



Appeal Decision

Site visit made on 6 December 2022

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/D0840/W/22/3292448
44-46 Market Street, Falmouth TR11 3AJ

- 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 Andrew Strathdee, Acorn Blue, against the decision of Cornwall Council.
 - The application Ref PA21/04472, dated 22 April 2021, was refused by notice dated 13 December 2021.
 - The development proposed is mixed use development comprising retail and residential uses.
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Decision

1. The appeal is allowed and planning permission is granted for mixed use development comprising retail and residential uses at 44-46 Market Street, Falmouth TR11 3AJ in accordance with the terms of the application, Ref PA21/04472, dated 22 April 2021, subject to the conditions set out in the Annex attached to this decision.

Applications for costs

2. An application for costs has been made by Andrew Strathdee, Acorn Blue against Cornwall Council. This application is the subject of a separate decision.

Preliminary Matters

3. It is incumbent upon me as competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the Fal and Helford Special Area of Conservation (SAC). This is because this is a European Designated Site afforded protection under the Conservation of Habitats Regulations 2017 as amended (the Habitat Regulations). I have been made aware of a unilateral Agreement under S111 Local Government Act 1972 which seeks to mitigate against potential effects of the proposed development on the SAC. I will address this below.
4. It has been drawn to my attention that the Climate Emergency Development Plan Document (DPD), has now been found sound, subject to modifications. In accordance with paragraph 48 of the National Planning Policy Framework (Framework), and given the stage the DPD has progressed to, I have afforded relevant policies within the DPD significant weight.
5. I have had regard to an appeal decision¹ commented upon by the main parties. That appeal case appears to differ from the current proposal in several ways,

¹ APP/D0840/W/20/3257017

not least due to the appeal proposal's location, type of development being in relation to student accommodation, and the policy context. This limits the equivalence of the other case to the current proposal. Given the particular circumstances of the current appeal, I have determined it on its own merits.

6. I am in receipt of a completed legal agreement, dated 9 August 2022 made under Section 106 of the Town and Country Planning Act 1990, as amended. This seeks to overcome the Council's second reason for refusal, concerning the absence of a mechanism to secure the provision of offsite financial contributions to deliver improvements to mitigate the pressures on healthcare, education services, highways and open space provisions.

Main Issues

7. The main issues are:

- effect of the proposal on pedestrian movements in Market Street, with particular regard to the strategic vision for the area; and
- whether the proposals include adequate provision for the necessary infrastructure directly required by the proposed development.

Reasons

Pedestrian movements

8. The appeal site is a disused four storey retail premises, located in a prominent location on the north-eastern side of Market Street, within the Prime Retail Frontage and Primary Shopping Area of Falmouth town centre and the Falmouth Conservation Area. Market Street is a principle one-way street, with retail units fronting the streets on both sides, and a mix of uses including residential and storage uses in upper floors. Market Street, which leads to the narrower Church Street to the southeast, is a shared surface. The surface treatment and signage at the junction of Market Street and Market Strand to the west, changes denoting a pedestrian zone which is subject to an Experimental Traffic Regulation Order (ETRO).
9. I understand that the ETRO was part of the Healthy Streets Falmouth initiative, a scheme to reduce traffic and pollution levels for all, allowing space for people to move around safely. This restricts vehicular access to Market Street at its junction with Market Strand, between the hours of 11am and 4pm, subject to some exemptions.
10. I observed at the time of my late morning site visit that the street was well used by pedestrians, although I noted a number of vehicular movements alongside the pedestrian movements.
11. A number of Strategies and Frameworks have been brought to my attention including the Connecting Cornwall Falmouth & Penryn Transport Strategy (FPTS), the Falmouth and Penryn Town Framework, and the Falmouth Coastal Community Economic Plan. These seek amongst other things, to deliver growth, and maintain the vitality and viability of Falmouth town centre, including increasing the attractiveness for pedestrians and enhanced walking and cycling network linking the town centre with surrounding employment and residential areas and principal leisure destinations.

