



Appeal Decision

Site visit made on 24 June 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/Q1445/W/23/3328457

Saxon Works, Land to rear of 303-305 Portland Road, Hove, BN3 5SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Martin Homes Portland Rd Ltd against the decision of Brighton & Hove City Council.
 - The application Ref is BH2021/04068.
 - The development proposed is demolition of existing buildings and erection of 2 to 5 storey residential building (C3) including basement vehicle parking and 3 storey commercial building comprising flexible Class E floorspace, with associated cycle and bin storage, landscaping and associated works (For information the proposal is for 26 no. residential units and 219sqm of commercial floorspace).
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and erection of 2 to 5 storey residential building (C3) including basement vehicle parking and 3 storey commercial building comprising flexible Class E floorspace, with associated cycle and bin storage, landscaping and associated works (For information the proposal is for 26 no. residential units and 219sqm of commercial floorspace) in accordance with the terms of the application Ref BH2021/04068 and the plans submitted with it, subject to the conditions listed in the Annex to this decision.

Preliminary Matters

2. I have adopted the description of development as set out in the decision notice as this reflects the revisions made to the application during its determination by the Council. However, I have deleted the reference to '*Revised description and drawings*' as this wording is superfluous.
3. Since the application was refused and the appeal lodged, the National Planning Policy Framework (Framework) has been revised, most recently in December 2023. However, the Council's Statement of Case is dated February 2024 and the Appellants Final Comments dated March 2024 therefore both parties have had an opportunity to address any changes in the Framework. Most of the changes relate to paragraph numbering, albeit some of the housing policies have changed. Even so, none of the latter affect the main issues raised by this appeal.
4. In conjunction with the appeal the Appellant submitted a revised location plan that showed an amendment to the application red line boundary. The red line was amended to exclude the estate road leading into the Portland Road Trading Estate (PRTE), from Portland Road. Whilst the estate road was not in their

ownership the Appellant confirmed they had a right of access over this road. At the same time, the Appellant submitted a complete set of proposed plans updated to reflect this change to the red line boundary, and changes to the internal fit-out of the proposed commercial unit. The Appellant requested that the appeal be determined on the basis of this revised set of plans showing the amended red line. In response, the Council's Statement of Case argued that the change to the red line was not considered appropriate at such a late stage as the application was assessed on the basis that this access road formed part of the appeal site and was referred to in the Planning Committee Report.

5. Paragraphs 16.1 – 16.2 of the 'Procedural Guidance: Planning Appeals – England' (updated 11 January 2024) states it is important that what is considered by the Inspector is essentially the same as that considered by the Local Planning Authority and interested parties at the application stage. Also, that the appeal process should not be used to evolve a scheme. Paragraph 16.3 continues with reference to the 'tests' that will be considered when revised plans and information is submitted, 'tests' that have been refined in the judgement of *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).
6. The revised plans have not been submitted to evolve the scheme or to put forward any amendments to the design, layout and quantum of development proposed. The proposed scheme considered and refused by the Planning Committee remains unchanged. No changes are proposed to the 'description of development' for which planning permission is sought and the proposal does not involve any works to the public highway or on the estate road. Access to the site would remain as shown on the proposed site layout, with all those works within the red line (as amended).
7. Whilst even minor changes to a scheme can result in substantive differences to the plans on which a Council's decision was made, in this instance the revised plans do not include any minor changes to the development for which planning permission is sought. Had this change to the red line boundary been made at the application stage, it would not, in my judgement, have necessitated any re-consultation with either consultees or interested parties. As a consequence, in accepting these revised plans there would be no unlawful procedural unfairness to any of the parties involved in the appeal process.
8. In view of the above, I am satisfied that my consideration of the appeal can and should relate to these revised plans. I have, therefore, proceeded to determine the appeal on that basis.

Main Issues

9. The main issues are the effect of the proposed development on: (a) the living conditions of neighbouring occupiers; and (b) the character and appearance of the site and surrounding area.

Reasons

Living conditions – neighbours

10. The Council have referred to policy DM20 of the Brighton & Hove City Plan Part Two (October 2022) (BHCP2). This states that new development will be permitted where it would not cause an unacceptable loss of amenity to proposed, existing or neighbouring residents and/or users. This policy is

consistent with that in paragraph 135 f) of the Framework, which requires a high standard of amenity for existing and future users.

