



Appeal Decisions

Site visit made on 23 January 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2024

Appeal A Ref: APP/G5180/W/23/3325809

10 Kemerton Road, Beckenham, Bromley BR3 6NJ

- 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 PJ Construction (Bromley) Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/23/01637/FULL1, dated 26 April 2023, was refused by notice dated 22 June 2023.
 - The development proposed is the demolition of existing dwelling and detached garage/outbuilding and erection of a part three storey part four storey building comprising 9 flats with associated access, parking, landscaping and refuse/recycling storage.
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Appeal B Ref: APP/G5180/W/23/3323694

10 Kemerton Road, Beckenham, Bromley BR3 6NJ

- 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 PJ Construction against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/03560/FULL1, dated 7 September 2022, was refused by notice dated 12 December 2022.
 - The development proposed is the demolition of existing property and redevelopment of land by the erection of a 3 storey building with mansard roof comprising of nine flats, together with laying out of associated parking and amenity space.
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Decision

Appeal A

1. Appeal A is allowed and planning permission is granted for the demolition of existing dwelling and detached garage/outbuilding and erection of a part three storey part four storey building comprising 9 flats with associated access, parking, landscaping and refuse/recycling storage at 10 Kemerton Road, Beckenham, Bromley BR3 6NJ in accordance with the terms of the application, Ref DC/23/01637/FULL1, dated 26 April 2023, subject to the schedule of conditions, attached to the end of this decision.

Appeal B

2. Appeal B is allowed and planning permission is granted for the demolition of existing property and redevelopment of land by the erection of a 3 storey building with mansard roof comprising of nine flats, together with laying out of associated parking and amenity space at 10 Kemerton Road, Beckenham, Bromley BR3 6NJ in accordance with the terms of the application, Ref

DC/22/03560/FULL1, dated 7 September 2022, subject to the schedule of conditions attached to the end of this decision.

Preliminary Matters

3. As set out above there are two appeals on this site. They differ only in terms of the detail of the design, layout, and internal arrangement of the proposed flats. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. The parties have been given the opportunity to comment on changes to the Framework, which have been taken into account in my decision.
5. With Appeal B, the appellant has submitted an External Daylight and Sunlight Study in regard to existing properties, and an Internal Daylight and Sunlight Study in regard to the proposed development, both of these documents were not considered by the Council in respect of Appeal B. However, the Council and other interested parties have had the opportunity to comment on them through the appeal procedure. In light of the new information, the Council has confirmed that the occupiers of the proposed development would have adequate levels of natural light, and the relevant part of its reason for refusal no. 3, is no longer relevant. I am satisfied there would be no unfairness to any interested party by accepting this information. Consequently, the appeal will be determined on this basis.

Main Issues

Appeal A

6. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area, with particular regard to its siting, scale and design; and,
 - the living conditions of the occupiers of No. 12 Kemerton Road, with particular regard to their outlook.

Appeal B

7. The main issues are:
 - the effect of the proposed development upon the character and appearance of the area, with particular regard to its siting, scale and design;
 - the effect of the proposed development upon the living conditions of the occupiers of the No. 12 Kemerton Road, with particular regard to their outlook; and,
 - whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to outdoor space provision, the internal layout of flats, and the entrance to the building.