12. In this context, the Falmouth Neighbourhood Development Plan 2021-2030 (NDP) sets the visions and aims for Falmouth, and broadly seeks to balance the competing needs for growth and development with protection and enhancement and to promote development that is sustainable socially, economically and environmentally. The key objectives to consolidate and enhance the town centre include, amongst other things, enhancing the quality of the public realm, creating a pedestrian friendly, safe and accessible environment in the main streets of the town (defined within the NDP as High Street, Church Street and Arwenack Street), managing vehicle movements and adding to the vitality by the use of upper storey space for residential, commercial and retail uses.
13. The Falmouth Town Centre Strategy (FTCS) found within the NDP seeks to achieve the above objectives by the development of three key sites, to facilitate widespread improvement of Falmouth's town centre. The phased project is stated to include increasing parking at either end of the town in order to remove most of the parking from Church Street, thus enabling more effective pedestrianisation of the main streets, and encourage the use of upper storeys and re-use vacant premises.
14. Policies within the NDP and DPD, seek to support and deliver the FTCS. NDP Policy TC1 supports development proposals arising from the implementation of the FTCS, particularly high quality mixed tenure residential developments and additional public car parking at the Quarry Car Park and the former TA Site (as articulated within NDP policies TC3 and TC4); High quality public realm area, along with associated small-scale development, including that promoting marine activity, providing and enhancing a new public focus at the Church Street car park; and Increased time-limited pedestrianisation. The DPD, and in particular DPD Policy TC1 also supports diversification of town centre uses and increased numbers of residential dwellings, having regard to the FTCS.
15. Furthermore, NDP Policy TC5 supports the re-introduction of residential uses in upper floors accommodation above existing retail premises subject to various criteria, including that the viability of any ground floor commercial use would not be unacceptably affected; the site is well integrated with the primary and secondary retail frontages; and is sensitive to heritage assets in general terms, and would preserve or enhance the character and appearance of the Falmouth Conservation Area in particular.
16. Although not stated within the reasons for refusal, the Council has also drawn my attention to NDP Policy TCON3 which seeks to support the FPTS and the revitalization of the town centre with a phased approach, including improved pedestrian priority arrangements.
17. I have been made aware that the NDP examining Inspector sought to remove wording from the then draft NDP Policy TC5 that restricted the ability for dedicated parking provision. Text preceding Policy TC5, although not forming part of the policy's wording, underpins it, and is intrinsically linked to how it should be understood and applied. This states that in many cases the provision of dedicated car parking within the curtilage of a site will not be possible in general, and within the historic core of the town centre in particular; occupiers of any floorspace brought back into use could purchase season tickets for car parks in the town centre; and where existing car parking spaces are available within the curtilage of the premises concerned, their use would be a matter for

private agreement between its wider users. The Policy therefore acknowledges that in cases where off road parking isn't possible, which isn't the case in this appeal, an alternative is available via a season ticket.

18. Policy 27 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP) requires developments to provide safe and suitable access to the site for all people and not cause a significantly adverse impact on the local or strategic road network. Criterion 4 requires proposals to be designed to provide convenient accessible and appropriate cycle and pedestrian routes, public transport and road routes within and in the immediate vicinity of the development. Furthermore, criterion 4 of DPD Policy TC2 seeks to support uses that bring people into the town, including any facilities or changes to road systems and the creation of pedestrian focused spaces necessary to accommodate them and to contribute to the vitality of town centres.
19. Although the Council have also highlighted criterion 7 of LP Policy 27, this relates to the provision of public transport solutions including park and ride where there is evidence that it will remove traffic from the highway network, and therefore does not directly relate to the appeal proposal.
20. The proposed development will provide 14 residential units and convert the ground floor to 3 individual retail units. A new vehicular opening will be introduced onto Market Street in the approximate location of a previous cart entrance leading to a two-way ramp and car park at lower ground floor level providing 18 parking spaces. Given the highway network, vehicles leaving the appeal site would need to turn left along Market Street to either Swanpool Street, or Avenue Road.
21. The appellants Transport Statement (TS) states that the introduction of parking relating to the residential units will result in 35 additional vehicular movements along Market Street in a 12 hour period, with 3 vehicular trips during peak hour periods (0800-0900) and 4 between (1800 -1900). Given the proposed development is situated within a town centre location with easy access to services and facilities and close to public transport routes, thereby resulting in future occupiers having the option to utilise these services by foot, I find this a reasonable estimation.
22. These figures compare to the existing weekday traffic flows along Market Street demonstrated within the TS as 119 during the am and 129 during pm peak hours, respectively. Even with an ETRO implemented permanently, thus resulting in a reduction in traffic, I do not find that the additional movements created to be significant or be such that would result in noticeable additional conflict with pedestrian use of the shared surface, a harmful effect on the public realm, or conflict with the intentions of DPD Policy T1.
23. The entrance ramp would have a maximum gradient of 1:6, with 3 metre transitions of 1:12 at either end. The appellant states that following a Design Risk Assessment, a high friction surface along the ramp would be introduced. I note concerns regarding the width of the ramp of 5.17 metres not allowing two larger vehicles to pass. Even if this is so, given the small number of vehicular movements associated with the proposal, the instances when two larger vehicles meet on the ramp would be limited, and given the wider low numbers of vehicular movements along Market Street would not give rise to any congestion or associated highway safety impacts.

