The Planning Inspectorate

Appeal Decision

Hearing Held on 3 December 2019

Site visit made on 3 December 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2020

Appeal Ref: APP/P3040/W/19/3229412
Former Sandicliffe Motors, Loughborough Road, West Bridgford, Nottingham NG2 7LJ

- 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 Churchill Retirement Living against the decision of Rushcliffe Borough Council.
- The application Ref 18/02521/FUL, dated 21 September 2018, was refused by notice dated 8 May 2019.
- The development proposed is redevelopment to form 54 retirement living apartments, together with access, communal facilities, car parking and landscaping.

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 16 December 2019.

Decision

1. The appeal is allowed and planning permission is granted for redevelopment to form 54 retirement living apartments, together with access, communal facilities, car parking and landscaping at the former Sandicliffe Motors, Loughborough Road, West Bridgford, Nottingham NG2 7LJ in accordance with the terms of the application, Ref 18/02521/FUL, dated 21 September 2018, subject to the conditions in the attached schedule.

Procedural Matters

2. Since the Council refused planning permission, the Rushcliffe Local Plan Part 2: Land and Planning Policies (LP2) has been adopted. As such, policies within the LP2 now carry full weight and they supersede the saved policies from the Rushcliffe Borough Non-Statutory Replacement Local Plan (Local Plan). Thus, saved Local Plan Policy GP3 which was referred to in the reason for refusing planning permission is no longer relevant. The main parties agree that the development plan now comprises of the Rushcliffe Local Plan Part 1: Core Strategy (Core Strategy) and LP2, with the relevant policies to the case being Core Strategy policies 8 and 19. The Council add that LP2 Policy 1 effectively replaces Local Plan Policy GP3.

3. At the Hearing, a signed and dated Unilateral Undertaking (UU) was submitted by the appellant company. The UU provides for affordable housing and/or healthcare infrastructure contributions. I shall turn to the UU in due course.

4. Prior to the Hearing, the appellant company submitted a Financial Viability Assessment (FVA) relating to a development proposal being considered by the Council at Manor Park, Ruddington. In written correspondence prior to the Hearing the Council stated that the consideration of the FVA would prejudice their case. Consequently, I invited the appellant company to explain at the Hearing the relevance of the FVA, why it was not submitted in accordance with the usual timeframes and to highlight the relevant part of the FVA that they sought to rely on. I understand that it is a fairly recent document and the appellant company's point that the Council had appeared to have accepted 20% developer profit on the Manor Park scheme.

5. In response, the Council put forward a view that if they were to adopt a 20% developer profit then it was only right to consider the appeal scheme and the Manor Park scheme based on the same variables. I heard oral evidence about what the outcome might be for the appeal scheme in terms of its viability if this approach was adopted. To demonstrate their point, a viability appraisal based on 20% developer profit (VA20) was submitted by the Council at the Hearing.

6. As a result of the VA20, the appellant company queried whether the Council were regaling from the matters agreed around viability in the Statement of Common Ground (SoCG). The Council said that it was not and was only responding to the evidence submitted after the SoCG was signed. In my view, the Council have done exactly this, but in doing so there was some doubt as to whether the matters agreed in the SoCG relating to the proposal's viability would have or could have remained in agreement.

7. Through evidence given at the Hearing, it was evident that the appellant company's position in respect of developer profit did not solely hinge on the FVA, albeit it was one strand of this evidence. Therefore, and given the content of VA20, in the interests of fairness and natural justice, I advised the main parties that an adjournment to a later date would have been necessary to allow both parties to consider the respective evidence. However, before doing so, in the interests of making good use of Hearing time, I asked both parties to discuss their respective positions during an adjournment and to clarify which evidence that they wished me to consider the appeal scheme on.

8. The appellant company subsequently confirmed that they wished to withdraw the FVA from the body of evidence before me. Despite their initial reservations to the FVA, the Council indicated that they wished to rely on the FVA. However, as this document was no longer before me, I advised the Council that they would need submit the FVA for it to be considered. The Council chose not to do so and subsequently withdrew VA20 from the body of evidence before me. Therefore, in reaching my decision I have not considered the FVA or the VA20.