Reasons

Appeal A and B

Character and appearance

8. The majority of properties on the same side of Kemerton Road as the appeal site contain flats, including to both of its sides. The existing flats are within buildings of between 3 and 4 storeys high, set back from the road. Opposite the site are detached properties, including a bungalow, which is diagonally opposite. The appeal site occupies a position near to the end of Kemerton Road, which is a cul-de-sac. Its long rear garden has substantial planting near to its rear boundary, and beyond that are garages and buildings containing flats. In-between the rear of the appeal site and its adjoining neighbour, No. 12, is an area of established planting (understood to be owned separately from both properties).
9. The Council has not objected to the demolition of No. 10, and due to its limited architectural merit, I see no reason to disagree.
10. The proposal would be sited much further forward than No 10, however this siting would be very similar to No's 6 and 8 siting, and there would be adequate space between its front elevation and the pavement edge to ensure the proposal would relate well to existing properties. It would be a much deeper building than No. 10, although its adjoining buildings are also of a comparable depth.
11. The proposed new building would be four storeys high (one storey higher than No. 8), although to off-set some of its height it has been partly set into the ground, and the streetscene drawing shows it would have a lower roof height than No. 12 on one side, but be slightly higher than No. 8 to its other side ensuring an appropriate transition between these buildings. Although the proposed building containing the flats would cover most of the width of the appeal site, there is space retained to both of its sides, this combined with the space on both of the opposite boundaries would ensure that there was satisfactory space retained between buildings. The design of the front elevation, with the undercroft area and lower roof ridge height, would give the appearance of an extended part of the building on one side, and provide a break in its front elevation. This would ensure the mass of the building is not dominant in the streetscene, this design approach would also relate well to the design of other buildings containing flats elsewhere on Kemerton Road.
12. It is also important to note that given the site's location near to the end of the cul-de-sac, there would be limited direct public views of the proposed building's front elevation, and it would sit amongst other buildings of a similar scale. As such, it would not be particularly dominant from public vantage points. I note that the proposed building would be visible from private properties, particularly from No.12. Such views of the side elevation of the building would be mostly in the context of the established planting between the two sites. It is also pertinent to indicate that the existing views from No 12 include the side elevation of No's 10 and 8 at present, due to No. 12 being designed to have an aspect towards part of the appeal site. I did not find views of the side elevation, which would be punctuated by openings, to be harmful from No.12. Its opposite side would have a typical side-by-side relationship with No. 8, it

- has openings on that elevation which break up the span of the building, however, there would be limited views of that side given its closeness to No. 8.
13. In terms of the detail of the design, the front balconies with their black railings would not be dissimilar to other such front balconies elsewhere on the road, and even though some are at third floor level, they would relate well to the overall fenestration of the building and harmonise with its appearance. The proposed crown roof would be representative of nearby properties, and the dormer windows would relate well to the design of the proposed building and the area.
 14. The proposed red brick would not be out of character with some other brick-built buildings that have flats within them along Kemerton Road. For the same reasons the dark tiled roof and black coloured railings would also be appropriate on the proposed building. The precise samples can be the subject of a condition.
 15. I have no evidence from the Council that the proposal has not been design led, there is a Design and Access Statement and a Planning Statement submitted which explains the approach to the design of the proposal, and both No.12 and No.8 are key elements of its immediate built context. Furthermore, and particularly in view of many of the surrounding buildings containing flats, this would not be an over-development of the site or provide unacceptably dense development. Moreover, it would ensure an effective use of land in this established residential area and would optimise the use of the appeal site.
 16. With regard to Appeal A, the flank elevations without dormers, its proposed fenestration, bin storage areas (subject to appropriate hard or soft landscaping), front door, and enlarged balconies would collectively relate well to the character and appearance of the building and the area.
 17. In respect of Appeal B, the proposed dormers to the sides of the property, even taking into account the other dormers to the front of the property, they would all be well below the highest points of the respective roofs and relate well to the architectural form of the building and the area. Views of them from neighbouring properties would be in the context of the whole building, of which they would be a subservient part and not be harmful to the area. Given its location near to the end of the cul-de-sac and its setback from the road, the property without a front facing entrance would not be harmful to the character of the area. In addition, the location of the bin store near to the side boundary of No. 8 would not be harmful to the streetscene, subject to appropriate landscaping.
 18. The simple design and modest scale of the proposed garages sited to the rear of the main building would relate well to the character and appearance of the area.
 19. To conclude, the proposed development would relate well to the character and appearance of the area and comply with Policies 3, 4 and 37 of the Local Development Framework, Local Plan, London Borough of Bromley, Planning Division, dated January 2019 (BLP) and Policies D3 and D6 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (the LP) that amongst other things collectively require development to be of a high quality design, that responds to local character, complements the scale and form of adjacent buildings, ensures that the development of garden areas does

not unacceptably impact upon the character, provide a minimum 1 metre separation to side boundaries and ensures the optimisation of the site for an appropriate form and land-use. The proposal also complies with paragraph 135 of the Framework that requires new development to add to the overall quality of an area and be sympathetic to local character, including the surrounding built environment.

