



Appeal Decision

Site visit made on 23 July 2024

by S Leonard BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2024

Appeal Ref: APP/Z1775/W/23/3327740 Trematon, The Thicket, Southsea PO5 2AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Elliott Wood Partnership Ltd against the decision of Portsmouth City Council.
 - The application Ref is 23/00348/FUL.
 - The development proposed is described as 'demolition of the existing building containing three flats at Trematon, The Thicket. Construction of 3 x three-bedroom terraced houses on the site'.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of the existing building containing three flats and the construction of 3 x three-bedroom terraced houses at Trematon, The Thicket, Southsea PO5 2AA, in accordance with the terms of the application Ref 23/00348/FUL, dated 13 March 2023, and the plans submitted with it, subject to the conditions set out in the attached schedule of conditions.

Procedural Matters

2. The site lies within 5.6 km of the Solent Special Protection Areas (the SPAs). During the course of the appeal, the appellant submitted a legal agreement under S.111 in respect of financial contributions towards mitigating the effects of the development on the SPAs. This is a matter to which I later return.
3. Since the refusal of the application, which is the subject of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 19 December 2023. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeal, and I have taken it into account where relevant to my decision.

Main Issues

4. The main issues are:
 - The impact of the proposal on the character and appearance of the Owens Southsea Conservation Area (the OSCA);
 - The impact of the proposal on the living conditions of the occupiers of Thicket Cottage, with particular regard to outlook and light impacts; and
 - Whether the proposal would provide adequate mitigation for the Solent Special Protection Areas (SPAs).

Reasons

Character and appearance

5. The appeal site lies within an established residential area South of the Elm Grove District Centre within the Southsea area of the city. It is sited on the north side of The Thicket, on a narrow one-way part of the road, which comprises one of three arms of the street which radiate from and encircle a central island of built development.
6. The site lies on the northern edge of the OSCA, which the Council considers comprises one of the most significant and special of the City's conservation areas. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended (the Act) requires that with respect to development affecting buildings or other land in a conservation area, 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'
7. The significance of the OSCA derives from its development as a Victorian villa suburb as envisaged by Thomas Ellis Owen, and his Gothic Revival designed dwellings are a dominant feature of the area. High density housing, which includes detached, semi-detached, and terraced dwellings and two, three, and four-storey buildings, combines with much soft landscaping within gardens.
8. Sylvan roads, including narrow winding lanes are a feature of the conservation area, which has a pleasant, tranquil residential character. Dwellings are often set back into their sites behind enclosed, soft landscaped front gardens. Taller villas, and houses grouped together, often have an obvious visual presence within the street scene, including defining street corners and road pinch-points. This contributes to an intimate townscape where vehicular traffic speeds are low, dwellings have a significant visual impact upon the public realm, and Victorian design detailing adds notable interest to the street scene.
9. The site is occupied by three flats which take the form of a simple, modern, purpose-built 1960s three-storey building, with attached single storey flat-roofed garage block to the rear. The building faces, and is set back from, the road frontage. Low frontage walling incorporating vehicular and pedestrian access points mean that the existing building is prominent in views from the street.
10. The existing modern purpose-built block of flats has replaced the former dwellinghouse that existed on the site. Notwithstanding its red brick walls and slate tiled pitched roof, its design is not typical of that of the period buildings which define the Victorian origins of the conservation area. These include the detached two-storey dwellings to both sides of the appeal site, within whose context the appeal site building is read when viewed from the public realm of The Thicket.
11. The existing building has a simpler single pitched roof form, which is distinctly shallower than those of the adjacent properties, as well as greater eaves and ridge heights, because of the additional storey of accommodation compared to the neighbouring houses. Moreover, there is less visual interest within the building design, such as variations within the roof form, materials, fenestration design and building footprint. It also incorporates unsympathetic white PVC windows and doors. As such, the existing building is of little architectural

- interest and is not reflective of the Victorian villas which typify the character and appearance of the conservation area.
12. Moreover, the appeal site is dominated by hardstanding around the building, including a side access drive and parking areas to the front and rear. There is very little on-site landscaping, which is mainly confined to frontage planting.
 13. Accordingly, because of the existing building design and its on-site surrounds, I find that the appeal site does not make a positive contribution to the OSCA, and its redevelopment is acceptable in principle.
 14. The proposal would comprise a terrace of three houses, each dwelling having a separate pitched roof. The front building line would be staggered, in a rough alignment with that of the road frontage.
 15. Notwithstanding a difference of opinion between the two main parties in respect of the proposed increase in plot coverage, the appeal scheme would result in a notable increase in main building footprint, including building width and depth. The proposal would be sited significantly closer to the eastern side boundary and there would also be an increase in the building eaves and maximum ridge heights. As such, there would be a greater height difference between the new building and the neighbouring houses than that which currently exists.
 16. However, I am not persuaded that the greater height, footprint, mass and scale of the proposal would be harmful to the character and appearance of the OSCA, having regard to the proposed design of the new building and the prevailing pattern of built development within the site locality.
 17. Front-facing gables are a common feature of the period properties within the conservation area, and dwellings often extend across most of their plot widths, as part of the prevailing high-density built urban environment.
 18. The proposed three-storey height is in keeping with the aforesaid mix of dwelling heights within the conservation area. These include period dwellings that are of similar or greater height than that of the appeal scheme. Many of these are clearly apparent in views from the street, including locations within narrow, intimate roads like The Thicket, and they play a defining role in the overall character and appearance of the OSCA.
 19. The perceived overall width, height and mass of the building would be reduced by its vertical division into 3 distinct elements, each of which would be read as an individual dwelling when viewed from the public realm. The proposed North to South orientation of the roof pitch and the front gabled design of each dwelling incorporating steeply pitched valleys between the ridges, would serve to reduce the apparent bulk of the new roof, including at the interfaces with both side boundaries. The proposed glazing design would add to the perceived vertical and narrow element of the design of each separate dwelling. As such, I am satisfied that the proposal would not appear unduly over-dominant or overbearing when viewed from the public realm.
 20. The proposal would comprise a relatively simple modern building. However, visual interest would be incorporated through the proposed individual roofs and frontages for each dwelling, together with a slight first and second floor overhang on the front elevation front balconies. Variations of walling materials, including horizontal and stacked red brick, red tile hung spandrels, and timber

