



Appeal Decision

Online Hearing Held on 18 January 2022

Site visit made on 20 January 2022

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 09 FEBRUARY 2022

Appeal Ref: APP/D1590/W/20/3262839

162 Eastwood Road, Leigh-on-Sea SS9 3AG

- 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 Elizabeth Benjamin of Eaglewealth against the decision of Southend-on-sea Borough Council.
 - The application Ref 19/01110/FULM, dated 6 June 2019, was refused by notice dated 15 May 2020.
 - The development proposed is to erect part 2/part 3 storey building comprising 13 flats, parking, cycle store and refuse store.
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Decision

1. The appeal is allowed, and planning permission is granted to erect part 2/part 3 storey building comprising 13 flats, parking, cycle store and refuse store at 162 Eastwood Road, Leigh-on-Sea SS9 3AG in accordance with the terms of the application Ref 19/01110/FULM, dated 6 June 2019 and the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. Since the Local Planning Authority (LPA) determined the appeal proposal, the Borough Council adopted the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) in October 2020. The SPD confirms that additional housing in the Borough, within identified zones of influence, is likely to significantly affect the integrity of various Natura 2000 habitat sites for biodiversity. Consequently, project level appropriate assessment would be required to ensure that any adverse impacts arising from increased recreational pressure and disturbance can be adequately mitigated. The RAMS SPD sets out a per dwelling tariff payment as part of an agreed strategic approach to mitigation, which is endorsed by Natural England.
3. At the time of the hearing the appellant had not submitted a mechanism for planning obligations, including in relation to any RAMS related tariff. Based on the submissions of both the LPA and the appellant at the hearing, principally in relation to the RAMS issue, I allowed a brief window for matters to be addressed. Consequently, the appellant submitted a signed and dated Unilateral Undertaking (UU) on 1 February 2022 containing obligations in relation to the RAMS related tariff and secondary school provision. The LPA was given an opportunity to comment on the submitted UU. I deal with the provisions in the UU in the decision below.

Main Issue

4. The main issue in this appeal is whether the proposal would make appropriate provision for affordable housing and other infrastructure.

Reasons

Affordable Housing

5. Policy CP8 of Southend on Sea Core Strategy 2007 (*the CS*) states that residential development proposals will be expected to contribute to local housing needs, including affordable provision. To achieve this, the Policy seeks to ensure that all residential development proposals of 10-49 dwellings (or 0.3 hectares up to 1.99 hectares) make an affordable housing provision of not less than 20% of the total number of units on the site.
6. Policy CP8 recognises that, exceptionally, there will be instances where on site provision may not be practical. In such circumstances Policy CP8 allows for the negotiation of a financial contribution to fund the off-site provision of affordable housing. This approach is consistent with the National Planning Policy Framework (NPPF) at paragraph 63. It is accepted in this case that the appellant has undertaken reasonable endeavours to explore on-site affordable housing provision but given the lack of interest from registered providers this has not materialised. To inform the process of in-lieu financial contributions the Borough Council adopted in 2016 an Interim Affordable Housing Policy (*the IAHP*). Whilst this does not have the status of development plan it is nevertheless a material consideration. Using this policy, the LPA calculates that the appeal scheme should make a contribution of approximately £237,720 towards off-site delivery of affordable housing. The approach is clearly set out at Section 5 of the IAHP, with Table 1 of the LPAs statement of case explaining how the figure has been derived based on the open market value of the appeal proposal. Overall, I consider the £237,720 figure to be justified, directly related to the development, and fairly and reasonably related in scale and kind to the proposed development.