11. The Council's Statement of Case contends that the proposal would result in an overbearing impact and overlooking of the properties in Olive Road, specifically No's 2 & 4. As these properties have shorter gardens than the properties to the south of the appeal site, fronting Portland Road, the Council contend that the proposal would lead to the harmful overlooking of No's 2 & 4 and have an overbearing impact on their outlook.
12. As I observed on my site visit, there are industrial and commercial units on the appeal site and to its north that are sited within much closer proximity to No's 2 & 4 than the proposed residential building would be. The submitted plans and evidence also indicate that the distance separating the proposed three storey element of the new residential building from the rear of the nearest house on Olive Road would be some 26 metres, which would rise to some 27 metres in relation to the five storey element. The building relationships that arise would, as a result, be entirely acceptable and would reflect those commonly found in urban areas between existing and new development. Whilst I accept that the proposed development would be visible to the occupiers of those properties, I am satisfied that the proposal would not lead to any significant reduction in outlook or excessive sense of enclosure.
13. Those findings are supported by the proposed landscaping scheme which shows the potential for 5 – 6 metre evergreen bay trees to be planted on the south and south eastern common boundary of the appeal site with the rear gardens to No. 2 & 4 and those of 301 to 305 (odd) Portland Road. This mature tree planting would assist in softening the appearance of the development and also in mitigating views of the proposal from these properties, and at the same time limit the opportunities for a loss of privacy and for overlooking to occur.
14. There are a number of examples of schemes on Portland Road and elsewhere in the City, as referenced in the Appellants Statement of Case, where development of a higher scale and density has successfully been integrated with existing two storey housing. In a number of cases this has been achieved through a combination of design, layout and as in this case, the steeping down of the proposed building from five to two storeys where it abuts existing two storey housing. An immediate example is the five storey development known as Martello Lofts, to the west of the appeal site. The evidence before me also indicates that the appeal scheme has gone through a number of revisions to address concerns raised by Council Officers in relation to the impact of the residential building on outlook and the sense of enclosure. For all these reasons, I am satisfied that the appeal scheme would not, in this respect, result in any significant harm to neighbours living conditions.
15. Turning to loss of privacy and overlooking, the revisions to the proposed scheme have included, as well as the steeping back of the building, the removal of most of the terraces on the southern elevation and the introduction of frosted glass and privacy screens to reduce any potential overlooking. Even so, the distances separating the proposed residential building from its neighbours, for example, some 22 metres in the case of No.4, would be sufficient in itself to limit any significant overlooking of neighbouring properties. I accept there would be some overlooking and some impact on living conditions but the level of impact would be modest and not sufficient on its own to justify

the refusal of planning permission. Furthermore, mutual overlooking is an inherent characteristic of densely built up urban areas such as this.

16. Accordingly, I find that the appeal proposal would not appear overbearing or have any harmful impact on the outlook of neighbouring occupiers and would also not lead to any significant loss of privacy or overlooking. The proposal would not, therefore, result in any significant harm to neighbouring occupiers living conditions and would thus accord with policy DM20 of the BHCP2 and paragraph 135 f) of the Framework.

Character and appearance

17. The appeal site comprises a large industrial warehouse style building as well as substantial areas of hardstanding that are used for car parking and to store a variety of structures such as shipping containers, mobile containers and a Portakabin. The site appears worn and untidy, with the building itself reaching the end of its economic life. To the north and east of the appeal site are other commercial buildings that form part of the PRTE. Whilst there are two storey houses to the south and east of the appeal site, as I observed on my site visit the northern side of Portland Road comprises a mixture of residential and commercial buildings that range from single storey to five storeys. This contrasts with the southern side of the road, which has a different character in that it predominantly comprises two storey detached and semi-detached housing.
18. The properties on the northern side of the road also exhibit a mixture of architectural styles, forms (including roof forms), ages, materials and scale. Large scale industrial and commercial buildings and residential schemes up to five storeys are part of the established streetscene on the northern side of Portland Road and a notable feature of the character of the area. Within this context, the scale, bulk and height of the proposed development would, in my view, integrate well with this established built character, with its proposed stepped design allowing an appropriate transition between the new residential building and existing two storey housing.
19. The building relationships that would arise and the successful transition from the existing two storey housing to the proposed residential building, is shown on the submitted street elevations, with the new building making good use of the change in levels that occurs. On the Portland Road frontage, the new three storey commercial building would sit comfortably next to 305 Portland Road, a two storey semi. The new residential building, whilst set back further into the appeal site and away from Portland Road, would not appear out of keeping given the presence of Mortello Lofts to the west, where I understand the fifth floor is awaiting completion and the presence of other large commercial buildings on PRTE and Portland Road.
20. The proposal would be of a very high standard of design incorporating green roofs where possible. Its contemporary design and use of materials would result in a coherent townscape that respects the character of the local neighbourhood through appropriate massing and scale, and through the relief provided by the stepped down design of the residential building towards the common boundaries with the houses to its south and east. Overall, the proposal would not be out of keeping with the varied character and built form of the neighbourhood and neither would it be visually prominent.

