
Appeal Decision

Hearing Held on 5 December 2017

Site visit made on 6 December 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 27 December 2017

Appeal Ref: APP/A0665/W/17/3178946

Land at Hoole Way, Chester CH1 3EW

- 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 Ben Roberts of PJ Properties (Chester) Ltd and Morbaine Limited against the decision of Cheshire West & Chester Council.
 - The application Ref 16/05458/FUL, dated 7 December 2016, was refused by notice dated 5 April 2017.
 - The development proposed is the erection of a student accommodation development with associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a student accommodation development with associated landscaping at land at Hoole Way, Chester CH1 3EW in accordance with the terms of the application, Ref 16/05458/FUL, dated 7 December 2016, subject to the conditions in the attached schedule.

Application for costs

2. At the Hearing an application for costs was made by Mr Ben Roberts of PJ Properties (Chester) Ltd against Cheshire West and Chester Council. This application is the subject of a separate Decision.

Procedural Matters

3. At the start of the Hearing, the appellant wished to submit three documents. The first was a plan comparing the proposed development with an office development that was granted planning permission by the Council in August 2017¹; the second a letter; the third a rebuttal. These documents were not considered by the Council in their determination of the planning application nor had the Council been able to consider them prior to the Hearing. After some discussion between the main parties, the appellant decided not to submit the second and third documents. In the interests of fairness and natural justice, I adjourned the Hearing to allow the main parties to discuss the plan. Upon resuming the Hearing I heard that the plan² was a factual comparison between the office development and the appeal scheme. It sought to overcome a number of factual errors that had been identified, and agreed between the

¹ Council Application Ref: 17/02289/REM

² Document 1

main parties, to the plans found in Appendix 4 of the Council's Appeal Statement. As such, a true comparison could not be made based on the plans in Appendix 4. As the submitted plan does not change the proposed development, I have it into account in reaching my decision.

4. At the Hearing there was considerable discussion about the enforceability of a suggested planning condition for a Student Management Plan (SMP). Thus, I asked the parties, without prejudice to their respective cases, to discuss and submit an agreed version of a planning condition for a SMP no later than 8 December 2017. In the interests of fairness and natural justice, upon my request, the Council consulted interested parties, for a period of 10 days, inviting any comments on the agreed version. I have had regard to the responses received in arriving at my decision.

Main Issues

5. The main issues are the effect of the proposed development on: (i) the character and appearance of the area; and (ii) the living conditions of nearby residents, in particularly those on Black Diamond Park, with regards to daylight, sunlight, privacy and noise and disturbance.

Reasons

Character and appearance

6. Hoole Way (A56) is a main arterial route in and out of Chester city centre. The road links to the M53 motorway to the east. The Hoole Way approach to the city centre is characterised by a variety of forms of development, and by buildings of no one fixed style, scale or finish. This reflects the mix of residential, commercial, industrial, community and leisure uses that make up the area. Next to the appeal site is the Royal Mail sorting office. Traditional terraced residential properties are to the north-west, while a relatively modern high density residential development is to the north on Black Diamond Street and Black Diamond Park. Properties in these two roads are a mix of two, three and four storeys high. Having regard to these factors, the appellant regards the appeal site as being in a transitional zone in terms of land use and the scale and massing of the buildings.
7. Hoole Bridge extends over the Chester to Holyhead and Chester to Liverpool railway line. From the bridge, the substantial scale of the three ten storey high towers of St Anne's, St Oswald's and St George's dominate the skyline, which also includes long-ranging views of Chester Cathedral. The traffic light controlled junction of Hoole Way and Black Diamond Street forms a wide open vista, which in tandem with the site's location on Hoole Way marks the appeal site as a prominent gateway in and out of the city.
8. It has been a longstanding aspiration of the Council to see this site developed in suitable manner. The appeal site is currently being used for pay and display car parking³. Although there is some concern about where these cars would go if the appeal scheme is built, there a number of public car parks near to the city centre. The Council also accepts that the continued use of the site for employment purposes is not a viable option and that its loss would not limit the quantity and range of buildings available for employment uses. There is no evidence before me that contradicts that conclusion.