Main Issue

9. The main issue is whether or not the proposed development would make adequate contributions towards affordable housing and healthcare infrastructure provision, having regard to development viability.

Reasons

10. The appeal site, which is around 0.27 hectares in size, relates to a former car dealership located on the corner of Loughborough Road (A60) and Bridgford Road. The site is covered by hard standing and is currently used for car

parking. Access to the site is from the dual carriageway of Loughborough Road to the west and Bridgford Road to the north. Residential properties and small shops with residential properties above are to the east of the site. Victorian terraced residential properties are to the south while apartment blocks front Rushworth Avenue. Immediately to the north-east is Trent Bridge Cricket Ground. City Hall, a large public building constructed in a Neo-classical style is on the opposite side of Loughborough Road.

Affordable housing

11. Core Strategy Policy 8 explains that residential development should maintain, provide and contribute to a mix of housing tenures, types and sizes in order to create mixed and balanced communities. The main parties agree that of the 3,380 new homes identified through the LP2 site allocations, none are specifically allocated for older persons accommodation. That said, any scheme coming forward, just like the appeal scheme, would need to address Core Strategy Policy 8 (2) in considering the needs and demands of the elderly as part of the overall housing mix, in particular in areas where there is a significant degree of under occupation and an aging population. This policy, however, does not rule out schemes which only address the ageing population.

12. There is no dispute between the main parties that there is a clear need to plan for homes within the Borough that meet the needs of a number of sections, including those for older people. By way of context, paragraphs 3.141 and 3.142 of the LP2 identify that the older population (aged 65 years and over) is projected to increase by around 53% by 2034, with the number of people over the age of 80 projected to double over the same period. The proportion of people making up the older population category is projected to increase at a faster rate than the overall population of the Borough, which has an older age profile compared to that of England. Since 2011, 36 older persons units at Century Court have been granted planning permission[1]. Other older persons accommodation has also been granted planning permission[2], but with care also, and as such fall into a C2 Use Class.

13. As part of the Council's overall housing strategy, Core Strategy Policy 8 (4) states that new residential developments should provide for a proportion of affordable housing on sites of 5 dwellings or more or 0.2 hectares or more. Given the site's location within West Bridgford the appeal scheme is required to provide 30% affordable housing. At the Hearing, the Council informed me that there is a dire need for affordable housing provision in the Borough and that the need is more acute than the threshold set out in Core Strategy Policy 8 (4), but that this threshold was adopted on the basis of site's being viable. The appeal scheme based on Core Strategy Policy 8(4) should provide 16.2 affordable units or a commuted sum of £750,000 towards affordable housing.

14. However, the main parties agree that an on-site provision of affordable housing in this case would be impractical and that an offsite contribution would be acceptable through a commuted sum. I have no reason to form a different view based on the evidence before me.

15. Paragraph 57 of the National Planning Policy Framework (the Framework) explains that where up-to-date policies have set out the contributions expected

[1] Council Ref: 14/01637/FUL
[2] Ref: Specialist Accommodation for Older Persons in Rushcliffe Borough since 2011

from development, planning applications that comply with them should be assumed to be viable. The Planning Practice Guidance (the Guidance) also adds that the role for viability assessment is primarily at the plan making stage. However, Core Strategy Policy 8 (5) recognises that a number of factors will determine the overall proportion and mix of affordable housing. These include, among other things, the ability to deliver affordable housing alongside other requirements, taking into account broad assessments of viability. Core Strategy Policy 8 (5) goes onto to explain that a financial appraisal of the proposal will be expected in order to determine an appropriate level of affordable housing.

16. The dispute in this case focusses on the viability of the proposed development and the consequential amount of planning obligations that the appeal scheme can bear. The SoCG confirms that the areas in dispute are: developer profit; empty property costs (EPC); and disposal rate. The dispute on EPC is linked to the disposal rate. As a result, the appellant company contends that the proposal can viably provide £187,168 for all contributions, whereas the Council consider that the scheme can viably provide £511,000 for all contributions. Given the dispute, I attach significant weight to the parties' respective financial appraisals of the appeal scheme and associated evidence. It is of note, however, that the appellant company's figure has been revised upwards from £127,698 since the Council refused planning permission. This revised position takes into account their more recent Affordable Housing and Viability Revisions (AHVR) assessment which considers disposal rate.

