



Appeal Decision

Hearing held on 11 June 2019

Site visits made on 10 & 11 June 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/Z0116/W/19/3221225

62 Birchwood Road, St Annes, Bristol BS4 4QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by UKS Group against Bristol City Council.
 - The application Ref 18/03784/P, is dated 13 July 2018.
 - The development proposed is the demolition of the existing single dwelling and the erection of a 52-bedroom care home (Use Class C2) with bin/cycle store and parking, with Access, Layout and Scale to be considered.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of the existing single dwelling and the erection of a 52-bedroom care home (Use Class C2) with bin/cycle store and parking, with Access, Layout and Scale to be considered at 62 Birchwood Road, St Annes, Bristol BS4 4QN in accordance with the terms of the application, Ref 18/03784/P, dated 13 July 2018, subject to the conditions in the attached schedule.

Application for costs

2. At the Hearing an application for costs was made by UKS Group against Bristol City Council. This application is the subject of a separate Decision.

Procedural matters

3. The appeal arises from the Council's failure to give notice of a decision on the application within the prescribed period. However, in an officer report dated 7 May 2019, the Council sets out that it would have refused the application on the basis that it has failed to demonstrate that the development would provide safe and inclusive access to the site for all potential users. The report also raises concerns about the potential for overspill parking and the capacity of the local highway network to accommodate this.
4. The appeal relates to an application for outline planning permission that sought approval for access, layout and scale. Drawings have been provided indicating the access and layout of the site that are a formal part of the proposal and I have considered these matters on the basis of those drawings. Floor plans and elevation drawings have been provided indicating the scale of the development and I have considered scale accordingly. However, as appearance is a reserved matter, it was agreed at the hearing that the submitted elevation

drawings¹ were for illustrative purposes only. Whilst they are indicative of scale, they are not, therefore, listed in my plans condition. There is also drawing 17.002-108 but it was confirmed at the hearing that this is identical to 17.002-500 and is, therefore, superfluous.

5. At the hearing, I was provided with a copy of drawing 17.002-100 A amending the 'red-line' extent of the appeal site. The amendment ensures that all necessary works are included within the appeal site. The appellant confirmed that the site ownership certificates remained valid and the Council indicated that consultation on the amended plan had taken place. Therefore, I have considered the appeal on the basis of this drawing.
6. The Statement of Common Ground includes drawing No. 1825/08A that makes amendments to the access from those shown on the site layout drawing, No. 18.002-102 D. The drawing does not alter the point of access or site layout but proposes a footway into the site with a shallow kerb and bollards instead of the previously proposed overrunnable shoulder.
7. The drawing was submitted late in the appeal process and, whilst considered by the Council, has not been subject to any formal consultation. I have considered the amendment in the context of *Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]*. In terms of the overall scheme the amendments are minor in nature and are, primarily, designed with the intention of improving pedestrian safety for future users of the development, by influencing vehicle behaviour within the confines of the site. Moreover, the amendments do not significantly alter the way in which vehicles would be able to access or exit the site, nor the extent to which parking restrictions may or may not be required on Searle Court Avenue.
8. With regard to these matters, I find that injustice would not arise to any interested party if I were to consider the appeal on the basis of drawing 1825/08A and I have proceeded accordingly.
9. At the hearing, I was provided with a signed planning obligation. However, the document was not properly dated, it contained some typographical errors and did not include a plan identifying the site. I have subsequently been provided with a properly dated copy with the identified errors corrected.
10. At the hearing, it was confirmed that Historic England had not been consulted. As the proposal has the potential to affect the setting of the Grade II* listed St. Anne's Tunnel West Portal, I requested that the Council carry out the necessary consultation. Historic England responded confirming that they did not wish to comment.
11. Since the hearing, the Government published new Planning Practice Guidance: Housing for Older and Disabled People. I sought the views of the main parties as to the implications for the appeal but no substantive comments were made.

