



Appeal Decision

Hearing Held on 12 and 13 November 2019

Site visit made on 13 November 2019

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2020

Appeal Ref: APP/A5840/W/19/3228534 272 St James's Road, London SE1 5JX

- 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 planning permission.
 - The appeal is made by Tide Construction Limited against the Council of the London Borough of Southwark.
 - The application Ref 18/AP/0156, is dated 15 January 2018.
 - The development proposed is redevelopment of the site to provide a student accommodation building of up to nine storeys including ground floor café/commercial space, communal facilities, cycle parking, landscaping and public realm improvements and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the site to provide a student accommodation building of up to nine storeys including ground floor café/commercial space, communal facilities, cycle parking, landscaping and public realm improvements and associated works, at 272 St James's Road, London SE1 5JX in accordance with application, Ref: 18/AP/0156 dated 15 January 2018, and in accordance with the conditions in the attached schedule.

Procedural Matters

2. At the hearing, discussions in relation to construction costs were somewhat frustrated because neither party was accompanied by their relevant Quantity Surveyor. Based on the evidence before me, the difference between the parties in relation to these figures represented a significant dispute. Consequently, due to the lack of progress that could be made at the hearing itself, time was provided after the event for the parties to have further discussions in relation to construction costs. This was to enable an additional statement of common ground to be provided, specifically in relation to construction costs, as well as written submissions from each party to explain any remaining differences.
3. After discussions had concluded in relation to all other matters, the hearing was adjourned pending the submission of this supplementary evidence with the opportunity to re-open should the nature of the evidence require it. However, upon receipt of the additional information, subsequent questions have been answered by the parties in writing and consequently, the hearing was closed in writing on 17 January 2020.

4. I have had due regard to the additional evidence in my assessment of the appeal and I am satisfied that the approach taken after the hearing has not affected the interests of the main parties.

Background and Main Issue

5. The appeal was lodged due to the Council not determining the application in the prescribed time period. However, since that time, the parties have worked closely to provide a detailed statement of common ground which identifies the areas where the parties do not agree.
6. When the appeal was originally submitted, matters in relation to Secured by Design and a contribution towards sustainable transport measures had not been agreed between the parties. Consequently, in their initial statement of case, the Council suggested that these matters would have constituted additional reasons for refusal, had the application been determined. However, in relation to the Secured by Design requirements, both parties are content that this can be dealt with by way of a suitably worded condition. Based on the evidence before me, I have no reason to disagree with this approach.
7. In addition, in advance of the hearing, a CIL compliance statement (Community Infrastructure Levy) was provided by the Council which confirmed that the parties had agreed a contribution of £60,000 towards sustainable transport measures. As a consequence, this matter also became common ground between the parties.
8. On this basis, the only outstanding matter where the parties do not agree, relates to the financial viability of the proposal and how this would translate into a contribution towards off-site affordable housing provision. Accordingly, the main issue is whether the proposal would make the maximum reasonable provision for affordable housing, having regard to the requirements of local policy.

Reasons

Policy context

9. Strategic Policy 6 of the Southwark Council Core Strategy (2011) (CS) requires development to provide as much affordable housing as is reasonably possible. It also requires a minimum of 35% of affordable housing on developments with 10 or more units. Strategic Policy 8 of the CS relates to the provision of student homes and confirms that, in line with Strategic Policy 6, 35% of student developments shall be required as affordable housing.
10. At the hearing, a desire was expressed from an interested party to provide affordable housing on site due to the need for on-site provision throughout the borough. Despite this view, it is common ground between the main parties that it would not be practical to provide the necessary affordable housing on site due to the nature, layout and functionality of the development. Consequently, the parties agree that a payment in lieu for affordable housing would be appropriate. Whilst the reservations of the Councillor are noted, based on the evidence before me, I am satisfied with the approach agreed by the parties in relation to providing an off-site contribution.
11. In addition to the Strategic Policies, the Council has also published Supplementary Planning Documents (SPD) in relation to the provision of

affordable housing. The adopted SPD pre-dates the CS and therefore the Council have also developed a draft SPD that is dated June 2011. This SPD has not been adopted and therefore, the appellant considers that it should not attract a significant level of weight. However, the draft SPD has been written to support the adopted CS which, as identified above, is clear in its requirements for student developments and affordable housing. In addition, it establishes a methodology to translate the requirements of the CS into an off-site contribution. Based on the provisions of the draft SPD, a policy compliant, off-site affordable housing contribution, would be £9.8 million.