24. Visibility splays of 2m x 2m can be achieved to provide pedestrian inter-visibility. Given the slow speeds that would be required to access and egress the access ramp, and the reduced gradient transition design of the ramp improving driver visibility at the point of access, as well as the nature of Market Street as a shared space reducing vehicle speeds, the visibility splays would allow vehicles exiting the site to be seen by pedestrians and vice versa, thereby resulting in safe access with modest residual cumulative impacts.
25. I note the concerns raised by the Council and third parties that the proposed development would compromise the FTCS, and in particular the prioritisation of pedestrian movements along Market Street. However, I find, importantly, that NDP Policies TC1, TC5 or TCON3 do not go as far as preventing additional off-road parking associated with new developments within Market Street. The appeal proposal does not fall within the particular developments detailed within Policy TC1(1) and although within the ETRO area, does not involve increased time-limited pedestrianisation as detailed within Policy TC1(3). Furthermore, given the less than significant affect I have identified on pedestrian use of the shared surface, I have no evidence before me as to why the proposed development would not positively sustain and enhance the vitality and viability of the town centre due to active ground floor uses and footfall from future residential occupants, in accordance with DPD Policy TC3.
26. The ETRO is the mechanism to control traffic movements, as opposed to the development plan, however it is managed outside of the planning process. Even so, I note the exemptions within the ETRO which does not explicitly prevent an increase in vehicular movements associated with new developments, or does it seek to stop vehicular movements entirely. On the evidence before me I see no reason why the proposal would not comply, or impact in other respects on the requirements of the ETRO.
27. To conclude on this main issue, although I understand that there is concern that the proposal would conflict with the FTCS and community aspirations for the area, given the above, I find that although the proposed development would increase vehicular movements along a street that is subject to an ETRO, it would not prevent prioritisation of pedestrian movements or create any wider severe impacts on the highway network. There would be no conflict with NDP policies TC1 and TC5 or LP Policy 27. There would also be no conflict with the policies of the DPD which seek, amongst other things, to support and deliver the FTCS. Furthermore, there would also be no conflict with the overarching aims of the Framework which seeks to achieve healthy, inclusive and safe places with safe and suitable access for all users of the development and the prevention of severe impacts upon the local highway network.

Infrastructure

28. The completed Section 106 agreement submitted with the appeal papers includes a range of provisions. These cover financial contributions to improvements to open space at Kimberley Park, The Moor and/or Greenbank Gardens; additional capacity to accommodate the primary care need arising from the development; a contribution towards the Falmouth and Penryn Transport Strategy; and a contribution towards the provision of additional school places at the designated primary and/or secondary school which serves the appeal site.

29. The Council has agreed that the S106 agreement has provided a suitable mechanism to secure the required planning obligations, aside from a contribution towards SAC mitigation which I comment on below, overcoming the second reason for refusal.
30. Overall, I find the obligations included in the S106 Agreement are directly related to the requirements of development plan policies and are necessary, and fairly and reasonably related in scale and kind to the proposed scheme. I conclude that the S106 Agreement provides an adequate mechanism for provision of the above obligations, which complies with LP Policy 28 and the provisions of the Framework in requiring appropriate development contributions and planning obligations to address unacceptable impacts.