¹ Drawing Nos. 17.002-103 and 17.002-104

Main Issues

12. The main issues are:

- (i) The effect of the proposal on highway safety, with particular regard to the access arrangements and site layout, and the effect on on-street parking.
- (ii) The effect on the living conditions of nearby residents with particular regard to noise and disturbance.
- (iii) The effect on the character and appearance of the area.
- (iv) Whether the site is in an appropriate location for a care home, with particular regard to accessibility.

Reasons

Highway safety

- 13. The site is accessed from Birchwood Road, a busy vehicle and pedestrian thoroughfare, via the lightly trafficked cul-de-sacs of Woodcroft Road and Searle Court Avenue. The Council confirmed at the hearing that the junctions of Searle Court Avenue with Woodcroft Road, and Woodcroft Road with Birchwood Road could safely accommodate traffic attracted to the site. I saw that parking restrictions prevent vehicles parking close to these junctions and there is no substantive evidence to lead me away from this position.
- 14. The site is at the far end of Searle Court Avenue, a straight, relatively level residential street lined with dwellings. There are numerous private drives. Between these drives, on-street parking occurs and I understand from the representations, corroborated by my own observations, that there is seldom spare on-street capacity, especially during the evenings and weekends. I can appreciate that there is also additional pressure in the vicinity when parents transport their children to a nearby nursery.
- 15. That said, the alignment of the road means that vehicles, including delivery and refuse collection vehicles can pass along Searle Court Avenue. This currently happens to service the existing dwellings, albeit that a lack of turning facilities means that those vehicles must usually reverse in one direction. On this basis, I find that vehicles visiting the care home would be able to safely reach the point of access between Nos. 20 and 21 Searle Court Avenue. The topography in the area is such that access/egress would be more challenging in icy conditions, but there is no substantive evidence that it could not be adequately managed should some form of emergency arise at the site.
- 16. The proposed access point currently serves No. 21 Searle Court Avenue. The land, and existing access drive falls from the highway whereas the appeal site is significantly raised relative to this point. Significant modifications would be required to maintain the current access arrangements for No. 21, but there is no clear evidence that this could not be achieved, with details finalised via a specific planning condition and the approval of landscaping details, which is a reserved matter.
- 17. The alignment of the access means that conventionally sized refuse vehicles could not access the site whilst cars were parked close to the access point on Searle Court Avenue. In this scenario, a Traffic Regulation Order would be

- required to impose parking restrictions on Searle Court Avenue in order to allow the site to be properly serviced. However, the appellant contends that a delivery and service vehicle management plan could be required to ensure that only smaller collection vehicles are used, and it was confirmed that a number of waste contractors in the area could comply with such a requirement.
18. A breach of an agreed plan could result in a breach of a planning condition over which the Council could take subsequent action. However, the Council contends that as any action would be retrospective, and the harm would have already occurred, such an approach is not suitable. I can accept that the consequences of a breach of a planning condition designed to safeguard highway safety may be more serious than some other breaches of planning control. However, I am satisfied that suitable enforcement mechanisms would be available in the event of a breach to deter subsequent occurrences.
19. The proposed access would take a sharp turn into the site and would climb up to a parking area. The width and alignment is such that two cars could only just pass on the access. Service vehicles, whatever size, would not be able to pass another vehicle and would be required to wait. There is limited information about likely traffic movements within the site and, in practice, car drivers may also choose to wait for oncoming traffic so as to achieve a cleaner exit. This could lead to some potential for vehicle conflict. Given the number of parked cars on Searle Court Avenue, in some circumstances a vehicle waiting to access or leave the site may have to reverse along this road or back into the site.
20. However, the level of likely traffic generation, which has been accepted as realistic by the Council, would not result in a high frequency of movements. Whilst the increase in traffic along Searle Court Avenue compared to the existing situation would be significant, overall flows would remain low, so the likelihood of conflict arising is limited. Accordingly, I find that the restricted nature of the access and consequential potential for a conflict of vehicle movements to arise would not harm highway safety.
21. The amended plan proposes a small length of footway a short distance into the site. From its termination, pedestrians would have to cross the car park and servicing area. I note that the Government has withdrawn Local Transport Note 1/11 relating to shared surface roads and given the characteristics of potential users of the site this is relevant. However, whilst the footway would not lead to the entrance into the building, the Council's main area of concern is the access point to the site. Visibility from the end of the footway along the access and around the servicing/parking area would be better and, in any event, this area would also have to be used by those visiting the site by car, with which the Council has raised no particular concern.
22. Whilst the kerb upstand proposed at the access would be shallower than that usually deployed to protect pedestrians, the proposal also includes bollards. These measures would combine to provide physical protection and a visual signal to drivers that pedestrians could be present. The bollards would force vehicles further away from the pedestrian area at the most restricted point and, given the limited number of traffic movements, the evidence does not suggest that it would be particularly unsafe.
23. I note the Council's particular concerns about the shared surface provision in terms of mobility or visually impaired people. Accordingly, I have had due