12. This figure is disputed by the appellant who suggests that a policy compliant figure should be more akin to £5.4 million. This is based on the need for more core space within student accommodation which reduces the level of net internal floor area and consequently reduces the value of individual rooms. In addition, the appellant contends that values vary substantially across the borough. In their submission, the appellant states that their suggested figure is logical rather than being based on substantive evidence. In addition, although the sum of £100,000 per habitable room represents a standard rate in the draft SPD, that figure was the mid-range within the adopted SPD which made allowance for different value areas within the borough. I have not been provided with any substantive evidence that would lead me to conclude that a different rate should be used. Consequently, the argument presented by the appellant fails to be compelling and therefore, I attach very little weight to their analysis and subsequent, policy compliant figure.
13. Although the relevant SPD remains in draft form, based on the evidence before me, there is no compelling reason not to accept its methodology to translate the requirements of the CS into an off-site contribution. Consequently, despite its draft form, I attach a moderate level of weight to this document and am therefore satisfied that a policy compliant figure would be £9.8 million.
14. However, regardless of the policy compliant requirement, it is the appellant's position that the finances of the development cannot afford such a contribution. Instead, their financial appraisal concludes that the maximum which could reasonably be afforded would be £2.22 million. In contrast, based on their own appraisal, the Council considers that a contribution of £6.212 million would be affordable. Consequently, the difference between the parties in relation to what their respective appraisals suggest could be afforded is almost £4 million, and both figures are also substantially less than the established policy compliant requirement set out above. Notwithstanding these figures, based on a commercial decision, the actual sum offered by the appellant would be a contribution of £3.52 million, a matter which I will return to later in the decision.
15. Due to the significant difference in these figures, the appeal has been accompanied by financial evidence in the form of viability assessments on behalf of both parties.

Viability approach

16. The Planning Practice Guidance (PPG) confirms that a viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. The overriding thrust of the PPG is to achieve a standardised approach to viability assessment and to ensure that a balance is struck between the

aspirations of developers and land owners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission. It goes on to state that the key elements to consider include Gross Development Value (GDV), costs, land value, landowner premium, and developer return. Most of these matters are disputed by the parties to varying extents and therefore, to ensure consistency with the PPG, I shall consider them in turn, before returning to assess whether the amount proposed by the appellant represents the maximum reasonable provision.

Gross Development Value (GDV)

17. The Council are of the view that the GDV of the whole development is £480,000 greater than the appellant's figure. To support this conclusion, evidence has been provided in relation to several comparable developments supported by detailed rental breakdowns. During the hearing, many of these comparable sites were satisfactorily rebutted by the appellant due to locational or material differences. However, one comparable site, Academic House, generated a greater level of discussion due to its increased relevance.
18. Academic House generates a higher value per bedroom than that suggested for the appeal proposal, a matter which the appellant attributes to the larger size of the bedrooms provided. However, whilst I accept the argument that larger units are likely to generate a higher capital rate, based on the evidence before me, I also agree with the Council's position that rental value is higher for smaller units per square metre. Moreover, due to the nature of the accommodation proposed, ongoing rental income would weigh heavily in relation to the GDV of the proposal. On this point, the proposed development would provide a high number of small units, and consequently, due to the proportionately higher rent levels that could be achieved, based on the evidence before me this would drive up the GDV of the appeal proposal.
19. The appellant has provided little evidence in relation to rent levels. Instead, much of their rebuttal on this point reverted back to the capital value of the scheme. In contrast, the Council have provided a significant level of information to support their assertions and for the reasons identified above, I find this approach to be most compelling. Therefore, based on the evidence before me and for the purposes of my assessment of the appeal, I will apply the Council's higher GDV.

Build costs

20. At the heart of the evidence, a significant area of dispute related to the build costs associated with the development. However, due to the absence of Quantity Surveyors at the event itself, discussion in relation to this point was somewhat stifled. Consequently, it was agreed between the parties that further discussions on this matter should take place to establish further common ground. These discussions have not resolved all areas of disagreement in relation to build costs, however, significant progress has been made, the result of which was the submission of an addendum to the statement of common ground.
21. The parties have not found common ground in relation to whether the proposal would be built in a traditional manner or through a modular construction system. However, figures have been provided in relation to both approaches.

Based on a traditional construction, the Council's costs of approximately £21.5m are around £600,000 lower than that of the appellant. However, based on a modular construction, the parties have agreed a figure of £22,659,000.

22. In their original evidence, the Council's appraisal identified the build costs associated with the development to be substantially lower, at approximately £19.75m. Therefore, based on a traditional construction, the increase in the Council's position is approximately £1.75m. However, based on a modular construction, the increase is nearly £3m. Despite this increase, the revised figures remain broadly comparable with the build costs originally provided by the appellant.
23. The evidence is not categoric in relation to whether the proposal would be built in a traditional manner or through a modular system. However, in either approach, the increased build costs that have been accepted by the Council would have a substantial effect on the maximum reasonable provision for affordable housing. Consequently, this is a matter which weighs heavily in favour of the appeal.