Disposal rate

17. Based on evidence submitted before the AHVR, the Council estimated a sales rate of 2.08 apartments per month whereas the appellant company's estimate was 1.29 apartments per month. These respective figures led to EPC's of £154,913 and £254,574, a monetary difference of £99,661.

18. The AHVR seeks to address points raised by the Council by: comparing sites from the Midlands region, looking at more recent sales rates from 2016 to date, and omitting outlier figures. The AHVR also takes into account sales rates from the Century Court development. As a result, the estimated revised sales rate is 1.55 apartments per month, which results in an EPC of £203,155. Thus, the monetary difference between the parties' in terms of EPC's is now £48,305.

19. While the sales rates from the site's in the AHVR do not reflect the typical geographic extent of the Midlands region, as they are based on the appellant company's operational Midlands region, they do omit sites from the south of England, which was a concern raised by the Council, as part of the analysis of disposal rates. The AHVR focusses on sales rates from site's developed or currently being sold by the appellant company since 2016. This provides the most up-to-date picture of sales rates, given that some sites detailed in earlier iterations of sales rates evidence across the Midlands region date from 2011 to 2015 could have potentially been affected by the last financial crises. As I do not have any other evidence about sales rates during the same period of time before me, the AHVR is a fair body of evidence to draw comparisons from.

20. Notably, the AHVR includes a number of the same sites previously analysed. Three further sites have been added: Cheltenham, Cowbridge and Ashbourne. The latter two have only been selling for around six months. The former for around a year. Even comparing these three sales in isolation, it is apparent that sales rates can fluctuate considerably. However, it is noticeable sites

compared throughout the body of evidence before me that there has been a decline in their average sales rates between July 2019 and November 2019. Given the number of units now sold on the schemes at Formby, Shirley, Quinton, Ludlow and Aldridge, there appears to be a correlation between the expected slower rate of sale after the initial few months of sales and the current sales rate. The current higher sales rates at Cowbridge and Ashbourne broadly reflect the appellant company's experience of early demand, before a typically lower rate of sale takes hold as time progresses. The appellant company expects the appeal scheme to reflect their experience elsewhere as prospective purchasers typically visit a development several times and seek input from family members before committing to a purchase. I also understand that prospective purchasers like to see the communal facilities, given that the purchase often involves an important change to their lives.

21. I consider that the Cowbridge and Ashbourne schemes should be discounted as their sales rates could, based on schemes elsewhere, fall after the initial sales period. The Cheltenham scheme should also be discounted as it is not generally reflective of the sales rates elsewhere. The Council referred to a McCarthy and Stone development in Derbyshire which is said to have a similar disposal rate as that adopted by the Council. However, I do not have any details of this scheme before me and at the Hearing, the Council accepted that their estimated sales rate is on reflection too high. I agree.

22. Nevertheless, the Council contend that a sales rate of 1.55 apartments per month is too low, with a figure between the two broadly acceptable. The Council pointed to the overall average sales rate at Century Court where each of the 36 no. units have been sold or transferred for rent, with an overall average sales rate of 1.80 apartments per month. This is a higher rate of sale that may reflect the 'pent up' demand for this type of accommodation in the Borough which both parties expect there is. Even so, this scheme included 9 no. units for rent, which I understand to be an unusual arrangement for older persons housebuilders, and that this scheme was part of a trial. The proposal does not include any rental units. Hence, the two schemes are not overall directly comparable. There is also uncertainty about whether the Century Court sales rate would be realised at the appeal site, given that it is not unrealistic for sales rates to vary between sites due to the respective scales.

23. Land Registry records indicate that each the flats in the Century Court sold on 28 February 2017. While, the main parties agreed that this was an attractive sought-after location and even if the proposed units were to sell for a higher price than the units in the Century Court scheme, it is unrealistic that all of the units would have sold on a single day, given the evidence before me.

