



Appeal Decision

Hearing held on 30 April and 1 May 2024

Site visit made on 1 May 2024

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th May 2024

Appeal Ref: APP/Q3820/W/23/3332033

1066 Balcombe Road, Crawley RH10 3NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Muller of Muller Property Group against the decision of Crawley Borough Council.
 - The application Ref CR/2021/0685/OUT.
 - The development proposed is the demolition of existing residential dwelling and outbuildings and redevelopment of the site to provide a new 64-bed Class C2 care home with associated car parking and landscaping.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing residential dwelling and outbuildings and redevelopment of the site to provide a new 64-bed Class C2 care home with associated car parking and landscaping at 1066 Balcombe Road, Crawley, RH10 3NL in accordance with the terms of the application, Ref CR/2021/0685/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. Outline planning permission is sought with only access to be considered. At the Hearing, the appellant confirmed that agreement was sought insofar as it related to the position of the access to the site, visibility splays, footways and off-site works. It was confirmed that the other details on plan ref A20296-03 Rev P2 relating to the internal routes and parking arrangements were not to be considered. Other than the relevant details relating to access, I have regarded all other elements shown on the submitted plans as indicative.
3. As part of their appeal statement, the appellant included an alternative layout for the proposal. It was confirmed at the Hearing that this was illustrative only and I have considered it as such.
4. During the Hearing the Council confirmed that they no longer wished to pursue issues relating to affordable housing, sustainable transport, employment and skills provision and biodiversity. As these were no longer areas of dispute between the main parties, they do not form part of the main issues below.

Main Issues

5. The main issues of the appeal are:

- Whether the proposed development would provide appropriate living conditions for future occupiers, with particular regard to noise, internal and external environment and outlook,
- The effect of the proposed development on the living conditions of the occupiers of Moss Lea, April Cottage and Horseshoe Cottage, with particular regard to outlook, noise and disturbance,
- The effect of the proposed development on the character and appearance of the area, including trees and the heritage status of 1066 Balcombe Road; and
- If there is any harm, whether that is outweighed by other material considerations, including care home provision.

Reasons

Living conditions – future occupiers

Policy Context and Effect Levels

6. The Post Hearings Advice¹ for the Draft Crawley Borough Local Plan 2023–2040 (the emerging Plan) found it's general approach to Gatwick Airport to be sound. It goes on to say that if ongoing processes on national aviation policy do not reach a positive conclusion that additional wide-spaced runway provision at Gatwick Airport is needed, that this would trigger a plan review. I am aware that the Development Consent Order (DCO) process for the Northern Runway Project is ongoing and that there are other options, including at other airports, which mean that the second, southern runway at Gatwick Airport may not materialise.
7. However, I do not have detailed evidence on the progress of such decisions or the likely time scale for the conclusion of the DCO. The Post Hearing Advice says it is likely that the Local Plan examination will conclude significantly in advance of any outcome on the DCO. Moreover, it is not certain that other options for aviation expansion will be taken forward instead. Therefore, at this time, and for this scheme, it is appropriate to consider the potential for a second, southern runway at Gatwick Airport and I have based my assessment below and considered predicted noise levels on that basis.
8. Figure 1 of the Noise Annex of the adopted Plan² shows noise contours for a 2-runway scenario based on a 2003 report. However, the main parties agreed that in terms of assessing such potential noise, the levels should be taken from the Summer Day Wide Space 2040 Noise Contours from the Gatwick Masterplan 2019 (2040 Contours). The 2040 Contours forms part of the Noise Annex for the emerging Plan. Given they are based on more recent evidence, I concur that this should be used for the purpose of assessing aviation noise for this appeal. Other than a very small portion of the site nearest Gatwick Airport, the site is within the 60-63dB LAeq, 16hr contours.