Other costs and developer return

24. It is common ground between the parties that a profit level of 18% on cost is an acceptable basis against which to appraise the development. However, there are differences in relation to other costs.
25. In relation to finance rates, the difference between the parties is 1%. However, due to the sums of money involved, this represents a material difference in the economics driving the off-site affordable housing contribution.
26. In their evidence, the Council suggested that finance rates are often over-stated and that values presented in appraisals do not always mirror the real world. Based on what was termed a 'real-world' test, the Council suggest that a finance rate of 6% would be appropriate for a development of this nature. Whilst there was some discussion around this point, little by way of substantive evidence was presented to support the Council's position.
27. From the appellant's perspective, evidence has been presented whereby the Council accepted a finance rate of 7% as recently as June 2019 and which was regarded as "*within a reasonable range within the market*". On this basis, I have no compelling reason to conclude that the lower finance rate should be used. Consequently, on this point, I am satisfied with the evidence provided by the appellant.
28. In relation to sales agent fees, it is the position of the Council that the market norm is 1%. However, as with finance rates, this position was not substantiated in a compelling manner. The evidence provided by the appellant demonstrates that a difference between acquisition and disposal fees has been allowed for, but it was identified that this reflects the nature of the work proposed. I also note that as the appellant's case has evolved through discussion with the Council, the figure in relation to sales agent fees has reduced. Therefore, based on the evidence before me, I am satisfied that this reduced position is appropriate.

Benchmark Land Value

29. When determining a Benchmark Land Value (BLV), the PPG provides clear guidance. It should be based on the existing use value of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. It also should provide a reasonable incentive in comparison with other options available.
30. The appeal site has previously benefitted from planning permission for residential development. Although this consent has now lapsed, at the Hearing, the Council confirmed that a proposal of a similar nature would be very likely to gain planning permission, subject to affordable housing considerations. Despite this, the Council have assessed the BLV based on its last use as a petrol filling station. Whilst the costs that would be necessary to refurbish the site and make it operational again have been factored in, the Council's BLV does not include any recognition of the planning history of the site. Consequently, the Council's BLV is substantially lower than that provided by the appellant.
31. Due to the history of the site and the likelihood that a similar residential consent could again be achieved, in my view, the BLV should include some recognition of this matter. This is of particular relevance when assessed against the guidance within the PPG in relation to what a premium would look like to incentivise a landowner. Accordingly, the history of the site and the likelihood of regaining a residential planning permission weighs heavily in my assessment of the BLV. Consequently, on this matter, I find the figure provided by the appellant the most compelling and therefore, I am satisfied that the appellant's BLV represents a reasonable figure against which to benchmark the development.

Stand back analysis

32. Consistent with RICS guidance on viability, the draft SPD promotes stand back analysis to ensure that outputs from development appraisals are realistic and reflective of the market. Such sense checking can be a helpful tool and to support the approach, the Council have made reference to a number of other sites whereby the price paid for land has been substantially greater than the amount that could be realistically afforded, according to the development appraisals. Despite this approach, 4 of the comparable sites presented by the Council relate to residential development rather than student housing. Consequently, they are materially different, and I have therefore given very little weight to this part of the Council's submission.
33. Details of 4 other sites which do relate to student accommodation have also been provided. However, at the hearing, the Council conceded that the site at Wales Farm Road was not a pure comparable and therefore did not make further reference to it. Nevertheless, the remaining sites referred to by the Council indicate that the overall price being paid for land would be greater than the Residual Land Value being suggested for this development. Consequently, the conclusion from their stand back analysis is that the site could sustain a policy compliant affordable housing contribution.
34. Despite this, based on the evidence before me and the discussions at the hearing, locationally, the comparable sites were more favourable which would have implications for the prices paid. Moreover, I agree with the appellant in

relation to the likely economies of scale that would benefit the Weston Street development which is substantially larger than the appeal proposal. Finally, in relation to Walworth Road, a subsequent planning permission for a residential development has been achieved by the land purchasers which may have influenced the price initially paid for the site.

35. The concept of stand back analysis as a sense check has merit and should not be discouraged. However, it is not directly referred to within the PPG, other than in relation to deriving the BLV. Instead, the PPG promotes a standardised approach to viability assessments in a manner that is proportionate, simple and transparent and this is the approach that has been taken by the appellant.
36. As identified above, the comparable sites from which the Council derive their higher figures have certain limitations. In my view, this limits the weight that can be afforded to them. In addition, due to the wild deviation from the figures provided in the standardised appraisals, over-reliance on such stand back analysis would conflict with the simple and transparent approach advocated within the PPG. This would therefore run contrary to government guidance.
37. For the reasons identified above therefore, whilst I recognise the value of stand back analysis, I give limited weight to the evidence submitted by the Council in relation to this matter.