21. Turning to the number of units, the original application proposed 33 which was reduced to 26 in response to concerns raised by Council Officers over the scale of the residential building and its impact on living conditions. The Council contend, however, that the 26 units and the scale of the residential building would represent an overdevelopment of the site. I accept that such issues involve an element of planning judgement, but even so there is no substantive evidence before me to support that statement. The proposed layout shows that 26 units can be accommodated with appropriate levels of off-street parking, pedestrian access and circulation, refuse and cycle storage, structural planting and other landscaping, and that the residential units that would secure a high standard of living accommodation. The Council have not raised any objections to these aspects of the layout.
22. The submitted layout also shows extensive space in and around both buildings which would provide further opportunities for new landscaping, for good quality communal amenity space and sitting out areas and public realm improvements. In relation to the latter, the proposal includes a large informal seating area with raised planters in front of the proposed commercial unit, fronting Portland Road. Overall, the proposal would, in my judgement, sit comfortably on the appeal site and the footprint and scale of the new buildings would not result in the overdevelopment of the appeal site.
23. The Council have referred to policies CP12 and CP14 of the Brighton & Hove City Plan Part One (March 2016) (BHCP1) and policies DM18 and DM19 of the BHCP2. These policies require, amongst other matters, that new development: is of a high quality of design and achieves excellence in terms of sustainable design and construction; is at a density that is appropriate to the identified character of the neighbourhood (determined on a case by case basis); secures a higher density where the proposal would secure a high standard of design, respects and reinforces the character of the neighbourhood, is accessible and sustainable and well served by local services and facilities; has regard to its local context in terms of scale, space about buildings and urban grain; and maximises the opportunities for the development and the use of land to ensure efficient and effective use of sites including optimising residential densities. For the reasons set out above, I am satisfied that the appeal proposal would accord with all of these policy requirements.
24. The Council have also referred to its 'Urban Design Framework' Supplementary Planning Document 17 (June 2021) (SPD17). However, my attention has not been drawn to any specific part of this guidance where the Council consider that a conflict may arise. Even so, I note that paragraph 3.2 states that high density is less about the number of units proposed and more about creating attractive buildings and places that offer occupants significant benefits from this type of sustainable living.
25. The Appellant has drawn my attention to policy CP3 of BHCP1 and contends that the appeal scheme has been brought forward in accordance with that policy. Part 4 of this policy promotes (allocates) various sites (including PRTE, which includes the appeal site) for employment led (employment and residential) mixed use development, in order to secure good quality modern flexible employment floorspace. The appeal proposal includes a new three storey flexible Class E building to meet the latter requirements, whilst at the same time securing additional residential units. In line with paragraph 4.35 of the BHCP1, all of these new units would be provided through the more effective

and efficient use of the land. For these reasons, I agree with the Appellant that the appeal proposal would accord with this policy.