³ Council Application Refs: 15/00441/FUL and 16/05304/FUL

9. The Chester Characterisation Study (CCS) identifies the appeal site as being within an area with a negative character (sub-area 'P2'). This includes the three towers. The CCS explains that the urban form lacks coherence and identifies the towers as 'key detractors' which dwarf the Cathedral. It is said that there are few large-scale development opportunities in the area, but that *there could be an opportunity for some height on either side (but especially the northern side) if development was appropriately designed and mindful of key views.*
10. Policy ENV6 of the Chester West and Chester Council Local Plan (Part One) Strategic Policies (Local Plan) sets out that *the Local Plan will promote sustainable, high quality design and construction. Development should, where appropriate: respect local character and achieve a sense of place through appropriate layout and design.*
11. The Council's Supplementary Planning Document: Houses in Multiple Occupation and Student Accommodation (SPD) establishes a number of criteria which specifically relate to purpose-built student accommodation (PBSA). Paragraph 3.4 criterion C states that *"the layout, appearance, scale, height and massing of new development must respect its setting and not unacceptably harm the character of the surrounding area."* The supportive text to this criterion explains that *"taller, higher-density purpose-built student accommodation will not normally be appropriate within or adjoining existing low-rise residential areas and should be in keeping with the character of the area."* Criterion F of the SPD states *"development must reflect high quality architectural design and sustainable construction."*
12. The highest point of the proposed building would be at the corner of Hoole Way and Black Diamond Street. The height of the building would decrease in height to the rear and towards Hoole Bridge. Two large cut away sections would result in the building taking on a 'F' shaped footprint. Despite this, the proposed building would rise considerably above the two and three storey properties on Black Diamond Street and Black Diamond Park near to the appeal site. They are all low-rise forms of development which form part of an area with a varied context. This context also includes the three towers. While they are not immediately next to the appeal site, they are nearby and the proposed building would be viewed in conjunction with them from Hoole Way, Brook Street and St Anne Street. Around each of the three towers I observed smaller scale development.
13. Comparisons are drawn to the 2017 office scheme. It is an undisputed point that the site has been marketed since 2002 for an office use, but without any success. As a result, the Council attached little weight to the outline⁴ planning permission and it was confirmed at the Hearing that they also give little weight to the scheme approved in August 2017. The appellant accepts in the current market that there is little likelihood of the office scheme being developed. However, this scheme does form a set of physical parameters of what the Council consider to be acceptable insofar as the scale, massing and height of a building. This was confirmed in the delegated report associated with this application⁵. In height, the proposed building would be around 4% greater than the office scheme, while its massing would be roughly 21% lower.

⁴ Council Application Ref: 14/00616/OUT

⁵ Appellants Statement of Case, Paragraph 5.4 and Appendix 3

14. The Cheshire West and Chester Design Review Panel (Review Panel) agreed that *a great modern building is possible for the site, articulating the arrival into Chester*. Furthermore, it advocated *a bold and brave architectural design approach, where form is allowed to follow function, with a clear beginning, middle and end*.
15. The Design and Access Statement explains how the proposed building has evolved in response to the points made by the Review Panel and how it relates to its context. The front of the building would provide a strong edge to Hoole Way and the open junction, without detracting from its open nature. On approach from the east and west, the building would partly be screened by other development or be viewed as part of a transition between the Royal Mail building and the three towers due to its stepped height. The proposal would also play a role in screening two of the three towers. I therefore consider that it would positively change the arrival into the city from the east by forming a pleasing modern emphasis that offers vertical and horizontal interest. The double height entrance and common room would clearly define the only point of entry to the building and result in an active functional point of reference that would form a clear sense of place. The building would also mark the edge of the city centre before crossing Hoole Bridge.
16. The proposed layout would make efficient use of the site and ensure that the scale and massing of the built form would not universally extend across the rear of the site. This would allow an amenity landscape area to be formed. Further landscaping would line the site boundaries with Black Diamond Street and Black Diamond Park. The proposed use of materials would add interest to each elevation and draw reference from a range of buildings in Chester.
17. In my judgement, even though the proposed building would be next to low-rise residential properties, it would be in keeping with the character and appearance of the area which has a blend of different scaled development, due to its design, height, mass and scale. I do not consider that the building would be incongruous and dominant.
18. Whilst the proposed development would sit just outside the City Centre Conservation Area (CCCA), the Council did not raise any specific concerns about the effect of the development on the CCCA. The main parties consider that the proposed building, while different to nearby buildings, would preserve the character and appearance of the CCCA. I agree with this view.
19. For these reasons, on this issue, I conclude that the proposed development would accord with Local Plan Policy ENV6 and criteria C and F of the SPD; which together, among other things, seek development to be of a high architectural design that respects local character, in terms of its layout, appearance, scale, height and massing to achieve a sense of place.