¹ Crawley Borough Local Plan 2040 - Post Hearings Advice – 31 January 2024

² Crawley Borough Local Plan 2015 – 2030 – December 2015

9. Policy ENV11 of the adopted Plan relates to development and noise. The associated Noise Annex sets out that Significant Observed Adverse Effect Level (SOAEL) is between 55dB and 66dB LAeq, 16hr, with it being 57dB to 66dB for Air Traffic for daytime. Unacceptable Adverse Effect (UAEL) is set at greater than 66dB LAeq, 16hr for daytime. The appeal site is therefore within the SOAEL area for the purpose of the adopted Plan policy.
10. Policy ENV11 states that noise sensitive uses proposed in areas that are exposed to significant noise from existing or future industrial, commercial or transport (air, road, rail and mixed) sources will be permitted where it can be demonstrated that appropriate mitigation, through careful planning, layout and design, will be undertaken to ensure that the noise impact for future users will be made acceptable.
11. Policy CH3 of the adopted Plan refers to a good standard of amenity for future occupiers which includes noise and dominance. No specific noise levels are included in that policy.
12. Policy EP4 of the emerging Plan sets different effect levels from those in the adopted Plan. It states that for aviation transport sources the UAEL is considered to occur where noise exposure is above 60dB LAeq, 16hr. (57dB LAeq, 8hr at night). Therefore, the appeal site falls within the UAEL for the emerging Plan. The policy states that noise sensitive uses proposed in areas that are exposed to noise at the UAEL will not be permitted.
13. The appellant considered that there is some internal inconsistency within Policy EP4 of the emerging Plan, including due to different levels being set for surface transport noise. The main parties did agree that even with mitigation the appeal scheme would be contrary to this policy as the site is in the UAEL. I agree that the proposal would conflict with this emerging policy.
14. Although not included in the reasons for refusal, Policies EP4, SD1 and DD1 of the emerging Plan have been referred to in the appeal submissions and were also discussed at the Hearing.
15. Consultation on the Main Modifications version of the emerging Plan has been completed. There has been no response from the Planning Inspectorate on the comments made on the Main Modifications, including those made on behalf of the appellant and no Final Report issued. Nevertheless, with regard to criteria a) of paragraph 48 of the National Planning Policy Framework (Framework), the emerging Plan is at an advanced stage.
16. There were objections, including from the appellant on the revised effect levels and other elements of policy EP4. The Post Hearings Advice stated it was recognised that the SOAEL is significantly below the 66db in the adopted Plan but considered this to be appropriate in light of various research within the evidence base. However, additional objections have been made to the Main Modifications version of the policy and this version has yet to have been responded to. To my mind, there remains an element of unresolved objection to this policy.
17. The appellant suggested conflict with the Framework, including mitigating and reducing noise impacts to avoid significant impacts on health and quality of life. The proposed effect levels in EP4 are different to those in other guidance and appeal cases. But the setting of local levels is not explicitly ruled out by the

Framework, and I see no direct conflict with the policies of the Framework. As a result, I give Policy EP4 considerable weight.

18. Conflict with policies SD1 and DD1 of the emerging Plan have also been raised. These policies are similar in their aims to Policies DD1 and CH3 of the adopted Plan in regard to sustainable development, safe and secure environment for residents and a good standard of amenity. I am not aware of any significant objections to SD1 and DD1 in the Main Modifications relevant to the considerations of this appeal. Moreover, their aims are broadly consistent with the Framework. Therefore, I afford these policies substantial weight.
19. The appellant put forward different effect levels standards where UAEL were higher than those in the adopted and emerging Plans, including the Aviation Policy Framework and those used in the Heathrow case³. Nevertheless, it was confirmed by the main parties that there are currently no nationally set effect levels for aviation noise and there is scope for local authorities to set different levels depending on their individual circumstances.
20. The Heathrow case related to a different airport, surrounding area and considered effects on existing residents where the airport was expanding, not introducing new receptors such as in the appeal scheme. Although the Heathrow report would have involved retrofitting which could be more difficult to mitigate for than new development as proposed in the appeal scheme, it is not directly comparable to this scheme.
21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise. Planning Policy Guidance states that plans may include specific standards to apply to various forms of proposed development and locations in their area⁴.
22. The adopted Plan UAEL does not differentiate between sources of noise and the emerging Plan has the same UAEL for surface noise sources. There has been no dispute over the use of levels contained within the adopted Plan for surface transport and I see no reason not to use these for the appeal scheme.
23. While I have given Policy EP4 of the emerging Plan considerable weight, Policy ENV11 of the adopted Plan is based on the local circumstances and there is no clear inconsistency with the Framework. As such, I give the adopted Plan policies full weight. On the evidence before me, the effect levels set in the adopted Plan are of greatest relevance to the assessment of this appeal.

