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## Appeal Decision

Inquiry held on 21 and 22 June 2016 and 29 and 30 September 2016

Site visit made on 30 September 2016

**by Y Wright BSc (Hons) DipTP DMS MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 28 November 2016**

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**Appeal Ref: APP/W2465/W/15/3141406**  
**52 Western Road, Leicester LE3 0GA**

- 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 Mr Jamie Lewis of CODE Student Accommodation against the decision of Leicester City Council.
  - The application Ref 20151143, dated 12 June 2015, was refused by notice dated 29 October 2015.
  - The development proposed is one five storey block (76 flats) and one five and nine storey block (203 flats) to provide 279 studio student flats (no use class) and two floors of ancillary offices and storage.
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### Decision

1. The appeal is allowed and planning permission is granted for one five storey block (76 flats) and one five and nine storey block (203 flats) to provide 279 studio student flats (no use class) and two floors of ancillary offices and storage at 52 Western Road, Leicester LE3 0GA in accordance with the terms of the application, Ref 20151143, dated 12 June 2015, subject to the conditions set out in the attached schedule.

### Application for costs

2. During the Inquiry an application for costs was made by Mr Jamie Lewis of CODE Student Accommodation against Leicester City Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The original description of development was changed during the application process, and now differs significantly from that included on the application form. I use the description of development as agreed by the main parties and as set out on the decision notice. However for reasons of succinctness I do not include reference to the amended plans within the description.
  4. The Inquiry was adjourned on 22 June 2016 due to there being insufficient time for the parties to present all their evidence. The Inquiry was resumed on 29 September 2016 when I heard the remaining evidence. I conducted unaccompanied site visits on 20 June 2016 and 29 September 2016 and an accompanied site visit on 30 September 2016.
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5. A completed and signed section 106 unilateral undertaking (UU) was submitted by the appellant during the Inquiry<sup>1</sup>. This seeks to offer a contribution towards the provision or enhancement of open space. I discuss this within my decision.
6. A Statement of Common Ground (SoCG) was submitted which sets out the policy context along with matters of agreement and those in dispute between the main parties.
7. It is agreed between the main parties that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. In this case and as agreed at the Inquiry, relevant policies for the supply of housing should not be considered up-to-date. The presumption in favour of sustainable development as set out under paragraph 14 of the National Planning Policy Framework (the Framework) is therefore engaged.

### **Main Issues**

8. The main issue raised by the proposal relates to its cumulative effect, with particular reference to:
  - Whether it would contribute to a demographic imbalance within the surrounding area;
  - The effect on the living conditions of local residents particularly in relation to noise and disturbance; and
  - The effect on public open space.

### **Reasons**

#### *Whether the proposal would contribute to a demographic imbalance*

9. Leicester City Core Strategy (2014) (CS) CS Policy 6 sets out the housing strategy for the city. It specifically supports purpose built student accommodation (PBSA) if it meets identified needs, is well designed and managed and can be *'well integrated with local built form and existing communities within walking distance of the main campuses'*.
10. The Council's Student Housing SPD (2012) (SHSPD) seeks to provide more detailed guidance to support the above policy and outlines 6 criteria against which new proposals for PBSA will be considered. Criterion D, which is in dispute, states that *'When considered with existing nearby student accommodation, the development should not have an unacceptable cumulative impact upon surrounding residential neighbourhoods'*. The SPD sets out how unacceptable cumulative impact will be assessed. For the purposes of this main issue I consider first whether the development of further student accommodation would contribute towards a demographic imbalance.
11. I note that residential neighbourhoods are not defined within the SHSPD and that for the purposes of this appeal a bespoke neighbourhood area has been created by the Council. This covers the appeal site and existing development within close proximity and forms a relatively small part of the Westcotes ward area.