Secondary Education

7. The Borough Council has an adopted Community Infrastructure Levy (CIL) but the Regulation 123 list does not include secondary education. As part of the planning application process, the Council's School Development Manager has evidenced that there is no spare capacity within the secondary catchment of the appeal site. In terms of expanding capacity, this is most likely to occur at Eastwood Academy (approximately 1 mile from the appeal site). Based on an analysis of the proposed dwelling mix the Borough Council reasonably estimates, based on assessment of trends in Southend and other regional evidence, that an additional 1.24 secondary pupils would be generated by the appeal proposal. A pupil place cost multiplier, which reflects Department for Education figures, has been applied, generating a cost of £23,359.59 to remedy demands arising from the appeal proposal on secondary education provision. Overall, the identified sum meets the CIL Regulation 122 tests¹.
8. In contrast to the affordable housing contribution, the secondary education contribution is not contested by the appellant. As set out above, the appellant has submitted a UU containing a planning obligation that would deliver the

¹ Also set out at paragraph 57 of the NPPF

required contribution for secondary education prior to commencement of the development. This obligation meets the required tests and so I have taken it into account. Consequently, the appeal proposal would make a suitable contribution towards the delivery of education facilities to meet demands generated by the proposed housing. Accordingly, the appeal proposal would be in accordance with CS Policies CP6 and KP2 in this regard. It would also accord with the approach to planning obligations for education set out in the Council's Planning Obligations Supplementary Planning Document 2 (July 2015).

Viability – Affordable Housing

9. The NPPF at paragraph 58, echoed by the Planning Practice Guidance (PPG) at paragraph 10-07-20190509, starts from the position that up-to-date policies will set a level of contributions which most developments should be assumed to viably deliver, including affordable housing. In the case of Southend, however, the affordable housing thresholds and the 20% requirement in Policy CP8 are now 14 years old. As such the use by the appellant of a site-specific viability assessment to determine what policy requirements the appeal proposal can viably support is justified. NPPF paragraph 58 states that the weight to be given to the viability assessment evidence is a matter for the decision-maker. NPPF paragraph 58 (previously paragraph 57 in the 2019 NPPF) advises that all viability assessments should reflect the approach in national planning guidance.
10. A notable number of inputs into the viability process are agreed. The gross development value (GDV) is generally established at c.£3,570,000. Various other inputs are also agreed including professional fees, financing, ground rent revenue, the fixed cost of CIL and a target profit (at 17.5% of GDV)². Consequently, the areas of contention between the parties relate to construction costs and importantly a benchmark land value (BLV). It is often the case that the existing use value (EUV)³ plus any premium to incentivise disposal of the site is used to establish the BLV. At the appeal site matters are blurred by the fact the established use of the site (restaurant) ceased trading in 2016 and the building was partially demolished in 2018. On this basis, both parties have focused on assessing an alternative use value (AUV) to inform a BLV, an approach countenanced in the PPG chapter on 'Viability' at paragraph 010-017-20190509.
11. At the hearing the appellant sought to supplement their evidence on the AUV by reference to market evidence and to the extent to which an existing telecoms mast on the appeal site should be reflected in an EUV, in terms of rental income. In relation to the market evidence which I briefly heard (offers and price paid for the site) I give negligible weight to this as it is unclear what assumptions, including compliance with development plan policy, were applied in deriving these prices. The existence of a telecoms mast on the appeal site is, however, a legitimate matter for viability and one I return to below.
12. The appellant estimates the total construction cost at c.£2,430,000⁴. The LPA submits a lower figure at £2,320,000⁵. In terms of the disputed cost areas, I find the separately identified cost of £50,000⁶ for the removal/compensation of the telecoms mast to be justified as a specific cost to be separately identified

² As set out at Table 5.2.1 of Mr Purvis' Statement (28 July 2021)

³ EUV preferred at PPG paragraph 010-014-20190509 for establishing BLV

⁴ John Burke Associates (JBA) Cost Estimates

⁵ Savile Brown Review of JBA – Appendix 1 to Mr Purvis' Statement (28 July 2021)

⁶ Line 1.04 in the John Burke Associates Cost Estimates (Job No. 62603)

from the general expense of demolition and site preparation works. In coming to this view, I accept that there would be discrete costs associated with compensating the operator and with the specialist removal of the mast and equipment. I accept that this is an estimated cost which could be lower (or higher) and is not supported by specific evidence or quotations. Nonetheless, I note the original 2019 Arebray Development Viability Assessment made a separate allowance of £55,000 for the 3G mast tenant relocation and legal fees such that this has been a consistently identified additional technical constraint to redeveloping the site. Overall, I find an additional allowance for the mast relocation costs to be justified. It is difficult to conclude whether £50,000 is an appropriate sum but it does not strike me as excessive given the likely value of the mast to an operator in a predominantly residential area.

