visit made on 16 January 2024

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2024

Appeal Ref: APP/V1505/W/23/3328758

Land east of Ilfracombe Avenue, Bowers Gifford SS13 2DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Metro Property Investments against the decision of Basildon Borough Council.
- The application Ref 21/01477/OUT, dated 24 September 2021, was refused by notice dated 22 June 2023.
- The development proposed is Outline planning application for a new 70 bed care home, 42 assisted living units and 13 retirement bungalows/villas (all Use Class C2), together with vehicular access onto Ilfracombe Avenue, a new school parking area for parents and pupils of St. Margaret's C of E Primary School, new nature area, landscaping and communal facilities including a Day Care Centre and cinema room. All matters reserved except for access.

Decision

1. The appeal is allowed and planning permission is granted for Outline planning application for a new 70 bed care home, 42 assisted living units and 13 retirement bungalows/villas (all Use Class C2), together with vehicular access onto Ilfracombe Avenue, a new school parking area for parents and pupils of St. Margaret's C of E Primary School, new nature area, landscaping and communal facilities including a Day Care Centre and cinema room. All matters reserved except for access at Land east of Ilfracombe Avenue, Bowers Gifford, SS13 2DT in accordance with the terms of the application, Ref 21/01477/OUT, dated 24 September 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Appellant submitted a s106 agreement during the appeal proceedings. This is considered under 'planning obligations'. The Council's second reason for refusal related to the absence of such an agreement. As such, the Council outlined during the Hearing that it no longer intended to defend the second reason for refusal. I have considered the appeal on this basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. This was discussed during the hearing and I have taken it into account in considering this appeal.
4. The proposal is for outline planning permission with all matters reserved except access. However, the internal circulation routes are not part of the access for which permission is sought and as such these details will need to be considered at reserved matters stage. The appellant is seeking consent for the following plans: 001.00(Existing Location Plan) and 66200863-SWE-ZZ-XX-DR-TP-0001

Revision P01 (Proposed accesses). All other plans are submitted for indicative purposes.

Main Issues

5. The main issues are:

- The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it.
- Whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Effect on Green Belt

6. Saved Local Plan¹ Policy BAS GB1 outlines that the Green Belt boundaries are indicated on the 'Proposals Maps'. The appeal site is located within the Green Belt. However, Policy BAS GB1 does not provide any detailed policy setting out relevant considerations for development in the Green Belt. It merely sets out where the Green Belt is located. On this basis the proposal would not conflict with this policy.
7. The Council's reason for refusal also alleges a conflict with Local Plan Policy BAS BE12, however, this is not relevant to the Green Belt and the Council has not provided any evidence that there is any conflict with this policy. Indeed, insofar as this policy relates to character and appearance, the Council confirmed in correspondence with the Planning Inspectorate that there is no alleged harm to character and appearance beyond the alleged harm to the Green Belt.
8. Framework Paragraph 154 states that the construction of new buildings in the Green Belt should be regarded as inappropriate development except in certain circumstances. It is common ground that the proposed development is inappropriate development in the Green Belt within this context.
9. The Framework clearly sets out that inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. It also outlines that very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.

Openness

10. In terms of 'harm to the Green Belt', the Council alleges that the proposed development would result in a harmful spatial and visual impact on openness. The Council's evidence also alleges that the development would result in coalescence and encroachment into the countryside, thereby conflicting with two Framework defined purposes of the Green Belt (set out Framework Paragraphs 143b and 143c respectively).

¹ Basildon District Local Plan Saved Policies (September 2007)