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<sup>1</sup> Document 39

12. It was put to me by the Council during the Inquiry that the boundary had been drawn to reflect the catchment area for the use of local facilities, particularly Bede Park. However as there is limited open green space within the locality and taking into account the available evidence on the Bede Park visitor numbers, I consider the catchment area for the park would be more extensive than that shown by the Council's bespoke neighbourhood. I heard evidence to this effect during the Inquiry when I was informed that other residents outside the neighbourhood area also use the park. Furthermore the Council has not defined the extent of any other adjacent residential neighbourhoods. As such I consider there is insufficient justification for me to meaningfully use the Council's bespoke neighbourhood area to assess the effect of the proposal in relation to demographic imbalance.
13. Whilst I also note that electoral wards are administrative boundaries that do not necessarily reflect catchment areas for facility use, the Planning Practice Guidance (PPG) considers that they can be '*a useful starting point for discussions on the appropriate size of a neighbourhood area*<sup>2</sup>. In the absence of any other suitably defined areas the use of ward boundaries is appropriate in this instance. The Westcotes ward boundary changed in 2015 but I note that this has been taken into account in the submitted evidence.
14. Whilst I note that PBSA constitutes a high proportion of the student housing market within the city, being around 47%, the Council accepted at the Inquiry that there remains additional limited need for this type of accommodation within the City and does not object to the proposal on this basis.
15. The appellant's evidence indicates that whilst the number of students within the ward has increased since 2001, so has the total population. Around 21% of the overall ward population were resident as full time students in 2001, about 27% in 2011 and approximately 26% in 2015/2016. On this basis the evidence indicates that the proportion of students resident within the ward has remained broadly similar for a number of years.
16. Whilst there was around a 6% increase in the student population between 2001 and 2011, I note that in 2011 and 2012 planning permission for the adjacent CODE PBSA development was granted by the Council. As such the scale of PBSA development and number of students within the ward at this time was deemed acceptable by the Council in planning terms. Whilst there has been an increase in development of PBSA within the ward since 2011, the proportion of students has remained broadly similar. PBSA development has instead resulted in a significant shift in the type of accommodation occupied by students. This is supported by the evidence which shows that student shared households within the Westcotes ward, between 2011/12 and 2015/16, reduced by around 200, equating to approximately 600 students, if a 3 person per household multiplier is applied.
17. The PPG<sup>3</sup> enables student accommodation to be included towards the supply of housing, based on the amount of shared student housing that would be released to the general market. Based on a ratio of about 3 students to a house, the appeal proposal for 279 bed spaces could result in the release of up to 93 houses.

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<sup>2</sup> Paragraph 033, reference ID:41-033-20140306

<sup>3</sup> Paragraph: 038 Reference ID: 3-038-20140306

18. I recognise that the release of such housing is not within the control of the appellant. However in this locality, within a short walking distance of the De Montfort University campus (DMU) it is nonetheless reasonable to consider that the provision of PBSA, on a secure site with integral facilities would be an attractive proposition for students. The existing CODE PBSA offer is frequented by students predominantly in their second and third years as well as post graduates, who perhaps would otherwise seek shared accommodation, and this is evidenced in the appellant's own records<sup>4</sup>. This also confirms that CODE currently has a significant waiting list for their accommodation.
19. Furthermore, as DMU is cautious about future student growth projections, the demand for student accommodation will most likely not come from a significant increase in student numbers but instead will be from existing levels. Based on the agreed evidence I recognise that the University of Leicester is predicting an increase in student numbers, but this University campus is some distance from the appeal site. In addition the appellant recognises that the development would most likely attract students attending DMU due to its proximity. It was also agreed at the Inquiry that student preferences for accommodation are changing with the provision of good quality PBSA.
20. It therefore follows that as DMU is not anticipating an increase in student numbers and the proposed development would most likely serve students of this University due to its proximity, there would be a reduction in students living in shared housing within the locality. Consequently, taking this factor into account I consider that the development would only result in a limited increase in the number of students within the area. As the overall population within the ward would also increase as traditional houses vacated by students would be replaced by non-student residents, the development would not materially alter the proportion of students within the population.
21. Consequently, I conclude that the appeal proposal would not contribute to a demographic imbalance and would generally not conflict with CS Policy 6 and the SPD in this regard.