regard to the Public Sector Equality Duty contained in the Equality Act 2010 which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. However, with regard to the above I find that the evidence does not indicate that the access arrangements would be less safe for people who share these protected characteristics than people who do not so it does not lead me away from my overall findings on this matter.

24. The site would provide a level of parking commensurate with the maximum standards in the Bristol Site Allocations and Development Management Policies Local Plan 2014 (SADMP) Appendix 2 (parking standards schedule) when assessed against the appellants forecast staffing levels, including ancillary and management staff. The trip analysis presented by the appellant also supports the level of parking provision proposed which indicates a robustness in the parking standard. At the hearing, the Council indicated that it had run its own analysis of traffic generation and this led to similar results.
25. However, against this, I can accept that care homes can be less predictable in terms of staffing levels and consequent trip generation than many other uses. I acknowledge that the operational and locational characteristics of those sites on which analysis of the likely trip patterns has been based may differ from the appeal site. I also understand that very few people use non-car modes to access other facilities, such as the nearby children's nursery, in the immediate area.
26. It is not, therefore, possible to say with any degree of certainty that sufficient parking would exist at the site for staff and visitors, especially at shift changeover times. Any undersupply is likely to result in overspill parking, predominantly on Searle Court Avenue and Woodcroft Road. To some extent there may also be parking on Birchwood Road although the distance from the vehicular entrance and busy traffic characteristics of Birchwood Road, make that scenario is less likely.
27. The existing parking pressures on Searle Court Road are such that at busy times, staff and visitors to the site would likely be forced to park on Woodcroft Road. At quieter times, Searle Court Avenue may be used for overspill parking. I am not convinced that there would be any robust mechanism with which to ensure those cars were moved to the site when spaces became available so this is likely to result in the displacement of local resident's cars onto Woodcroft Road.
28. However, the appellants evidence and my own observations indicate there is greater capacity for on-street parking on Woodcroft Road. I accept that those assessments are only snapshots in time, but there is no substantive evidence to say that the pressure is so great as it is on Searle Court Avenue, so there appears to be some capacity in the area. Whilst the need to park further away from one's home may cause some inconvenience, there is no substantive evidence that additional parking in this location would undermine highway safety.
29. Whilst I have not found that there would be a need for parking restrictions to be imposed around the access, should the Council consider them necessary in the future, this would result in the loss of some parking spaces on Searle Court Avenue. The access arrangements are also likely to result in some reduction of

parking provision at No.21, although, even if it is used as a House in Multiple Occupation, there is no suggestion that the provision would fall below an appropriate level for a dwelling.

30. Concerns have been raised regarding the potential access for emergency services. However, the Council confirmed that standard fire appliances would be able to access the site. It may well be more than one appliance would attend and this may cause congestion as well as making the evacuation of residents more challenging. However, I am mindful that there is another site access via Birchwood Road and the appellant and the Council agreed at the hearing that such a situation would be managed by the fire officer in charge and these concerns would not be a reason to withhold planning permission. I have no reason to disagree.
31. I, therefore, find that the proposal would not result in harm to highway safety. As such, there would be no conflict with those aims of Policies BCS10 and BCS11 of the Bristol Core Strategy 2011 (CS) and Policy DM23 of the SADMP, or the National Planning Policy Framework, which seek to avoid harm to highway safety and that appropriate infrastructure is provided to support growth.