Future occupiers - internal environment

24. The Noise Statement of Common Ground agreed internal noise level targets below which they consider there would be no observed adverse effect due to noise from road or air traffic internally.
25. The appellant confirmed that windows for the appeal building would be openable. If the second, southern runway at Gatwick were in place, there would be times when opening the windows would lead to occupiers experiencing significant levels of noise. There will be different tolerance levels

³ APP/R5510/A/14/2225774

⁴ Paragraph: 007 Reference ID: 30-007-20190722

for individuals in terms of how acceptable or disturbing they find this and other noise. There would also be an element of personal choice whether windows would be opened and whether those particularly sensitive to noise would choose to reside at the site.

26. However, given the availability of care home beds, discussed in detail later, this choice may be limited. In the absence of confirmed flight paths, number and times of flights it is not possible to say how often these significant levels of noise would be in place. Therefore, at times occupiers would have the option of having to keep windows shut or experience significant noise levels.
27. Being within the SOAEL for the adopted Plan means that mitigation is required to achieve the agreed internal levels, and for aviation, this cannot be done at source. Although the Council feel the methods of achieving these levels has not been fully or properly examined in terms of thermal comfort and ventilation, that there are technical methods of achieving this was not disputed. This level of detail would be for a reserved matters application and examined at that point in any case.
28. In addition, there would be combined effects of road and aviation noise on rooms facing Balcombe Road. Nonetheless, the plans provided to date are only indicative. The exact position of the building, and internal layout of rooms are not to be agreed at this stage.
29. Given their likely age and capabilities, health and safety considerations, it was indicated by the appellant that occupiers of the care home would not be alone in the bedrooms if windows were wide open. Various methods of achieving the internal noise level targets and the cooling hierarchy were discussed at the Hearing. Mechanical, rather than passive ventilation and cooling was said to be most likely by the appellant given the climate of the area and noise levels potentially involved. There is no clear evidence to the contrary. There would also be communal areas that occupiers could use.
30. Conditions could be reasonably imposed to require the final details of the ventilation system and measures to ensure the agreed internal noise level targets would be achieved. The proposed noise level targets would ensure that internal noise levels would be minimised to a level that would fall below the Lowest Observed Adverse Effect Level set out in the Noise Annex of the adopted Plan. The main parties did not dispute that these levels could be met.
31. While there is mitigation in place, the potential to need to have windows closed would not be ideal, and in this instance the proposal would not provide an appropriate internal environment for future occupiers.

Future occupiers - external environment

32. There are no set minimum external space standards for care homes in the adopted or emerging Plan and no specific requirements for care homes to provide any space at all in either. Nonetheless, the provision of some outdoor space for a development of this scale would be expected and the Care Quality Commission states residents should have access to a choice of additional shared living and dining spaces with immediate access to external gardens as it can have a significant positive impact on the mental health and wellbeing of those people using such facilities.

33. Outdoor space is proposed as part of the appeal scheme. As with opening windows, there would be, at present unknown periods where the noise levels would be in the significant adverse level in line with the adopted Plan. However, unlike for internal areas, for external spaces it could not be mitigated for or reduced to the agreed internal noise level targets. The potential external noise levels could be stressful for those who are annoyed by such noise. Moreover, Planning Policy Guidance indicates that SOAEL is the level of noise exposure above which significant adverse effects on health and quality of life occur.
34. The information before me indicates a winter garden where noise levels would be kept to the agreed internal noise level targets could be provided and that there would be other common facilities on site. Final details of this are not to be agreed at this time. However, the potential lack of suitable external space is partly offset by the range of internal shared accommodation suggested. Conditions imposed and final details of the other accommodation provided as part of the reserved matters could ensure these alternatives to outdoor areas for occupiers would be provided.
35. Nevertheless, the external noise levels with the second, southern runway would mean that the proposal would fail to provide an appropriate external living environment.

Outlook

36. The illustrative and indicative details and comments from the appellant on the probable size and form of the proposed building would likely mean some windows would be located close to mature boundary landscape features. Nonetheless, without details of the scale, layout and appearance of the building, the potential outlook from rooms including the size and number of windows serving those rooms is largely unknown at this time. In addition, the outlook would be to boundary vegetation that would give a soft appearance and outlook.
37. Conditions and reserved matters, including those for the protection and retention of boundary treatments have been applied. Subject to appropriate and careful design I feel a scheme with an acceptable outlook could be provided.