#### *Living conditions*

22. CS Policy 6, amongst other things, seeks development that integrates with existing communities. The SHSPD includes seeking to ensure that development does not '*place an unacceptable strain upon local amenity (e.g. noise, parking, litter)*'. Furthermore the Framework seeks, amongst other things, to secure a good standard of amenity for all existing occupants of buildings.
23. My attention has been drawn to an appeal decision<sup>5</sup> made in 2013 for the development of PBSA within the city which was refused for reasons including the adverse effect on residential amenity. However I note that this development proposal was of a different scale and type than the appeal proposal and was located in a different ward. I also do not have full details of the scheme and therefore am unable to determine whether the circumstances under which it was determined are the same as the appeal that is before me. Therefore based on the available evidence I do not consider that it is directly comparable.

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<sup>4</sup> Document 20 Mr Pritchard's proof of evidence appendix 3

<sup>5</sup> Appeal reference: APP/W2465/A/12/2185181

24. Nevertheless I recognise that there can be tensions between student lifestyles and other residents within an area. As set out in the SHSPD high concentrations of students in an area can potentially result in negative impacts on a neighbourhood, affect the demand for services and facilities and cause noise and disturbance issues particularly at night.
25. It is clear from the representations that are before me and from what I heard at the Inquiry that noise and disturbance within the area, particularly late at night, is an existing local concern. However the evidence to support this does not substantiate the claims that this is due specifically to students living in the existing adjacent PBSA. Indeed it has been put to me that concerns about noise would be more likely to relate to students in shared houses, due to the close proximity of neighbouring residents and the fact that there are little or no management arrangements.
26. I note that a number of shops including hot food take-aways, bars and pubs are located within a short walk from the site including along Narborough Road and Braunstone Gate. Access to these shops is along traditional terraced streets where the houses are occupied by a mix of student and non-student residents. I note the assessment of CCTV footage carried out by the Council which shows that a number of pedestrians and vehicles use the streets late at night. Whilst it is reasonable to consider that at least some of this activity is associated with students, including the appellant's existing PBSA development, it does not in itself demonstrate harm.
27. I have already concluded that the development would not result in a demographic imbalance and would reduce the number of students in shared housing to some extent. Subsequently I consider that the potential for noise and disturbance from this source would be reduced. In addition whilst the development would concentrate more students into a particular location, it would provide continuous 24 hour management which would manage noise and behaviour within the site. This is supported by the limited number of noise and disturbance complaints received about the appellant's adjacent PBSA development.
28. I note that the main entrance to the development would be moved from Western Road to a new access on Briton Street adjacent to the pedestrian bridge which leads over the river to Bede Park. I consider that this location would be likely to limit potential disturbance to residents on Western Road when students exit and enter the development, and would provide a reduction in the use of this road by the students resident at the existing CODE PBSA.
29. I recognise that the main cycling and walking access to DMU and the city centre is via the Briton Street pedestrian bridge and through Bede Park, within close proximity to existing residential development located along the southern side of the route. This is clearly used by both students and other residents within the locality. I note the concerns raised about existing noise and disturbance from use of this route particularly at night. I acknowledge that on-site management of the proposed development would not manage the behaviour of students when they are off-site. However as I consider there would overall only be a limited increase in the number of students, I do not consider that the additional level of associated activity along this route and in the surrounding area would result in significant harm in relation to noise and

- disturbance for local residents. Consequently the living conditions of occupants of neighbouring properties would not be unduly prejudiced.
30. It has also been suggested that the use of rooms within the development by community groups could contribute to noise and disturbance by increasing the amount of comings and goings. However as the number and type of bookings would be under the control of management any concerns could be dealt with through appropriate measures.
  31. I recognise that there would likely be noise and disturbance to existing residents from the construction works. However this would be temporary and the hours of work could be adequately managed through the imposition of a suitable condition.
  32. I have also taken account of other concerns raised about living conditions including the effect on views, overlooking, overshadowing, loss of light and increased litter but I have no substantive evidence that the appeal proposal would be detrimental in these respects. Furthermore the Council does not object to the proposal on these grounds and I have no reason to conclude otherwise.
  33. Consequently, taking all the above into account, I conclude that the proposal would not make a significant material difference to the living conditions of the occupiers of neighbouring properties and would comply with CS Policy 6, the SHSPD and the Framework in this regard.

