
Appeal Decisions

Site visit made on 31 January 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 March 2023

Appeal A: APP/V1260/W/22/3302066

Southbourne Crossroad Car Park, Southbourne Coast Road Bournemouth BH6 3NH

- 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 Vivir Estates Ltd against the decision of BCP Council.
 - The application Ref 7-2021-28119, dated 15 April 2021, was refused by notice dated 10 May 2022.
 - The development proposed is construction of 4 new blocks of apartments with associated undercroft carparking.
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Appeal B: APP/V1260/W/22/3310674

Southbourne Crossroad Car Park, Southbourne Coast Road Bournemouth BH6 3NH

- 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 Vivir Estates Ltd against BCP Council.
 - The application Ref 7-2022-28119-A is dated 15 July 2022.
 - The development proposed is construction of 4 blocks of apartment with associated undercroft carparking.
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Decisions

Appeal A

1. The appeal is allowed, and planning permission is granted for construction of 4 new blocks of apartments with associated undercroft carparking, at Southbourne Crossroad Car Park, Southbourne Coast Road Bournemouth BH6 3NH in accordance with the terms of the application, Ref 7-2021-28119, dated 15 April 2021, subject to the conditions set out in the schedule at the end of this decision.

Appeal B

2. The appeal is allowed, and planning permission is granted for construction of 4 new blocks of apartments with associated undercroft carparking, at Southbourne Crossroad Car Park, Southbourne Coast Road Bournemouth BH6 3NH in accordance with the terms of the application, Ref 7-2022-28119-A is dated 15 July 2022, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

3. As set out above, there are 2 appeals on this site relating to 2 different, albeit largely identical schemes. I have considered each on its individual merits, however, in order to avoid duplication, I have dealt with the appeals together, except where otherwise indicated.
4. The Council failed to determine the application subject of Appeal B. It has however provided a list of reasons it would have given for refusal, which duplicate those given in relation to the application subject of Appeal A. I have taken these reasons into account in defining the main issues below.
5. The Council has not sought to contest 4 of its reasons for refusing planning permission for the scheme subject of Appeal A. This is because they involved matters that could be resolved by planning obligations. To that end, Section 106 agreements (S106s) have been submitted in relation to each of the appeals. I shall consider these further where relevant below.
6. Revised plans were submitted with both appeals. In relation to Appeal A, the revised plan omits a footpath between proposed Blocks A and Blocks B which could not be delivered as shown, and which is not shown on plans related to Appeal B. In relation to Appeal B, the plans show revised unit numbering, and a slightly wider path into Block B. The revisions are of very minor nature, and notwithstanding the fact that the Council has sought to secure provision of the footpath through both S106s, it is aware of issues in relation to delivery. Whilst I shall consider the implications of the latter in further detail below, I am otherwise satisfied that no prejudice would arise to any party by my taking the plans into account.
7. Applications for costs were made by Vivir Estates Ltd against BCP Council in relation to both appeals. These applications are the subject of a separate Decision.

Main Issues

8. The main issues in relation to both appeals are:
 - whether the loss of public parking space would be acceptable;
 - the effect of the developments on the character and appearance of the area; and
 - the effect of the developments on the living and working conditions of adjacent dwellings and businesses in relation to outlook and light.

Reasons

Parking

9. The site is a Council-owned car park which includes some adjoining small areas of open space. The car park contains 78 spaces, albeit few are clearly marked. The condition of the car park is generally poor and suffering from widespread surface degradation.
10. In 2017 the Council's Cabinet resolved that the car park was surplus to requirement and that it should be sold. This was on account of low levels of use, particularly relative to other car parks nearby, and consequent losses

incurred in its operation during the preceding years. The appellant won a subsequent tendering process, and the parties then worked closely to develop a scheme for the site. That scheme is the subject of Appeal A.