Future occupiers - conclusion

38. The proposed development would be able to provide an appropriate outlook for future occupiers. Notwithstanding that, due to the noise levels that could be experienced with windows open and at outdoor areas, it would not provide appropriate living conditions with regard to the internal and external living environment. The proposal would be contrary to Policies CH3 and ENV11 of the adopted Plan and Policies SD1, DD1 and EP4 of the emerging Plan. It would also be contrary to the Framework where it states proposals should create a high standard of amenity for future users. Given the potential mitigation referred to above, I afford this harm moderate weight.

Living conditions – nearby occupiers

Noise and disturbance

39. The Noise Statement of Common Ground confirmed the predicted noise levels from all activities at the appeal site for the closest adjacent property. The Council confirmed at the Hearing that they had no concerns over these noise levels. There is no compelling evidence to indicate the stated levels are incorrect.
40. Despite the levels being acceptable, there would be far greater comings and goings from the appeal proposal than is the existing situation. This would include from traffic movements and activities such as staff, deliveries, and emergency vehicles. The position of the car parking and turning areas are not to be confirmed at this stage. However, the access is located at the southern end of the site away from the neighbouring properties. In addition, while emergency vehicle journeys could be at any time, activities like deliveries are likely to take place during the day. These comings and goings would probably be located to the currently quieter and more private rear of the neighbouring properties unlike existing traffic on the road to the front. Despite this, with mitigation such as fencing and landscaping any disturbance would be reduced.
41. Occupiers of the nearby properties would have an awareness of the care home and activities would be different to that of dwellings. Nonetheless, in light of the above and comment at 6.30 of the adopted Plan that housing for older people is usually considered to be the least intrusive form of new housing development, the proposal would not harm their living conditions with regard to noise and disturbance.

Outlook

42. The appeal site does extend to the rear of the adjacent properties fronting Balcombe Road and there are windows at Moss Lea and April Cottage that face directly towards the appeal site. There is, though, mature and tall landscaping on the boundary of the site with these properties. Views of the proposal would be limited by and filtered through these, which subject to conditions, could be retained and additional planting introduced if needed. Furthermore, a significant proportion of the appeal site is located to the side, rather than the rear of the nearby properties and views towards much of the site would be angled.
43. Given the matters reserved for future consideration, the location, scale and appearance of the building is not known at this stage. No specific minimum separation standards have been put before me with regard to outlook. The illustrative details, while not to be agreed, indicate that it would be possible to provide sufficient set back so that the proposed building would not appear oppressive or dominant from the gardens or within the rooms of the adjacent properties.
44. Therefore, although it would be expected that parts of the scheme would be visible from these adjacent properties and their gardens, the proposal would not harm the outlook of the adjacent occupiers.

Living conditions – nearby occupiers conclusion

45. As such, the proposed development would not harm the living conditions of occupiers of Moss Lea, April Cottage and Horseshoe Cottage, with regard to outlook, noise and disturbance. The scheme would accord with Policy CH3 of the adopted Plan where it requires development to retain a good standard of amenity for all existing occupants. It would also comply with the Framework where it requires proposals to provide a high standard of amenity for existing users.

Character and appearance

46. In the context of the appeal scheme, as the main parties agreed at the Hearing, the most relevant area is between the Steers Lane and the Radford Road junctions along Balcombe Road. There is a degree of variation along this part of Balcombe Road in terms of scale and appearance of built form, position of buildings within their plot and the extent to which development is screened by landscaping.
47. From the illustrative and indicative details provided, it is likely that the proposed building would be set back further from Balcombe Road than the existing properties and those adjacent to the north. The building would also likely be taller and have a far greater footprint than them or any of the nearby buildings, filling a large proportion of its plot.
48. Although far larger than some of the older properties nearby, the illustrative height of the building would be comparable to the newly constructed 3 storey properties at Steers Lane. This development also includes a block with flats of a larger footprint than most of the existing built form in the area. While not accessed off it, this development also sets the built form back much further from Balcombe Road than 1066 and the adjacent properties to the north. There are also properties set back from the road further north at the Premier Inn, which, while it is said the scheme is not likely to follow in terms of design, also has a larger footprint than the existing buildings nearby.
49. The creation of a wider access than is currently in place would allow views into the site, where the scale of the proposal would be obvious and areas of parking potentially visible. If the building were set back, wider views along Balcombe Road, would be mostly screened by existing and proposed landscaping, more so than the parking area adjacent to the Parsons Pig. Moreover, it would be experienced in the context of the more densely developed Steers Lane scheme, which can be seen from Balcombe Road, on approach to the site. This side of Balcombe Road is also more open than the other where there is denser and taller roadside vegetation.
50. The probable loss of mostly lower quality landscape features in the central area of the site would not be harmful and there is potential for compensatory planting on site. Where this would not be possible, the planning obligation provides for offsite planting.
51. As the layout of the proposal is not to be agreed, the exact proximity of the building to the mature boundary trees is not known. The boundary trees contribute positively to the sylvan appearance of the area helping to screen and break up the built form. Those to the south of the site are subject to a Tree Preservation Order, which would give the Council some control over any