26. Further support for my findings are provided by the Framework, including paragraph 135 which, in referring to new development being sympathetic to local character, states that this should not prevent or discourage appropriate innovation or change. The National Design Guide (NDG) (January 2021) reinforces the Framework, for example, at paragraph 44 by emphasising that well designed places do not need to copy their surroundings and that it is appropriate for new development to include innovation and change to reflect how we live today.
27. Paragraph 123 of the Framework also states that planning decisions should promote the effective use of land in meeting the need for housing, reinforced by paragraph 124, part c), which requires decisions to give substantial weight to the value of using suitable brownfield land within settlements for homes. Paragraph 129 continues by stating that in locations where there is a need for new homes and an anticipated shortage of land to meet those needs, decisions should ensure that developments make optimal use of the potential of each site, with minimum density standards for locations that are well served by public transport. Combined, all of these policies provide strong support for maximising the development potential of the appeal site given that it is located within a highly accessible and sustainable location.
28. Accordingly, I find that the appeal proposal would not be out of keeping with the pattern and scale of the surrounding area and would not represent an overdevelopment of the site and would thus accord with policies CP12 and CP14 of BHCP1, policies DM18 and DM19 of BHCP2, the guidance within SPD17 and the corresponding policies in the Framework and NDG.

Other Matters

29. Concerns have been raised regarding road safety and parking, noise and pollution and loss of privacy. I have already addressed the latter and there is no detailed evidence before me to suggest that any of the other concerns would result in material harm. I note they are also not matters that the Council have raised in their reasons for refusal. In terms of road safety and parking, the Highway Authority have raised no objection to the proposed development.
30. A completed and executed section 106 Agreement (s.106), dated 13 March 2024, has been submitted in support of the appeal proposal. This s.106 includes obligations to secure a local employment contribution, Travel Plan monitoring fee and an Employment & Training Strategy. The obligations also include, on the occupation of the 20th residential unit, a late review process whereby the updated viability appraisal would be independently assessed to identify any development surplus and if so, to pay that sum in the form of an affordable housing contribution to the Council so they can provide affordable housing elsewhere in the City.
31. Having reviewed this s.106 and the justification for these contributions set out in the submitted evidence and Planning Committee Report, I am satisfied that all the obligations are reasonable and effective and would meet the requirements of specific development plan policies, including policy CP20 (Affordable Housing) of BHCP1. The obligations are necessary so as to make

the appeal proposal acceptable in planning terms; they are directly related to the proposed development; and fairly and reasonably related in scale and kind to the development. As such, all three tests in paragraph 57 of the Framework are met, and all three statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 are also met.

32. The Council's Statement of Case included reference to an appeal decision for residential development on Palmeria Avenue which was dismissed in December 2021 (ref 3265732). I have not been provided with the complete planning background or plans to this site. Even so, I understand that the Council have referred to it as an example of where an Inspector attached significant weight to the provision of some 94 units but found that the poor design of that development and its impact on living conditions were adverse effects that significantly and demonstrably outweighed the benefits of housing delivery. That proposal is not before me and the Council have not suggested that it is in any way comparable to the appeal scheme. On the assumption that the intention was simply to draw my attention to the approach that another Inspector took in the balancing exercise, it does not affect the findings I have reached on the main issues. In relation to the balancing exercise, that is a matter I address below.

Planning balance

33. I note that in section 4 'Planning Balance' of the Council's Statement of Case there is a comment about the lack of provision for affordable housing. As the Appellant's Final Comments state, an independent viability review concluded at the application stage that the proposed scheme was not viable and could not provide affordable housing, either on or off site. It may be that the Council's comment was made as, at the time, a mechanism to secure an affordable housing contribution in a s.106 had not been agreed. Since then, of course and as I confirmed earlier, a s.106 has been executed by the parties. This includes a late stage review mechanism that would enable a financial contribution to be paid in lieu of on site affordable provision if the viability of the proposed scheme improves. I am satisfied that this approach is consistent with the provisions of policy CP20 of BHCP1. For these reasons, the lack of affordable housing provision is not a matter which, in my judgement, should be weighed against the proposed development.
34. The Council acknowledge that they are unable to identify a 5-year supply of housing land. Section 2.2 of the Council's Statement of Case indicates that the latest update shows a supply of 1.8 years (down from 2.1 years as indicated in the Planning Committee Report). As such, paragraph 11 d) of the Framework states that where the relevant policies of the development plan are out of date (which footnote 8 states includes, for applications involving the provision of housing, where the local planning authority cannot identify a 5-year supply of housing land and where, as in this case, paragraph 226 does not appear to apply), planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole; or where the policies in the Framework that protect areas/assets of importance provide a clear reason for refusing permission.
35. There are no protected areas/assets of importance on the appeal site. As I have already found, the appeal proposal would not result in any significant

adverse impacts to the living conditions of neighbouring occupiers or to the character and pattern of development in the neighbourhood.