Living conditions

20. To the north of the appeal site are 1 to 5 and 140 to 144 Black Diamond Park. The properties are a mix of two and three storeys high. Nos 1 to 5 and Nos 140 to 144 have windows that overlook the appeal site on either the ground and first floor or the first and second floor. To the north-west of the appeal site are the rear elevations of even-numbered properties on Black Diamond Street. The Council's concerns relate to the proximity of the proposed building to properties on Black Diamond Park and the building's height and mass. It is

submitted that the proposal would result in an unacceptable significant impact which would be overbearing. Residents' concerns relate to noise and disturbance, daylight, sunlight and privacy.

21. The appeal scheme would, at its closest point, be roughly 18 metres from the front elevations of Nos 1 to 5 and 140 to 144. This distance would be the same as the approved office scheme. The proposed building would however be taller and of a different form. Notwithstanding this, there would be a notable difference. Immediately in front of Nos 1 to 5 and 140 to 144 there would be two wide recessed sections. These would provide relief and increase the interface distance to 38 metres. As a result, it would not have an overbearing effect due to the proximity of the building to the nearby residential occupants. Moreover, a greater amount of daylight would be able to reach rooms in the front elevations of Nos 1 to 5 and 140 to 144. The proposed layout would also provide future occupants of the building with views into the open amenity space and the parking area.
22. Analysis prepared by the appellant in respect of sunlight and overshadowing confirms that the proposed building would offer better living conditions than the office scheme throughout the day at the spring and autumn equinox. The improvement would be felt most in the two storey dwellings of Nos 3, 142 and 143 and their ground floor habitable rooms. Outside of the summer months the proposal would not lead to overshadowing after the middle of the day, while no overshadowing would occur at all during the summer months. Occupiers of Nos 1 to 5 and 140 to 144 would therefore receive an acceptable standard of sunlight throughout the day and across the year.
23. Side on to the appeal site are 2, 4 and 6 Black Diamond Street. There are habitable room windows in their rear elevations. Due to the siting, scale and massing of the proposed building there would be a change in the amount of sunlight received and the extent of shadowing. At worst, between September and March, the effect would be throughout the morning. However, the harm caused would lessen towards the middle of the day and there would be no adverse effect between April to August.
24. Windows are proposed in the elevations closest to Black Diamond Park. They would serve communal kitchen and living spaces used by clusters of students. When questioned, Mr Nutter agreed that obscure glazing would overcome residents' privacy concerns given the proposed relationship. This could be dealt with by way of a suitable planning condition.
25. The proposed building would be occupied throughout the day. While the Council make a comparison to the approved office scheme, in terms of the times of day when the building would be used, I do not have any details of this. I do not also consider that the Council has demonstrated why the activity associated with the building's occupation by students would equate to an overbearing effect that would be harmful to residents living conditions, even if the two uses would be different.
26. Many of residents' concerns about noise and disturbance relate to the potential effect. The single point of entrance and exit facing Hoole Way, offers the greatest potential for noise and disturbance due to the level of activity that would occur here. Despite this, the entrance would not be near to the majority of residential occupants, and even though there are residents situated around

the Hoole Way and Black Diamond Street junction, the noise environment for this area is different to the quieter conditions towards the rear of the site.