11. The Council's refusal of the scheme on the basis that loss of parking space would be unacceptable, clearly contradicted its earlier Cabinet resolution. Here it has been claimed that increased domestic tourism following the Covid19 pandemic has resulted in a rise in parking demand. However, the limited data set before me does not demonstrate any convincing or consistent upward trend in use of the car park. It otherwise shows that for the majority of the year the car park continues to see very little use. Unsurprisingly therefore, the car park contained only one vehicle at the time of my visit. As such, based on the evidence before me, there has been no significant change in levels of use of the car park since 2017.
12. Though the area sees seasonal fluctuations in parking demand, and this was a point also noted in 2017, there are other, larger, and more conveniently located car parks nearby. On-street parking space is also plentiful. None of the evidence with which I have been presented indicates that parking displaced from the site could not be appropriately accommodated elsewhere.
13. The Council's concerns also include the loss of 2 accessible disabled badged parking spaces, which was again not identified as unacceptable in 2017. With reference to the Public Sector Equality Duty contained in the Equality Act 2010 (EA 2010), I have therefore had due regard under Section 149 of the EA 2010 of the requirement to take steps to meet the needs of persons who share a protected characteristic. The EA 2010 defines disability as such a characteristic. Taken at face value, the loss of 2 accessible disabled badged parking spaces would reduce the overall amount of such space available within the surrounding area. This could lead to disabled persons having to park within standard spaces which are less accessible. In practice however, given the poor condition of the car park and general lack of markings, the spaces are no longer clearly identifiable on the ground. They cannot therefore be held to fulfil their intended function, and probably haven't done for quite some time. A reasonable number of clearly marked disabled badged parking spaces otherwise exist both on-street and in Warren Edge Car Park nearby. The latter is notably in far better condition and provides easier and more direct access to the beach than the appeal site. Though the 2 spaces could be reinstated, given the above considerations, I am satisfied that their loss would not give rise to any adverse impact on disabled persons.
14. Concern has also been raised in relation to loss of 'convenient' parking space for families visiting the beach. However, as noted above, Warren Edge Car Park offers a shorter route to the beach which does not involve crossing a road. Much the same could also be said of on-street space along the south side of Southbourne Coast Road. Indeed, compared to the alternatives within the immediate locality, the appeal site appears to be one of the least convenient places for families to park.
15. Interested parties additionally claim that the car park is required for use by local residents, and to support local businesses. Though parking on site offers a shorter distance to some local businesses than the alternatives considered above, given the availability of these alternatives, it is unlikely that local businesses would suffer. Whilst I have no detailed evidence relating to use by

local residents, if they do indeed regularly use the car park, they could again similarly use other public parking space within the vicinity.

16. Neither scheme would provide replacement public parking space, thus giving rise to conflict with saved Policy 8.22 of the Bournemouth District Wide Local Plan 2002 (the BLP). My findings above however indicate that the loss of public parking space would not give rise to unacceptable harm. Moreover, both schemes would otherwise align with saved Policy 6.9 of the BLP, which states that the Council will encourage residential development on appropriate underused land. This was indeed the approach taken by the Council until it refused the application subject of Appeal A. It is also an approach notably consistent with paragraph 120 of the National Planning Policy Framework (the Framework) which includes car parks amongst types of under-utilised land whose more effective use should be supported, particularly in relation to housing. I therefore attach substantially greater weight to the consistency of the appeal schemes with saved Policy 6.9 than to their conflict with saved Policy 8.22. That being so, I am satisfied that in relation to this issue, both schemes would comply with the development plan when taken as a whole.
17. Given that the Council still owns the site, whose sale remains subject to contract, it could presumably retain it as a car park regardless of the outcome of these appeals. That does not however alter my above assessment of the planning merits of the appeal schemes in relation to the loss of public parking space.
18. Exercising due regard under section 149 of the EA 2010, I therefore conclude that the loss of public parking space would be acceptable in relation to both appeal schemes, and compliant with the development plan as outlined above.