Summary on viability

38. Assessing the financial viability of a development is not a precise science and the conclusions of appraisals can significantly change with small alterations to specific inputs. However, by approaching the evidence before me in the manner advocated by the PPG, I am satisfied that a consistent approach has been applied. The PPG also confirms that the weight to be given to viability assessments is a matter for the decision taker, having regard to all circumstances in the case.
39. With regard to the value generated by the development, I have found that the GDV suggested by the Council represents the more compelling figure. Accordingly, for the purposes of my assessment of the appeal, I shall use this figure.
40. However, based on the revised positions of the parties, I am also satisfied that the build costs presented by the appellant adequately reflect the nature of the proposal. In addition, in relation to the other costs associated with the development, for the reasons identified above, I am satisfied that the appellant's evidence is more compelling.
41. Due to my findings in relation to the different inputs, I cannot confidently say that the overall contribution towards affordable housing should be a specific amount. However, this is not my role in the assessment of the appeal. Instead, as established through the main issue, my role is to assess whether the amount offered by the appellant represents the maximum reasonable provision, having regard to the requirements of local plan policy.
42. The contribution proposed by the appellant exceeds what their original appraisal suggested could be affordable by over £1million. However, as identified above, this was based on a lower GDV, which therefore implied that there was a lower value in the development from which to take a contribution. Due to my findings in relation to the GDV, a larger figure could reasonably be

used as the starting point from which to extract the necessary contribution. The difference between the two parties in relation to GDV is almost £500,000. Based on my findings set out above, I am satisfied that this figure could be reasonably added to the £2.22m sum that the appellant's appraisal indicates would be the maximum that could be reasonably afforded.

43. However, as identified above, I have found that the build costs and other costs associated with the development presented by the appellant to be most compelling. Consequently, even when factoring in a higher GDV, the contribution proposed by the appellant would still exceed the amount which their own evidence realistically suggests they can afford. Despite this, the requirement of local plan policy is that development should provide as much affordable housing as is reasonably possible. Therefore, because the proposed contribution remains substantially less than the policy compliant position, I am satisfied that the greater figure would remain fully compliant with the requirements of local plan policy as well as the CIL Regulations 2010.
44. Accordingly, based on the totality of the evidence before me, and subject to proportionate stand back analysis, I conclude that the proposal would make the maximum reasonable provision for affordable housing. It would therefore accord with Saved Policy 4.4 of the Southwark Plan (2007) (Saved April 2013), Strategic Policies 5, 6 and 8 of the CS and the draft SPD. Taken together, these establish the housing needs of people who want to live in Southwark, and require development to provide as much affordable housing as is reasonably possible.

Unilateral Undertaking

45. The appeal has been accompanied by a detailed and completed Unilateral Undertaking (UU). As identified above, this relates to the necessary affordable housing contribution, including relevant review mechanisms. However, it also provides contributions towards sustainable transport measures, public open space, and archaeological works. In addition, the UU secures the provision of necessary wheelchair accommodation and parking spaces, compliance with the delivery and service plan for the duration of the development, and the provision of 25 folding bicycles and 2 electric bicycles as well as associated locker storage. Furthermore, the UU prevents future occupants from obtaining a parking permit.
46. Additional undertakings relate to the provision of employment in construction and training opportunities, a restriction on the end user of the student accommodation and securing the ability for the development to connect to the district waste incinerator.
47. Based on the evidence before me and what was discussed at the hearing, I am satisfied that the content of the UU complies with the requirements of the CIL Regulations 2010. Accordingly, I have taken the UU into account in reaching my decision and attach full weight to its content.

Other Matters

48. The proposal generated concerns from local residents in relation to the effect on living conditions for the occupants of neighbouring properties. Despite this, the proposal has been subject to a significant level of analysis in relation to the effect on daylight and sunlight which generally confirms that the proposal

would comply with best practice standards. Where this is not the case, it is the view of the Council that the effects would be minimal and that they would be outweighed by the regeneration benefits of the proposal. The proposal would represent a tall building for the surrounding context. Accordingly, it would undoubtedly have some effect on daylight and sunlight for neighbouring properties as well as privacy. However, based on the evidence before me, I have no compelling reason to disagree with the conclusions of the Council on these points.

49. From a design perspective, I agree with the Council's conclusions that the proposal would be a well-mannered building that would respond well to the scale, massing and character of the surrounding buildings. In addition, despite the proximity of the site to the nearby listed Phoenix Primary School, due to the significance of that building primarily deriving from its internal layout plan form, the proposal would not harm the setting of this building. Consequently, the proposal would satisfy the requirements of Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conditions