27. Black Diamond Street and St Anne's Street provide pedestrian routes between the appeal site and the University campus. Thus, there is a likelihood that instances of noise and disturbance could occur along these routes, especially during quieter evening hours when students are returning home. I heard anecdotal evidence that issues have arisen at other PBSA buildings. However, there is no substantive evidence to support this in the form of specific addresses or complaints records.
28. To tackle any potential issues, a SMP is proposed. The suggested condition includes a provision to manage waste disposal and noise so that the effect of noise disturbance to neighbouring residential occupiers is minimised. In response to points on the enforceability of the condition, the updated version includes provisions to agree a complaints and investigation procedure with sanctions. It also includes liaison details and out of hours arrangements and arrangements for student pick up and drop off periods. Despite concerns about the policing of the SMP and the role of residents in this, the condition offers enough scope to allow the precise details of the SMP to be agreed, so that the Council could, if necessary, identify any breaches of planning control. I note the view that the Northgate Point management plan is useless, but I do not have details of this before me.
29. I consider that the suggested planning condition would satisfy the six tests set out in Framework paragraph 206. Thus, subject to its imposition, I consider that potential noise and disturbance issues would be satisfactorily mitigated so that there would be no significant adverse impacts felt by residents. While, there are suggestions that financial penalties should be imposed on the appellant if the SMP is ineffective, it would be a matter for the Council in the first instance to decide whether there has been a breach of planning control and whether it is expedient to pursue this.
30. I conclude, on this issue, that proposed development would accord with Local Plan Policy SOC 5 and Framework paragraph 17; which jointly seek to ensure that development that gives rise to significant adverse impacts on health and quality of life including residential amenity, will not be allowed.

Other matters

31. Third party representations question the need for the proposed student accommodation. This point was also made during the Hearing by interested parties in attendance. Councillor Dixon and Mr Nutter offered contrasting oral evidence about the availability of student accommodation locally. However, the Council's development plan does not contain a policy relating to need and there is no alternative substantive evidence before me other than the appellant's Chester Student Accommodation Review.
32. Considerable concern was expressed by residents about the pressure for parking spaces in the area throughout the day for various geographic and financial reasons. Mr Nutter did not disagree, and based on my observations on three separate days, I do not disagree either. I heard some demand stems from students in nearby accommodation, but there is no substantive evidence to support the claims made.
33. A possible solution may be the introduction of a 'Residents Only Parking Zone',

but I understand that there has not been enough support for this to date. In any event, occupants would, except for people with disabilities, be discouraged from bringing cars to the building. There would also be a series of penalties for occupants found to be in breach of the SMP. While visitors could park nearby and they would not be subject of the SMP, they would not be in the area all the time unlike the occupants of the proposal who would spend long periods of time there. Hence, I do not consider that the proposal would place further undue pressure on the availability of parking spaces on nearby streets. As car parking provision on the appeal site would be limited to persons with disabilities and for drop off and pick up periods, dedicated electric vehicle charge points would not be suitable for this particular development, despite their role in the transition to a low-carbon future.

34. The site is in an accessible location on the edge of the commercial centre of Chester, near to bus and railway services and the university campus. Thus, future occupiers are close to a range of facilities and services on their doorstep. While, some future occupants may need to travel to other parts of the city, I am not convinced that they would experience difficulties accessing them. A Travel Plan could be conditioned to encourage tenants to use public transport and other non-car modes, such as bicycles, given the proposed 80 no. bicycle stands. Noting the concerns around the safe use of Hoole Bridge, I observed the use of the footways over the bridge on three occasions. While they are well used and there is a limited space available, the proposal would not necessarily result in an added risk to the safety of road users.
35. Planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be relevant considerations.
36. Although it is suggested that the rental market of PBSA is unethical, there is no substantive evidence before me to support this point. Residents suggest that the proposal should finance local infrastructure; and that the development would prevent a new footway and cycle bridge from coming forward. However, there is no evidence or policy requirement before me to show that a financial contribution for local infrastructure would meet the tests set out in Framework paragraph 204. There is also no evidence to suggest the appeal scheme would prevent a new route from being constructed.
37. Residents suggest that the site should be used to build market housing, affordable housing or elderly accommodation to address a need. However, the proposal would respond to the Council's strategy to free up existing properties used by students as Houses in Multiple Occupation. This has the potential to free up these properties for other sections of the community to use.
38. An appeal decision in Durham is referred to, but I do not have an address, case reference or the full circumstances of the case to draw any meaningful comparison to the appeal scheme.