11. Framework Paragraph 142 states that the essential characteristics of Green Belts are their openness and permanence. An assessment of openness involves a consideration of both spatial and visual aspects.
12. The appeal site comprises a field and is currently free from development. Although the proposal is for outline planning permission, given the number of residential units proposed, there would inevitably be large buildings located throughout the site and the likely scale of these structures would be up to three stories.
13. Indeed, the indicative plans show that several of the buildings could be up to three storeys. Furthermore, the proposal includes provision of a school car park which would be mostly used during normal school drop-off and pick-up times. This too would slightly reduce openness from a spatial perspective, with parked vehicles resulting in a limited degree of harm in this regard. As a result, overall there would be a significant reduction in the spatial openness of the green belt as a result of the proposed development.
14. Despite the spatial reduction in the openness of the Green Belt, there would be a much more limited visual reduction in openness. This is because the site is partially bound to the south and west by existing development. As a result, even taking into account the likely scale of the proposals, views towards and into the site from London Road would be limited. The development would be visible within close proximity but the ground level could be lowered to mitigate the spatial impact of the likely three storey buildings, such that they could have a two storey appearance.
15. There are otherwise very limited views of the site, with glimpses possible from Kelly Road to the north east and long range views across the fields from the east. However, in relation to the latter, the proposal could blend in with the existing built form on Ilfracombe Avenue to the west of the site. From the north there are no dominant views of the appeal site from public vantage points.
16. In summary, given that there are very few views into or towards the appeal site, it makes a minimal contribution to the visual aspect of openness. In this regard, the proposal would only have a minor harmful impact on this aspect of openness. That said, the development would inevitably result in a significant spatial reduction in the openness of the Green Belt.

Green Belt Purposes

17. The appeal site forms part of a larger area of land which separates the settlements of Bowers Gifford, Pitsea and Basildon. This area of land is referred to as Parcel 53 within the Council's Green Belt Review (2017). Whilst Parcel 53 as a whole contributes towards the prevention of coalescence, the proposal would only result in a small proportion of this parcel being developed. Furthermore, the proposal would not extend any further north than the existing rows of dwellings on Ilfracombe Avenue. Taking the existing development at Ilfracombe Avenue into account, the most important part of Parcel 53 is the land further to the north which provides a much more extensive and unbroken separation between Bowers Gifford and Basildon. As such, the proposed development would not result in neighbouring towns merging into one another, nor would there be any associated conflict with Framework Paragraph 143.

18. The appeal site is within the countryside. As such, it's development would lead to encroachment into the countryside. However, given that Ilfracombe Avenue extends further north than the appeal site, the harmful effect of encroachment would be limited. Nonetheless, there would be some harm arising to the purpose set out under Framework Paragraph 143.

Other Harm

Alternative Sites

19. The Council's reasons for refusal suggest that there has been insufficient evidence submitted with the application to assess whether there were suitable, available and deliverable non-green belt sites. However, there is no policy requirement for such an assessment to be undertaken. Furthermore, during the Hearing the Council acknowledged that one of the main reasons for the existing HLS shortfall is that Green Belt land makes up a significant proportion of land within the Borough. Furthermore, no alternatives have been put forward by the Council. As such, this is not a matter to which I attribute any significant weight.

European Sites

20. The appeal site is located within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). Natural England has identified that new residential development within this area is likely to have a significant effect on the features of interest of European Sites, as a result of increased recreational pressure.
21. However, given that the proposal is to provide residential accommodation to the elderly, many of whom will require a certain amount of care, it is not considered likely that future occupiers would travel to the European sites for recreational purposes. Indeed, they are far more likely to use on-site communal facilities or other facilities in a closer geographical area. For this reason, the proposed development would not lead to likely significant effects on the European Sites identified in the RAMS. An appropriate assessment is not therefore required.

Interested Parties

22. The proposal would include several large buildings but these could be restricted in height such that they would not exceed three stories. Furthermore, at reserved matters stage the ground levels could be proposed to be lowered as shown on the indicative plans. Given that appearance is a reserved matter, the proposal is capable of maintaining the existing character of the area, which is mixed and not particularly uniform. As such, there would not be a conflict with Local Plan Policy BAS BE12 or the relevant provisions of the Framework in relation to character and appearance.
23. Whilst I acknowledge local concerns with regard to problems with on-street parking and the associated implications for highway safety, planning conditions would ensure that an acceptable level of on-site parking is provided. Furthermore, the proposed school car park would at least go some way to alleviating existing parking stress. I do not consider that the effect of the proposal on the highway network would be severe or that it would lead to an adverse impact on highway safety. Indeed, there is no substantive evidence to the contrary.