13. The appellant has also made an allowance for project preliminaries which the LPA submit should be subsumed within the wider allowance for construction costs including overall preliminaries. The sum in dispute is £37,755, which is approximately 12% of the appellant's estimated costs for construction and external works. Having heard submissions, I still remain unclear as to the justification for this cost, noting there would be an overarching contingency allowance, a separate allowance for the telecoms mast and a further allowance of c.£206,000 for professional fees at 9%. The separate line within the JBA costs estimates has not been sufficiently made out and so I have discounted the £37,755 cost for project preliminaries.
14. In terms of contingency, the difference between the parties is generally modest. The appellant's contingency of 6% (in contrast to the LPAs 5%) is nonetheless reasonable, particularly given recent volatility in construction costs, including materials and labour. With regards to contingency, I do not consider the appellant to have over-inflated this input into their cost analysis.
15. To conclude on the disputed aspect of costs, the overall difference between the parties was modest in the overall total of construction costs. In removing the £37,755 for project preliminaries, this does not affect the appellant's overall conclusion that the appeal scheme cannot viably support an affordable housing contribution. For the LPA it does mean that I find construction costs are closer to £2.4million(m) compared to the LPAs input of £2.32m. Consequently, the LPAs forecast residual land value of c.£240,000 would reduce accordingly were I to otherwise accept the LPAs approach to the AUV.
16. Turning to the land value input, the PPG confirms at paragraph 10-017-20190509 that an AUV can inform establishing a BLV. The PPG specifies that alternative uses should be limited to those uses which would fully comply with up-to-date development plan policies. This can include a refurbished or redeveloped existing use. The PPG also advises that the AUV approach should be used where it is supported by evidence of the costs and values of the alternative use to justify the land value.
17. The appeal site operated as a restaurant until 2016. After the LPA made its decision in this case, the government revised the Use Classes Order such that the restaurant use of the appeal site as of 1 September 2020 comes under the wide umbrella of Class E. Consequently, the appeal site is acceptable in principle for a wide variety of uses including, amongst other things, uses where food and drink are consumed on the premises, retail, office, and various services related developments. The development plan in Southend does not

reflect the notable changes introduced with Class E. Consequently, it is appropriate in looking at an AUV that retail, food, and drink uses (as a redevelopment of the existing use) and other commercial activities are considered for the site.

18. The appellant's approach has involved inputting a notional land cost to determine whether a scheme would generate profit. The Arebray viability assessment work applies an AUV of £610,000. In principle, the approach is consistent with the PPG and does not include a premium to the landowner. However, it relies on whether the valuation is robustly evidenced.
19. In this regard I am principally directed to a supplementary Red Book report and valuation carried in January 2020 by a chartered surveyor and register valuer with an extensive knowledge and experience of the commercial property market in the Borough. The report contains two comparable sites, both smaller than the appeal site, a small commercial yard in Benfleet and a commercial site adjacent to a restaurant in Chafford Hundred. The values for these sites appear to have been used to inform and sense check a BLV for the appeal site.
20. I acknowledge that the appellant's sample size is relatively small with some limitations around the direct comparability with the circumstances at the appeal site. Overall, the evidence before me from both the appellant and the LPA indicates that there are generally a limited number of comparables to guide a representative AUV in this case. Notwithstanding the relatively small sample size, paragraph 5.6 of the appellant's Red Book valuation report principally concludes that the appeal site, if developed for a modest neighbourhood convenience store, could carry a developed market value of c.£1,200,000 with costs being between £500,000 to £600,000. There is very little to substantiate these figures or how it has informed a residual appraisal of an alternative retail use.
21. Alternatively, BNP Paribas for the LPA have undertaken an approach whereby restaurant, retail and office uses on the appeal site have been appraised so as to examine the value and costs (including profit) of these schemes in order to determine a 'residual' amount that could be used to acquire the land. Against the BNP Paribas assumptions, none of these AUVs generate a positive land value. The appellant has expressed concern that the yields for retail applied by BNP Paribas are unrealistic, but the explanation for their use is fully set out at paragraph 5.14 of Mr Purvis' statement and I have little evidence to apply an alternative figure. Moreover, in contrast to the appellant's evidence, the July 2021 BNP Paribas report transparently sets out at Appendices 3 and 4 the basis on which the LPAs retail and office AUVs have been calculated. Between the two approaches, the LPAs is the more transparent, reflecting the evidential onus in the PPG when using AUV as an alternative to EUV in establishing BLV.
22. Given the negative AUVs, BNP Paribas ascribe a site value benchmark of £1 against which to appraise the viability of the appeal scheme. Instinctively, this feels counter-intuitive given the site is unlikely to transact for this value (even in its current state) combined with the flexibility now afforded by Class E in terms of how the site could be utilised. That said, I do not have sufficient evidence to justify the appellant's valuation of £610,000 in order to conclude that the site cannot outright viably support an affordable housing contribution as part of any residential proposal. Accordingly, the LPAs approach is to be