36. Turning to the benefits, these include: the proposed 26 residential units which would secure a modest but important contribution to future housing provision; economic investment from the construction of the development; a highly accessible and sustainable development; effective use of land and the redevelopment of brownfield land; a development of high architectural quality; provision of high quality modern flexible commercial floorspace; and public realm improvements. The contribution to housing delivery is important on its own bearing in mind the poor housing land supply position which has worsened since the application was determined. Combined, I accord all of these benefits significant weight.
37. In the context of paragraph 11 d) ii of the Framework the appeal proposal would not result in any significant adverse impacts and the presumption in favour of sustainable development applies, which combined with the significant benefits of the scheme firmly points towards the grant of planning permission.

Conditions

38. The Council has suggested various conditions which I have considered against the advice in the Framework and the Planning Practice Guidance (PPG) chapter on the 'Use of planning conditions'. I have also had regard to the Appellants Final Comments, dated March 2024, which did not raise any comments on the conditions listed in Appendix C to the Council's Statement of Case.
39. There are, in my view, a number of essentially standard conditions, some of which require details to be submitted and approved by the Council, others which require approved details to be provided before the development is first occupied and others that simply seek to control the permitted development. These conditions include those relating to the following matters: approved plans, materials, ecology & BNG, heating sources/ASHP/future connections & BREAM rating, external lighting, landscaping, parking & secure cycle parking, refuse & waste management, demolition & construction & hours of working, water & energy efficiency and usage, archaeology, drainage, and contamination & remediation. All of these conditions are reasonable and necessary in the interests of securing a high quality development, ensuring excellence in terms of sustainable design and construction, to reflect the details set out in the application and accompanying documents, and to safeguard the living conditions of neighbouring occupiers.
40. Whilst the PPG advises that permitted development rights should only be taken away in exceptional circumstances, I am satisfied that those circumstances exist here and that a condition to prevent the change of use of the flexible Class E commercial unit is reasonable and necessary in order to retain control over future uses, protect the living conditions of neighbouring occupiers and in the interests of highway safety. I also consider that conditions requiring the approval of the flexible commercial unit fit out, its marketing and hours of use are also reasonable in the interests of ensuring that it can meet the need of a range of potential users, ensure it is successfully taken up and to safeguard the amenities of neighbouring occupiers.
41. A condition that requires certain windows, as shown on the approved plans, to be frosted glass, prior to occupation, is necessary and reasonable given my

findings on this issue, to reflect the details shown in the application and to protect the living conditions of the neighbouring occupiers. A condition to restrict access to any new flat roofs for maintenance and emergency purposes only is necessary to ensure they are not used as terraces, amenity areas or patios leading to an impact on the living conditions of neighbouring occupiers.

42. I also consider a condition that requires the submission, within 3 months of the first occupation of the development, of residential and commercial travel plans is necessary and reasonable to promote sustainable forms of travel. Conditions requiring the provision of wheelchair parking and an accessible unit are also reasonable and necessary to ensure satisfactory provision of homes for people with disabilities and access to appropriate parking.

Conclusion

43. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR

Annex - Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A.001 Rev.A; D.01 Rev.O; D.02. Rev.P; D.03 Rev.P; D.04 Rev.P; D.05 Rev.P; D.06 Rev.P; D.08 Rev.N; A.001 Rev.B; D.020 Rev.N; D.021 Rev.O; D.022 Rev.P; D.023 Rev.O; D10 Rev.P.
- 3) The commercial premises hereby permitted shall only be used for a use within Use Class E(a), (c) and (g) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and for no other purpose. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission being first obtained from the Local Planning Authority.
- 4) No development above ground floor slab level of the commercial block shall take place until details to demonstrate how it would be flexible and adaptable, details of the standard of internal fit out and details of the marketing strategy, have been submitted to and approved in writing by the Local Planning Authority. The scheme and marketing shall be implemented in accordance with the agreed details.
- 5) No development above ground floor slab level of any part of the development hereby permitted shall take place until details relating to materials to be used in the construction of the external surfaces of the

development have been submitted to and approved in writing by the Local Planning Authority, including:

- a) photos and product specifications of all brick (including mortar, bonding and pointing), roof coverings, lintels and finials;
- b) 1:20 scale plan and section drawings of the chalk grassland green roof, including depth of substrate and seeding mix;
- c) product specifications of all the hard landscaping materials;
- d) product specifications of the proposed window, door and terrace balustrades treatments (including the opaque panels); and
- e) all other materials to be used externally.