Character and appearance

19. The car park is prominently located on the seafront, which is elsewhere predominantly lined by a mix of dwellings and flats. Relative to its setting the site appears as a somewhat incongruous gap, partly serving to expose the irregular backs of buildings facing St Catherine's Road. It is made more so by the poor condition, and intrinsically unattractive character of the car park itself. The small pieces of open space located to either side of the tarmacked area of the car park themselves exhibit little quality, even if they are valued locally. Though one of these is currently being used as a 'community garden', the Council has confirmed that all lawfully remain parts of the car park. Considered as a whole, the site makes a negative contribution to the character of the area, detracting from the appearance of the streetscene along the seafront.
20. Both schemes would see the site covered by 4 blocks of accommodation, whose design has emerged from lengthy engagement with the Council, and design review. As noted above, the 2 schemes are largely identical with only very minor reductions in overall scale and mass made in relation to the scheme subject of Appeal B.
21. In each case the proposed height, scale, massing and density of built form would show a reasonably close correlation with that of established development within the vicinity. Though the proposed contemporary styling would contrast with the some adjacent C19th buildings, it would nonetheless reflect that of numerous existing modern developments located along the seafront. Within this context there appears to be no good reason to consider that the balance

between horizontal and vertical elements within the proposed building designs would be in any way offensive.

22. Both schemes would result in loss of existing open spaces, albeit slightly more so within the scheme subject of Appeal A than Appeal B. Having already noted the poor quality of these spaces their loss would not however result in any unacceptable harm to the character or appearance of the streetscene.
23. Indeed, given my findings above, both schemes would deliver a marked enhancement, improving the physical and visual quality of the streetscene, and helping to better link the site with the rest of the seafront.
24. For the reasons outlined above I conclude that the schemes subject of both Appeal A and Appeal B would have an acceptable effect on the character and appearance of the area. They would therefore comply with saved Policy 6.10 of the BLP, insofar as this seeks to secure development that respects or enhances the character and appearance of the area; Policy CS22 of the Bournemouth Local Plan: Core Strategy 2012 (the BCS) which requires that the scale, appearance and density of development is in keeping with the surrounding area; and Policy CS41 of the BCS which similarly requires development to respect the site and its surroundings.

Living conditions

(a) Outlook

25. The Council's adopted guidance set out within Residential Development: A Design Guide, sets out a range of separation distances for residential development of different heights. Though these are not fully comprehensive and are primarily concerned with privacy, it follows that compliance with these guidelines should help to avoid unacceptable effects in relation to outlook. The Council indeed assessed the scheme on this basis.
26. Though the Council has identified adverse effects in relation to a facing window and balcony in a 2-storey extension at 23 St Catherine's Road, the 26 metre separation distance between it and the rear elevation of Block C would comply with the Council's guidelines within both schemes. In the absence of any other reason to consider that the relationship would be inappropriate, no unacceptable harm would arise in relation to the outlook from No 23.
27. Measured south, the separation distance between the 2-storey rear extension and first floor conservatory attached to 25 St Catherine's Road and Block C would fall below that recommended within both schemes. However, insofar as concern specifically relates to the conservatory, this is oriented at a roughly 45° angle with principal window facing southwest. When taking this, the stepped back height of Block C at first floor level, and the gap provided between it and Block B into account, an acceptable outlook would be retained.
28. In both schemes the separation distance between a 2-storey extension attached to the rear of 27 St Catherine's Road and Block C would also fall modestly below that recommended. However, when again taking into account the stepped back height of Block C at first floor level, the effect on the outlook from the extension would not be unacceptably harmful.
29. The Council has additionally identified harm to the outlook from the first-floor window of a 2-storey pilates studio. This window currently provides a broad

unobstructed outlook over the car park towards the sea. This is no doubt pleasant, but relative to the use, it is unclear why it should be considered essential, particularly given that the studio also has windows in its sides. Though some parts of the developments within both schemes would be greater in height and mass than the studio, the direct southern outlook from the window would in any case remain largely unobstructed. I am therefore satisfied that the development would not have any unacceptable impact on the operation of the studio or the wellbeing of its users.

(b) Daylight

30. Two daylight/sunlight assessments have been set before me. One was commissioned by the appellant, and the other by an interested party. Each reached similar conclusions. At worst the development would reduce the amount of daylight reaching the windows of 10 adjacent dwellings, in relation to which the impact on 7 would be minor, and on the remaining 3, moderate. The adverse effects would therefore be limited in nature, and, having regard to the built-up nature of the locality, not unacceptable within context. It is of additional relevance to note that paragraph 125 of the Framework further emphasises that where there is an existing shortage of land for meeting identified housing needs, and a corresponding need to avoid homes being built at low densities, authorities should take a flexible approach in applying policies or guidance relating to daylight. I am thus satisfied that whilst the schemes would cause some obstruction of daylight this would not cause unacceptable living conditions for occupants of adjacent dwellings.