20. The Council referred to the proposal conflicting with Policy D1 of the LP, as this policy relates to strategic planning and plan-making, I did not find it to be determinative on this issue.

Living conditions – 12 Kemerton Road

21. No. 12 Kemerton Road is a four-storey building containing flats, it occupies a plot at the end of the cul-de-sac. It is located on higher land than the appeal site and its elevation nearest to the appeal site includes windows serving habitable rooms. No. 12 is positioned diagonally in relation to the appeal site, as a result it would be nearer to the front corner of the appeal property, said to be some 9.8 metres at its closest, although there would be a much greater separation between their rear corners due to No.12's alignment. No. 12 also has a vehicular access between it, and the appeal site, providing access into its basement parking area. I saw on my site inspection that the boundary immediately behind No. 10 has established tall planting, between it and No. 12, outside of the appeal site boundary.
22. At present occupiers of No. 12 who have windows that face the appeal site, look towards this tall planting, the side elevation of No. 10 and the taller side elevation of No.8. The introduction of the appeal proposal, which it is noted would be a taller and deeper building, would be clearly visible for the occupiers of No. 12 that have windows on the elevation facing the appeal site.
23. However, in view of the diagonal alignment of No. 12, it would not have a typical side by side relationship with the appeal property. Moreover, the appeal property would be located much further forward than No.12 and it would include a set-in on part of its side elevation. As such those windows on No 12's side elevation farthest from Kemerton Road would directly face the areas to the rear of the proposed building, including lower-level garages. For the other windows on its elevation facing the appeal site and nearest to Kemerton Road, the diagonal siting of No.12, the separation distances, and the existing tall planting, would ensure that the proposed building would not be over-dominant or visually imposing in terms of its siting, mass and scale to the extent that it would harm the outlook from those windows.
24. In addition, the External Daylight and Sunlight Study has concluded that the proposal would not have an unacceptable loss of daylight or sun light to neighbouring occupiers at No.12.
25. I therefore conclude that the proposal would safeguard the living conditions of the occupiers of No. 12 and comply with Policies 4, 8, and 37 of the BLP and Policies D3 and D6 of the LP, insofar as they require the relationship between new development and existing buildings to allow adequate day light and sun light to penetrate, and that the amenity of occupiers, and future occupiers are not harmed by overshadowing, deliver appropriate outlook, and ensure adequate space between buildings. In addition, the proposal complies with paragraph 135 of the Framework, that amongst other things requires

development to provide a high standard of amenity for existing and future users.

26. The Council also referred to conflict with Policy D1 of the LP, as this policy relates to strategic planning and plan-making, I also did not find it to be determinative on this issue.

Appeal B

Living conditions – future occupiers

27. Policy D6 of the LP requires a minimum of 5 metres of private outdoor space should be provided for 1-2 person dwellings and an extra 1 square metre should be provided for each additional occupant, and it must achieve a minimum depth and width of 1.5 metres. With the exception of both ground floor flats and one flat at first floor, the other flats at first, second, and third floor level do not meet this requirement, with their balconies said to be approximately 5.16 square metres on the front, and to the rear - approximately 3.78 square metres with a width of some 1.4 metres.
28. However, the proposal also includes a reasonably sized communal area of outdoor space for occupiers of the proposed flats between the rear elevation of the main building and the proposed garage buildings. This would provide a good quality private amenity space, and would complement the relatively small shortfall in private amenity space for the proposed flats. This is an important material consideration in respect of the outdoor amenity space provision.
29. The entrance to the building would be from underneath the undercroft, which the appellant states would be well lit, ensuring it would not be dark or an uninviting place. The location at the end of the cul-de-sac would not necessarily require a front door to make the building legible, indeed No. 12's front door is mostly screened from Kemerton Road. The appearance of the undercroft and the path leading to it, would make the entrance point to the building obvious, providing a legible form of development. The proposed entrance to the building would be visible from Kemerton Road, including from some of the properties on the opposite side of the road, and from vehicle, cycle and pedestrian movements by residents through the undercroft. To this extent, there would be adequate surveillance of the entrance to the building, and it would provide safe and accessible access for future occupiers.
30. The location of the 2 no. 3 bedroom flats on the second floor would be accessible via an internal staircase. It may have been preferable for these larger flats to be located at ground floor, however, due to the optimisation of the site, including the undercroft area, the internal configuration of the building would appear to be restricted in this respect. Nevertheless, these flats would be accessible for their future occupiers and provide a good standard of accommodation.
31. Whilst the proposed flats are mainly orientated in one direction, they all have side windows. Although these side windows are obscure glazed, they can be opened at a point 1.7 metres above floor level to provide ventilation, the layout of the proposed flats would also provide adequate daylight and privacy for future occupiers. Furthermore, for the reasons outlined above the proposal would represent an optimisation of the appeal site. As such, the limited dual