Living conditions

32. The site is surrounded by a number of residential properties which have gardens adjoining the site and windows facing towards the proposed building. From my own observations at the site visit, including an assessment of those newer properties that are not shown on the application plans, I have no reason to disagree with the Council's assessment that the proposal would not harm living conditions by reason of impacts on outlook, shading or privacy. Based on the suggested appearance, obscure glazing would be required in the windows facing towards No. 20 Searle Court Avenue, but this can be considered further through any approval of reserved matters.
33. The use of the building itself would be residential in nature, like the surrounding land uses, and so compatible with the locality. However, it is likely to attract considerably more movement than residential properties and this could cause disturbance to neighbouring residents. In particular, the car park and manoeuvring areas are close to Nos. 20 and 21 Searle Court Avenue, with any impact exacerbated by the height difference between these properties and the site.
34. However, with regard to the likely trip patterns, discussed above, the intensity of use would not be so great as to harm living conditions by way of noise and disturbance from activities on the site. Neighbouring residents have identified that Searle Court Avenue enjoys a particularly quiet residential environment free from regular traffic to the extent that children can play in the street. I accept that this may no longer be possible with an increased traffic flow, but as living conditions would remain acceptable within the dwellings themselves and their gardens, I attach this matter limited weight.
35. There may also be an increase in the intensity of use of the access to Birchwood Road which is close to neighbouring property boundaries. However, there is no substantive evidence that visitors to the site would be likely to create significant noise when using this pedestrian/cycle route. Given the busy nature of Birchwood Road, any additional disturbance from those parking close

to the pedestrian access would be very small and not harmful to living conditions.

36. I note concerns that there could be increased light spill from the site. However, despite the site's location adjacent to Nightingale Valley, there is no substantive evidence that this would be significantly greater than the existing ambient artificial light levels within this urban area so as to cause disturbance to neighbouring residents. Nor is there any clear evidence that there would be significant disturbance by way of odour from refuse bins and the like, despite their proximity to the site boundaries.
37. I, therefore, find that the proposal would not harm the living conditions of neighbouring residents and it would accord with those aspects of CS Policy BCS21 and LP Policy DM29 that seek to safeguard the amenity, privacy, outlook and daylight of existing occupiers.

Character and appearance

38. The site is in a predominantly residential area of small-scale dwellings that front residential streets. The dwellings that line Birchwood Road are varied in appearance. The site is behind these dwellings so views of the proposal and any consequential effect on the character and appearance of the area viewed from here would be very limited. By contrast, the end of Searle Court Avenue is open and there are views across the site to a tree-covered backdrop. Searle Court Avenue and Woodcroft Road, which contain more uniform development, adjoin the wooded area of Nightingale Valley giving this suburban area a semi-rural character.
39. As such, the proposal would undoubtedly have an effect on the appearance of Searle Court Avenue. The change in levels is such that retaining walls would need to be provided at the access, although, even if there are some discrepancies over the relative levels on some of the submitted drawings, they would not be overly high and would be set to the side of the main vista along Searle Court Avenue.
40. The building itself would be large and bulky but, whilst this would be at odds with the smaller scale of the surrounding built environment, it would be sufficiently detached from it so as to avoid being overly imposing on the area. Whilst some of the more open views towards the tree-covered backdrop would be lost, the separation from the street would be sufficient to avoid any particular enclosure of Searle Court Avenue, thereby preventing any harm to the character and appearance of the area.
41. The prevailing suburban character and appearance of the area is important and my attention has been drawn to another appeal² where an Inspector found the preservation of such character and appearance to be important and decisive. However, every case must be assessed on its own merits and, in this case, I do not find that comparable harm would arise.
42. Some trees have been removed from the site and it is possible that the proximity of others to the building would mean they were unlikely to survive alongside the development. However, the appellant's Landscape and Visual

² APP/Z0116/W/17/3169028

Impact Assessment³ indicates that an extensive tree planting scheme would be proposed and this can be considered through the approval of reserved matters.