#### *Public open space*

34. CS Policy 13 seeks to maintain and enhance the quality of the green network within the city. It states that '*New development proposals should meet the need for provision arising from the development*' and '*New on-site provision or through S106 contributions to improve the quality of, or access to, existing open space, will be expected*'.
35. CS Policy 19 states that new development must be supported by the required infrastructure and that developer contributions will also be sought where needs arise as a result of the development.
36. The Green Space Supplementary Planning Document (2011) (GSSPD) whilst not cited in the reasons for refusal nevertheless applies to student housing and was referenced during the Inquiry. This states that contributions will be requested for open space provision except in relation to equipped children and young people's space and allotments. It also states that where on-site provision cannot be achieved, it may be appropriate for a contribution to be made to open space that falls within or near to the catchment of open space.
37. Criterion E of the SHSPD requires that '*the layout, standards and facilities provided in the development ensure a positive living experience*'. It also refers to the '*already great pressure on the existing open space available*' within Westcotes ward and requires that new PBSA provide adequate open space on site together with any off site contributions.
38. The Council's update to their Open Space, Sport and Recreation Study (206) identifies that there is a significant deficiency of open space within the ward equating to around 28.04 hectares (ha). Based on the requirements set out in the GSSPD the Council considers that the development for 269 students would

- need to provide 0.558 ha of open space. As the appeal site is around 0.18 ha in area this cannot all be provided on-site
39. Based on the evidence before me I consider that the proposal would provide at least some open space within the site, overlooking the river, albeit that this would be a relatively small area. Whilst this would contain a pathway this in itself would not preclude it from forming open space. Indeed it would provide some opportunities for sitting out for the residents of the development.
40. Whilst I recognise that this area would not fully meet the Council's open space requirement, I note that the appellant has also offered to provide off-site contributions towards the provision or improvement of open space and recreational facilities. This is set out in a planning obligation which I consider in more detail later in my decision.
41. I recognise that Bede Park and the Great Central Way are adjacent to the appeal site and provide a number of recreational facilities and opportunities for use by local residents. It has been suggested that the appeal proposal would particularly exacerbate existing issues associated with over-use of Bede Park. Existing concerns relate to the extensive use of the park particularly on warm days, during term time and the summer months. Issues relating to litter, damage to grass through use of barbecues, excessive noise and conflicts between users have been highlighted. The evidence indicates that measures have been put into place to reduce some of these concerns. This includes an extension of the park to provide outdoor gym, parkour and barbecue areas; the provision of more bins and the installation of CCTV. I saw on my site visit that the parkour and barbecue areas were under construction.
42. It is clear that Bede Park's proximity to residential properties makes its use attractive to local residents, particularly on fine days and consequently it will be well used at times. I visited the site on three separate occasions during June and September and at different times of the day to observe its use and condition. I observed limited use on one day and more moderate use on the other days. I acknowledge that my site visits were not during DMU term time, but the weather was warm and sunny on the three days. On my last visit whilst I saw that there were signs of wear in the central grassed area, this was not extensive. Overall, while I accept that my visits represented only a snapshot, I observed that the park was generally well maintained and managed to a reasonable standard during my visits.
43. The second reason for refusal states that as there is limited potential to improve the capacity of green space *'it may start to degrade through overuse'*. However the evidence submitted does not demonstrate to me either that the existing use of the park is causing extensive deterioration through overuse or that degradation would occur should the appeal proposal be allowed.
44. I note that areas of new open space on other developments within the locality are currently under construction. This includes the large area of open space in front of DMU's Fletcher Building. Whilst I recognise that this is being provided to serve the educational building and is within an adjacent ward (Castle ward), it would nevertheless be within a short and easy walking distance from the appeal proposal.
45. Based on the evidence and what I heard at the Inquiry, the immediate proximity of this area to the DMU campus buildings would result in the space