Special Area of Conservation

31. The site lies within the 10km Zone of influence for the SAC. The Habitats Regulations require that permission may only be granted after having ascertained that the development will not affect the integrity of the SAC.
32. The SAC is designated for its Annex I habitats of Atlantic Salt Meadows, estuaries, mudflats and sandflats not covered by seawater at low tide, large shallow inlets and bays; feeds and sandbanks. The site supports Annex II species of shore dock *Rumex rupestris*.
33. Given the appeal site location, construction works associated with the proposed development may have an impact on the SAC due to the need for scaffolding on the shore, works to the sea wall and the introduction of a pontoon from the sea. Resulting effects on the SAC including the disruption of water flows, disturbance of sea shore habitat and a negative effect on water quality through increase turbidity and chemical pollution. Furthermore, the SAC is an important recreational and economic resource and it is likely that occupants of the proposed development would visit them. On this basis, it cannot be ruled out that the proposal, when considered alone or cumulatively with other schemes, would have significant effects on the features of interest of the SAC due to increased recreational use.
34. To mitigate against potential effects, a detailed Construction Environment Management Plan (CEMP) is required in order to ensure proper mitigation is in place during the construction phase. The appellants Habitats Regulations Assessment Screening Report outlines that the CEMP would include measures to control potential chemical contamination, protection of the aquatic habitat and water quality. Noting the best practice measures and lack of objection within Natural England's consultation response, I find that a CEMP would successfully mitigate potential effects. Furthermore, financial contributions of the amounts set out in the European Sites Mitigation Supplementary Planning Document 2021 have been secured in accordance with Cornwall Council's approach to strategic mitigation, which will contribute towards the delivery of Strategic Access Management and Monitoring.
35. As such, I am satisfied, on the basis of the specific evidence before me, that a suitable condition securing a CEMP, and a secured financial contribution can provide a sufficient mechanism to enable the delivery of proportionate strategy for development which could affect the SAC.

36. I therefore find following Appropriate Assessment under the Habitats Regulations that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the SAC. It would accord with LP Policy 22, the provisions of the Habitats Regulations and the Framework insofar as they seek to secure the long-term protection of such sites and mitigate any adverse effects on their integrity.

Other Matters

37. The appeal site lies within the Falmouth Conservation Area(CA) and within the setting of several listed buildings. These buildings include the Grade II listed 12 and 15 Market Street, 1-4 Bells Court, warehouse and quay walls at 38 Market Street, and the Prince of Wales Pier. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
38. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
39. The appellant's Heritage Impact Assessment, refers to a Conservation Area Appraisal which was carried out in 1998. This describes two character areas relevant to the appeal site, these being the 'Waterfront', and 'Commercial Core and Town Centre Areas'. With the CAA in mind, and from my observations in so far as it relates to the appeal site, I find that the significance of the CA, as well as the nearby listed buildings, relates to the rapid growth, and the evolution of the variety of built form of Falmouth with merchants houses and commercial premises being located strategically.
40. The proposed development would retain elements of the appeal site which are important to the appearance of the CA and setting of surrounding heritage assets including the former Marks & Spencer frontage, the former bank building and the originality of the rear wharf frontage. All of these elements contribute to protecting the appearance of the evolution of the area and retaining the significance of the heritage assets and I find, the overall design, materials and appearance to be appropriate to this historic and prominent location when viewed from public viewpoints including Market Street and the waterside.
41. However, a solid roller door is proposed to the ramp entrance within the Market Street elevation, which due to its solid appearance within the surrounding largely glazed shop fronts would appear at odds with the wider street scene. It is stated that the position of the entrance is in the approximate location of a previous 'ope' entrance. I note interested parties' comments in relation to this particular 'ope' and that due to its historic width was in fact a private access and an exception rather than the rule for an 'ope', which it is put to me are narrow public passageways.
42. Notwithstanding, the proposed lintel detail, and location of the roller door setback from the build line reduce the effect of the entrance and despite the width, would not appear out of place in the context of the width of the façade of the building. Given the solid roller door would appear somewhat incongruous within the street scene, a more appropriate design solution for the roller door

could be achieved through a planning condition thereby assimilating this element into the building façade.