43. When looking towards the site from Newbridge Road, across Nightingale Valley, it is already possible to see some buildings through gaps in the trees and this would likely be greater at times of the year when the trees are not in leaf. The appearance of the area, therefore, is not of a wooded escarpment devoid of built form and in this context, even if the additional planting did not completely obscure the building from view, it would not significantly harm the character and appearance of the area. Based on my own observations, the effect would be similar from those parts of Nightingale Valley where the site would be visible and so I also find that no harm would arise. Additional artificial lighting at the site may make the building more visible than others in the area, particularly in those views towards the site with a woodland context, however, as with my findings on this matter in terms of living conditions, there is no substantive evidence that they would be particularly intrusive compared to the existing lighting within the area.
44. The proposal, when seen across Nightingale Valley also has the potential to affect the setting of the Grade II* Listed St. Anne's Tunnel West Portal on the Great Western Railway. The railway at this point is in a deep cutting and the tunnel is set at the bottom of a steep escarpment sloping up to the appeal site. In light of my findings on the effect on the character and appearance of the area in these views and given the significant vertical separation between the tunnel and site, I find that no harm to the tunnel portal's setting would arise. Accordingly, there would be no harm to the significance of this heritage asset as one of a series of ornamental structures demonstrating Brunel's vision for a picturesque railway line responding to the scenic route along the Avon valley. Therefore, there would be no conflict with LP Policy DM31 that seeks to conserve the setting of heritage assets.
45. I have already noted that the increase in traffic on Searle Court Avenue will change the character of this quiet, residential street to some degree. However, whilst the increase in traffic may be significant, this is in relation to a very low baseline and the character of the area would not be harmed by the actual traffic generation that would likely result.
46. I, therefore find that there would be no harm to the character and appearance of the area. As such, I find no conflict with those aspects of CS Policy BCS21, LP Policy DM27 or DM26 that seek to ensure that development contributes to an area's character and identity, responding appropriately to the existing character and distinctiveness of its surroundings.

Location of development

47. SADMP Policy DM2, amongst other things, seeks to encourage a range of housing and care options that promote and maintain housing independence and social interaction for older people. The policy indicates that older persons' housing schemes should aim to meet a range of criteria including being located close to shops, services, community facilities, appropriate open spaces, good public transport routes and providing a level access. CS Policy BCS12 also requires that proposals should be located where sustainable travel patterns can

³ Pegasus Environmental (2009) Landscape and Visual Impact Assessment relating to 62 Birchwood Road, Brislington

be achieved, indicating that community facilities, including health and social care facilities, should be located where there is a choice of travel options.

48. The site is not close to these facilities and the Council has noted that those bus stops that provide a regular service are beyond recommended maximum walking distances. The topography of the area also presents a constraint to accessing bus stops and also to cycling, particularly in inclement weather, although the proposed travel plan measures may encourage some modal shift away from private cars. Wheelchair users may also find it difficult to leave the site without a motor vehicle. However, having regard to the likely mixed mobility requirements of future occupiers of the site, the Council have indicated that those residents who are able to walk would not be deterred from doing so by the distance and those unable to walk would be unlikely to use the bus in any event. On this basis, the Council considers that the proposal complies, on balance, with Policy DM2.
49. Even if I were not to accept that position, the policies of the development plan must be considered as a whole. The existing dwelling at the site has a large curtilage and this represents an uncharacteristically low density of development in the locality. With regard to the Council's general view on compliance with Policy DM2 and their lack of specific objection on this basis, I find that the locational shortcomings should receive limited weight when considered in the round with other policies of the development plan such as CS Policy BCS20 that seeks to promote the reuse of previously developed land and use land efficiently.
50. SADMP Policy DM21, whilst seeking to control the loss of gardens allows for redevelopment where a more efficient use of land including higher densities can be achieved providing that there is no harm to local character and appearance. The Council considers this to be an appropriate location for such intensification. Overall, therefore, I find no conflict with the development plan considered as a whole in terms of the location of the proposed development.
51. The Government has recently published Planning Practice Guidance in respect of Housing for Older and Disabled People (26 June 2019). However, I do not find that the principles contained therein are a significant departure from the development plan policies and, therefore, they do not lead me away from my above findings.