- being actively used by students. Whilst I accept that the nature of this space would be different to Bede Park and would not provide the same facilities, it nevertheless would provide areas for purposes such as sitting out and picnicking. In addition, whilst I understand this land will remain privately owned by the University it will, nevertheless form a large open landscaped green space in front of the building accessible to the public.
46. Whilst I note that the Council does not accept that such university owned areas of open space constitute public open space, in practice this area would form an attractive and convenient meeting and sitting area particularly for students, including those residing locally. It would also be available to the public in general. As such I consider it would contribute towards reducing the pressure on the use of Bede Park.
47. Other development sites referred to in the Inquiry and located within the ward would also provide areas of available open space and although some areas referred to are a longer distance from the appeal site, they would nevertheless be used by the local community within the vicinity of those sites, which would also contribute to reducing the pressure on Bede Park to some degree.
48. Whilst concerns have been raised that these privately owned areas could be easily fenced off, I do not consider this proposition is reasonable considering they are designed as public open spaces as part of their respective planning permissions. The development of these spaces, most particularly that at the Fletcher Building as referred to earlier, would provide alternative areas for use, reducing the pressure on Bede Park such that the additional pressure potentially arising from this proposal would be offset or reduced. Consequently, I conclude that there would be only a limited or even neutral effect on Bede Park itself. Nonetheless, I accept that there is a general under provision of green space, sport and recreational facilities in the area.
49. I note that the appellant has submitted a dated and signed section 106 unilateral undertaking (UU) which includes a financial contribution of £172,516.86 to be used by the Council for the provision or enhancement of green space and recreational facilities that will be used by occupiers of the development. It provides a list of potential works where the sum may be spent. I note that the Council does not agree with the list of works and considers that there is no capacity to improve existing open space any further and no improvement projects, other than those which already have funding, are proposed.
50. Such a conclusion would seem to suggest that all residential development within this ward, or even wider across the city, would no longer be able to proceed unless it were able to provide publicly accessible open space on site. However at the Inquiry the Council indicated that if family housing providing some form of private spaces were to come forward on this site instead of the appeal proposal, it would need to take a balanced view on whether it would be acceptable to request open space contributions. Were contributions not considered to be required, this approach would not address the principle of the general under provision of open space identified in policy and the GSSPD.
51. While I note the Council position regarding the availability of projects local to the site, students will choose to use facilities for specific activities across a wider area, and possibly those more local to the educational facility they attend. I also note that Victoria Park is within the accessibility distance



identified in the GSSPD. Accordingly, I conclude that the contribution seeks to mitigate a much wider effect on open space and recreational facilities in the City, rather than just mitigate any harm to Bede Park. This would be appropriate as it would relate to the specific needs of the students residing within the development. Based on the evidence that is before me, I am not satisfied that the Council have demonstrated that the UU, made in accordance with policy and the GSSPD, is not an appropriate mechanism in this regard. On balance therefore, I am content that, in this particular case, the monies would meet the tests in Regulation 122 of the Communities Infrastructure Levy Regulations 2010. I therefore take this UU into account in determining this appeal.

52. Therefore as the demand for open space and recreational facilities from the proposal would be reduced by the on-site provision, the open space provided as part of nearby developments, and the off-site contributions, overall I conclude that the development would ensure adequate provision for public open space and not be materially detrimental in this regard. The proposal would therefore accord with CS Policies 13 and 19.

#### *Other Matters*

53. Concerns have been raised by local residents on matters including the character and appearance of the development, the impact on existing parking pressure in the locality and the effect on the adjacent pub and its garden. However, based on the evidence that is before me, I find no material harm on these grounds. In addition I note that the existing CODE PBSA provides car free accommodation and is similarly proposed here. The Council does not raise objections in regards to these matters and I have no reason to disagree.
54. I recognise that some local residents would prefer that an alternative use for the site was considered such as the provision of family housing. However no such alternative scheme is before me. I am only able to consider the scheme proposed and must determine it based on the evidence provided and on its own individual planning merits.

#### **Conclusion and Overall Planning Balance**

55. My conclusions above set out my findings as regards the maintenance of the demographic balance, the lack of effects on living conditions of neighbouring occupiers and the limited effect on nearby open space and the contributions to support additional provision over the wider area. Whilst I recognise that the SHSPD indicates that further large scale PBSA in the neighbourhoods to the west of Western Boulevard are unlikely to be acceptable due to the cumulative impact of such schemes, as I have found that the proposal would not result in material harm on the main issues, I do not consider there would be any unacceptable cumulative impact.
56. As set out under my procedural matters above, both parties acknowledge that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. As such it is agreed that CS Policy 6 of the development plan as a policy for the supply of housing is out-of-date. Whilst the SHSPD supports this policy, it does not form part of the development plan and instead forms a material consideration. Based on the evidence that is before I consider that both CS Policy 6 and the SHSPD have reduced weight.