Conclusion and Conditions

39. I have had regard to the conditions that were suggested by the Council in the event that I was minded to allow the appeal and the appellant's comments on them. I have imposed a condition specifying the approved plans as this provides certainty.

40. Conditions to ensure that any contamination on the appeal site is properly investigated and remediated are necessary given the site's prior use and the proposed end use. They are also necessary to ensure that the development can be carried out safely without unacceptable risks. I have imposed conditions to secure details of piling or subsurface vibration ground techniques; an air quality assessment; external lighting; and equipment to control the emission of fumes and odour. I have imposed a condition to secure a construction method statement (CMS). These are all necessary in the interests of neighbouring occupants' living conditions. The CMS condition means that specific conditions to control the hours of construction and delivery, electricity generators, dust, and the site compound are not necessary. To preserve the privacy of residents living in Black Diamond Park, I have imposed a condition requiring the use of obscure glazing in the elevations nearest to them.
41. I have imposed a condition requiring a SMP. This would, among other things, need to set out the day-to-day operation of the appeal scheme to ensure interaction takes place with residents and measures to ensure the SMP would be enforced in the event of non-adherence. So that future occupants of the proposed building have satisfactory living conditions, I have imposed a condition requiring the submission of a sound insulation scheme.
42. A condition is necessary, in the interests of the character and appearance of the area, to secure details of the materials to be used for the proposed building and a landscaping scheme. In the interests of the safe and efficient use of the highway, a condition is necessary in respect of works to the public highway. A condition is necessary to secure on-site car parking in the interests of highway safety. I have imposed conditions to secure cycle parking and a travel plan to promote and encourage the use of sustainable modes of transport.
43. I have imposed a condition for a drainage scheme to prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and to ensure that there is no pollution of or detriment to the environment. A condition is necessary, in the interests of visual amenity, due to the appeal site's location, to control the use of external television or satellite antenna equipment or electronic communications equipment. I have also imposed a condition concerning the use of the building as the effect of car parking, open space, education and affordable housing have been specifically considered in relation to the proposed use and not for any other use.
44. For the reasons set out above, I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AL-90-001 Existing site plan; AE-00-XX-XX-001 Revision I Proposed Elevations; AE-00-XX-XX-002 Revision G; AL-00-XX-XX-001 Revision J Proposed Floor Plan Ground; AL-00-XX-XX-002 Revision F Proposed Floor Plan – Level 1; AL-00-XX-XX-003 Revision F Proposed Floor Plan – Levels 2 to 5; AL-00-XX-XX-004 Revision H Proposed Floor Plan – Level 6; AL-00-XX-XX-005 Revision G – Proposed Floor Plan – Level 7; AL-00-XX-XX-006 Revision D - Proposed Roof Plan.