43. The existing site due to its run-down appearance and lack of apparent maintenance, is harmful to the appearance of the heritage assets. The Council contends that the appearance and maintenance of the building are entirely within the appellant's gift. Notwithstanding the existing condition of the building, the overall design of the proposed development, subject to a detailed design solution for the proposed roller door, would be appropriate in the context of the existing building and would not harm, and therefore preserve the wider CA and setting of surrounding heritage assets.
44. Part of the appeal site falls within flood zone 2 and 3, with the whole site being within a Critical Drainage Area. The Council have conducted a sequential test and conclude that there are no reasonably available sites in areas less at risk of flooding that would be appropriate for the appeal development. I have no reason to disagree with these findings. I note that the proposal has been evolved through the application process in conjunction with the Environment Agency. Given the evidence before me, I have no reason to believe that a suitable and effective drainage system cannot be implemented, or that the proposed development would not be safe for its lifetime without increasing flood risk elsewhere.
45. Concerns have been raised that the proposal does not include any affordable housing provision. The appellant has adequately demonstrated that the appeal site qualifies for Vacant Building Credit, with the gross external floor area of the proposed development not exceeding the existing. Consequently, an element of affordable housing is not required.
46. The proposed development retains an element of retail use at ground floor level with the provision of 3 small retail units. I acknowledge that the retail floorspace proposed, is significantly below that of the existing unit. I observed that there are few if any other examples of units with a similar floorspace within the Town Centre area. Therefore, the loss of the large single area of retail floorspace is undesirable.
47. However, The Council's Officer Report(OR) indicates that there has been a steady reduction in comparison floorspace and increase in vacant units, although there is a trend for more demand for smaller units. I have no evidence before me to disagree with this assessment. Furthermore, the OR refers to the Chief Planning Officer's Advice Note – Town Renewal and Priorities Assessment(CPOAN). The CPOAN does not form part of the statutory development plan and is to be regarded as informal guidance. However, I note the comments stating that while shopping remains important to the area, there needs to be a focus towards smaller shops.
48. Given the appeal site has been empty for a significant period of time, together with the flexibility created from the provision of smaller more viable retail units and additional vibrancy that occupied smaller units can create to the area, I find that the reduction in retail floorspace is acceptable and appropriate.
49. I acknowledge third party concerns received regarding the impact of the proposal on nearby occupiers, businesses and the public during the construction phase, and particularly given the constrained nature of the appeal site. Both a Construction Environmental Management Plan and Construction

Method Statement would be required prior to the commencement of any works at the site to minimise the effect of the construction. A planning condition could be imposed to secure the required Plan and Statement.

50. It has also been put to me that the appeal proposal would result in conflict with the Falmouth Place Shaping Board's masterplan with regard to the provision of 'eddys' along the length of the main streets of the town centre. Even if it were the case that the appeal proposal prevents the provision of an 'eddy' in this particular location, I have not been directed in the evidence before me to any development plan policy that requires such a feature, and therefore can only afford this limited weight.
51. The Council state that the proposal would cause environmental harm and increased carbon emissions due to the encouragement to own a private vehicle. Although the appeal proposal does provide off-road vehicular parking provision, the appeal site is in a location which would provide future occupiers with easy and convenient access to a range of facilities and services, as well as wider public transport. Given this location, the proposal, notwithstanding the provision of parking, would not require, or encourage future occupiers to own a private vehicle for normal day to day living.
52. I have noted concerns that the appeal proposal could result in additional schemes with off-road parking coming forward. This appeal has been dealt with on its own merits and has been found to be acceptable for the reasons given above. There is no clear reason why this appeal decision would set a precedent for the area, as each proposal must be assessed on its own merits and the particular circumstances of the site.
53. My attention has also been drawn to both an alternative scheme for the appeal site, as well as other developments carried out by the appellant. Although I understand from representations that there may have been community support for an alternative scheme, I am required to determine the appeal based on the individual merits of the appeal development and the evidence before me.
54. The main parties have referred to the Government's targets for new housing. There is, however, no information within the submissions indicating that the Council is currently unable to demonstrate a five-year housing land supply or that relevant development plan policies are deemed out-of-date for other reasons. Consequently, there is no reason to conclude that para 11d) of the Framework is engaged and that a tilted balance should be applied in the decision.

Conditions

55. A number of conditions have been suggested by the Council in the event of the appeal being allowed which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance (PPG). I have also made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework. In particular, a number of suggested conditions include detailed lists of information requirements. I have omitted these so that the parties can agree the precise requirements based upon relevant guidance and site circumstances at the time that the details are agreed.