57. As paragraph 14 of the Framework is engaged, the presumption in favour of sustainable development applies to this proposal. As there are no specific policies within the Framework that indicate development should be restricted and permission refused in principle, I must consider whether any adverse impacts from the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
58. The site is located within Leicester's Strategic Regeneration Area and would bring a vacant unused brownfield site back into viable use. The proposal would meet an identified need, would be well designed and well managed and would be in a central and accessible location within easy walking distance of the DMU.
59. It would result in the release of some existing shared student housing within the locality which would contribute towards the Council's housing land supply and would not result in a demographic imbalance. These benefits carry significant weight in favour of the proposal.
60. I have also found that the development would not result in a significant adverse impact on the living conditions of existing local residents. Nor would it result in material harm to green space. These neutral impacts therefore carry no weight.
61. Consequently I consider that there are no adverse impacts which significantly or demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework as a whole. I therefore conclude that the proposal represents sustainable development and that permission should be granted in accordance with the presumption in favour of sustainable development.

### **Conditions**

62. I have considered the conditions suggested by the Council in light of the advice given in the Planning Practice Guidance (PPG). As such I impose most of them amending some wording where necessary in the interests of precision and enforceability. I am satisfied that the conditions set out in my decision meet the tests within the PPG.
63. I attach a condition specifying the approved plans as this provides certainty. I have included the materials plan in this list and do not consider that a separate condition on this is necessary. A condition requiring further drawings of specific features on the building is necessary in the interests of the character and appearance of the area. In addition a landscaping condition is also necessary to ensure the character and appearance of the area is enhanced.
64. I attach conditions on drainage, contamination, floor levels and flood related measures, to reduce the risk of flooding and protect the water environment. I also attach a condition requiring the submission of a foundations scheme to ensure that any penetrative methods of installation such as piling, do not result in an unacceptable risk to groundwater. A condition requiring a sustainability statement is necessary in the interests of climate change.
65. To ensure that future occupants' living conditions are acceptable I attach conditions requiring suitable bin storage, sound insulation and security measures including CCTV. Conditions ensuring that the development is only occupied by students and is managed in accordance with a Student Accommodation Management Plan, are necessary due to the specific nature of

the accommodation and in the interests of the living conditions of neighbouring residents. In addition restricting construction site working hours are necessary to safeguard the living conditions of existing local residents from disturbance during the construction period.

66. I attach a condition requiring the inclusion of measures for bats and birds in the interests of protecting wildlife. In addition a condition requiring lighting details is reasonable to ensure the security of future residents is acceptable and there is minimum disturbance to local wildlife, though I do not include reference to additional lighting as this is unnecessary.
67. Conditions requiring adequate cycle storage and a travel plan are necessary in the interests of promoting the use of sustainable transport. In addition the proposal would provide for car free student accommodation. As such a condition requiring that no resident of the development be allowed to obtain a resident's parking permit is not necessary or reasonable and furthermore this can be achieved through other regulatory means. As the site would provide vehicle parking on site, albeit that this would be extremely limited and would be to facilitate the operation of the units I include a condition for a parking management plan to provide certainty on this matter.
68. Finally I impose a condition requiring that the post archaeological investigation assessment is completed, in the interests of advancing the understanding of the historic environment.