aspect of the proposed flats in this case would provide future occupiers with satisfactory future living conditions.

32. The ground floor amenity space for flat 1 would be of a satisfactory size, which could be landscaped to ensure privacy. Furthermore, the distance between the boundary treatment and the openings on Flat 1 would ensure that it received adequate light and was not unacceptably enclosed, providing an acceptable outlook for future occupiers.
33. The layout of some of the proposed rooms have windows that are not centrally positioned; however, the room sizes are of an adequate size and the window positions would still allow satisfactory natural light for future occupiers.
34. I therefore conclude that the proposal would provide satisfactory living conditions for future occupiers and comply with Policies 4 and 37 of the BLP and Policies D3 and D6 of the LP, insofar as they require new development to deliver appropriate outlook, privacy and amenity, for the relationship between buildings to allow adequate day light, sun light and prevent overshadowing, and provide suitable safe, secure and inclusive environments. Whilst there is a degree of conflict with Policy D6 of the LP due to some of the private amenity space falling below the minimum sizes required, however, the proposed private amenity space would be functional for future occupiers. In addition, as an important material consideration, this minor shortfall and conflict with Policy D6 of the LP, would be more than off-set by the communal shared outdoor space provided to the rear of the building. In addition, and the reasons outlined above, the proposal complies with paragraph 135 of the Framework, that amongst other things requires development to provide a high standard of amenity for existing and future users.
35. The Council has again referred to conflict with Policy D1 of the LP, with that policy relating to strategic planning and plan-making, it is not determinative on this issue.

Other Matters

36. A neighbouring occupier (within No. 12) who has objected to the application has brought to my attention the effects of the development at the appeal property, upon their right to private enjoyment of their home, including some homeworking, and from noise and disturbance associated with occupation of the proposed development. I have had due regard to the Human Rights Act 1998 (HRA) which at Article 8, requires that decisions ensure respect for private and family life, and the home, Article 8 is engaged in this case.
37. In addition, the effect of the construction works upon a different neighbouring occupier (also within No.12), who is said to be immobile and overly sensitive to noise due to a medical condition has also been raised. In light of this and as well as the HRA, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.