Development shall be carried out in accordance with the approved details.

- 6) No development shall take place until an Ecological Design Strategy (EDS) addressing retention and protection of existing habitats during construction, habitat removal and reinstatement, provision for wildlife corridors and habitat connectivity, reptile rescue and translocation, and creation of new wildlife features (including green roofs, bird and bat boxes) has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location/area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g., native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) persons responsible for implementing the works;
 - h) details of initial aftercare and long-term maintenance;
 - i) details for monitoring and remedial measures;
 - j) details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 7) Prior to any demolition works, an endoscope survey of the two potential bat roost features shall be carried out and a report containing its findings shall be submitted to and approved in writing by the Local Planning Authority. Any works necessary shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.
- 8) Prior to the first occupation of the development hereby permitted, a scheme for landscaping in compliance with drawing no. D.10 Rev.P shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
- a. A schedule detailing sizes and numbers of all proposed trees including details and confirmation of location, species and sizes, including some food-bearing plants, as well as the sustainable drainage system used, shall be

submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted.

b. Details of all boundary treatments to include type/design, position, dimensions and materials, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become, in the opinion of the Local Planning Authority, seriously damaged or diseased, shall be replaced with others of similar size and species.

- 9) The hard surfacing hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surfacing to a permeable or porous area or surface within the curtilage of the property.
- 10) Prior to the commencement of the development hereby permitted (including demolition and all preparatory work), the fencing specified in Appendix 4 of the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (PJC Consultancy Ltd, dated 15 October 2021) shall be carried out in strict accordance with the approved plan and retained as such during the implementation works.
- 11) Twenty six swift bricks shall be incorporated within the external walls of the development hereby permitted and shall be retained thereafter.
- 12) A bee brick shall be incorporated within the external walls of the residential and commercial buildings hereby permitted and shall be retained thereafter.
- 13) The windows annotated with frosted glass to their lower half on the south and east-facing elevations of the development hereby permitted shall be implemented as such prior to the first occupation of the residential building and thereafter permanently retained as such.
- 14) The use of the commercial building hereby permitted shall not be carried out except between the hours of 08:00 and 18:00 on Mondays to Saturdays and between 10:00 and 16:00 on Sundays, including Bank or Public Holidays.
- 15) The development hereby permitted shall not be occupied until full details of external lighting being installed, including levels of luminance, hours of use/operation and details of maintenance, are submitted to and approved in writing by the Local Planning Authority. The predicted illuminance levels shall be tested by a competent person to ensure that the illuminance levels are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels. The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.
- 16) The development hereby permitted shall not exceed ground floor slab level until a written scheme to address ventilation and overheating has been submitted to and approved in writing by the Local Planning Authority. It shall demonstrate how and where ventilation will be provided to each flat

within the development including specifics of where the clean air is drawn from and ensure that the residential units do not suffer from overheating. The approved scheme shall be implemented before first occupation of the residential building and thereafter retained.

- 17) The three disabled car parking spaces for the residential occupants of the development hereby permitted shall be provided in full and made available for use prior to the first occupation of the residential building and shall thereafter be retained in perpetuity.
- 18) Notwithstanding the site layout and parking plan shown on the approved basement plan, no residential units shall be first occupied until details of the motorcycle parking facilities for the occupants of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the residential building and shall thereafter be retained for use at all times.
- 19) Notwithstanding the details hereby approved, the development hereby permitted shall not be occupied until details of secure and inclusive cycle parking facilities, including a revised basement plan, for the occupants of, and visitors to the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
- 20) The development hereby permitted shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- 21) Within three months of the date of first occupation of the development hereby permitted, the following shall have been submitted to and approved in writing by the Local Planning Authority:
 - a) A Residential Travel Plan
 - b) A Commercial Travel Plan

The Travel Plans shall include details of the co-ordinator, objectives, targets, monitoring and remedial measures. They shall thereafter be fully implemented in accordance with the approved details.