(c) Conclusion

31. For the reasons outlined above I conclude that the schemes subject of both Appeal A and Appeal B would have acceptable effects on the living and working conditions of occupants of adjacent dwellings and businesses. They would therefore again comply with saved Policy 6.10 of the BLP, insofar as this seeks to secure development that respects the living conditions of occupiers of buildings within the vicinity; Policy CS22 the Bournemouth Local Plan: Core Strategy 2012 (the CS) which requires that development will not harm local amenity or living conditions; and Policy CS41 of the BCS to extent that this restricts development that would be detrimental to amenity.

Other Matters

Habitats sites

32. The appeal site lies within 5km of the Habitats Sites, the closest parts of which can be reached in a matter of minutes. Due to the increase in population that the proposed developments would support, and the likely related increase in use of the Habitats Sites for recreational purposes, potentially significant in-combination effects on their integrity cannot be excluded. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) an Appropriate Assessment is therefore required.
33. The designation of the Habitats Sites specifically relates to the range of priority habitats and species, including birds and reptiles, that they support. Where available, conservation objectives seek to maintain or restore integrity, including that of qualifying features. As increased use of the Habitats Sites for

recreational purposes could cause degradation and disturbance, it would be at odds with these conservation objectives.

34. The Council's mitigation strategy is set out within the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document 2020 (the SPD). Insofar as this has been produced in cooperation with Natural England, and embodies its advice in relation to mitigation, I have not sought further comment. Mitigation is achieved by funding of Site Access Management and Monitoring (SAMM) measures through developer contributions, and through Heathland Infrastructure Projects, including provision of Sites of Alternative Natural Green Space, through the Community Infrastructure Levy. There is therefore a requirement for contributions to be secured in relation to SAMM.
35. The submitted S106s contain obligations which secure the required contributions. On the above basis, these obligations pass the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the Framework (collectively 'the tests'). That being so, I am able to conclude that neither scheme would not adversely affect the integrity of the Habitats Sites.

Other obligations

36. The S106s contain a range of other obligations. In this regard obligations securing contributions towards the provision of off-site affordable housing allow each scheme to comply with Policy AH1 of the Affordable Housing Development Plan Document 2009. They therefore pass the tests.
37. Further obligations secure contributions towards upgrading a nearby bus stop, installation of a zebra crossing, and a traffic regulation order, and a related requirement to enter into a Section 278 Agreement (S278) to deliver highways-related works. These measures are required in order to integrate and better connect the site with the surrounding highways and transport networks, to support the use of sustainable modes of travel, and to address other highways impacts arising from implementation of the schemes. The required dedication of a 3 metre strip between Blocks A and B as a highway would not however fulfil these objectives. This is because it would not provide an envisaged pedestrian link through the site to an existing right of way. As noted above, the path is also not shown on the plans subject to Appeal B, nor on the amended layout plan submitted in relation to Appeal A. Except in this limited regard, the above obligations comply with Policy CS14 of the BCS, and so pass the tests.
38. The S106s additionally contain obligations securing a contribution towards the cost of removing ticket machines. However, notwithstanding comments from highways officers, the need for this contribution was not clearly identified in the Council's assessment of the scheme subject of Appeal A. It is otherwise unclear why the appellant should meet the cost of removing Council owned equipment from the site. These obligations do not therefore pass the tests and cannot be taken into account.
39. Insofar as the S106s also contain obligations securing a mitigatory payment for loss of part of a Site of Nature Conservation Interest (SNCI), the Council states that there is no policy basis for this, and the appellant describes the contribution as 'voluntary'. Moreover, as the parts of the site which fall within the SNCI no longer meet the criteria for inclusion, no apparent harm requiring

mitigation would arise. Whilst there is presumably nothing to stop the appellant making a voluntary contribution, the above considerations do not indicate that it is necessary. As such, the obligations securing it within the S106s do not pass the tests and cannot be taken into account. I am otherwise satisfied that conditions can be used to secure biodiversity enhancements on site.