Other matters

52. It has been suggested that the site would provide an inadequate environment for a care home, both in terms of the gradients at the site and the configuration of internal spaces. However, whilst external space would be limited and movement around it constrained by the topography, some outdoor space would be available for future residents. The Council further confirmed at the hearing that the gradient of the car park was within acceptable tolerances that would not provide a barrier to movement. Therefore, whilst the new PPG encourages consideration of various matters such as topography in achieving inclusive design, there is no substantive evidence before me that the proposal would not deliver an appropriate care home environment.

53. Permission was previously granted on appeal for the erection of a 52 bedroom care home at the site⁴. Whilst that permission has lapsed and the planning policy framework may have changed necessitating a review of the overall planning balance, the undisputed similarities between that proposal and the current appeal mean that unless circumstances have changed in respect of specific issues, it can be attributed significant weight.
54. Accordingly, due to some alleged changes in circumstances, I have assessed the main issues in respect of the evidence that has been put to me. However, whilst I note the significant concerns about matters such as ground stability and drainage that have been raised by local residents, there is no substantive evidence to suggest that any significant planning policy changes have occurred or that circumstances have changed on the ground in these regards since the previous grant of permission.
55. Whilst there may be existing pipes alongside the access that could be affected by excavations, and disruption to the neighbourhood may occur whilst connections were made, there is no substantive evidence to suggest that planning permission should be withheld for these reasons. Conditions can be imposed on any grant of planning permission to secure appropriate drainage facilities and to ensure that detailed construction methods are approved in the interests of ground stability, including to ensure the stability of the railway tunnel.
56. Whilst concerns have been raised regarding potential effects on wildlife and biodiversity, the Council confirmed at the hearing that they do not understand there to be a nature conservation constraint on development. There is no substantive evidence to lead me away from this position so I find that biodiversity interests including protected species would not be harmed by the proposal.
57. It has been suggested that waste material has previously been deposited on the site but there is no substantive evidence to support this. I note that there may have been other closures of care homes in the area that may call into question the need for the development. However, my attention has not been drawn to any specific planning policies that require an assessment of need and, therefore, I attribute this matter limited weight.
58. There may be a right of way alongside or over part of the site close to the boundary with No. 21 Searle Court Avenue. However, regardless of its status, there is no substantive evidence that it would necessarily be blocked by the proposed development.
59. It has also been suggested that the appellant's statement of community involvement for the development is out of date and the developer has not complied with various planning permissions at other sites in the locality. However, whether or not that is the case, these matters have little to do with the planning merits of this case.

Planning obligation

60. A Planning Obligation has been submitted providing funding for a Traffic Regulation Order (TRO) and monitoring fees for a travel plan. It would not, however, provide any certainty over the delivery of a TRO. In light of my

⁴ Ref: APP/Z0116/A/10/2127640

findings in respect of the first main issue, I am not satisfied that the TRO obligations are necessary and so I do not attach any weight to them. However, to facilitate the operation of the travel plan, and in accordance with the Bristol City Council Planning Obligations Supplementary Planning Document 2012 the other obligation is required. In any case, both matters would relate to mitigation and so are neutral in the planning balance.