proposed works to them and although overhanging the appeal site, are not part of it. A condition is imposed for a Tree Management Scheme and further details would be provided when the reserve matter of landscaping is considered.

52. From the evidence given by the appellant, including at the Hearing, it is doubtful the building would reflect the form and pattern of existing development in the area and fill much of the plot. As such, there would be some harm to the character and appearance of the area in this regard. However, appearance and scale are also reserved matters. Given the above factors, subject to a considered design, using features and materials appropriate to the area, the bulk of the building could be broken up. Furthermore, that the site is largely enclosed to 3 sides would limit the perception of the depth of the building from most views. Therefore, the harm would be minor.

Heritage Status of 1066

53. The property on the appeal site (1066) at present is proposed to be added to the list of Locally Listed Buildings. While Council resources may have been used elsewhere, they were not able to provide any clear indication of when that process would be completed or confirmation that it would be added to the list. Therefore, currently 1066 is not locally listed. The Council confirmed at the Hearing, that although 1066 is viewed with other properties in the same row, their consideration is that it is a non-designated heritage asset in its own right.
54. The veranda with metal sheet canopy roof is a distinctive and interesting feature that appears to reflect the style of the origin of the building and the building has traditional materials. Its position at the front of the site is similar to the adjacent buildings. Nonetheless, at the time of my site visit, this was not in a good condition. Moreover, while located to the front of the site, the much larger subsequent additions to the dwelling mean the older parts are no longer a dominant or particularly significant feature. The presence of the roadside boundary features also means that visually it is not prominent. No specific details of the reasons for seeking to add the building to the local list have been provided or indication of it having any particular historical or architectural significance.
55. While these older elements are positive features of the building, they and the property are of not more than little heritage significance and therefore not of sufficient merit to be considered a non-designated heritage asset. As such, the tests set out in the Framework as well as Policies CH16 and CH12 of the adopted Plan with regard to such assets are not applicable.

Character and appearance conclusion

56. The proposed development would result in minor harm to the character and appearance of the area. It would fail to accord with Policies CH2 and CH3 of the adopted Plan where it seeks to ensure development relates sympathetically to their surroundings. It would also be contrary to the National Planning Policy Framework where it states proposal should be sympathetic to local character.
57. As the appeal site is not currently locally listed and I have found it not to be a non-designated heritage asset, Policies CH12 and CH16 of the adopted Plan is not relevant to this main issue.