### **Conclusion**

69. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

*Y. Wright*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1339(2)-P08d, 1339(2)-P09e, 1339(2)-P10d, 1339(2)-P11d, 1339 (2)-P12a, 1339(2)-P13c, 1339(2)-P14c, 1339(2)-P15c, 1339(2)-P16c, 1339(2)-P17c and 1339 (2) P19a.
- 3) Development shall not commence until large scale (e.g. 1:20) drawings including sections showing typical design details which shall include curtain walling, window treatment (including sections and reveals) roof edges, balustrades, vents, grilles and rain water goods, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Development shall not commence until details of foul and surface water drainage, with exceedance flow routes clearly shown, has been submitted to and approved in writing by the local planning authority. No flat shall be occupied until the drainage has been installed in accordance with the details approved.
- 5) The development shall not commence until details of a Sustainable Drainage System (SuDS), including the filtration of any water entering the Old River Soar, has been submitted to and approved in writing by the local planning authority. No flat shall be occupied until the SuDS has been installed in accordance with the details approved.
- 6) Prior to the commencement of development or any phase of development, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority unless the authority is satisfied in writing that any or all of the components are not applicable to a particular phase or stage of development:
  1. A preliminary risk assessment which has identified:
    - a) all previous uses;
    - b) potential contaminants associated with those uses;
    - c) a conceptual model of the site indicating sources, pathways and receptors; and
    - d) potentially unacceptable risks arising from contamination at the site.
  2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and

identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

- 7) Development shall not commence until details of the methods of piling or any other foundation designs using penetrative methods have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the agreed details.
- 8) Development shall not commence until the precise details of floor levels and flood resilient and resistant measures have been submitted to and approved in writing by the local planning authority. No flat shall be occupied until these details have been implemented in accordance with the approved details.
- 9) Development shall not commence until a sustainability statement detailing energy systems (such as community heating and combined heat and power systems) and insulation has been submitted to and approved in writing by the local planning authority. No flat shall be occupied until the measures approved have been implemented.
- 10) The development shall not be occupied until the post archaeological investigation assessment has been completed in accordance with the programme set out in the submitted Written Scheme of Investigation, reference NGR: SK 578 038. The scheme shall include: (1) an assessment of significance and research questions; (2) provision for post investigation assessment; (3) provision for the analysis, publication and dissemination of results and archive deposition secured.
- 11) The development shall not be occupied until 6 bat bricks/tiles/box and 15 swift bird boxes have been incorporated within the elevations of the proposed building in accordance with details first submitted to and approved in writing by the local planning authority. They shall be retained thereafter.
- 12) The development shall not be occupied until all external lighting to be used has been installed in accordance with details first submitted to and approved in writing by the local planning authority. It shall be retained thereafter in accordance with the approved details. The lighting should be designed to cause minimum disturbance to protected species that may inhabit the site and to provide security for residents.
- 13) The development shall not be occupied other than as student accommodation. Other than staff associated with the management, maintenance and security of the development, no person other than a full time student attending the University of Leicester or De Montfort University (or such other higher/further educational establishment as may be approved by the local planning authority) shall occupy any part of the development at any time. At no time shall more than 279 students occupy the development. The owner, landlord or authority in control of the development shall keep an up to date register of the name of each person in occupation of the development together with course(s) attended, and shall make the register available for inspection by the local planning authority on demand at all reasonable times.

- 14) The development hereby permitted shall at all times be managed and operated in full accordance with a Student Accommodation Management Plan first submitted to and approved by the local planning authority.
- 15) No development or any phase of development shall be occupied until a Travel Plan has been submitted to and approved by the local planning authority. The approved Travel Plan shall be implemented and operated for the lifetime of the development unless otherwise agreed by the local planning authority.
- 16) No development or any phase of development shall be occupied until secure covered bicycle parking facilities have been provided (at a rate of 1 space per 2 bedspaces plus 1 space per 20 bedspaces for visitors) in accordance with details that have been submitted to and approved by the local planning authority. The bicycle parking spaces shall be retained thereafter.
- 17) No development or any phase of development shall be occupied until hard and soft landscape works have been implemented in accordance with details first submitted to and approved by the local planning authority.
- 18) No development or any phase of development shall be occupied until bin storage has been implemented in accordance with details first submitted to and approved by the local planning authority.
- 19) No phase of the development shall be occupied until of a scheme of CCTV for that phase has been implemented in accordance with details that have first been submitted to and approved by the local planning authority. The details shall include the location and full specification of cameras (detailing view paths) and support structures.
- 20) No part of an individual phase of the development shall be occupied until a scheme of measures to enhance the security of that phase has been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority. The approved scheme shall thereafter be retained.
- 21) No flat shall be occupied until a Sound Insulation Scheme to protect future residents, has been implemented in accordance with details first submitted to and approved by the local planning authority, prior to the commencement of the development.
- 22) No construction or demolition work, other than unforeseen emergency work, shall be undertaken outside of the hours of 0730 to 1800 Monday to Friday, 0730 to 1300 Saturday or at any time on Sundays or Bank Holidays, unless the methodology has been submitted to the City Council Noise Team. The methodology must be submitted at least 10 working days before such work commences and approved by the City Council Noise Team. Should any unforeseen emergency work need to be undertaken the City Council Noise Team shall be notified as soon as is practical after the necessity of such work has been decided by the developer or by anyone undertaking the works on the developer's behalf.