Pre-commencement

- 3) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the local planning authority before the development hereby permitted commences. If any contamination or asbestos is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before the development commences.
- 4) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.
- 5) Following completion of measures identified in any approved remediation scheme, a validation or verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.
- 6) No operations requiring piling or subsurface vibration ground improvement techniques shall be carried out on the site unless, details of the work, monitoring and environmental controls proposed have been submitted to and agreed in writing by the Local Planning Authority. All such works to be undertaken in complete accordance with the approved scheme.
- 7) Prior to the construction of the development hereby permitted a scheme of sound insulation shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of windows, openings and means of ventilation in the buildings hereby permitted and ensure the following internal ambient noise levels are not exceeded and shall apply to all residential properties prior to occupation within the development hereby permitted. The submission should also include all details that will ensure that the external ambient noise level set out below is not exceeded.
 - i) noise levels within habitable rooms during the day (07:00 -23:00hrs) of 35dB LAeq,16hrs;

- ii) noise levels within bedrooms during the night (23:00 - 07:00hrs) of 30dB LAeq,8hrs and 45dB LAm_{ax};
 - iii) noise levels within outdoor amenity areas (gardens, balconies etc.) during the daytime and evening (07:00 - 23:00hrs) should not exceed 50dB LAeq,16hrs;
 - iv) the approved scheme shall be implemented before the building is first occupied and shall be retained at all times thereafter.
- 8) Unless it can be demonstrated via a detailed air quality assessment that the Black Diamond Street and Hoole Way façades of the new building will be in areas which are compliant with the national air quality objectives, prior to the commencement of development a suitable scheme for MVHR (mechanical ventilation and heat recovery) shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include the following:
 - i) in order to minimise the ingress of external air pollution from the Black Diamond Street and Hoole Way façades, the scheme should provide details of how ventilation intakes will be located to the rear of the building;
 - ii) the scheme should also take account of the future maintenance of the air moving equipment to ensure its continued operation; and
 - iii) the scheme shall be implemented in full prior to first occupation of any part of the building hereby permitted and retained thereafter.
- 9) No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the disposal of foul, surface and land water. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.
- 10) No external facing materials shall be used in the construction of the building hereby permitted until details or samples of these materials are submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 11) No development shall take place until detailed plans have been submitted to and approved in writing by the Local Planning Authority in respect of the works required within the highway to form the footway, any lighting works within the highway and traffic regulation orders surrounding the site. The works shall be carried out in strict conformity with the approved details and completed prior to first occupation of the development.
- 12) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) location of the site compound and the loading and unloading of plant and materials;
 - iii) a scheme for electricity generators which includes their location, hours of use, duration of stay on site, sound power level and proposed noise mitigation measures;

- iv) details of external lighting including the hours of operation, location, size, design of luminaires and fittings, type/output of light sources with lux levels and isolux drawings to demonstrate the levels of illumination within the site and the amount of overspill of lighting beyond the site boundaries;
- v) measures to control the emission of dust and dirt during construction; and
- vi) delivery and construction working hours.

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

Pre-occupancy

- 13) Before the development hereby permitted is first occupied a scheme detailing all external lighting equipment shall be submitted to and approved by the Local Planning Authority. The scheme shall include full details of: the hours of operation, location, size, design of luminaires and fittings, type/output of light sources with lux levels, together with isolux drawings to demonstrate the levels of illumination within the site and the amount of overspill of lighting beyond the site boundaries.

The approved external lighting plan shall be implemented in accordance with the approved details and thereafter retained. No other external lighting equipment may then be used within the development other than as approved by the Local Planning Authority.

- 14) Prior to the use hereby permitted commencing, a scheme for the installation of equipment to control the emission of fumes and odour from the premises and a scheme to control any noise arising from the use of the fume and smell extraction equipment shall be submitted to and approved in writing by the Local Planning Authority. The approved schemes shall be implemented in full. All equipment installed as part of the approved schemes shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
- 15) Prior to the building hereby permitted being first brought into use, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives, targets, measures to achieve targets, monitoring, monitoring reporting to the Local Planning Authority, implementation timescales for delivery, the appointment of a Travel Plan Co-ordinator, and measures to review and update the Travel Plan delivery measures to achieve the targets (where not met). The approved Travel Plan shall be implemented and monitored in accordance with the details set out in the approved Travel Plan.
- 16) Notwithstanding the illustrative landscaping masterplan found in the Design and Access Statement Revision H, prior to the building being brought into use, full soft and hard landscaping details shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the following elements:
- planting plans;
 - planting specification (species, plant sizes, proposed numbers / density);
 - hard surfacing materials;
 - boundary treatments;
 - implementation programme; and
 - 5 year management plan;

The landscaping details shall be implemented as approved in accordance with the implementation programme.