38. I recognise the paramount importance of the neighbouring occupiers right to have their home, and private and family life respected and to not experience unacceptable levels of noise and disturbance, these are primary considerations. Any adverse effects for neighbouring occupiers would weigh against the proposal in these respects.
39. In my decision above I found that the proposed development would not be harmful to the occupiers of No. 12 Kemerton Road, due to its diagonal alignment with the appeal site, the degree of separation between it and the proposal, and the existing planting. Furthermore, the windows on the side elevations of the proposed building are to be obscure glazed and only the parts 1.7 metres above the floor level are to be openable. These windows serve bathrooms, bedrooms, and kitchens, and in most cases, they are secondary windows. Even if they were open, internal noise such as from televisions would be unlikely to cause unacceptable effects to neighbouring occupiers in view of the space between them and No.12. There would also be adjoining flats, to the sides, below and above within the proposed building, that would be much closer than neighbouring flats at No. 12.
40. In terms of likely noise and disturbance from construction works, this would be for a temporary period. Furthermore, a condition is imposed requiring a construction management statement to be agreed with the Council in advance of works commencing on the site, this will cover working hours, and measures to reduce noise and disturbance. Outside of the agreed working hours, there should be no construction noise and disturbance for neighbouring occupiers from construction works associated with the proposed development.
41. By allowing the proposal it would facilitate the delivery of 9 units of residential accommodation, a net gain of 8 units, that would contribute to the Government's plan to boost housing delivery. The Council has said it does not currently have a 5-year supply of housing to meet its housing requirements. These factors weigh somewhat in favour of the proposal.
42. Whilst there would be some short-term construction noise at certain parts of the day that could affect neighbouring occupiers for a temporary period, including occupiers that are more sensitive to noise, those impacts have been limited as far as possible by a planning condition requiring a construction management statement to be agreed in advance. For the reasons outlined above, there should be no unacceptable effects upon the living conditions of the occupiers of No. 12 from the occupation of the proposed flats. In view of this, and having regard to the legitimate and well-established planning policy aims in respect of providing housing in appropriate locations and protecting living conditions, a refusal of permission would not be proportionate and necessary. Allowing this appeal would not unacceptably violate the neighbouring occupier's rights under the HRA and would be consistent with my PSED duty contained in Section 149 of the Equality Act 2010.
43. Objectors have raised highway safety issues, including; extra traffic; the effect of the proposal upon other highway users; the access to the appeal site and its proximity to other accesses; emergency vehicle access; extra parking on the highway, including restricting areas for visiting carers; and concerns whether garages are used for parking. The development relates to 9 no. flats all being served with their own off-street parking spaces. The Council did not raise objections to the proposal on highway safety grounds, including access for

emergency service vehicles. Conditions below have been imposed to ensure the on-site parking and turning areas, and visibility splays are provided. There is no evidence that the additional traffic related to the proposal would be harmful to highway safety or that any measures other than those the subject of conditions are required to mitigate any highway safety effects. The concerns regarding whether the garages would be used are noted, however they are required by condition to be available as parking spaces.

44. There is no precise information provided to show that the proposal would have an unacceptable effect upon any local services, such as dentists, schools, and doctors. Nor has the Council raised this as an objection or sought mitigation in this respect, and I see no reason to disagree.
45. In respect to the trees at the appeal site, some of which are to be retained, and further planting is also proposed, both aspects are to be conditioned. It is also noteworthy that the Council did not object to the loss of any of the trees at the appeal site. Whether or not a tree was cut down prior to the appellant's application, I am not aware of a Tree Preservation Order on the appeal site. In addition, the site is currently occupied by a residential property along with its domestic garden, the Council has not identified any unacceptable biodiversity impacts from the proposed development or any unacceptable effects upon protected species, in view of this and my own site observations I am content that there are no unacceptable biodiversity effects arising from the proposed development.
46. Concerns have been raised regarding surface water run-off from the increased amount of hard surfaced areas, and potential flooding due to increases in the water table. A condition has been imposed requiring the submission of a detailed surface water scheme to ensure that the whole site can be effectively drained and ensure there is no unacceptable surface water run-off arising from the proposal. Thames Water has stated that they have no objection in terms of their capacity to drain foul water. In addition, the site is located within Flood Zone 1 (representing the lowest risk of flooding on the Environment Agency maps) and the Council has not identified harmful effects upon the local water table. I have no detailed evidence to show this proposed development would have unacceptable effects upon the local water table or cause flooding.
47. The site location plan clearly shows the appeal site outlined in red, the ownership of other land outside of the appeal site is not relevant to my determination of the appeal site in this case. A neighbouring occupier's suggestion that their view of Canary Wharf could be affected is noted, but this is a private view, and carries little weight in my decision.
48. Comments have been made about; garden grabbing; there being no social housing; that the area does not need any more flats; and its effect upon climate change. The proposed re-development of the site for flats is supported by local plan policies and the re-use of the site would provide an effective use of land in a sustainable location. The proposal falls below the threshold within the Framework for requiring affordable housing to be provided, and I have not been made aware of any policy of the Local Plan having a lower threshold for requiring such. Nor have I been made aware of any conflict with development plan policies regarding climate change. As such these points do not alter my findings.