Conditions

61. A plans condition is required in respect of those matters being approved now in the interests of certainty. Further conditions are necessary to secure the submission of reserved matters.
62. To safeguard living conditions and protect highway safety, a construction management plan should be submitted controlling such matters as construction traffic management and hours of working. A delivery and service vehicle management plan should also be provided. To ensure satisfactory access and site layout, conditions are required requiring details of the access and parking arrangements, and the stopping up of the Birchwood Road access to vehicular traffic. To promote travel by non-car means as far as possible, a condition is required to ensure that the submitted travel plan is implemented and approval and provision of cycle parking facilities is required.
63. To prevent any increase in off-site flood risk a drainage condition is required. In light of concerns over the capacity of the foul sewerage network, it was agreed at the hearing that the Council's suggested condition should be broadened to incorporate foul drainage.
64. To ensure the stability of the site, further investigations and gas monitoring must be undertaken and details provided of mitigation measures required. A further condition is required to protect the integrity of the railway tunnel. The Council's suggested condition referred to the outside face of the tunnel, but at the hearing it was confirmed that the condition was intended to protect the tunnel structure and was not required for heritage reasons. I have adjusted the condition accordingly.
65. To comply with development plan policies requiring enhanced energy efficiency, a condition is required to secure a sustainability and energy statement. I have amended the Council's suggested timing of pre-commencement to accord with the requirement to show any details on the reserved matters drawing.
66. In the interests of the character and appearance of the area a condition is required to ensure the protection of existing trees and provision of a storage area for refuse is required.
67. The Council also suggested a condition requiring the submission of a Construction Environmental Management Plan. However, the measures are mainly to do with managing relationships between the Council, developer and local community rather than mitigating the effects of development. Other matters referred to appear to relate to other legislation or can be covered by other conditions. I also have concerns about the enforceability of some aspects. Ultimately, at the hearing, the Council clarified that the condition was not required to avoid refusal of permission and on that basis it fails the necessity test so I have not imposed it. A landscaping condition has been recommended, but that is a reserved matter so I have not imposed one.

Conclusion

68. With regard to the above, the appeal is allowed.

M Bale

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Kevin Morley BA (Hons) MTP MRTPI (Stokes Morgan Planning)
Kit Stokes Dip TP MRTPI (Stokes Morgan Planning)
David Tighe C.Eng. MICE (Highgate Transportation)

FOR THE LOCAL PLANNING AUTHORITY:

David MacFadyen (Planning Officer)
Jon Fellingham (Transport Development Management Co-ordinator)
Luke Phillips (Transport Development Management Officer)

INTERESTED PERSONS:

Richard Autton
Roy Bate
Susan Bates
Derek Browne (representing Mr & Mrs Mark Venn and Ms Alison Westlake)
Gail Empson (representing Mr & Mrs Templar)
Diana Jackson (representing Russell Jackson)
Chris Gummer
Linda Hooper
Peter Hooper
John Lovegrove
Carol Prince
Sharon Venn

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Drawing 17.002-100 A
- 2 Signed Unilateral Undertaking given by UKS Group and Gurdev Kaur
- 3 3 No. Drawings submitted by Mrs Jackson. Namely:
 - a. Annotated version of drawing 17.002-102 D
 - b. Annotated version of drawing
09_04616_P-SURVEY_LOCATION_PLAN
 - c. Annotated Section BB
- 4 Appellant's costs application and appendices

Schedule of 16 No. conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 17.002-100; 17.002-101; 17.002-102D; 17.002-105; 17.002-106; 17.002-107; 17.002-401; 17.002-500; 1825/08A.
- 2) Details of the appearance and landscaping (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.
- 3) 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.
- 4) 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.
- 5) No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to, and been approved in writing by, the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The plan/statement shall provide for:
 - Parking of vehicles for site operatives and visitors;
 - Routes for construction traffic;
 - Hours of operation;
 - Methods of prevention of mud being carried onto the highway;
 - Pedestrian and cyclist protection;
 - Proposed temporary traffic restrictions; and
 - Arrangements for turning vehicles.
- 6) The development hereby approved shall not commence until a Foul and Surface Water Drainage Strategy and associated detailed design, management and maintenance plan including infiltration rates and using SuDS methods has been submitted to, and approved in writing by, the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Drainage Strategy prior to the use of the building commencing and maintained thereafter for the lifetime of the development in accordance with the management and maintenance plan.
- 7) Prior to the commencement of development (other than demolition), an appropriate scheme of intrusive site stability investigations/gas monitoring must be undertaken and subsequently a report submitted to the Local Planning Authority detailing findings arising from the intrusive site investigations/gas monitoring. This shall be approved in writing by the Local Planning Authority prior to the commencement of development. If identified as required, a scheme of remedial works and mitigation that may include particular design of the building foundations shall also be