marginally preferred for this appeal albeit it represents, in my view, a somewhat theoretical best-case scenario.

23. Based on my assessment of construction costs above, when using the LPAs site value benchmark of £1, the appeal scheme would generate a residual value appreciably below £200,000. This would contrast with the IAHP informed £237,720 sought by the LPA for affordable housing.
24. Overall, I conclude that, on balance, the appeal scheme could viably contribute towards the off-site delivery affordable housing, albeit at a more modest level than the LPA seeks. Accordingly, the appeal proposal would be contrary to CS Policy CP8 and Policy DM7 of the Council's Development Management Document 2015 (*the DMD*). It would also fail to accord with the Council's IAHP as a material consideration. It would also be contrary to NPPF at paragraph 62 in terms of securing a mix of housing and meeting a variety of housing needs, including affordable housing.

Other Matters

Biodiversity

25. As set out above, circumstances have changed with the adoption by the Borough Council of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) SPD in October 2020. The appeal site falls within two zones of influence for designated habitats. Accordingly, new residential development at the appeal location, when considered alone or in combination, is likely to significantly affect these protected sites through increased visitor and recreational pressure. The financial contributions secured by means of the RAMS tariff per dwelling would be used strategically to fund mitigation measures. This approach is endorsed as being effective by Natural England as set out in the SPD. This would ensure that development does not adversely affect the integrity of the European sites.
26. I conclude that, as the requisite RAMS contribution (index linked) has been secured through the submitted UU and would be paid prior to the commencement of development, the proposal would not adversely affect the integrity of European designated habitats. Accordingly, the proposal would protect the natural environment as required by CS Policies CP4 and KP2(4). The proposal would also follow the guidance set out in the RAMS SPD.

Housing Land Supply

27. There is no dispute that there is not a five-year supply of deliverable housing land in the Borough. The appellant referred at the hearing to the latest Housing Delivery Test results which show that only 31% of the housing requirement was delivered in Southend in terms of the 2021 measurement. Accordingly, the tilted balance in terms of a presumption in favour of sustainable development at paragraph 11(d)(ii) of the NPPF is engaged. This is a significant material consideration requiring that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In accordance with NPPF paragraph 182, given my finding above that with the submitted obligation towards funding strategic mitigation there would be no adverse impact on the integrity of proximate internationally important habitat sites, the tilted balance would not be disengaged by reference to footnote 7 to NPPF paragraph 11.