Other considerations

58. The main parties agreed that for considering care home provision Crawley Borough Council was the relevant area and that the 2019 SHMA⁵ provided a sound basis for considering need and supply. From the information in this appeal, I agree.
59. The 2019 SHMA sets out that there was a shortfall of 437 Older Persons' Care Bedspaces in 2019 and that this would increase to 1,029 by 2039. Other than the closure of Penn Court, thereby reducing the supply, I have not been made aware of any new facilities having subsequently opened. The Council consider the favoured approach is to retain people in their own homes for as long as possible and provide extra care facilities but no clear figures for this or evidence contrary to the 2019 SHMA have been put before me.
60. Several permissions and applications for forms of care provision were highlighted in the Council's appeal statement. Notwithstanding this, from the evidence provided at the Hearing, the nature of the provision in many of those are not directly comparable to the care home provision the appeal scheme proposes. There was also uncertainty over whether some of these permissions are still extant and no confirmation as to any having commenced. Consequently, unlike the appeal scheme, they would not quantitatively address the current or future shortfall.
61. The presence of a 5-year supply of housing land has not been disputed. A need for affordable units in general and that the Borough has population characteristics that could influence the type of overall care and older person provision is not questioned. However, there is still an identified need and shortfall for the type of provision the appeal scheme would provide.
62. That there are allocations in the adopted and emerging Plans that could potentially come forward in the future, does not alter that at present, this has not been reflected in implemented planning permissions. A letter from Oculus, provided at the Hearing, indicates that there is a developer in place to deliver the appeal scheme.
63. While most of the existing care bed rooms in the area have en-suite facilities, not all do. There is also said to be some variation in the amount and quality of on-site facilities at the existing care homes in the area. The indicative plans indicate the provision of several communal facilities. In addition, en-suite bedrooms are proposed, and a condition imposed to ensure these are provided. Qualitatively the proposal would also be beneficial.
64. Given that the supply has only reduced from the 312 stated in the 2019 SHMA, a 64-bed care home would represent a sizeable increase. The provision of a modern facility would also aid in enhancing the quality of the accommodation. Extra provision would assist in reducing the need for occupiers to remain in hospital and therefore free up bed spaces. In light of the above factors, I give the contribution towards care home provision substantial weight.
65. The appeal site is located in a residential area, designated for development with reasonable access to public transport, services and facilities. The proposal would align with local and national policy aims to make efficient use of land and maximise densities. It would bring social and economic benefits to the area

⁵ Northern West Sussex Strategic Housing Market Assessment November 2019

associated with the construction, operation and occupation of the proposal. This includes to employment. Due to the scale of the scheme, I give these factors moderate weight.

Planning Balance

66. In terms of harm, I give minor weight to the harm to the character and appearance of the area. The lack of appropriate living conditions for future occupiers attracts moderate weight. There are conditions imposed and further details that would be provided as part of reserved matters submissions that would relate to these issues and could be assessed at that stage. The proposal would be contrary to the development plan as a whole. Notwithstanding this, in favour of the scheme there is substantial weight for care home provision and moderate weight for the other benefits of the scheme.
67. In this instance, the proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it.

Other Matters

68. The position, size and orientation of windows is not to be agreed at this stage. Consideration of overlooking of nearby properties would come at the appropriate reserved matters stage. There is a condition requiring a Construction Management Plan which would include details of traffic movements and hours of operation during that phase of the scheme.
69. While only a snapshot in time, Balcombe Road was busy at the time of my site visit. However, there are already a number of access points along this stretch of road and therefore vehicles emerging would not be unexpected. Sufficient visibility, greater than at present would be provided at the new access to the site. A condition requiring the provision and retention of these splays is imposed. The approved details include a footway to the front of the site and crossing points to the other side of the road connecting it to the wider area. The reserved matters would provide details of the extent and location of parking and turning facilities. There is no compelling evidence that the age of any drivers using the site, or any other activities would lead to harmful effects on highway safety.
70. Details of biodiversity enhancement and protection are subject to a condition and updated reports would be provided with the reserved matters to ensure no harmful effects would occur in that regard.
71. Other than a very small section of the appeal site, it does not lie within the Gatwick safeguarded area. It has not been shown that the scheme would prejudice any future expansion in this regard. The site forms part of the Forge Wood allocation in the adopted Plan and there is no convincing evidence that the scheme would result in any harm due to the cumulative extent of nearby development.

Conditions and Planning Obligation

72. In addition to the standard time limit conditions, I have imposed one requiring submission of reserved matters as this is an outline permission. Conditions requiring that the development is carried out in accordance with the approved plans, so far as they relate to elements of access where agreement is sought,

and showing the extent of the site are necessary for clarity and in the interest of highway safety.