- prepared, submitted for approval and implemented prior to occupation of the development.
- 8) A sustainability and energy statement relating to the development must be submitted with any reserved matters application relating to appearance demonstrating a minimum 20% reduction in carbon emissions relative to the 2006 Building Regulations Part L baseline and measures to conserve water supplies. The statement must include detailed calculations showing the CO2 emission savings achieved. The proposed measures should be detailed on any reserved matters application drawings for appearance, implemented prior to the occupation of the development and thereafter maintained as such.
 - 9) Prior to the occupation of the development, further details of the proposed cycle parking facilities demonstrating weathertight enclosure and security measures shall be submitted to, and approved in writing by, the Local Planning Authority. The agreed cycle parking facilities shall be completed, in accordance with the approved details, prior to occupation of the development hereby approved and retained free from obstruction, solely for the purposes of parking bicycles thereafter.
 - 10) Prior to the occupation of the development, full details of the reinstatement of the pavement and stopping up of the existing vehicular access to the site from Birchwood Road shall be submitted to, and approved in writing by, the Local Planning Authority. Prior to the occupation of the development these works shall have been completed to the approved specification, unless otherwise agreed in writing by the Local Planning Authority.
 - 11) No work of any kind shall take place on the site until the protective fences have been erected around the retained trees T1, T2, T4, T5 and G03 as shown on drawing 180321-62BR-TPP-AM; in the position and to the specification shown on that drawing and detailed within the Silverback Arboricultural Consultancy Ltd Arboricultural Report (2018). The approved ground protection and fences shall be in place before any equipment, machinery or materials are brought onto the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced areas there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no excavation of trenches, no site huts, no fires lit, no dumping of toxic chemicals and no retained trees shall be used for winching purposes. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
 - 12) No development shall take place within 15m of the railway tunnel until a detailed construction methodology has been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
 - 13) Details of the refuse store, and area/facilities allocated for storing of recyclable materials, shall be submitted to, and approved in writing by,

the Local Planning Authority with any reserved matters application relating to appearance. The approved storage areas shall be completed in accordance with the approved plans prior to the commencement of the use hereby permitted. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the buildings that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement.

- 14) Prior to the commencement of the development hereby permitted, full details of the means of access, including for motor vehicles, pedestrians and cyclists, shall be submitted to, and approved in writing by, the Local Planning Authority. Such details shall include the detailed layouts, levels, gradients, kerb heights, bollard specifications and surface treatments and the proposed vehicular access arrangements for No.21 Searle Court Avenue. The details shall be fully implemented prior to the building hereby permitted first being occupied and shall thereafter be maintained as such.
- 15) Prior to the employment of any staff in connection with the use hereby permitted, and thereafter for the duration of that use at the site, the travel plan (Travel Plan – TP/02, Highgate Transportation dated July 2018) shall be implemented as described therein. Monitoring reports relating to travel planning shall be submitted to the Local Planning Authority for review at 1 year, 3 years and 5 years following first occupation of the development hereby approved.
- 16) Prior to the commencement of the use of the building hereby permitted, a Delivery and Service Vehicle Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The plan shall set out the maximum size of vehicle that can service the site and the hours within which servicing can take place. The plan, including hours and vehicle sizes shall thereafter be strictly adhered to during the operation of the building in connection with the use hereby permitted.