Any trees or shrubs planted in accordance with the approved details that fail, die, are removed or become seriously damaged or diseased within a period of 5 years of initial planting shall be replaced with others of similar species in the next available planting season.

- 17) Car and cycle parking shall be provided in according with the approved plans reference AL-00-XX-XX-001 Rev J Proposed Floor plan – Ground prior to first occupation. Details of any external cycle parking shall be submitted to and approved in writing by the Local Planning Authority and erected in accordance with the approved details before the development hereby permitted is first occupied.
- 18) The building hereby permitted shall not be occupied until the windows in the elevations within the red dashed areas found on plan Ref: AE-00-XX-XX-001 Revision I facing Black Diamond Park have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
- 19) Prior to the first occupation or use of the approved development, a Student Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The use hereby approved shall only be carried out in accordance with the approved SMP.

For the avoidance of doubt, the SMP shall include the following:

- i) Details of on-site staffing, including a dedicated property manager during normal office hours supported by designated wardens who will reside at the premises and will deal with any emergencies or incidents outside office hours including night time supervision;
- ii) Details of how the property manager and wardens will liaise with local residents (primarily but not exclusively in Black Diamond Park and Black Diamond Street) throughout each academic year and how residents can make contact in the event of any disturbance, litter, car parking breaches, emergencies or any other management issues;
- iii) The proposed management of servicing and deliveries including arrangements for the drop off/pick up of students and their belongings at the start and end of term;
- iv) Waste disposal and waste management measures;
- v) Details of noise management including measures to ensure that noise disturbance to neighbouring residential properties is minimised. The penalties shall include as an ultimate sanction the termination of a student's lease. The details shall include a complaints and investigation procedure and information as to how third parties can access that procedure.
- vi) Details of how students will be deterred from bringing cars to the accommodation and how tenancy agreements will make provision for penalties to be imposed on students (excluding those with disabilities) found to be parking on - street. The penalties shall include as an ultimate sanction the termination of a student's lease. The details shall

include a complaints and investigation procedure and information as to how third parties can access that procedure.

- vii) Details of how students will be incentivised to use public transport including information within the reception area of key bus and train services as well as key pedestrian and cycle routes to the city centre and relevant campus facilities.
- viii) Details of the ongoing management regime to ensure that all of the elements included in the SMP will be enforced by the operator whilst the development is occupied and to set out the process by which sanctions will be applied in the event of non-adherence.

Post occupancy monitoring and management

- 20) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that Order with or without modification), no external television or satellite antenna equipment or electronic communications apparatus falling within Part 16, to Schedule 2 thereof, shall be erected or installed within the development hereby permitted without the grant of planning permission by the Local Planning Authority.
- 21) The premises shall be used for student accommodation and for no other purpose (including any other purpose in Class C2 or C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)).

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Keith Nutter
Anthony Gill
Ben Roberts
Tony Catherall
David Ogden

Morbaine Limited
Kings Chambers
PJ Properties (Chester) Limited
Day Architectural Limited
Day Architectural Limited

FOR THE LOCAL PLANNING AUTHORITY:

Councillor Alex Black
Councillor Jill Houlbrook
Councillor Gill Watson
Lindsay Shinner
Nial Casselden

Cheshire West and Chester Council
Cheshire West and Chester Council
Cheshire West and Chester Council
Cheshire West and Chester Council
Cheshire West and Chester Council

INTERESTED PERSONS:

Councillor Samantha Dixon
Kathy McGeough
Lea McGee
Emma Hardiman
Christopher Salmon
Martin Johnson
Pauline Johnson
Sarah Judson
Graham Adams
John Finlan
Andy Jansons
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- 1 A3 Comparison plan of Appendix 4, Council's Appeal Statement and Figure 30, Day Architectural Limited Design and Access Statement, Revision H