Character and Appearance

28. The appeal site is in a moribund condition, occupying a high-profile location adjacent to a busy road junction. The partially demolished former restaurant premises significantly detracts from the orderly residential character and appearance of this part of the Borough. From the submitted plans and from my observations on site, the appeal proposal would be of an appropriate form, bulk, and massing for the locality. It would provide for an appropriate continuation of the scale and form of the neighbouring care home complex on Blenheim Chase. It would also be suitably designed to correspond with the scale and varied form of residential development on Eastwood Road and Tudor Gardens including a step-down in scale adjacent to the bungalows at Nos 8-12 Tudor Gardens.
29. The degree of separation provided by the width of the tree-lined highway in Tudor Gardens means the appeal proposal would not dominate the street scene or appear overly bulky or oppressive. Additionally, in contrast to the previous appeal scheme⁷, the development before me has deployed greater variety in terms of roof heights and articulation of the elevations in order to break up the bulk and mass of the building. The proposed design of the building, its consistency with the building line in Tudor Gardens and the scope to enhance verdant landscaping along the Blenheim Chase / Eastwood Road frontage would all ensure the development would suitably assimilate into its context. Accordingly, the proposal would represent the high standard of design sought by CS Policies KP2 and CP4 and DMD Policy DM1. It would also accord with the NPPF priority to achieve well-designed places that will function well, add to the overall quality of the area, be visually attractive and sympathetic to local character.
30. Importantly, the appeal proposal would make an effective and efficient use of previously developed ('brownfield') land in a sustainable location. The NPPF encourages this and advises at paragraph 120 to give substantial weight to the value of using suitable brownfield land within settlements for homes and to promote and support the development of under-utilised land and buildings especially if this would help meet identified needs for housing where land supply is constrained.

Living Conditions of nearby residential properties and Highways

31. Concerns are raised by those living near the appeal site regarding impacts on their outlook and loss of privacy from potential overlooking. As described above the appeal proposal would be appropriately set back so as to maintain the building line in Tudor Gardens. It would be separated from corresponding residences at No.166 Eastwood Road and Nos.1-9 Tudor Gardens by the width of the tree-lined highway and by the depth of front gardens to these dwellings. The arrangement would be comparable to that elsewhere in Tudor Gardens. There would be no harmful loss of outlook or privacy in this regard.
32. In respect of the relationship to the bungalow at No.8 Tudor Gardens I observed the existing relationship of the partially demolished 'Vienna' building to this property, particularly to its rear garden. The appeal proposal would be close to the side elevation of No.8, but it would be moderately separated and designed to step-down in scale. I observed the side openings on No.8 towards

⁷ APP/D1590/W/18/3215929

the appeal site, but these currently have an outlook towards a combination of tall brick wall and close-board timber fencing. Overall, the appeal proposal would not harmfully dominate the outlook from within No.8 which would remain principally towards the street and alternatively its private rear garden. The degree of intervening separation would be similar to that found elsewhere between dwellings in Tudor Gardens. Various first and second floor openings on the appeal building would look towards rear gardens on Tudor Gardens but these would be positioned further away than the remnants of the existing two storey restaurant building due to the intervening position of the proposed car parking court. Overall, there would be no harmful loss of privacy to the rear gardens of properties on the eastern side of Tudor Gardens. In respect of living conditions, the proposal would accord with Policy DM1 of the DMD and NPPF paragraph 130(f).

33. The appeal proposal would provide 15 off-street parking spaces and cycle storage. I observed dwellings elsewhere on Tudor Gardens generally have off-street parking. As such Tudor Gardens does not appear to be a location of particular on-street parking stress that would be harmfully exacerbated by the appeal proposal. I also observed that Tudor Gardens has a straight alignment and is a quiet cul-de-sac such that I do not consider that vehicles entering or exiting the under-croft arrangement to the proposed parking area would give rise to a severe impact on the safety of other highway users. Overall, there is very little evidence to substantiate concerns that the appeal proposal would result in an unacceptable impact on the safe and efficient operation of the local highway.

Conclusion

34. I have found in the main issue to this appeal that in not providing a contribution towards affordable housing delivery the appeal proposal would be contrary to the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a significant material consideration, but the presumption in favour of sustainable development, which is engaged here, does not change the statutory status of the development plan as the starting point for decision-making.
35. In terms of the harm that would arise from the conflict with the requirement in the development plan that schemes of the scale of the appeal proposal should assist in delivering a mix of housing to meet various needs in Southend, including the important need for affordable accommodation I ascribe significant weight. I come to this view recognising the age of Policy CP8 and my assessment that the construction costs of the scheme, even on the LPAs approach to AUVs, would generate a residual value appreciably lower than an IAHP compliant contribution.
36. As set out elsewhere in this decision, there would be no harm in terms of character and appearance, living conditions and highway safety. With the submitted UU the scheme would not have an unacceptable impact on education infrastructure and would appropriately mitigate likely effects on internationally important sites for biodiversity. These are requirements to make the development acceptable in planning terms and so are neutral in any planning balance.