73. A Construction Management Plan is necessary to prevent harm to highway safety and the living conditions of nearby occupiers as are details of parking provision. A Travel Plan and cycle storage provision are conditioned to encourage different methods of travel. A condition for refuse storage details is required to ensure appropriate facilities are in place.
74. Details of biodiversity enhancement and mitigation are required to protect, compensate for and improve features at the site. To prevent risks of flooding, a drainage strategy is necessary.
75. To protect the living conditions of future occupiers a noise mitigation scheme and ventilation strategy are required. To ensure appropriate living conditions are maintained at nearby properties a condition requiring details of plant or equipment is imposed. Noise mitigation measures to protect nearby properties are required, although the element requiring a noise assessment is not necessary as predicted noise levels were agreed. In the interest of sustainable construction and design an Energy and Sustainability Statement as well as energy and water information are required. I have imposed a condition requiring the bedrooms to be en-suite to ensure the type of provision is appropriate.
76. I have not imposed suggested conditions relating to land/floor levels, soft and hard landscaping, rainwater goods, and materials as these would relate to matters reserved for future consideration and that would be addressed in subsequent submissions. This is also the reason for not imposing conditions relating to tree protection and management.
77. A Unilateral Undertaking has been provided by the appellant. The obligation relating to off-site tree planting will compensate for any loss that cannot be mitigated on site. The charge is based on the number of trees in line with policy CH6 of the Local Plan and the Green Infrastructure Supplementary Planning Document. In these circumstances this obligation would be fairly and reasonably related to the development proposed and it passes the statutory tests. In relation to a monitoring fee, at the Hearing the Council outlined that this would relate to monitoring and reporting on the implementation of the obligation. I have no clear evidence to dispute the suggested costs. They appear proportionate and fairly relate to the scale and kind to the development.

Conclusion

78. For the reasons given, I conclude that the appeal should succeed.

Stuart Willis

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Giles Cannock KC	King's Chambers
Mark Krassowski	Walsingham Planning
Ben Garlick	Harris Irwin
Nigel Newton Taylor	Healthcare Property Consultants Limited
Clive Bentley	Sharps Acoustics
Andrew Sturt	Silcock Dawson and Partners
Steve Bourne	Muller Property Group
Tom Edmunds	Walsingham Planning
Ed Barnett	Sharps Acoustics

FOR THE LOCAL PLANNING AUTHORITY:

Valerie Cheesman	Crawley Borough Council
Alan Rimington	Crawley Borough Council
Elizabeth Brigden	Crawley Borough Council
Anthony Masson	Crawley Borough Council

INTERESTED PARTY

Linda McDonald	Local Resident
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DOCUMENTS SUBMITTED AT THE HEARING:

1. Letter from Oculus Real Estate dated 26 April 2024.
2. Draft Unilateral Undertaking with tracked changes.
3. Conditions on Noise and Ventilation.

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 2974-HIA-01-00-DRA-0101-P5 and A20296-03 P2 (for site access only).
- 5) No development shall take place, including any works of demolition and site clearance, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall include:
 - the anticipated number, frequency and types of vehicles used during construction,
 - the method of access and routing of vehicles during construction,
 - details of the area(s) subject to construction activity,
 - details of cranes and other tall construction equipment (including details of obstacle lighting),
 - the parking of vehicles by site operatives and visitors,
 - the loading and unloading of plant, materials and waste, the height and areas for the storage of plant, equipment and materials used in construction of the development,
 - details of temporary lighting,
 - the erection and maintenance of security hoarding,
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway,
 - details of public engagement both prior to and during construction works,
 - details of a dust and smoke management plan; and
 - hours of demolition and construction works.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
- 6) No development shall take place, including any works of demolition and site clearance, until the following have been submitted as part of the reserved matters to, and approved in writing by, the local planning authority:
 - Updated ecological surveys, or a statement of justification if there are no significant changes to baseline ecological conditions set out within

the original ecological surveys that were submitted with the outline application,

- a wildlife mitigation method statement setting out the measures required to implement the recommendations in the Ecological Impact Assessment Report by Lizard Landscapes, dated August 2021,
- a lighting plan; and
- a biodiversity enhancement and long-term management plan for the site which shall include the following:
 - a) Purpose and conservation objectives for the proposed enhancement measures,
 - b) Detailed designs or product descriptions to achieve stated objectives,
 - c) Locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where relevant),
 - d) Persons responsible for implementing the enhancement measures; and
 - e) Details of initial aftercare and long-term maintenance (where relevant).

The development shall be implemented in accordance with the approved details and shall be retained thereafter.

- 7) No development shall take place until a detailed drainage strategy for the development has been submitted to and approved in writing by the local planning authority. The drainage strategy shall be based upon the principle of sustainable drainage systems ("SuDS") and be in accordance with the submitted Flood Risk Assessment, Foul and Surface water Strategy Statement (August 2021). The strategy shall include details of:

- hydraulic calculations and discharge rates;
- attenuation times;
- the approved maintenance regime and management details; and
- a programme for implementation

The strategy shall be implemented as agreed prior to first occupation of the development hereby approved and retained thereafter.