24. The proposed development is for outline planning permission with layout and scale amongst matters reserved. As such, and taking into account the indicative plans and relatively large size of the site, it is not considered that the proposed development would give rise to any harm to living conditions of neighbouring occupiers. Furthermore, conditions pertaining to noise pollution, construction impacts, other pollution and lighting would ensure that neighbouring living conditions are preserved.
25. Whilst it is noted that the ecological surveys were undertaken in 2019, in relation to badgers (which are a protected species) the preliminary ecological appraisal concluded that there was a single record for a deceased European badger, 1.69km southeast of the site. It did however note that, although no signs of badgers were found during the initial inspection, there were areas of dense scrub which could have concealed badger setts. In addition, the site is part of a larger field and as badgers are highly mobile, they could move onto site at any time. Furthermore, an interested party has highlighted that there are several badger sets in relatively close proximity to the appeal site.
26. On this basis, a planning condition requiring updated surveys is reasonable and necessary. Indeed, in this instance I am satisfied that such a condition to control additional surveys would be appropriate (alongside other conditions relating to badger protection) given that the survey findings do not indicate the likely presence of badgers on the appeal site itself.

Other Considerations

Effect on provision of housing

27. It is common ground that the Council can only demonstrate a housing land supply of 1.85 years. There would be 125 units (Use Class C2) arising from the proposed development. The National Planning Practice Guidance (PPG) outlines that for residential institutions, to establish the amount of accommodation released in the housing market, authorities should base calculations on the average number of adults living in households, using the published Census data².
28. The appellant has provided evidence to indicate that the Census shows that there are an average of 1.23 older people for each house in the Borough. Notwithstanding this, the guidance contained within the PPG does not precisely indicate the means by which this figure can be used to extrapolate the number of dwellings which would be released/vacated (and therefore contribute to HLS) as a result of the proposed development. Indeed, it stands to reason that an understanding of the proportion of single occupancy households comprising older adults would need to be established in order to determine the precise likely number of dwellings released as a result of the proposal. This evidence is not before me.
29. Notwithstanding this, there would plainly be a significant proportion of dwellings released to the market as a result of older adults moving to the care home or assisted living units. Indeed, the appellant points to a recent appeal decision where it was acknowledged that an 80 bed care home contributed an equivalent of 44 units³ to the Council's HLS. Given the number of units

² Paragraph: 016a Reference ID: 63-016a-20190626

³ PINS Reference: APP/V1505/W/22/3302878

proposed under this proposal, it is reasonable to conclude that it would make at least a similar contribution to the Council's HLS.

30. On that basis, I consider that the proposed development would result in a significant contribution to addressing the Council's housing land supply shortfall. 'Significant', not least because of the severe extent of the shortfall. This is therefore a social and economic benefit of the development which can be afforded substantial weight.

Need for the development

31. The appellant presented a wide variety of evidence asserting a need for assisted living and care home provision within the Borough. Notwithstanding this, even the Council's evidence indicates a need for additional care home bedspaces and specialist housing between 2020 and 2040. Based on the Council's assessment of the South Essex Housing Needs Assessment (SHMA) dated June 2022, there is a need for 19 care home bed spaces per annum and 65 units per annum of specialist accommodation over the period up to 2040.
32. The Council has cited a number of recent planning permissions granted for care homes in the Borough. However, all of these permissions are factored into Table 2 of the Appellant's Statement of Case, which shows that even taking them (and other permissions) into account, since 2018 there has been a net increase of just five care home bedspaces. Over the plan period referred to in the SHMA there has been a net increase of just 45, which is still short of the 57 bedspaces which should have been provided over that period based on the SHMA.
33. Table 1 of the appellant's statement of case, which is based on data from the Council's own Annual Monitoring Reports, demonstrates that just 4 units of specialist accommodation for older people were completed between 2014 and 2022.
34. It is not clear whether or not the SHMA has factored in the past under-delivery described above in reaching figures for annual need. However, looking forward, despite the Council's assertion that schemes like this are best dealt with through the plan-making process, the new Local Plan is not scheduled to be adopted until 2027. On that basis alone and taking into account the significant amount of land in the Borough which is within the Green Belt, it is very difficult to see how the Council will meet the aforementioned need as expressed within the SHMA up until 2027.
35. There is some suggestion that there are high vacancy rates in existing care homes, however, there could be numerous reasons for this and it is not clear what a normal vacancy rate would constitute. In any case, the proposed care home would provide market-standard accommodation (with wet rooms) which the evidence⁴ indicates is lacking. Indeed, the planning permissions highlighted indicate that many care homes are undergoing demolition and replacement to bring them up to market standards, in many cases resulting in a reduction in the number of bedspaces despite the increase in the standard of accommodation. Clearly the proposal will provide a significant benefit in providing a significant quantum of market-standard accommodation.