24. The site's location in West Bridgford with good access to a range of facilities and services does, in my view, lend itself to having the potential for this sales rate to realised or even exceeded. Yet, there are no guarantees. The Council's stance is a judgement based on their experience. In time, this judgment may prove to be correct, and a shorter overall sales period of around 30 months realised, but there is not a sufficient body of substantive evidence before me that supports this sales rate to counter the actual sales rate from other sites. In this context, it is reasonable to adopt a sales rate of 1.55 apartments per month and thus, I consider the appellant company's estimate of EPCs, estimated at £203,155, to be more robust.

Developer profit

25. The Guidance[3] says for the purpose of plan making an assumption of 15-20%

of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types.

26. The appellant company made the valid point at the Hearing that the 15-20% return of GDV set out in the Guidance applies to plan making only as it is not specific to decision making. I agree, but it is still a useful benchmark for what may be considered to be a suitable return on the measure of risk associated with this type of development. The Guidance does say that alternative figures may be appropriate for different development types.

27. In the Council's judgement, they say that a reasonable return would be 18.5% of GDV. The appellant company says this should be 20% of GDV due to the specific type of development that is being proposed. Compared to flats to meet general needs housing, the proposed flats would need to complete before any of the units are sold due to the provision of communal facilities. The flats are also targeted towards a specific element of the community, and to this end a planning condition is suggested by both parties to control future occupation of the proposed development. Added to this, many occupants of older persons accommodation do not move until they need to. Thus, it can take a good period of time for all the units to be occupied. This would apply to whichever of sales rates put to me, as both equate to a period of 30 months or over.

28. Pulling these factors together, there is considerable uncertainty linked with older persons accommodation as they do tend to provide a much slower return on investment compared to general needs housing which can be phased. The Guidance[4] recognises that such schemes can vary from standard models of development for sale. In my view, they have the potential to be riskier. Yet, this does not mean that a blanket 20% return should always be an appropriate level of return on the risk.

29. Various schemes[5] have been brought to my attention by the main parties where their suggested approach to developer profit has been adopted. Discussion at the Hearing focussed on the Roundhay scheme in Leeds[6]. The Inspector in this case considered that a 20% return on GDV was not justified and that a 18.5% return was reasonable. Even if the appeal site is located in a buoyant local market for older persons housing in the same manner as the Roundhay scheme, the Inspector's decision took into account the appellant's offers based on a 18.5% profit. No such offer is before me.

30. The Council refer to schemes said to have applied a 15% and 16% return of GDV. However, I do not know which specific schemes that these returns relate

[3] Planning Practice Guidance, Paragraph: 018 Reference ID: 10-018-20190509
[4] Planning Practice Guidance, Paragraph; 007 Reference ID: 10-007-20190509
[5] Appeal Decision Refs: APP/Q1825/W/17/3166677; APP/P5870/W/16/3159137; and APP/X2220/W/16/3161979
[6] Appeal Decision Ref: APP/N4720/A/14/2227584

to, and the full circumstances that led to them, but of the schemes listed they are of a different scale to that proposed. Equally there are other schemes[7] which have all generally considered a 20% return of GDV to be acceptable that I do not have the full details of either. As such, each site needs to be considered on its own merits.

31. Paragraph 4.30 of the Rushcliffe Borough Council Whole Plan and Community Infrastructure Levy Viability Assessment outlines that "in current market conditions, and based on the assumed lending conditions of the financial institutions, a 20% return on GDV is used in the residential viability appraisals to reflect speculative risk on the housing market units."

32. The appellant company has submitted several letters from the HSBC Bank. These are not specific to the proposed development, but they do indicate that the lender would be highly unlikely to provide funding on an individual site with less than 20% developer profit (net profit) based on the risks associated with the more limited market associated with this type of development. The bank also explains that they do not see 20% developer profit as a ceiling and that this type of development poses additional risk compared to general mortgage funded new build sales as there is no assistance from Help to Buy. This factor of risk is in addition to those that I set out earlier. Collectively, these lend weight to the appellant company's contention that this type of development tends to have a higher level of risk.

33. The HSBC Bank indicate that a pre-sales dimension may provide mitigation to this. The Council suggested that 10 units (18.5% of the total proposed) would be a large pre-sales dimension. However, the appellant company confirmed that the 10 no. units anticipated for sale upon completion of the development are not actually pre-sales as prospective purchasers do not have an obligation to buy these units having parted with a £1,000 refundable deposit. While, prospective purchasers who have paid a deposit may go on to buy a flat, contracts would only be exchanged and the full price paid once the unit and the whole development have been practically completed. Thus, the proposal would not involve a large pre-sales dimension as prospective purchasers could back out and the level of risk would not diminish until the development, and thus the sale is completed.