49. There have been objections raised regarding privacy, outlook, overshadowing, loss of day light and sunlight, and the proposed location of the bin storage areas. In regard to No. 12, I have found no harm in terms of the outlook for existing occupiers in my decision above. With regard to the occupiers of No. 8, the flats nearest to the appeal site, have obscure glazed windows on their sides facing the appeal site with most of their openings on the front and rear sides, I did not find the proposed development would unacceptably affect the outlook for occupiers of No.8. In view of the obscure glazing to the sides of the proposed main building and its non-obscure glazed windows being located on the front and rear sides, there would be no unacceptable overlooking to adjoining occupiers. In addition, the separation distances from the balconies on the front and rear sides to other properties would ensure that there would be no unacceptable privacy issues, subject to a condition requiring privacy screens for these balconies. The appellant has submitted an External Daylight and Sunlight Study that found no significant effects upon surrounding occupiers, which I note the Council did not object to, I also see no reason to disagree with its findings. Finally, the relatively infrequent use of the proposed bins storage areas, either in the undercroft or to the front of the appeal site would be unlikely to cause noise and disturbance to neighbouring occupiers. As such, there were no unacceptable effects from the proposal upon the living conditions of neighbouring occupiers.
50. I have been made aware of planning permission being refused at No.9 Kemerton Road, said to have been for 9 flats in both 2011 and 2013, including a dismissed appeal. Although I do not have any precise details of those proposals or the earlier appeal decision. From the limited information I have the reasons for refusal in those cases were different to the appeal schemes. In addition, I note that those decisions were considered against different local plans, and that No. 9 is on the opposite side of the road and does not have larger apartment buildings to both of its sides. Consequently, those earlier decisions at No.9 on the basis of the information provided did not lead me to conclude differently regarding the appeal scheme.

Conditions

51. A standard implementation condition has been imposed, along with a condition listing the approved plans to provide certainty over what has been approved.
52. As there was insufficient information provided with the appeal proposals, and to ensure the site is drained effectively, including ensuring it is not discharged into the highway, a condition requiring surface water drainage details is necessary.
53. To protect the living conditions of neighbouring occupiers, conditions are necessary in respect of the precise obscenity to the side windows at first, second and third floor; details of the privacy screens to the sides of the balconies; and a Construction Method Statement (CMS). The CMS will also address those aspects suggested to be conditioned by the Council's Pollution team, which are necessary and reasonable in this case. For the same reasons a condition regarding refuse storage facilities is imposed based on those details shown on the respective approved plans for both appeals A and B.
54. Conditions are necessary requiring the provision of the approved access, parking, and turning areas, visibility splay, and with crossover details, prior to the occupation of the development to protect highway safety. Broad details of

cycle parking facilities are shown on the plans for Appeal A, however, this information does not fully address the appearance of associated structure, there was insufficient information in this respect on Appeal B, consequently conditions are necessary on both appeals A and B in respect of secure cycle parking facilities. To comply with the Framework, it is necessary to condition details of electric charging points on both appeals, given that the plans for Appeal A do not show the full details of the charging points, including their charging specification, it has been necessary to condition these details on both appeals.

55. To ensure the development does not harm the character and appearance of the area, conditions are imposed regarding the external appearance of the development, external lighting, tree protection measures, and details of all new hard and soft landscaping. The lighting condition in respect of Appeal B requires details to be approved to enable the undercroft area to be lit prior to the occupation of the development. In addition, in respect of Appeal B, the front boundary details are required to ensure a satisfactory appearance including an appropriate height, and that adequate visibility can be provided. The hard and soft landscaping details will allow the Council to agree appropriate materials for the areas nearest to the highway, including bin storage areas.
56. I did not find it necessary to condition wheel washing facilities as this relates to mud on the highway, which is governed by highway legislation, and breaches of such a condition could not necessarily be enforced. No special circumstances were shown to justify removing permitted development rights for side windows and doors, given that the proposed new units would be flats, such a condition is not necessary. As boundary details are annotated on the plans, it was not necessary to condition those details, except in respect of Appeal B as stated above. The Council's suggested condition requiring a 5-metre distance between the garages and the back edge of the footway did not appear to be reasonable or necessary given the location of the garages. It is noted that the appeal site is said to be in an air quality management area, however I have not been made aware of any policy justification to control the specification of new gas boilers, consequently such a condition was not necessary. Reference is made to a contaminated land discovery condition, but given that the site is already in residential use and no specific risks are identified with potential contamination of the site, I am not persuaded such a condition would be necessary.