⁴ Knight Frank Planning Needs Assessment (2023)

36. The Council has also queried the catchment area used in Knight Frank's Planning Needs Assessment (2023). However, demand for housing for older people would not likely be constrained by administrative boundaries and therefore this is not a factor which weighs against the findings of the assessment. In any case, as outlined above - even putting the findings of the appellant's assessment to one side - based on the Council's own data and estimates of demand/need there clearly remains a significant unmet need for housing for older adults in the Borough. The proposed development would make significant inroads into meeting existing and future need in this regard. The social benefits can therefore be afforded substantial weight within this context.

Other benefits

37. In addition to the benefits arising from freeing up market and social housing, the proposal would also result in a financial contribution in lieu of on-site provision of affordable housing. This is a moderate social benefit (reduced in weight given that the total sum has been negotiated on a viability basis).
38. The development would also comprise health and wellbeing benefits. In particular, it would combat loneliness, provide a basis for older people to maintain their independence and facilitate better access to healthcare. There would also be social benefits arising from the provision of a car park for parents collecting children from the nearby St Mary's C of E Primary School. Indeed, local residents have highlighted that there is significant disruption caused by on-street parking of vehicles during drop-off and pick-up times.
39. There would be economic benefits associated with permanent employment. With 95 to 120 jobs proposed. In addition, there would be more limited economic benefits associated with support for employment during the temporary construction period.
40. Environmental benefits would arise as a result of biodiversity enhancement measures and a biodiversity net gain. These benefits could be implemented and controlled through imposition of suitably worded planning conditions.
41. The combined benefits are significant and wide-ranging. They incorporate the three pillars of sustainable development as advocated within the Framework. For this reason, collectively they can be afforded very substantial weight.

Planning Balance

42. Overall, the proposed development is inappropriate development in the Green Belt and is therefore, by definition, harmful to the Green Belt. The proposal would also result in a significant reduction in spatial openness, a more limited reduction in visual openness and limited encroachment into the countryside. However, given the surrounding settlement characteristics and size of the existing gap between settlements, there would be no harm to the Green Belt purpose of preventing neighbouring towns merging into one another. Nonetheless, I attribute substantial weight to the overall harm to the Green Belt, in accordance with Framework Paragraph 153. There would be no other harm as a result of the proposed development.
43. There would however be extensive and wide-ranging benefits as a result of the proposed development. These benefits are primarily derived from the contribution of the proposal to freeing up existing housing (within the context

of a severe housing land supply shortfall) and the contribution of the proposal to meeting the existing and future need for specialist accommodation for older people. There would be several other social, economic and environmental benefits as I have identified in this report. Collectively, these benefits can be afforded even greater weight than that which I have afforded to the harm to the Green Belt. Indeed, in this instance, the extent of the harm I have identified would be clearly outweighed by other considerations. Therefore, the very special circumstances necessary to justify the development exist.

44. Given the HLS shortfall, Framework Paragraph 11d applies. Taking into account that I have found that very special circumstances exist, there are no policies in the Framework which direct refusal within the terms expressed under Framework Paragraph 11di. As such, Framework Paragraph 11dii is engaged and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
45. I have already effectively applied the test at Framework Paragraph 11dii in considering the effect of the proposal on the Green Belt. Given that I have found very special circumstances to exist (and in the absence of other harm) the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Planning Obligations

46. The appellant has provided a legal agreement under section 106 of the Town and Country Planning Act 1990, which includes a number of obligations which would come into effect if planning permission were to be granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and as set out in paragraph 57 of the Framework. These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

Employment and Skills

47. A financial contribution of £16,500 (£300 per dwelling) would be made towards a Careers, Education, Information, Advice and Guidance individual to broker job opportunities from the development during construction. This has been calculated based on the expected costs of advisors based on figures applied to other developments in the borough. As such, this obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