50. In light of my findings set out above, conditions are necessary in the interests of clarity and precision to set out the time limit for the commencement of development and to set out the approved drawing numbers. The appeal site is located within Flood Zone 3. However, due to the less vulnerable uses proposed at basement level and the elevated height of the ground floor, no objection has been raised by the Environment Agency. Nevertheless, due to the location of the site, conditions 3 - 8 are necessary in the interests of reducing and managing flood risk. Condition 9 is necessary to ensure suitable levels of water consumption are achieved by the development.
51. Condition 10 is necessary to ensure that contaminated land is appropriately remediated where necessary. Conditions 11 and 12 are necessary in the interests of highway safety, and condition 13 is necessary to ensure that suitable cycle parking facilities are provided for the development.
52. Conditions 14 and 15 are necessary to ensure that archaeological interests are suitably protected and conditions 16, 17, 18 and 19 are necessary to ensure that both the built form and the landscaping in which it sits are of a high quality.
53. Condition 20 is necessary to ensure that the existing water supply infrastructure can adequately sustain the development proposed. In addition, conditions 21 – 31 are all necessary in the interests of both safeguarding the living conditions of the occupants of neighbouring properties, and providing appropriate living conditions for future occupants.
54. Conditions 32 - 35 are necessary to ensure that the development is satisfactory in relation to both ecological and environmental considerations. Condition 36 is necessary to ensure that adequate disabled parking facilities are provided, and condition 37 is necessary to ensure that refuse storage is adequate. Condition 38 requires the development to achieve Secured by Design accreditation and is necessary to promote community safety and crime prevention and condition 39 is necessary to ensure additional plant equipment does not detract from the design of the building.

55. Finally, due to the location of the site, close to underground water utility infrastructure, condition 40 is necessary to ensure that if penetrative foundation designs are to be used, these are first agreed in writing by the Local Planning Authority.

Conclusion

56. For the reasons identified above, the appeal should be allowed and planning permission should be granted.

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the end of three years from the date of this permission.
2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans:
 - 731-0010 Proposed Site Plan
 - 731-0011 Proposed Ground Floor Plan with wider context Rev B
 - 731-0012 Proposed Lower Ground Floor Plan Rev D
 - 731-0013 Proposed Ground Floor Plan Rev E
 - 731-0014 Proposed First Floor Plan Rev C
 - 731-0015 Proposed Fifth Floor Plan Rev D
 - 731-0016 Proposed Sixth Floor Plan Rev B
 - 731-0017 Proposed Seventh Floor Plan Rev D
 - 731-0018 Proposed Eighth Floor Plan Rev B
 - 731-0019 Proposed Roof Plan Rev B
 - 731-0020 Proposed Second to Fourth Plan Rev A
 - 731-0030 Proposed North Elevation Rev E
 - 731-0031 Proposed East Elevation Rev D
 - 731-0032 Proposed South Elevation Rev D
 - 731-0033 Proposed West Elevation Rev D
 - 731-0034 Proposed Context Elevation Rev D
 - 731-0041 Proposed Section AA Rev C
 - 731-0042 Proposed Section BB Rev D
 - 731-0043 Proposed Section CC Rev C
 - 731-0051 Bay Elevation and Section Along St James's Road Entrance Rev C
 - 731-0052 Bay Elevation and Section of Defensive Strategy for Ground Floor Rooms Rev B
 - 731-0053 Bay Elevation and Section of West Façade 7th and 8th Floor Rev C
 - 731-0054 Typical Bay Elevation and Section of Façade 7th and 8th Floor Rev B
 - 731-0060 View along Caitlin Street Rev A
 - 731-0061 View along Rolls Road Rev A
3. No works shall commence until full details of the proposed surface water drainage system incorporating Sustainable Drainage Systems (SuDS) have been submitted to and approved in writing by the Local Planning Authority, including detailed design, size and location of attenuation units and details of flow control measures. The strategy should achieve a reduction in surface water runoff rates to greenfield rates during the 1% Annual Exceedance Probability (AEP) event plus climate change allowance, as indicated in the MicroDrainage calculation sheet prepared by Barrett Mahony Consulting dated 05.01.2018 (ref: Attenuation Design P3 – 1.51 l-s). The applicant must demonstrate that the site is safe in the event of blockage/failure of the system, including consideration of exceedance flows. The site drainage must be constructed to the approved details.

4. Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.
5. The development hereby permitted shall be carried out in accordance with the approved PROPOSED SURFACE WATER & FOUL DRAINAGE FOR 175 to 272 ST. JAMES'S ROAD, LONDON prepared by Barrett Mahony with project reference number L17819, revision P2, dated 18.04.18 .
6. Less vulnerable uses for the basement should be maintained for the lifetime of the development in order to avoid danger associated with flood risk.
7. Before any work hereby authorised begins (with the exception of demolition) the details of flood doors at the basement threshold and/or mountable/de-mountable flood barriers in the lower ground floor level that can be used in an emergency situation shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The development shall be carried out and operated in accordance with any approval given.
8. Before any work hereby authorised begins, the applicant shall develop an Emergency Flood Warning and Evacuation Plan for the development hereby permitted. This shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and operated in accordance with the approved Emergency Flood Warning and Evacuation Plan.
9. Before any work above first floor level hereby authorised begins on the development hereby approved (excluding demolition), the specific flow rates for the sanitary ware and water consuming appliances shall be provided to the Local Authority for approval in writing. This should demonstrate 105 litres per person per day (internal water usage), which is equivalent to the 'optional' requirement of the Building Regulations Part G (105 litres/person/day for internal water usage plus 5 litres/person/day for outdoor external usage = 110 litres/person/day). The development shall not be carried out otherwise than in accordance with any such approval given.
10. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be undertaken, submitted to and approved, in writing, by the local planning authority:

- 1) The submitted Phase 1 desk study has revealed the possibility for the presence of unacceptable contamination beneath the site. Therefore, prior to the re-development works, an intrusive site investigation and associated risk assessment shall be completed to fully characterise the nature and extent of any contamination of soils and ground water on the site, together with ground gases. This should be based on the Phase 1 Study and provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 2) In the event that contamination is found that presents a risk to future users or controlled waters or the wider environment, a detailed remediation and/or mitigation strategy shall be prepared and submitted to the Local Planning Authority for approval in writing. The strategy shall detail the results of the site investigation and detailed risk assessment referred to in (1) and all proposed actions to be taken to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings, other property and the natural and historical environment. The approved remediation/mitigation strategy shall be implemented as part of the development.
- 3) Following the completion of the works and measures identified in the approved remediation strategy, a verification report shall be submitted to and approved in writing by the Local Planning Authority providing evidence that all works required by the remediation strategy have been completed and that the site is suitable and safe for the developed uses and in respect of the wider environment. The verification strategy should provide details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority.
- 4) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for scheme of investigation and risk assessment and a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority. The EA should be consulted should any contamination be identified that could present an unacceptable risk to Controlled Waters.

The scheme shall be implemented as approved.

11. Before the work hereby authorised begins, detailed design and method statements (AIP) for foundations and basement structures retaining the highway (temporary and permanent) should be submitted and approved by the Local Highway Authority. The development shall be implemented strictly in accordance with the details so approved.

12. The development authorised by this permission shall not begin until the local planning authority has received confirmation of an arrangement approved by the Highway Authority for reinstating the footway in place of the redundant access and dropped kerb onto St James Road. Such an arrangement may include but shall not be limited to works of:

- Reinstatement of the kerb line
- Making up of the footway
- Reinstatement of a gully and ancillary drainage
- Repositioning of any service covers affected

The occupation of the development shall not begin until those works have been completed.

13. Prior to the development above grade, 1:50 scale drawings of the facilities to be provided for the secure and covered storage of cycles shall be submitted to and approved in writing by the Local planning Authority. Thereafter the cycle parking facilities provided shall be retained and the space used for no other purpose and the development shall not be carried out otherwise than in accordance with any such approval given.

14. Before any work hereby authorised begins, the applicant shall secure the implementation of a programme of archaeological mitigation works and archaeological evaluation works in accordance with a written scheme of investigation, which shall be submitted to and approved in writing by the Local Planning Authority.

15. Within six months of the completion of archaeological site works, an assessment report detailing the proposals for post-excavation works, publication of the site and preparation of the archive shall be submitted to and approved in writing by the Local Planning Authority and that the works detailed in this assessment report shall not be carried out otherwise than in accordance with any such approval given.

16. Section detail-drawings at a scale of 1:5 through:

- the facades;
- the parapets and roof edges; and
- heads, cills and jambs of all typical opening types

to be used in the carrying out of this permission shall be submitted to and approved by the Local Planning Authority in writing before any work commences above ground level in connection with this permission ; the development shall not be carried out otherwise than in accordance with any such approval given.

17. Samples of all external facing materials to be used in the carrying out of this permission shall be presented on site to the Local Planning Authority and approved in writing before construction works begin on the first floor; the

development shall not be carried out otherwise than in accordance with any such approval given.

18. Before any work above first floor level hereby authorised begins, detailed drawings of a hard and soft landscaping scheme (including cross sections, surfacing materials of any parking, access, or pathways layouts, materials and edge details) showing the treatment of all parts of the site not covered by buildings, including off street parking, shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall not be carried out otherwise than in accordance with any such approval given and shall be retained for the duration of the use.

In particular:

The hard landscape materials with samples must be submitted to the Local Authority and approved in writing.

The landscaping scheme shall be designed to mitigate against the adverse impacts of wind.

The planting, seeding and/or turfing shall be carried out in the first planting season following completion of building works and any trees or shrubs that is found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of the same size and species in the first suitable planting season.

19. Prior to works commencing, full details of all proposed planting, including five street trees (the feasibility of which shall be confirmed through a detailed services survey), shall be submitted to and approved in writing by the Local Planning Authority. This will include tree pit cross sections, planting and maintenance specifications, use of guards or other protective measures and confirmation of location, species, sizes, nursery stock type, supplier and defect period. All tree planting shall be carried out in accordance with those details and at those times. Planting shall comply with BS5837: Trees in relation to demolition, design and construction (2012) and BS: 4428 Code of practice for general landscaping operations. The proposed locations must be reviewed in negotiation for a Section 278 agreement with the Local Highway Authority.

If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place in the first suitable planting season, unless the local planning authority gives its written consent to any variation.