34. My attention was also drawn by the appellant company to schemes at Bingley and Knowle[8]. One of the schemes relates to the appellant company, the other a competitor. The Council's viability consultant in both cases cited a 20% return on GDV as consistent with lender expectations and that anything less than that would be highly unlikely to secure development funding from the banks. Although alternative funding sources have been used, in their experience, they also seek a 20% return.

35. Overall, there is a clear steer that, in conjunction with other factors relating to this case that a 20% return on GDV is not unreasonable or excessive and, in accordance with the Framework, would represent a competitive return to attract a willing developer. Hence, this figure can be used to assess the proposed development's viability.

Unilateral Undertaking

[7] Appendix 7 of Affordable Housing and Viability Hearing Statement, July 2019
[8] Lines 14 and 17 of Appendix 7 of Affordable Housing and Viability Hearing Statement, July 2019

36. A two-fold approach is suggested in the UU, dated 3 December 2019, based on a total sum of £187,168 for all contributions. The first approach would be to make payments in respect of affordable housing and healthcare infrastructure, with contributions of £148,498 and £39,120 respectively. The second approach, which is the Council's preference, would solely direct all the monies towards affordable housing. Either way, the proposed contribution would reflect the proposal's ability to deliver affordable housing alongside other requirements, taking into account broad assessments of viability.

37. Based on the evidence before me, even though the total sum is less than that sought by the Council, I consider that both contributions arising from the development would satisfy the three tests of Regulation 122(2) of the Community Infrastructure (CIL) Regulations 2010 and Framework paragraph 56. I recognise that the second approach is the Council's preference given the need for affordable housing in the Borough, but to comply with Core Strategy policies 8 and 19 and LP2 Policy 43, the proposal should address affordable housing and healthcare infrastructure.

Conclusion on the main issue

38. There is no dispute that the Council can now, following the adoption of LP2, demonstrate a five-year supply of deliverable housing sites, and that as a result the Framework's tilted balance is not engaged. It is also clear that the proposal would not achieve the 30% affordable housing provision target set out in Core Strategy Policy 8. However, the proposal would make contributions that would reflect its ability to deliver affordable housing alongside other requirements, taking into account viability. While, the Council may be making progress in terms of the provision of accommodation for older people in recent years, the proposal would add to the overall mix of housing in the Borough and specifically address the delivery of accommodation for older people who do not need care. In turn, this would free up existing houses within the Borough. During these matters together, I consider that the proposal would achieve the Framework's objective of creating mixed and balanced communities.

39. I therefore conclude that the proposed development would make adequate contributions towards affordable housing and healthcare infrastructure provision, having regard to development viability. As such, the proposal would accord with Core Strategy policies 8 and 19 and LP2 Policies 1 and 43.

Other matters

40. It appears to me that the proposed development is within the setting of the Old Trent Bridge, a Scheduled Monument and the Grade II listed War Memorial. The Old Trent Bridge comprises of segmental arches of dressed stone and brick with chamfered hood moulds while the War Memorial is an octagonal plinth and base with moulded top edge, foliate bosses, bronze plaques and inscription set within landscaped gardens. However, having regard to the proposal's scale and design, together with the variety of building styles and finishes found locally, I consider that the proposed development would preserve the setting of the designated heritage assets.

41. I agree with the Council's assessment that there would be no issue, subject to the imposition of planning conditions, with the quality of accommodation proposed, the amount of amenity space, landscaping, flood risk, drainage, car parking provision, ecology and archaeology.

42. The appellant company submits that there would be various benefits associated with the appeal scheme. These include: future residents spending in the local economy; savings to the NHS and social care expenditure; effective use of a brownfield site in a highly accessible location; and social benefits linked to the formation of a community who can live independently and securely in older age. I agree with the Council that they would collectively deliver benefits, but given my finding on the main issue, they only lend weight to the view that planning permission should be granted.