Healthcare

48. A contribution of £32,000 is payable towards increased NHS floorspace capacity to support the population arising from the development. This sum has been calculated by Mid and South Essex Integrated Care System based on their accepted methodology and will increase capacity of local GP surgeries to accommodate the increased population arising from the development. As such,

this obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

Affordable Housing

49. With the initial planning application, the appellant submitted a financial viability appraisal which sought to justify a nil contribution towards affordable housing. However, the Council subsequently commissioned an independent assessment and ultimately the appellant agreed to a reduced sum to be paid in lieu of on-site provision totalling £174,767 with 50% to be paid prior to occupation of 50% of the development. Taking into account the aforementioned evidence base, this sum is fairly and reasonably related in scale and kind to the proposed development. It is directly related to the development and necessary to make it acceptable, given that Local Plan Policy BAS S5 requires provision (albeit subject to negotiation on schemes like this). Framework Paragraph 66 similarly provides for reduced provision of affordable housing for specialist accommodation.

Open Space

50. An obligation requiring a management company to be secured to manage the open space is necessary to ensure long-term maintenance of on-site open space. A full specification of on-site open space is also required to ensure sufficient provision of open space to meet the demand created by the development.

School Parking

51. An obligation is necessary to ensure the implementation of the school parking area such that this benefit of the development is realised and retained for its specified purpose. It is directly related to the development because the school car park is part of the proposal and the obligation is reasonable and fairly related to the development for the same reason.

Sustainable Transport

52. A financial contribution of £59,090 would be made to fund improvements to Cycle Route 2, within the vicinity of the appeal site. This links the site with Basildon to the west. Whilst it is acknowledged that the care home element of the proposal is unlikely to give rise to typical demands for travel, the assisted living units and bungalows would likely result in a similar demand to non-specialist dwellings. Indeed, the contribution has been calculated on the basis of those 55 units.

Age and Care Package

53. A planning obligation requiring that the development is only occupied by residents who are in need of at least 2 hours of personal care a week and that those residents are aged 55 years or older, is necessary to ensure that the development functions as specified in the description of development. This obligation is directly related to the development because the school car park is part of the proposal and the obligation is reasonable and fairly related to the development for the same reason.

Monitoring Fees

54. £10,500 is payable for reasonable costs incurred by the Council in monitoring and administering the planning obligations.

Summary

55. For the reasons given above, I consider that all obligations in the agreement accord with the criteria of Regulation 122 of the CIL and with paragraph 57 of the Framework. I have therefore taken them into account in considering this appeal.

Conditions

56. I have considered the Council's suggested conditions in light of advice contained in the Planning Practice Guidance and the tests within the Framework. As a result, I have amended some of the conditions so that they are enforceable, precise, relevant, necessary and reasonable in all other respects. In doing so I have combined conditions where there is overlap or repetition and I have removed those which relate to reserved matters or which are not necessary to make the development acceptable.
57. I have attached conditions relating to the submission of reserved matters and the time limits associated with this. I have also included a condition specifying the relevant plans, as this provides certainty. A condition specifying that landscaping details should include measures for tree protection and retention is also necessary in the interest of character and appearance.
58. Conditions pertaining to site levels, a landscape and ecological management plan, a restriction on building height and details of bin and cycle storage are also all necessary in the interest of ensuring that the development is in keeping with the character and appearance of the area.
59. A condition requiring the submission of a construction environmental management plan is necessary in the interests of highway safety, to safeguard against pollution, to protect neighbouring living conditions and in the interest of biodiversity and protected species (specifically lizards and badgers).
60. Other conditions necessary in respect of protected species and biodiversity include those pertaining to biodiversity enhancement measures, a reptile mitigation strategy, badger protection and potential additional surveys.
61. Grampian conditions controlling the implementation of the access and footway arrangements are necessary in the interest of highway safety. As are conditions pertaining to restricting unbound material on driveways and specifying parking provision.
62. A condition requiring the submission and approval of a surface water drainage scheme is necessary in the interest of flood risk and drainage.
63. In the interest of preserving any archaeological remains, the submission of a written scheme of investigation and post excavation assessment is necessary.
64. Conditions pertaining to implementation of noise mitigation measures, details of lighting, carbon filtration and details of plant are necessary in the interest of preserving the living conditions of neighbouring occupiers.
65. The Council suggested numerous conditions which reference a desk-top contaminated land study, yet none requiring the actual submission of a desk-

top study. Furthermore, no rationale was provided for these conditions and the site comprises an agricultural field. On that basis, a condition requiring the cessation of construction work and subsequent investigation and remediation of any unidentified contamination is sufficient in the interest of the environment and public health.