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Grant of Counsel

Instructed by Leicester City Council

#### He called:

Cllr Sarah Russell

BA degree in Politics and International Relations

Leicester City Council

Mr Nick Logan

MSc degree in Urban and Regional Planning

Leicester City Council

Mr Ian Jordan

Degree in Town and Country Planning

Leicester City Council

Mr Steve Brown

BA Honours degree in Urban and Regional Planning

Leicester City Council

### FOR THE APPELLANT:

Mr John Litton QC of Leading Counsel

Instructed by Chris May of  
Shakespeare Martineau

#### He called:

Mr Gary Holliday BA (Hons) MPhil CMLI

FPCR Environment and Design Ltd

Mr David Prichard BSc MA MRTPI

Marrons Planning

### INTERESTED PARTIES:

Miss Emma Jennings

Local resident

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 List of appellant witnesses
- 2 List of Council witnesses
- 3 Council letter of Inquiry notification
- 4 List of addresses where Council letter of Inquiry notification was sent
- 5 Email from Council including a representation received 21 June 2016 from Mr B K Rana
- 6 Signed Statement of Common Ground
- 7 Appeal plans as determined by the Council in A3 format
- 8 Draft conditions (superseded by updated list of conditions)
- 9 Council supplementary proof of evidence for Mr Ian Jordan
- 10 Council supplementary proof of evidence for Mr Nick Logan
- 11 Council supplementary proof of evidence for Mr Steve Brown
- 12 Appellant supplementary proof of evidence for Mr D Prichard (including appendices)
- 13 Appellant supplementary proof of evidence for Mr D Prichard – maps and plans
- 14 Leicester City Council Residential Amenity Supplementary Planning Document 2008
- 15 List of appellant documents
- 16 Opening statement – Mr Litton (for the appellant)
- 17 Opening statement – Mr Grant (for the Council)
- 18 Court of Appeal decision 17 March 2016: Suffolk Coastal District Council v Hopkins Homes Limited v Secretary of State for Communities and Local Government
- 19 Letter from SSK and MK Properties
- 20 Mr Prichard proof of evidence appendices 1-13
- 21 Mr Prichard proof of evidence appendices 14-22
- 22 Council notification letter of Inquiry for September, including a list of addresses where notification was sent, media advert and site notice
- 23 Grange Lane/Oxford Street development planning permission (Council ref: 20151047)
- 24 Grange Lane/Oxford Street development approved unilateral undertaking
- 25 Photographs of Bede Park from 20 July 2016 to 5 September 2016
- 26 Photographs of Bede Park from 6 September 2016 to 28 September 2016
- 27 Agreed list of conditions
- 28 Appellant compliance statement - Regulation 122 of the Community Infrastructure Levy 2010 (as amended)
- 29 Noise complaints regarding the existing CODE development



- 30 Letter to CODE from the Council regarding a noisy tenant dated 19 February 2015
- 31 Letter from Yateley Medical Centre regarding a noisy tenant and the impact on a student at the existing CODE development
- 32 Green space distances to Grange Lane/Oxford Street development
- 33 Council non-compliance statement - Regulation 122 of the Community Infrastructure Levy 2010 (as amended)
- 34 Updated ward data for open space, dated September 2016
- 35 Closing submissions on behalf of the Council
- 36 Closing submissions on behalf of the appellant
- 37 Costs application on behalf of the appellant
- 38 Response to costs application on behalf of the Council
- 39 Signed and dated Unilateral Undertaking