- 8) No development shall take place until a noise protection scheme to protect the site and the care home against traffic noise from Balcombe Road and aviation noise, including from a southern wide spaced mixed mode runway at Gatwick Airport has been submitted to and approved in writing by the local planning authority.

The scheme shall provide details of the acoustic design and demonstrate that the following levels are achieved:

- a. a noise level within any (unoccupied) lounge area or bedroom of no more than 35 dB LAeq,16hr (between 0700 and 2300 - day) and no more than 30dB LAeq,8hr (between 2300 and 0700 - night); and
- b. the maximum noise level within any (unoccupied) bedroom shall not normally exceed 45 dB(A) LAF, Max between 2300 and 0700.

Prior to first occupation of the development hereby approved, a report to demonstrate that the levels in a. and b. of this condition have been

achieved from the testing of internal noise levels measured in one bedroom on each floor of the southern and eastern facades shall be submitted to and approved in writing to the local planning authority.

The approved noise protection scheme shall be implemented in full prior to the first occupation of the development hereby approved and maintained for the lifetime of the building. Any amendments to the scheme or alterations to the windows or ventilation shall be agreed in writing with the local planning authority prior to implementation.

- 9) No development shall take place until a ventilation strategy has been submitted to and approved in writing by the local planning authority. The strategy shall be implemented as agreed prior to the first occupation of the development hereby approved and retained thereafter.
- 10) No external plant and/or machinery shall be installed until details have been first submitted to and approved in writing by the local planning authority. The details shall include the location of the plant and equipment and its appearance. The rating level of noise emitted by all fixed plant on the site shall not exceed 50dB at any noise sensitive premises between 0700 and 2300 and 41dB between 2300 and 0700 hours. The measurement and assessment shall be made according to BS4142:2014+A1:2019.

The external plant and/or machinery shall be implemented in accordance with the approved details and be retained thereafter.

- 11) Prior to first occupation of the development hereby approved details of noise mitigation measures to demonstrate that operations (including servicing) at the site would result in no adverse impact when assessed according to the methodology in British Standard BS4142: 2014+A1:2019 shall be submitted to and agreed in writing by the local planning authority. The measures shall be implemented as agreed prior to first occupation of the development hereby approved and retained thereafter.
- 12) Prior to first occupation of the development hereby approved an Energy and Sustainability Statement shall be submitted to and approved in writing by the local planning authority. The statement shall detail measures by which the building will address sustainability objectives concerning climate change mitigation and adaptation. The Statement shall be implemented as agreed prior to first occupation and retained thereafter.
- 13) Within three months of the occupation of the development hereby approved a post-construction report shall be submitted to and agreed in writing by the local planning authority, verifying that the development has achieved the minimum Energy and Water standards for BREEAM 'Excellent'. The approved details shall be maintained for the lifetime of the development.
- 14) No development above slab level shall take place until details of the permanent external lighting scheme for the development have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as agreed prior to first occupation and retained thereafter.

- 15) Prior to first occupation of the development hereby approved, the vehicular access serving the development up to 7.5 metres into the site and including the visibility splays and the off-site highway works (footway and tactile paving) shall be constructed in accordance with the drawing A20296-03-Rev 2 and retained thereafter. No structure, vegetation or erection exceeding 0.6 metres in height shall be placed or allowed to grow within the sight lines.
- 16) Prior to first occupation of the development hereby approved, the car parking areas (including electric vehicle charging facilities) shall be constructed in accordance with plans and details that have first been submitted to and approved by the local planning authority. The spaces shall thereafter be retained at all times for their designated purpose.
- 17) Prior to first occupation of the development hereby approved, covered and secure cycle parking spaces for residents and visitors shall be provided in accordance with plans that have first been submitted to and approved in writing by the local planning authority. The spaces shall thereafter be retained at all times for their designated purpose.
- 18) Prior to first occupation of the development hereby approved, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented as agreed.
- 19) Prior to first occupation of the development hereby approved, refuse and recycling storage facilities shall be provided in accordance with plans that have first been submitted to and approved in writing by the local planning authority and retained thereafter.
- 20) All bedrooms for the care home hereby approved shall include en-suite facilities.