37. Turning to the benefits of the appeal scheme. It would comprise a positive and effective use of a prominent previously developed site, now in a very poor condition. I give this benefit substantial weight consistent with NPPF paragraph 120.
38. The appeal proposal would deliver 13 new homes, comprising a good mix of properties including some larger 3-bedroom (4 person) family sized flats. I note that the previous appeal in 2019 submitted that the proposed scale of housing (15 units in that scheme) would not make a significant contribution towards the overall scale of housing need in the Borough. However, given the latest Housing Delivery Test results in Southend a very significant shortfall against the housing requirement is now accruing. In this context, I arrive at a different conclusion that the 13 homes through the appeal scheme would make a modest but important contribution to towards the supply of decent new homes in the Borough. As such, I attach significant weight to the benefit that the appeal proposal would make in supplying homes to help meet the Borough's housing needs.
39. Bringing this all together, I find the adverse impact of not making a relatively modest contribution towards off-site affordable housing provision would not significantly and demonstrably outweigh the benefits of 13 new dwellings on a sustainably located brownfield site at a time when housing delivery is substantially below the number of homes needed in the Borough. On this basis the appeal proposal would amount to sustainable development for which planning permission should be granted. Accordingly, there are the material considerations which support a decision other than in accordance with the development plan, and so I allow the appeal.

Conditions

40. A number of proposed conditions were provided as part of the LPAs appeal statement. As discussed at the hearing a small number of these conditions would need to be amended to reflect that the scheme before me would be subject to a full planning permission. I have considered these suggested conditions having regard to the PPG on the use of conditions and paragraphs 55 and 56 of the NPPF. A number of pre-commencement conditions are proposed. This was discussed at the hearing, and as further clarified by Mr Kearney, I am satisfied that the appellant has provided their agreement to those which are pre-commencement conditions in the terms sought by Section 100ZA(5) & (6) of the Town & Country Planning Act 1990 (as amended).
41. In addition to the standard time limit condition (1) for the commencement of the development, a condition (2) requiring the development is carried out in accordance with the approved plans is needed in the interests of proper planning and for the avoidance of doubt. Whilst a certain level of detail is provided in the submitted plans and design and access statement, I nonetheless consider it necessary in the interest of securing a high quality of design, to impose conditions requiring further details to be submitted and approved in writing by the LPA in relation to materials and openings (3), site levels (4) and hard and soft landscape works (6) and for their implementation (7 & 8). There are some tree specimens on the site and close to it. Accordingly, a condition (5) requiring an up-to-date arboricultural impact assessment setting out protection measures for those trees to be retained is necessary in order to maintain the character of the locality as well as the

amenity and biodiversity value of identified trees. The appeal site is also very close to Belfairs Park and Woods and so I consider it necessary to impose a condition (21) requiring a bird breeding survey and the implementation of any identified mitigation measures to ensure necessary biodiversity protection and gain in accordance with CS Policies KP2 and CP4, DMD Policies DM1 and DM3 and NPPF paragraph 174(d). Necessarily, conditions (5) and (21) are pre-commencement conditions in order to maintain the environmental baseline of the site prior to any demolition and construction work.