Conditions

43. I have had regard to the agreed list of suggested planning conditions found in the SoCG, the parties comments provided at the Hearing and their subsequent submissions made in respect of suggested conditions 15 and 16 as set out in the SoCG.

44. I have imposed a plans condition in the interests of certainty. Conditions are necessary before development commences in respect of: the disposal of surface water and foul sewage; an air quality assessment; a phase II risk assessment; a construction management plan; and for an overheating study. These conditions are necessary in the interests of ensuring a satisfactory means of drainage; to reduce the risk of creating or exacerbating a flooding problem; to minimise the risk of pollution; and to protect future occupiers living conditions respectively. Given the findings of the ground investigation report, I have imposed a pre-commencement planning condition so that a report quantifying risk from unexploded ordnance is produced. This is necessary in the interests of public health and safety.

45. Noting the main parties' agreement to a revised trigger which was discussed at the Hearing, I have imposed planning conditions for a hard and soft landscape scheme; external lighting and an ecological enhancement scheme. These are necessary in the interests of the character and appearance of the area and to secure net gains in biodiversity.

46. I have amalgamated numerous conditions relating to the access, parking areas and surfacing without changing their requirements which are all needed in the interests of highway safety. I have therefore imposed a combined condition which was discussed at the Hearing. Given the submitted flood risk assessment, I have imposed planning conditions so that the development is resilient to flood risk and so that any future occupants know about the flood excavation plan in the event of any flood events.

47. In the interests of future residents living conditions, I have imposed conditions to secure details of any plant, with respect to noise, and so that the glazing and ventilation scheme identified in the noise impact assessment are implemented. In the interests of visual amenity, I have imposed a condition for a management plan in respect of refuse collections. A condition specifying who can occupy the appeal scheme is necessary given the need for older persons accommodation and due to the intrinsic link between the planning contributions and this specific form of development.

Conclusion

48. 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: 30040WB/P101; 30040WB/P202; 30040WB/P203; 30040WB/P204; 30040WB/P205A; 30040WB/P206A; 30040WB/P207A; 30040WB/P108; 30040WB/P110); 30040WB/P111; 30040WB/P212A; 30040WB/P014; 30040WB/P015; and 30040WB/P016.

Pre-commencement

3) The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

4) Prior to the commencement of the development hereby approved, an air quality assessment, including calculation of pollution damage costs, shall be carried out to determine the air quality impact in the vicinity of the proposed development. The methodology for the assessment and damage cost calculation shall be agreed in writing with the Local Planning Authority prior to the commencement of the assessment. Where necessary a scheme for protecting future residential occupiers of the development from the effects of nitrogen dioxide/ airborne particulate matter (PM10) arising from road traffic and mitigation measures to alleviate the impact of the scheme equivalent to the calculated damage costs shall be submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the first occupation of the building hereby approved, and thereafter maintained for the lifetime of the development.

5) Prior to the commencement of the development hereby approved, a Phase II Investigation Report shall be submitted to and approved in writing by the Local Planning Authority. If this report confirms that "contamination" exists, a remediation report and validation statement will also be required to be submitted prior to any occupation of the development. The development shall be carried out in accordance with the approved details.

6) Prior to commencement of earthworks on site, a report quantifying risk from unexploded ordnance shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with any agreed details.

7) Prior to the commencement of development, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall provide details of, but not limited to, the following:

- Details of noise, dust and vibration suppression
- Details of any compound and welfare areas
- Details of onsite materials storage areas
- Details on site construction parking and manoeuvring areas
- Hours of working for all activities

The development shall then be carried in accordance with the approved details for its entire construction phase.

8) Prior to the commencement of the development hereby approved, an Overheating Study shall be submitted to and approved in writing by the Local Planning Authority. If this study indicates a high risk of significant overheating having taken account of the required noise mitigation measures, mitigation measures may be required (including mechanical ventilation / cooling) so that occupants retain the option to keep windows closed and retain reasonable thermal comfort. The development shall be carried out in accordance with the approved details.