20. Development should not be commenced until impact studies of the existing water supply infrastructure have been submitted to and approved in writing by the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point and the development shall be implemented in accordance the approved details.
21. No development shall take place, including any works of demolition, until a Construction (and Demolition) Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall oblige the applicant, developer and contractors to commit to current best practice with regard to construction site management and to use all best endeavours to minimise off-site impacts. All demolition and construction work shall be undertaken in strict accordance with the approved CEMP and other relevant codes of practice.
22. Prior to the commencement of works at first floor level, an acoustic report shall be submitted to the Local Planning Authority for approval in writing. The Rated sound level from any plant, together with any associated ducting shall not exceed the Background sound level (LA90 15min) at the nearest noise sensitive premises. Furthermore, the Specific plant sound level shall be 10dB(A) or more below the background sound level in this location. For the purposes of this condition, the Background, Rating and Specific Sound levels shall be calculated fully in accordance with the methodology of BS 4142:2014. Prior to the occupation of the development hereby permitted, certification confirming that the proposals and any noise mitigation measures outlined in the acoustic report have been installed shall be submitted to and approved in writing by the Local Planning Authority. The plant and equipment shall be installed and constructed in accordance with the approval given and shall be permanently maintained thereafter.
23. The habitable rooms within the development that share a party wall, or potential party wall shall be designed and constructed to provide sufficient resistance to the transmission of sound sufficient to ensure that the party wall meets a minimum of 5dB improvement from the Building Regulations standard set out in Approved Document E. A written report shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the use hereby permitted and shall be permanently maintained thereafter. The development shall be carried out in accordance with the approval given. Prior to occupation a validation test shall be carried out on a relevant sample of premises following completion of the development. The results shall be submitted to the LPA in writing for approval.
24. The accommodation hereby permitted shall be designed to ensure that the following internal noise levels are not exceeded due to environmental noise:
- Bedrooms - 35dB LAeq T**, 30 dB LAeq T*, 45dB LAFmax T *
- Living rooms- 35dB LAeq T **

Dining room - 40 dB LAeq T **

* - Night-time - 8 hours between 23:00-07:00

** - Daytime - 16 hours between 07:00-23:00

A report shall be submitted in writing to and approved by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the use hereby permitted and shall be permanently maintained thereafter. The development shall be carried out in accordance with the approval given. Following completion of the development and prior to occupation, a validation test shall be carried out on a relevant sample (usual minimum of 10%) of premises. The results shall be submitted to the Local Planning Authority for approval in writing.

25. Any deliveries or collections to the commercial unit shall only be between the following hours: 08.00 to 20.00hrs on Monday to Saturday and 10.00 to 16.00hrs on Sundays & Bank Holidays.
26. The windows on the west elevation of the building shall be obscure glazed and shall not be replaced or repaired otherwise than with obscure glazing.
27. The sunken garden shall not be used, other than for maintenance or repair purposes or means of escape, between the hours of 23:00-07:00.
28. The Rated sound level from any plant, together with any associated ducting shall not exceed the Background sound level (LA90 15min) at the nearest noise sensitive premises. Furthermore, the Specific plant sound level shall be 10dB(A) or more below the background sound level in this location. For the purposes of this condition the Background, Rating and Specific Sound levels shall be calculated fully in accordance with the methodology of BS4142:2014. Prior to the plant being commissioned a validation test shall be carried out following completion of the development. The results shall be submitted to the LPA for approval in writing. The plant and equipment shall be installed and constructed in accordance with the approval given and shall be permanently maintained thereafter.
29. Details of any external lighting [including design, power and position of luminaries] and security surveillance equipment of external areas surrounding the building shall be submitted to and approved by the Local Planning Authority in writing before any such lighting or security equipment is installed. The development shall not be carried out otherwise in accordance with any such approval given.
30. The development hereby permitted shall comply with the submitted Student Management Plan, dated January 2018, for the duration that the Development, or any part of it, remains occupied. Details of the operation and efficiency of the Student Management Plan shall be submitted to the Council upon request.

31. Prior to any works above grade, the developer will submit to the local planning authority for approval in writing an overheating assessment using dynamic thermal modelling to demonstrate compliance with the CIBSE overheating criteria. Details will be provided of any mitigation measures that will be installed in order to reduce the risk of overheating to residential accommodation to an acceptable level. The development shall be carried out in accordance with the approved details.
32. Before any work above first floor level begins, details of the green roofs shall be submitted to and approved in writing by the Local Planning Authority. The green roofs shall be:
- biodiversity based with extensive substrate base (depth 80-150mm);
 - laid out in accordance with agreed plans; and
 - planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works (focused on wildflower planting, and no more than a maximum of 25% sedum coverage).

The green roofs shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.

The green roofs shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

Discharge of this condition will be granted on receiving the details of the green roofs and the local planning authority agreeing the submitted plans, and once the green roofs are completed in full in accordance to the agreed plans. A post completion assessment will be required to confirm the roof has been constructed to the agreed specification.