56. A condition regarding the approved plans is necessary to provide certainty. A condition requiring details of materials of external surfaces is reasonable and necessary in the interests of the appearance of the development. In order to ensure that the proposed development contributes to the vitality of the town centre, a condition is necessary to ensure the retail units shall be only used for this purpose.
57. Conditions are necessary to ensure appropriate investigation and measures are in place at a very early stage of the development to minimise risks for future occupiers and neighbouring occupiers and the environment from contamination, flooding and during the construction phase.
58. Further conditions are necessary to ensure the development achieves a biodiversity net-gain, and given the potential for archaeology and historic features at the site, ensure that a programme and methodology of site investigation and recording of archaeological and historical features is undertaken before physical works commence on site.
59. A planning condition is also necessary to ensure that parking and turning areas are provided and retained in the interests of highway safety.
60. The Council have suggested a condition requiring that the development be carried out in accordance with recommendations set out in the Preliminary Ecological Assessment (PEA). However, the PEA does not make any recommendations aside those relating to the SAC and requirements under differing legislation. Such a condition is therefore not necessary.

Conclusion

61. For the reasons given above, I find that the proposal is in accordance with the development plan, considered as a whole. Therefore, I conclude that the appeal should be allowed.

S Harrington

INSPECTOR

Annex

Conditions

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

2) The development hereby approved shall in all respects accord strictly with drawing numbers:

21-0001 PL A001;
21-0001 PL A010;
21-0001 PL A100C;
21-0001 PL A101C;
21-0001 PL A102B;
21-0001 PL A103;
21-0001 PL A200B;
21-0001 PL A201C;
21-0001 PL A202A;
21-0001 PL A203A.

3) The ground floor retail units shall be used for retail uses falling within Class E(a); and for no other purpose (including any other purpose within Class E; of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).

4) A. Contaminated Land 'Risk Assessment

No development, other than demolition of any buildings or structures, shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Land contamination risk management (LCRM), (or equivalent British Standard and Land contamination risk management if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

B. Contaminated Land 'Remediation Scheme

No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to

be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.

C. Contaminated Land ' Verification Report following Remediation Scheme

The approved remediation scheme in (B) shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner that demonstrates the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority before the development is occupied.

D. Contaminated Land ' Reporting of Unexpected Contamination

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

5) The Finished Floor Levels of all residential elements of the development shall be set now lower than 5.27m AOD and shall be maintained at a height no lower than this level over the lifetime of the development.

6) No development approved by this permission shall be commenced until a scheme to minimise flood damage to the proposed development by utilising flood resilient construction techniques up to 5.27mAOD has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and maintained in accordance with the approved details.

7) No development shall take place until a detailed Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. This Plan shall include details of all permits, contingency plans and mitigation measures that shall be put in place to control the risk of pollution to air, soil and controlled waters, protect biodiversity and avoid, minimise and manage the productions of wastes with particular attention being paid to the constraints and risks of the site. Thereafter the development shall be carried out in accordance with the approved details and any subsequent amendments shall be agreed in writing with the local planning authority.

8) No development involving the use of external materials shall take place until details of the materials to be used in the construction of the external surfaces (doors/windows/roof slates/zinc and method of fixing, guttering, treatment of the flat roofs, balustrades, railings and guards) of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.

9) No development shall commence, including any works of demolition, until a Construction Method Statement(CMS) has been submitted to, and approved in writing by, the local planning authority. The approved CMS shall be implemented in accordance with the timings specified therein and thereafter be adhered to throughout the construction period.

10) A. No demolition, alteration or development shall take place until a programme of archaeological and historic building recording work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions.

B. No demolition, alteration or development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

D. The archaeological / historic building recording condition will normally only be discharged when all elements of the WSI including on site works, analysis, report, publication (where applicable) and archive work has been completed.

11) Before any of the development hereby permitted is brought into use, parking and turning areas shall be provided in accordance with a detailed scheme which shall have been submitted to and approved in writing by the local planning authority. The parking and turning areas shall not thereafter be obstructed or used for any other purpose.

12) No development shall commence until a Biodiversity Management Plan(BMP) to ensure that there is a minimum of 10% net gain in biodiversity within a 30 year period as a result of the development, and a management and monitoring plan for its duration, has been submitted to and approved in writing by the local planning authority. The BMP, management and monitoring plans shall be implemented in accordance with the timings specified therein and thereafter be fully complied with.

End of Conditions