42. To ensure an acceptable standard of living accommodation within the proposed dwellings, I consider conditions requiring details confirming that adequate storage in line with Nationally Described Space Standards would be provided and made available (9) and to provide mitigation measures address noise levels from the adjacent highway (10) are both necessary to ensure the proposal complies with relevant development plan requirements and NPPF paragraph 130(f). A further condition (11) is necessary to ensure that the proposed dwellings are constructed to an appropriate standard to ensure adaptability and accessibility, including for wheelchair users.
43. In order to protect the living standards of local residents and highway safety, a condition (12) requiring the submission of demolition and construction management plan needs to be imposed. This needs to be a pre-commencement condition, such that any works, including demolition, are carried out appropriately given the proximity of residential uses. Similarly, a further condition (13) is required to ensure that construction works occur at reasonable times. In respect of highway safety and to ensure that the appeal proposal supports modal shift, conditions limiting occupation until highway improvements (14), off-street parking spaces (15) and cycle parking (16) are implemented are all necessary. In respect of local amenity and efficient waste management it is also necessary to impose a condition (17) requiring that the dwellings are only occupied once approved waste storage facilities are in place.
44. To ensure the development does not increase the risk of flooding elsewhere a condition (18) requiring the submission and implementation of sustainable urban drainage scheme is necessary. A further condition (20) requiring measures to ensure the efficient consumption of water is also necessary in accordance with the optional technical standards set out at DMD Policy DM2. In addition to water sustainability, a condition (19) requiring at least 10% of the energy needs of the development are provided from onsite renewable sources is necessary to achieve the energy sustainability required by development plan policy and to more generally support the transition to a low carbon future as set out in the NPPF.

David Spencer

Inspector.

APPEARANCES:

FOR THE APPELLANT:

Stephen Kearney	Director, SK Architects
Madeleine Seymour	Planner, SK Architects
Richard Bray MRICS MCIOB	Development Director, Beresford
David Dedman FRICS	Property Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Spyridon Mouratidis	Senior Planner
Jamie Purvis MRICS	Senior Associate Director, BNP Paribas

DOCUMENTS SUBMITTED AFTER THE HEARING

Signed and dated Unilateral Undertaking received 1 February 2022

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 approved shall be carried out in accordance with the following approved plans:
 - 575-P01 A – Site and Block Plans
 - 575-P02 C – Proposed Ground Floor
 - 575-P03 A – Proposed First and Second Floors and Roof Plan
 - 575-P04 C – Proposed Elevations and Sections
 - 575-P05 – Existing Elevations
- 3) Notwithstanding the details shown on the plans submitted the development hereby permitted shall not commence, other than for groundworks and site preparation works, unless and until full details and specifications of the materials to be used for all the external surfaces of the proposed buildings at the site including facing materials, roof detail, windows (including sections, profiles and reveals), doors, balustrading, fascia and balconies have been submitted to and approved in writing by the local planning authority. The works must then be carried out in full accordance with the approved details before the dwellings hereby approved are first occupied.
- 4) Notwithstanding the information submitted and details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition shall take place on site unless and until details of the levels of the proposed building, to adjoining land and any other changes proposed in the levels of the site associated with the works permitted by this permission have been submitted to and approved in writing by the Local Planning Authority. The highest part of the building shall not exceed 56.46m AOD. The development shall be implemented in full accordance with the details approved under this condition before it is first occupied or brought into use.

- 5) No demolition or development of any kind shall take place on site unless and until tree protection measures have been implemented on site in line with an up to date Arboricultural Impact Assessment and Method Statement in accordance with British Standard BS5837 (Trees in Relation to Construction - Recommendations) which should consider trees on site and adjacent street trees, and which have previously been submitted and approved in writing by the Local Planning Authority. The approved scheme of protection measures shall be fully installed before the commencement of works and maintained throughout construction. The development shall be implemented in full accordance with the approved scheme, measures, and methods.
- 6) Notwithstanding the information submitted and details shown on the plans submitted and otherwise hereby approved, no development other than demolition and groundworks shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The hard landscaping scheme shall include details of materials to be used on hard surfacing as well as elevations and details of materials for any boundary treatment of the site, including boundaries within the site.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons 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.
- 8) The occupation of the dwellings hereby approved shall not commence until the hard landscaping scheme has been carried out and implemented solely in full accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority.
- 9) Notwithstanding the details submitted and otherwise hereby approved, the dwellings hereby approved shall not be brought into first use unless at least internal storage space, excluding kitchen cupboards and wardrobes less than 0.72m² in a double bedroom and 0.36m² in a single bedroom, in line with the requirements of the Nationally Described Space Standards for each unit have been provided and made available on site in line with details that have previously been submitted to and agreed in writing by the Local Planning Authority.
- 10) No development above slab level shall take place on site until details of noise mitigation measures to ensure that all habitable rooms achieve the requirements of British Standard 8233:2014, have been submitted to and approved in writing by the Local Planning Authority. The measures shall be fully implemented as approved prior to the first use of the development hereby approved.
- 11) Notwithstanding the details submitted and otherwise hereby approved, no development other than site preparation works shall take place until and unless details have been submitted to and approved in writing by the Local Planning Authority to show how at least 10% and a specified number of the dwellings will be built in compliance with the building