66. A condition requiring that the proposal is 'substantially in accordance' with the submitted parameter plan is not precise and there is sufficient control of the layout and scale of the proposal at reserved matters stage. Similarly, conditions relating to ground levels and the height of development in certain location are not necessary for the same reasons.
67. The suggested conditions pertaining to the submission of a green infrastructure strategy are either covered by other conditions or are capable of being addressed and/or conditioned at reserved matters stage.
68. Suggested highway conditions pertaining to payment for traffic regulation orders and extension of parking restrictions are not precise and have not been adequately justified. As such, I have not imposed these conditions.
69. No policy basis has been provided to justify conditions requiring submission of an energy and sustainability statement and requiring the provision of superfast broadband. As such, I do not consider that it has been demonstrated that such conditions are necessary. Furthermore, the latter would likely be a pre-requisite for the successful running of the care home business.

Conclusion

70. The proposed development accords with the development plan taken as a whole. I have taken into account the approach advocated at Framework Paragraph 11d in determining this appeal, which also demonstrates that planning permission should be granted. There are no material considerations raised which indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore allowed.

Luke Simpson BSc MSc MRTPI

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Liam Ryder MPlan MRTPI	Code Development Planners
Nigel Cowlin BA(Hons) DipLA CLI	Nigel Cowlin Ltd
Joe Brame	Knight Frank
Steven Donnelly	Metro Property Investments
Vidya Goyal	Metro Property Investments
Anita Keeling	Landowner
Stefan Williams	Landowner

FOR THE LOCAL PLANNING AUTHORITY:

David James Gill	Basildon Borough Council
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INTERESTED PARTIES

Christine Barlow	Bowers Gifford & North Benfleet Parish Council
Cllr Susan Moore	Bowers Gifford & North Benfleet Parish Council
Cllr Colin Morris	Bowers Gifford & North Benfleet Parish Council
Paul Matin	Neighbouring Resident

CONDITIONS SCHEDULE

- 1) Details of the appearance, landscaping, layout (including internal road and footway layout), and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 001.00(Existing Location Plan) and 66200863-SWE-ZZ-XX-DR-TP-0001 Revision P01 (Proposed accesses).
- 5) The landscaping scheme referred to in Condition No. 1 above, shall include details of the measures to be taken for the protection, in the course of development, of the trees, shrubs and hedgerows to be retained. All planting, seeding and turfing comprised in the approved details of landscaping, shall be carried out in the first planting and seeding season following occupation of the buildings or completion of the development, whichever is sooner. Any trees, shrubs or other elements of landscaping dying within five years of planting shall be replaced.
- 6) No development shall take place until, detailed plans showing the existing site levels and finished floor levels of the proposed buildings have been submitted to and approved in writing of the local planning authority. The development shall be carried out and thereafter retained in accordance with the approved details.
- 7) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of:
 - Site waste management.
 - Construction Traffic Management (including access).
 - Loading and unloading areas.
 - Wheel and underbody washing facilities.
 - Erection of any security hoardings.
 - Measures to control emissions from dust, noise and dirt.
 - Protection of any retained trees or hedgerows.
 - Biodiversity protection zones and measures.
 - Ecological risk assessment (construction).
 - Location and timing of sensitive works to avoid harm to biodiversity features including existing reptile habitat prior to translocation.
 - Timing of presence of specialist ecologists to oversee sensitive work.

- A scheme to minimise surface water runoff and flooding from groundwater during construction.
- Details of badger protection measures to be followed during construction.

The development shall be constructed in accordance with the approved details.

- 8) No development shall take place until a landscape and ecological management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority including a timetable for implementation and details of how yearly logs of maintenance activities will be maintained. The development shall thereafter be carried out, retained and managed in accordance with the approved details.
- 9) No development shall take place above slab level until a Biodiversity Enhancement Strategy for protected and Priority species and demonstrating a biodiversity net gain has been submitted to and approved in writing by the local planning authority following the recommendations made within the Ecological Impact Assessment (Sweco, July 2021). The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs to achieve stated objectives;
 - c) locations of proposed enhancement measures by appropriate maps and plans;
 - d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - e) details of persons responsible for implementing the enhancement measures;
 - f) details of initial aftercare and long-term maintenance (where relevant).The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.
- 10) No development shall take place until a final Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles found on site has been submitted to and approved in writing by the Local Planning Authority. The Reptile Mitigation Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location/area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;

- g) persons responsible for implementing the works;
- h) details of initial aftercare and long-term maintenance of the Receptor area(s);
- i) details for monitoring and remedial measures;
- j) details for disposal of any wastes arising from works.