Beyond foundation level

9) Prior to construction of the development beyond foundation level, an ecological enhancement scheme demonstrating that the development will achieve a net gain for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

10) Prior to construction of the development beyond foundation level, a detailed hard and soft landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include: details of plant species and sizes; proposed numbers, densities and locations; the design, finish and colour of boundary treatments and retaining structures; and details of any pedestrian access and circulation areas. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

11) Prior to construction of the development beyond foundation level, details of an external lighting scheme, including a lux plot of the estimated illuminance, shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed and operated to ensure that light intrusion into neighbouring residential windows shall not exceed 25 Ev (lux) measured as vertical luminance. The development shall be carried out in accordance with the approved lighting scheme.

Before first occupation

12) The development hereby permitted shall be carried out in accordance with the mitigation measures set out in the Noise Impact Assessment (Ref - Report AS10761.180904. RA, Stage 1: dated 19th September 2018 and Report CAS10761.180409. ADS, Stage 2 dated 20th September 2018) including the installation of a glazing and ventilation scheme throughout the development (as per Figure AS10761/GP1 dated 19th September 2018). The glazing and ventilation scheme supplied in Figure AS10761/GP1 shall be implemented prior to the first occupation of the development and permanently retained thereafter.

13) No part of the development hereby permitted shall be brought into use until the pedestrian and vehicular access, parking, turning and servicing areas are provided and marked out in accordance with plan Ref: 30040WB/P202 and have been surfaced in a bound material (not loose gravel). The parking, turning and servicing areas shall not be used for any purpose other than parking, turning, loading and unloading of vehicles, and shall thereafter be retained for the life of the development.

14) The development shall be carried out in accordance with the submitted flood risk assessment (Ref: 30481/4069 PDA - Flood Risk Assessment SEP 18) and the following mitigation measures it details:

    1) SECTION 6.1.5 "The residual flood risk associated with excess surface water runoff in an extreme rainfall event will be mitigated by ensuring ground floor levels set a suitable freeboard above surrounding ground (minimum 150mm). Similarly, exterior ground levels across the site should also be appropriately contoured to direct surface water away from the building in such a scenario."

    2) SECTION 7.1.2 "The proposed ground floor level of 25.40m AOD is a minimum of 650mm above the most conservative (Upper End) modelled 1 in 100 (1%) annual probability 50% allowance for climate change flood level (24.75 m AOD), and a similar freeboard above the most severe modelled breach scenario (considering 30% climate change allowance)."

15) Prior to the first occupation of the apartments hereby approved, a flood evacuation plan, including mitigation measures to ensure that all the future occupants of the building are notified of any flood events and mitigation measures to be put in place, with the knowledge that flooding is possible, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all future owners and occupants of the dwellings hereby approved shall be provided with details of the flood evacuation plan including the details of the safe exit route (in accordance with the approved flood evacuation plan) upon their first occupation of the dwellings. The flood evacuation plan must not adversely affect the flood regime and the safe exit route must be in place before any occupancy of the buildings.

16) The noise levels for any externally mounted plant or equipment, together with any internally mounted equipment which vents externally, that is to be installed, along with details of the intended positioning of such in relation to the development, shall be submitted to and approved by the Local Planning Authority before any such plant or equipment is first installed. The development shall then be carried out in accordance with the approved details.

17) Prior to the first occupation of the apartments hereby approved, a management plan confirming who is responsible for presenting the bins for collection at the designated collection point and subsequently returning them to the storage area and the timings for doing so shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the bins shall be presented and collected in accordance with the details in the approved management plan.

18) Each unit of the development hereby permitted shall be occupied only by:

    a) any persons over the age of 60 years;
    b) persons living as part of a single household with such a person or persons;
    c) persons who were living in the unit as part of a single household with such a person or persons who have since died.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Neil Cameron QC	Landmark Chambers
James	Alder King
Matthew Shellum	Planning Issues Ltd
Carl Tunnicliffe	Churchill Retirement Living

FOR THE LOCAL PLANNING AUTHORITY:

Nick Cox	Rushcliffe Borough Council
Kate Thompson	Rushcliffe Borough Council
John King	Rushcliffe Borough Council
David Newham	CP Viability

INTERESTED PERSONS:

Anthony Thomas	B and K Thomas (Holdings) Ltd

DOCUMENTS

Documents submitted at the Hearing

1 Plan Ref: 30040WB/P016
2 Unilateral Undertaking, dated 3 December 2019