33. Details of bird nesting boxes shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use hereby granted permission.

No less than 6 nesting boxes for sparrows shall be provided and the details shall include the exact location, specification and design of the habitats. The boxes shall be installed with the development prior to the first occupation of the building to which they form part or the first use of the space in which they are contained.

The nesting boxes shall be installed strictly in accordance with the details so approved and shall be maintained as such thereafter. A post completion assessment will be required to confirm the nest features have been installed to the agreed specification.

34. The development hereby approved shall be designed to achieve at least BREEAM 'excellent'. Prior to any fit out works, an independently verified BREEAM report (detailing performance in each category, overall score, BREEAM rating and a BREEAM certificate of building performance) to achieve

a minimum 'excellent' rating shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any such approval given.

Before the first occupation of the building hereby permitted, a certified Post Construction Review (or other verification process agreed with the local planning authority) shall be submitted to and approved in writing by the Local Planning Authority, confirming that the agreed standards have been met.

35. The development hereby permitted shall be constructed to include the energy efficiency measures and photovoltaic panels as stated in the Energy Statement submitted with the application and shown in the approved drawings. All measures and technologies shall remain for as long as the development is occupied.
36. Prior to occupation of the unit/s hereby approved, 2 disabled parking spaces as shown on the drawings hereby approved, shall be made available, and retained for the purposes of car parking for the disabled for as long as the development is occupied. Subject to availability, students will be assigned 30 minutes to load / unload within a 40 minute time slots on specific moving days. The moving days will primarily be on a Saturday or Sunday (primarily over 3-4 weekends at the beginning and end of the academic year)
37. Before the first occupation of the development hereby permitted, details of the arrangements for the storing and collection of refuse shall be submitted to and approved in writing by the Local Planning Authority. This should include, but not be limited to, 1:50 drawings of the refuse stores. The facilities approved shall be provided and made available for use by the occupiers of the dwellings and the facilities shall thereafter be retained and shall not be used or the space used for any other purpose.
- Prior to occupation of the development hereby approved, a written Waste Management Strategy should be submitted for the approval of the Local Planning Authority. The Waste Management Strategy should be drafted in consultation with the Council's Waste Management Services Team. It shall oblige the applicant/ developer/ student management company to commit to managing the collection of bins on collection day so that acceptable drag distances are achieved and bins are not placed on the public footway.
- Waste management shall then be undertaken in strict accordance with the approved strategy and any other relevant codes of practice, unless otherwise agreed in writing by the Local Planning Authority, for the duration of the use.
38. Prior to occupation of the development hereby approved, evidence of Secured By Design accreditation from the Metropolitan Police will be submitted to the Local Authority for review and written approval.
39. No roof plant, equipment or other structures, other than as shown on the plans hereby approved or approved pursuant to a condition of this

permission, shall be placed on the roof or be permitted to project above the roofline of any part of the buildings as shown on elevational drawings or shall be permitted to extend outside of the roof plant enclosures of the building hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

40. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

If piling is agreed, it shall not take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

APPEARANCES

FOR THE APPELLANT

Matthew Mainwaring	Indigo Planning
Roy Pinnock	Dentons
James Brown	James R Brown & Company Ltd
Norma Jean Worden-Rogers	Indigo Planning
Anna Stott	Indigo Planning
Helen McManus	Tide Construction

FOR THE LOCAL PLANNING AUTHORITY

Tim Cutts	Planning Officer
Jacob Kut MRICS	Avison Young
Juliet Farrow MRICS	Avison Young
Alex Gillott	Planning Lawyer

INTERESTED PERSONS

Ann-Marie Talbot	76 Rolls Road
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DOCUMENTS RECEIVED AT THE EVENT

Received on Day 1

- 1) List of conditions
- 2) Avison Young changes to Appraisals following receipt of JRB Report (dated 29 October 2019)
- 3) JGK Rental Analysis
- 4) Avison Young High Level Cost Notes
- 5) Document titled "Urbanest buys Vauxhall site"
- 6) Draft Unilateral Undertaking

Received on Day 2

- 1) Revised list of conditions
- 2) Revised Avison Young Appraisals
- 3) Revised JRB Appraisals

DOCUMENTS RECEIVED AFTER THE EVENT

- 1) Council letter - 2 December 2019
- 2) Council submission in relation to build costs - 10 December 2019
- 3) Avison Young Construction Cost Statement - 10 December 2019
- 4) Appellant Position Statement for Cost Plan - 11 December 2019
- 5) Tide Construction Position Statement - 10 December 2019
- 6) Avison Young Final Position Cost Statement – 20 December 2019
- 7) James R Brown Viability and affordable housing commuted payment – note for the Inspector – 19 December 2019
- 8) Dentons Build Costs Evidence Summary – 23 December 2019
- 9) Statement of Common Ground – Addendum - 14 January 2020