The Final Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 11) The development hereby approved shall not exceed three storeys in height and shall not exceed 43.64 AOD.
- 12) All ecological mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Sweco, July 2021). If the development hereby approved does not commence within two years of the date of the survey results in the Ecological Impact Assessment (Sweco, July 2021) the approved ecological mitigation measures shall be reviewed and, where necessary, amended and updated.

The review shall be informed by further ecological surveys commissioned to:

- i. establish if there have been any changes in the presence and/or abundance of protected species and
- ii. identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of the development.

The development will then be carried out in accordance with the proposed new approved ecological measures and timetable.

- 13) If badgers are found to have occupied the site at any point, all construction work shall cease until a detailed badger mitigation plan (including timetable for implementation) has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 14) No development shall take place, until the access arrangements at London Road and Ilfracombe Avenue have been provided as shown on SWECO DWG 66200863-SWE-ZZ-XX-DR-TP-0001. These access arrangements shall be retained as such thereafter. The access on London Road at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4metres by 59m metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times. The access shall be provided with 6m radii and 2m footways on both sides to connect into the existing facility on London Road. The guard railing and

zig zag crossing lines shall be amended to suit new access arrangements. The Ilfracombe Avenue access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4metres by 33m metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times. The access shall be provided with 6m radii and 2m footway on both sides to connect into the existing facility on Ilfracombe Avenue.

- 15) No development shall take place until plans showing vehicle parking and electric vehicle charging points to be provided for the development have been submitted to and approved in writing by the Local Planning Authority. All parking shall be implemented prior to first use of the development hereby approved. The vehicle parking and electric charging points shall thereafter be retained in accordance with the approved details.
- 16) No development shall take place until details of the location, number and design of cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and retained in accordance with the approved details.
- 17) No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall include detail of maintenance arrangements. The approved scheme shall subsequently be implemented prior to occupation and maintained/retained as such thereafter.
- 18) No development shall take place until details of refuse and recycling storage facilities have been submitted to and approved in writing with the Local Planning Authority. The refuse and recycling facilities shall be implemented in accordance with the approved details prior to occupation of the development and retained as such thereafter.
- 19) No development shall take place until details of a lighting scheme for the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
- 20) No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI.
- 21) The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

- 22) The development hereby approved shall not be occupied until the existing footway on Ilfracombe Avenue has been provided with a drop kerbed pedestrian crossing and new pedestrian refuge as shown on SWECO DWG 66200863-swe-zz-xx-dr-tp-0001 inclusive of associated dropped crossing and tactile paving and a new pedestrian refuge has been provided on London Road to the west of the site with associated infrastructure.
- 23) The development hereby approved shall not be occupied until the noise mitigation measures including proposed site layout (for both dwellings and gardens) outlined in Sweco Noise Impact Assessment – Land east of Ilfracombe Avenue, Bowers Gifford (Document Reference: 103130-SWE-ZZ-XX-RP-YA-0001) have been implemented in full. The measures shall thereafter be retained in accordance with the approved details.
- 24) The development hereby approved shall not be occupied until details of a ventilation system for the removal and treatment of cooking odours which include measures to mitigate system noise have been submitted to and approved by the Local Planning Authority. The details shall have regard to guidance and recommendations in DEFRA publication 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The approved details shall be fully implemented prior to the commencement of the use hereby approved and shall be maintained at all times thereafter.
- 25) The development hereby approved shall not be occupied until a high efficiency activated carbon filtration unit has been installed, which shall ensure a maximum capture of odour producing chemicals and incorporate 100Kg of carbon granules per 1,000 cubic feet per minute air flow. The extract system shall be isolated from the building structure with suitable mountings and shall terminate at a point at least 1 metre above the eaves.
- 26) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 27) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. Where the submission of such measures are required, the measures shall be carried out before the development is resumed or continued.
- 28) The rating level of the noise from plant installed pursuant to this permission shall not exceed the existing background sound level any time at the outside of noise sensitive buildings.