Conclusion

57. For the reasons outlined above, Appeal A and B are allowed.

A Hunter

INSPECTOR

Schedule 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: drawing no's PB 871 - 01-Rev. B; PB 871 - 02-Rev. B; PB 871 - 06 Rev. B; PB 871 - 10 Rev. B; PB 871 - 11 Rev. B; PB 871 - 12 Rev. B; PB 871 - 13 Rev. B; PB 871 - 14 Rev. B; PB 871 - 20 - Rev. B; PB 871 - 21 Rev. B; PB 871 - 22 Rev. B; PB 871 - 23 Rev. B; PB 871 - 24 Rev. B; PB 871 - 25 Rev. B; and PB 871 - 30 Rev. B.

3) The development shall be undertaken in accordance with Sections 2,3 and 4 of the Arboricultural Report by Valley Trees dated 8/1/2022, including its recommendations regarding the garage construction, and protection measures for existing trees. The trees identified to be retained shall be protected by strong fencing, the exact position and details of which shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

4) No works or development shall commence until a full specification of all hard and soft landscaping of the site together with a timetable for their implementation has been submitted to and approved in writing by the local planning authority. The specification of the hard landscaping shall include details of its permeability. The specification of the soft landscaping shall include the quantity, size, species, and positions or density of all trees and planting, as well as how they will be planted and protected, and the proposed time of planting. The development shall be undertaken in accordance with the approved specification of both hard and soft landscaping details. 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.

5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- areas for the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding;
- measures to control noise, and the emission of dust and dirt during construction; and,
- delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

6) The development hereby permitted shall not be occupied until surface water drainage works shall have been fully implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- include a timetable for its implementation; and,
- provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be undertaken in accordance with the agreed details, timetable and management and maintenance details.

7) Prior to the first occupation of the development hereby approved, the new vehicular crossover shall have been fully implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

8) Prior to the first occupation of the development hereby approved, the vehicular visibility splays shall have been formed in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the visibility splays shall be permanently retained in accordance with the approved details.

9) Prior to any works above ground level, precise details of all external materials to be used on the buildings, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

10) Notwithstanding the submitted details and prior to the first occupation of the development hereby approved, secure cycle parking shall be provided in accordance with precise details, including any associated structure or screening (with the exception of the approved buildings), that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking areas shall be retained in perpetuity for this use and not used for any other purpose.

11) Prior to the first occupation of the development hereby approved refuse storage facilities shall be provided in accordance with precise details, including screening, that shall first have been submitted to and approved in

writing by the Local Planning Authority. Thereafter those refuse storage facilities shall be retained in perpetuity for their intended purpose.

12) The access, parking, and turning areas shown on drawing no. PB 871 - 02-RevA shall be fully formed and available for use prior to the first occupation of the development hereby approved, and shall thereafter be retained in perpetuity for that use and not used for any other purpose.

13) Prior to the first occupation of the development hereby approved, the obscure glazed windows on the side elevations of the building at first floor, second floor and third floor level shall have been installed, in accordance with precise details of their level of obscurity, that shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved details.

14) Prior to the first occupation of the development hereby approved, precise details of privacy screens to the sides of the first floor, second floor and third floor balconies shall be submitted to and approved in writing by the Local Planning Authority, together with a timetable for their implementation. The development shall be undertaken in accordance with the approved details that shall thereafter be maintained in perpetuity.