regulation M4(3) 'wheelchair user dwellings' standard with all of the remaining dwellings complying with the building regulation part M4(2) 'accessible and adaptable dwellings' standard. Each approved dwelling shall be constructed to comply with either building regulation M4(2) or M4(3) in accordance with the approved details prior to its first occupation.

- 12) No development shall take place, including any works of demolition, unless and until a Demolition and Construction Management Plan and Strategy to include Noise and Dust Mitigation Strategies has been submitted to, and approved in writing by the local planning authority. The approved Demolition and Construction Management Plan and Strategy shall be adhered to in full throughout the construction period. The Statement shall provide, amongst other things, for:
- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding
 - v) measures to control the emission of dust, dirt, and noise during construction
 - vi) a scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.
 - vii) a dust management plan to include mitigation and boundary particulate monitoring during demolition and construction.
 - viii) details of the duration and location of any noisy activities.
- 13) Construction works for the approved development on site shall only be undertaken between 8 am to 6 pm on weekdays, between 8 am and 1 pm on Saturdays and not at any time on Sundays and Public Holidays.
- 14) The approved dwellings shall not be occupied unless and until the following works have been implemented in accordance with a scheme which has been submitted to and agreed in writing by the local planning authority:
- a. The construction of new vehicular accesses to Tudor Gardens; and
 - b. The removal of the redundant crossover to Eastwood Road and reinstatement of the footway.
- 15) The dwellings hereby approved shall not be occupied unless and until at least one parking space per unit in the area shown on the approved plan 575-P02 C has been provided and made available for use on site. The parking spaces shall be retained for the lifetime of the development for the purposes of car parking solely for residents of the approved dwellings on site and their visitors.
- 16) The development hereby approved shall not be brought into first use unless and until at least one cycle parking space per unit has been provided on site and made available for use in line with the details shown in approved plan 575-P02 C. The provision of at least one cycle parking space per unit for the benefit of future occupiers of the approved development shall be retained in perpetuity.
- 17) The development hereby approved shall not be brought into first use unless and until a scheme for waste storage facilities has been provided on

site and made available for use in line with the details shown in approved plan 575-P02 C. The provision of the waste storage facilities shall be retained in perpetuity.

- 18) Notwithstanding the information submitted and details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and excavation works, shall take place unless and until a drainage and surface water management strategy incorporating principles for Sustainable Drainage Systems (SuDS) has been submitted to and approved in writing by the Local Planning Authority. The drainage and surface water management strategy shall be implemented in full accordance with the details approved under this condition before the development hereby approved is first occupied or brought into first use.
- 19) Prior to occupation of the development hereby approved details of energy efficiency and other sustainability measures to be included in the scheme, including the provision of at least 10% of the energy needs of the development hereby approved being provided from onsite renewable sources, shall be submitted to, agreed in writing by the Local Planning Authority and implemented on site in accordance with the agreed details.
- 20) The dwellings hereby approved shall incorporate water efficient design measures set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption), including measures of water efficient fittings, appliances, and water recycling systems such as grey water and rainwater harvesting before they are occupied.
- 21) No development shall take place on site, including any works of demolition, unless and until a breeding bird survey has been submitted and approved in writing by the Local Planning Authority. The development hereby approved shall be implemented and operated thereafter in strict accordance with the findings, recommendations, and mitigation measures of the approved breeding bird survey.

SCHEDULE ENDS.