- 22) No development, including demolition, shall take place until a Demolition Environmental Management Plan (DEMP) has been submitted to and approved in writing by the Local Planning Authority. The DEMP shall include:
 - (i) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of demolition progress and how any complaints will be dealt with, reviewed and recorded (including joining the details of considerate constructor scheme);
 - (ii) a scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management, vibration, site traffic and deliveries to and from the site;
 - (iii) details of hours of construction including all associated vehicular movements;

- (iv) a plan showing construction traffic routes;
- (v) details of any site entrances and their management, construction compound and offices;
- (vi) details of any Department for Transport Abnormal Load Notification and/or Order; and
- (vii) details of where staff will park when the site is under construction.

The demolition works shall be carried out in accordance with the approved DEMP.

- 23) No development, apart from demolition, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
- (i) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with, reviewed and recorded (including details of joining the considerate constructor scheme);
 - (ii) a scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management, vibration, site traffic and deliveries to and from the site;
 - (iii) details of hours of construction including all associated vehicular movements;
 - (iv) a plan showing construction traffic routes;
 - (v) details of any site entrances and their management, construction compound and offices;
 - (vi) details of any oversailing of the highway construction, falsework, formwork and scaffolding;
 - (vii) details of the use of any cranes, lifts, escalators and lifting vehicles;
 - (viii) details of any Department for Transport Abnormal Load Notification and/or Order; and
 - (ix) details of where staff and buses will park when the site is under construction.

The demolition and construction works shall be carried out in accordance with the approved CEMP and no part of the development hereby permitted shall be occupied until the approved highway works have been carried out in accordance with the agreed details.

- 24) None of the residential units hereby permitted shall be occupied until each residential unit built has achieved as a minimum a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
- 25) The development hereby permitted shall not exceed ground floor slab level until details, including a revised Energy & Sustainability Statement and product specifications, of the Air Source Heat Pumps (ASHPs) have been submitted to and approved in writing by the Local Planning Authority. The ASHPs shall then be installed in accordance with the approved details.
- 26) Within three months of first occupation of the non-residential development hereby permitted, a Post Construction Review Certificate issued by the BREEAM Building Research Establishment confirming that the non-residential development built has achieved a minimum BREEAM New Construction

rating of 'Very Good' shall be submitted to and approved in writing by the Local Planning Authority.

- 27) Provision within the development hereby approved shall be made to ensure the site can be connected to a district heating system in the future, including securing and safeguarding a route onto the site from the highway for a connection.
- 28) No development, including demolition and excavation, shall commence until a whole-life carbon assessment has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.
- 29) No development, including demolition and excavation, shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.
- 30)
 - i) The development hereby permitted shall not be commenced until a programme of archaeological works in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority.
 - ii) The development hereby permitted shall not be brought into use or occupied until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post-investigation assessment will be undertaken in accordance with the programme set out in the approved written scheme of investigation.
- 31) One wheelchair accessible dwelling within the development hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation of the residential building hereby permitted and shall be retained as such thereafter. All other dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
- 32) Other than demolition works and works to trees the development hereby permitted shall not be commenced until the following has been submitted to and approved in writing by the Local Planning Authority:
 - i) The supply of a detailed drainage design including the details and sizes of all pipes, pits and tanks proposed.
 - ii) A CCTV survey of the existing sewerage system.
 - iii) Written agreement from Southern Water for the connection to the Southern Water sewer.
 - iv) Provision of exceedance routes in case of an exceedance event.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

- 33) 1. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority:
- (a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 1075:2011+A22017; And if notified in writing by the Local Planning Authority that the results of the site investigation are such that site remediation is required then,
 - (b) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.
2. The development hereby permitted shall not be occupied or brought into use until there has been submitted to and approved in writing by the Local Planning Authority a written verification report by a competent person approved under the provisions of part 1(b) that any remediation scheme required and approved under the provisions of part 1(b) has been implemented fully in accordance with the approved details. The verification report shall comprise:
- (a) built drawings of the implemented scheme;
 - (b) photographs of the remediation works in progress;
 - (c) certificates demonstrating that imported and/or material left in situ is free from contamination.
- 34) Access to the flat roofs other than the terraces hereby permitted shall be for maintenance or emergency purposes only and the flat roofs shall not be used as a roof garden, terrace, patio or similar amenity area.

End of Annex.