Other matters

40. The part of the car park in informal use as a community garden has been recently registered as an Asset of Community Value. This is notwithstanding the fact that such use is unlawful, and the Council could therefore presumably take steps to end it. The Council has not sought to comment on the rationale, nor the possible implications in relation to any future disposal of the site. Given the above it is however a matter to which I can attach little weight, and consequently it does not alter my findings above.
41. It is of some additional relevance to note that local residents otherwise have year-round access to various publicly accessible green open spaces along the seafront, as well as the beach.
42. Insofar as interested parties also raise concerns in relation to wildlife, cliff stability, and drainage, these are matters which can be addressed by condition.
43. Further concerns relating to loss of private views and impacts on the value of property are not matters to which I can attach any weight. Insofar as the potential sale prices of proposed dwellings has also drawn comment, this is a matter considered within the context of scheme viability, and contributions towards the provision off-site affordable housing have been properly secured, as set out above.

Conditions

44. As the 2 schemes are largely the same, I have imposed the same range of conditions in relation to each. The references below therefore apply similarly to the schedules relating to Appeal A and Appeal B.
45. Conditions (1) and (2) are standard conditions setting out the time period for commencement of development and identify the approved plans for sake of certainty. I have not listed plans which are wholly indicative, but insofar as some plans submitted in relation to Appeal A show a mix of both proposed and indicative details, I have acknowledged this within the wording of the condition.
46. Condition (3) restricts hours of operation on site as recommended by the Council's Environmental Health Officer, in the interests of neighbour amenity. In effect, the condition restricts activities outside the standard working day/week, thus providing greater precision and certainty than were the matter to be left for later agreement.
47. Condition (4) requires adherence to the recommendations of the submitted slope stability report, which include further investigative works. This is in the interests of avoiding coastal instability. Foundation design, loading and ground movement are otherwise matters covered by the Building Regulations.
48. Conditions (5) and (6) are imposed to require identified contamination concerns related to past use of the car park to be fully investigated and

addressed. This is in the interests of health and safety, and will help to safeguard the surrounding environment.

49. Condition (7) requires details of external materials and features, and Condition (8) combines a number of suggested conditions within the format of a required landscaping strategy. Each addresses biodiversity enhancement within the context of the scheme designs. The conditions are imposed in the interests of securing high quality design which both integrates well with its broader setting and enhances biodiversity.
50. Condition (9) necessarily secures implementation of the drainage scheme in the interests of ensuring proper drainage.
51. Condition (10) secures details of a bat-sensitive lighting strategy in the interests of nature conservation.
52. Condition (11) sets out a requirement for 10% of the future energy needs of the developments to be met by decentralised, renewable or low carbon energy. This requirement is set out in Policy CS2 of the BCS, and required in order to secure a high level of environmental sustainability.
53. Condition (12) is imposed to ensure provision of visibility splays in the interests of highway safety.
54. Condition (13) secures provision of parking, turning and cycle storage spaces. This is in order to ensure that the developments cater for the parking demand that they will generate, and to encourage sustainable modes of travel.
55. Condition (14) requires the approval of a refuse management plan in order to ensure the proper management of waste.
56. There is no need for a condition requiring installation of EV charging points as this is covered by the Building Regulations. I have also not imposed a condition relating to nesting birds, as protection is provided by separate legislation, or requiring a LEMP, as all relevant matters are covered by other conditions.
57. The Council has additionally requested conditions requiring 2 separate CEMPs, one of these highly detailed. Insofar as dust is referenced, this is a matter which falls within the scope of Condition (5) given potential contamination, whilst hours of work are covered by Condition (3). In the latter context potential for the reasonable control of normal construction-related noise is limited. In relation to other matters, non-identified protected species are again covered by separate legislation, and management of numerous off-site activities and actions may prove difficult to enforce. The compact nature of the site, and the extent to which it will be covered by the proposed developments, otherwise limits scope to reasonably restrict organisation of activities on site. I have not therefore imposed either condition.