15) Prior to their first installation, precise details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

16) Prior to the first occupation of the development hereby approved, an electric car charging point shall be provided for each of the approved flats in accordance with precise details, that shall first have been submitted to and approved in writing by the Local Planning Authority.

Schedule of Conditions - 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: drawing no's PB 871 - 01-Rev. A; PB 871 - 02-Rev. A; PB 871 - 06 Rev. A; PB 871 - 10 Rev. A; PB 871 - 11 Rev. A; PB 871 - 12 Rev. A; PB 871 - 13 Rev. A; PB 871 - 14 Rev. A; PB 871 - 20 - Rev. A; PB 871 - 21 Rev. A; PB 871 - 22 Rev. A; PB 871 - 23 Rev. A; PB 871 - 24 Rev. A; PB 871 - 25 Rev. A; and PB 871 - 30 Rev. A.

3) The development shall be undertaken in accordance with Sections 2,3 and 4 of the Arboricultural Report by Valley Trees dated 8/1/2022, including its recommendations regarding the garage construction, and protection measures for existing trees. The trees identified to be retained shall be protected by strong fencing, the exact position and details of which shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The fencing shall be erected in accordance with the approved details before any equipment, machinery or

materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

4) No works or development shall commence until a full specification of all hard and soft landscaping of the site together with a timetable for their implementation has been submitted to and approved in writing by the local planning authority. The specification of the hard landscaping shall include details of its permeability. The specification of the soft landscaping shall include the quantity, size, species, and positions or density of all trees and planting, as well as how they will be planted and protected, and the proposed time of planting. The development shall be undertaken in accordance with the approved specification of both hard and soft landscaping details. 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.

5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- areas for the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding;
- measures to control noise, and the emission of dust and dirt during construction; and,
- delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

6) The development hereby permitted shall not be occupied until surface water drainage works shall have been fully implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- include a timetable for its implementation; and,
- provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be undertaken in accordance with the agreed details, timetable and management and maintenance details.

7) Prior to the first occupation of the development hereby approved, the new vehicular crossover shall have been fully implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

8) Prior to the first occupation of the development hereby approved, the vehicular visibility splays shall have been formed in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the visibility splays shall be permanently retained in accordance with the approved details.

9) Prior to any works above ground level, precise details of all external materials to be used on the buildings, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

10) Notwithstanding the submitted details and prior to the first occupation of the development hereby approved, secure cycle parking shall be provided in accordance with precise details, including any associated structure or screening (with the exception of the approved buildings), that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking areas shall be retained in perpetuity for this use and not used for any other purpose.

11) Prior to the first occupation of the development hereby approved refuse storage facilities shall be provided in accordance with precise details, including screening, that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter those refuse storage facilities shall be retained in perpetuity for their intended purpose.

12) The access, parking, and turning areas shown on drawing no. PB 871 - 02-RevA shall be fully formed and available for use prior to the first occupation of the development hereby approved, and shall thereafter be retained in perpetuity for that use and not used for any other purpose.

13) Prior to the first occupation of the development hereby approved, the obscure glazed windows on the side elevations of the building at first floor, second floor and third floor level shall have been installed, in accordance with precise details of their level of obscurity, that shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved details.

14) Prior to the first occupation of the development hereby approved, precise details of privacy screens to the sides of the first floor, second floor and third floor balconies shall be submitted to and approved in writing by the Local Planning Authority, together with a timetable for their implementation. The development shall be undertaken in accordance with the approved details that shall thereafter be maintained in perpetuity.

15) Prior to the occupation of the development hereby approved, precise details of external lighting shall be submitted to and approved in writing by the Local Planning Authority together with a timetable for its implementation. The development shall be undertaken in accordance with the approved details and timetable, and thereafter maintained as approved.

16) Notwithstanding the approved plans, prior to the first occupation of the development hereby approved, precise details of the front boundary treatment (facing onto Kemerton Road) together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

17) Prior to the first occupation of the development hereby approved, an electric car charging point shall be provided for each of the approved flats in accordance with precise details, that shall first have been submitted to and approved in writing by the Local Planning Authority.