Conclusion

58. For the reasons set out above I conclude that Appeal A and Appeal B should be allowed.

Benjamin Webb

INSPECTOR

Schedules of Conditions

Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, except insofar as they include indicative details: 1820 06A; 1820 07A; 1820 08A; 1820 09; 1820 10A; 1820 11; 1820 12; 1820 13A; 1820 14; 1820 15A; 1820 16A; 1820 17; 1820 18; 1820 19; 1820 28.
- 3) Works, deliveries and servicing undertaken in relation to implementation of the development hereby permitted shall only take place between the hours of 08:00 – 18:00 Monday to Friday, and 08:00 – 13:00 on Saturdays. No works, deliveries or servicing shall take place on Sundays and Public/Bank Holidays.
- 4) The development hereby permitted shall be carried out in accordance with the recommendations contained within Section 5.0 of the submitted Slope Stability Report prepared by BE Willis Partnership.
- 5) No excavation in relation to implementation of the development hereby permitted shall take place within the part of the site occupied by the hard surfaced area of the car park until a full, phased risk assessment has been carried out by a competent person in accordance with relevant British Standards and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR11) (or equivalent British Standards and Model Procedures if replaced), submitted to, and approved in writing by the local planning authority. The risk assessment shall include the following components:

Phase 1: A preliminary risk assessment which identifies all previous uses potential contaminants associated with those uses a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site;

Phase 2: a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals, including off-site; and

Phase 3: a remediation strategy, validation plan, and monitoring plan. The validation plan shall provide details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall then be implemented in accordance with approved risk assessment.
- 6) Any unexpected contamination that is found during the implementation of the development hereby permitted shall be reported immediately to the local planning authority. Development on that part of the site affected shall be suspended and a risk assessment carried out by a competent person 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.

- 7) Prior to commencement of construction above slab level of the development hereby permitted, a detailed specification of the materials to be used in the construction of all external building surfaces shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include doors, windows, balustrades and other architectural components, together with details of the design and location of built-in features to support nesting/roosting of bats, birds and bees. The development shall then be implemented in accordance with the approved specification.
- 8) Prior to commencement of construction above slab level of the development hereby permitted, a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall cover/include:
 - a) finished ground levels and contours;
 - b) surfacing materials;
 - c) boundary treatments;
 - d) external fixtures including lighting and bollards;
 - e) a scheme of planting, including of green and brown roofs, whose specification shall maximise biodiversity value;
 - f) a timetable for implementation; and
 - g) a maintenance plan.The approved landscaping scheme shall then be implemented in accordance with the approved timetable and shall thereafter be maintained in accordance with the approved plan.
- 9) Prior to the first occupation of the development hereby permitted, the drainage scheme detailed within the Surface Water Drainage Report Rev.P1 Ref. C1539 and shown on plan C1539-100-Rev.P1 shall be fully implemented. The scheme shall thereafter be maintained in accordance with the details set out within the Surface Water Drainage Report.
- 10) Prior to the commencement of construction above slab level of the development hereby permitted a bat-sensitive external lighting strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall be in accordance with the latest published guidance by the Institution of Lighting Professionals and Bat Conservation Trust. All external lighting shall then be provided and thereafter operated in accordance with the approved strategy.
- 11) Prior to the commencement of construction above slab level of the development hereby permitted, an Energy Strategy shall be submitted to and approved in writing by the local planning authority. This will provide details of measures that will provide at least 10% of the development's projected future energy needs from decentralised, renewable and/or low carbon sources. The development shall then be implemented in accordance with the approved strategy, with all measures completed and fully functional prior to first occupation.
- 12) Prior to the first occupation of the development hereby permitted the visibility splays shown on the approved plans shall be cleared/excavated to a level not exceeding 0.6 metres above the level of the adjacent carriageway. The splays shall thereafter be maintained and kept free from all obstructions.
- 13) Prior to the first occupation of each of the blocks hereby permitted the related cycle stores and vehicular parking and turning spaces shown on the approved

plans shall be completed and made available for the storage of cycles, and the parking and turning of vehicles respectively. The cycle stores and vehicular parking and turning spaces shall thereafter be retained and kept available for such uses at all times.

- 14) The development hereby permitted shall not be occupied until a Refuse Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of arrangements to be made in relation to waste collection, and measures to ensure that bins are properly stored. The development shall thereafter be operated in accordance with the approved plan.

Appeal B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 182 50; 182 55A; 1820 56; 1820 57A; 1820 58; 1820 59; 1820 60; 1820 61; 1820 62; 1820 63.
- 3) Works, deliveries and servicing undertaken in relation to implementation of the development hereby permitted shall only take place between the hours of 08:00 – 18:00 Monday to Friday, and 08:00 – 13:00 on Saturdays. No works, deliveries or servicing shall take place on Sundays and Public/Bank Holidays.
- 4) The development hereby permitted shall be carried out in accordance with the recommendations contained within Section 5.0 of the submitted Slope Stability Report prepared by BE Willis Partnership.
- 5) No excavation in relation to implementation of the development hereby permitted shall take place within the part of the site occupied by the hard surfaced area of the car park until a full, phased risk assessment has been carried out by a competent person in accordance with relevant British Standards and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR11) (or equivalent British Standards and Model Procedures if replaced), submitted to, and approved in writing by the local planning authority. The risk assessment shall include the following components:

Phase 1: A preliminary risk assessment which identifies all previous uses potential contaminants associated with those uses a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site;

Phase 2: a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals, including off-site; and

Phase 3: a remediation strategy, validation plan, and monitoring plan. The validation plan shall provide details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall then be implemented in accordance with approved risk assessment.

- 6) Any unexpected contamination that is found during the implementation of the development hereby permitted shall be reported immediately to the local planning authority. Development on that part of the site affected shall be suspended and a risk assessment carried out by a competent person 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.
- 7) Prior to commencement of construction above slab level of the development hereby permitted, a detailed specification of the materials to be used in the construction of all external building surfaces shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include doors, windows, balustrades and other architectural components, together with details of the design and location of built-in features to support nesting/roosting of bats, birds and bees. The development shall then be implemented in accordance with the approved specification.
- 8) Prior to commencement of construction above slab level of the development hereby permitted, a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall cover/include:
 - a) finished ground levels and contours;
 - b) surfacing materials
 - c) boundary treatments;
 - d) external fixtures including lighting and bollards;
 - e) a scheme of planting, including of green and brown roofs, whose specification shall maximise biodiversity value;
 - f) a timetable for implementation; and
 - g) a maintenance plan.The approved landscaping scheme shall then be implemented in accordance with the approved timetable and shall thereafter be maintained in accordance with the approved plan.
- 9) Prior to the first occupation of the development hereby permitted, the drainage scheme detailed within the Surface Water Drainage Report Rev.P2 Ref. C1539 and shown on plan C1539-100-Rev.P2 shall be fully implemented. The scheme shall thereafter be maintained in accordance with the details set out within the Surface Water Drainage Report.
- 10) Prior to the commencement of construction above slab level of the development hereby permitted a bat-sensitive external lighting strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall be in accordance with the latest published guidance by the Institution of Lighting Professionals and Bat Conservation Trust. All external lighting shall then be provided and thereafter operated in accordance with the approved strategy.
- 11) Prior to the commencement of construction above slab level of the development hereby permitted, an Energy Strategy shall be submitted to and approved in writing by the local planning authority. This will provide details of measures that will provide at least 10% of the development's projected future energy needs from decentralised, renewable and/or low carbon sources. The

development shall then be implemented in accordance with the approved strategy, with all measures completed and fully functional prior to first occupation.

- 12) Prior to the first occupation of the development hereby permitted the visibility splays shown on the approved plans shall be cleared/excavated to a level not exceeding 0.6 metres above the level of the adjacent carriageway. The splays shall thereafter be maintained and kept free from all obstructions.
- 13) Prior to the first occupation of each of the blocks hereby permitted the related cycle stores and vehicular parking and turning spaces shown on the approved plans shall be completed and made available for the storage of cycles, and the parking and turning of vehicles respectively. The cycle stores and vehicular parking and turning spaces shall thereafter be retained and kept available for such uses at all times.
- 14) The development hereby permitted shall not be occupied until a Refuse Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of arrangements to be made in relation to waste collection, and measures to ensure that bins are properly stored. The development shall thereafter be operated in accordance with the approved plan.