panelling would all serve to add interest to the new building. The proposed palette of materials, including a natural slate pitched roof, together with the proposed front-facing, steeply pitched gables, and vertical emphasis in the fenestration configuration, would reflect the Victorian gothic detailing and materials of the period properties which make a positive contribution to the conservation area. A planning condition can ensure that the proposed materials are of an appropriately high quality. With all the above in mind, I am satisfied that the proposal would not appear unduly incongruous or out of keeping with its surroundings.

21. For the above reasons, I therefore conclude that the proposal would not materially harm the character and appearance of the OSCA. As such, the proposal would accord with Policy PCS23 of *The Portsmouth Plan (Portsmouth's Core Strategy)* (2012) (the PP), in so much as this policy seeks to ensure that new development is well-designed and respects the character of the city, including, inter alia, protecting and enhancing the city's historic townscape, and comprising appropriate scale, density, layout, appearance and materials in relation to the particular context.
22. For similar reasons the proposal would accord with policies of the Framework which require well-designed and beautiful places and the conservation and enhancement of the historic environment as set out in Chapters 12 and 16.

Living conditions

23. Due to its combined increased height, mass, depth and proximity to the eastern side boundary with Thicket Cottage, the proposal would result in some reduction in sunlight enjoyed by that property and impact upon the outlook from its western side.
24. The main side wall of Thicket Cottage is separated from the appeal site by an accessway that runs alongside the boundary, which is defined by approximately 1.8m high boundary screening. This narrow space is already enclosed by the property itself and the boundary screening, and it does not comprise the principal outdoor living space for that property which benefits from large private garden areas on other sides of the building. As such, I am satisfied that light and outlook impacts upon this area arising from the appeal scheme would not result in materially harmful impacts upon the outdoor living space enjoyed by that property.
25. It is acknowledged by the appellant that there would be some loss of light to west-facing windows of that property at certain times of the year, but that the submitted Sun Study concludes that such impacts would be minimal, having regard to the use of these windows.
26. The first-floor windows in question serve non-habitable rooms comprising a stairwell, hallway and ensuite bathroom. The ground floor windows serve a WC and two kitchen/dining room windows. In respect of the latter, I saw during my visit that these windows both serve a single large open-plan kitchen/dining room. This room also benefits from a large bay window on its east elevation and glazed doors in its west and north elevations. As such, the room receives a generous amount of daylight because of the amount of glazed fenestration.

27. The Council has not challenged the methodology or results of the appellant's submitted Sun Study, nor produced its own substantive evidence to the contrary.
28. With all the above in mind, I find that the proposed juxtaposition of the new building in relation to Thicket Cottage, together with the nature of the rooms which are served by its west-facing windows, are such that the evidenced amount of sunlight loss to that property would not be so significant as to warrant withholding permission for the appeal scheme.
29. The outlook from the west side of Thicket Cottage would be changed by the proposal. However, such impacts would not be materially harmful given that none of the affected west-facing windows are the sole windows of habitable rooms, or they serve non-habitable rooms. Moreover, the outlooks of the west-facing kitchen/dining room windows are already compromised to a large degree by the existing side boundary screening at close proximity, so that the degree of enclosure as a result of the appeal scheme would not be so much greater in comparison that it would result in material harm to the outlook from this room.
30. For the above reasons, based on the evidence before me, I therefore conclude that the proposal would not materially harm the living conditions of the occupiers of Thicket Cottage, with particular regard to outlook and light impacts. The proposal would therefore accord with PP Policy PCS23, in so much as this policy seeks to ensure that new development protects amenity and provides a good standard of living environment for neighbouring and local occupiers.
31. This is generally consistent with Paragraph 135 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

SPAs

32. The SPAs comprise a coastline that has a network of mudflats, shingle and saltmarshes which provide essential winter feeding and roosting grounds for birds that spend the winter here. The SPAs were designated by the Government to protect these over-wintering birds.
33. The appeal scheme results in an increase in bedrooms within the 5.6km 'Zone of Influence' of the SPAs. This net increase in residential development has a potential two-fold impact upon the SPAs from, firstly, possible disturbance to the birds arising from increased recreational activity around the shorelines of the harbours, and, secondly, the prospect of increased levels of nitrogen and phosphorus entering the water and resulting eutrophication, arising from additional waste-water created by an increase in residents at the site.
34. As such, without mitigation, the appeal scheme presents a likely significant effect upon the integrity of the SPAs, particularly when the impacts are considered in combination with other residential developments located within the 5.6km Buffer Zone to the SPAs.
35. Therefore, it is necessary for me, as the competent authority, to undertake an Appropriate Assessment (AA) under the Habitats Regulations, of the implications for the sites in view of the conservation objectives of the SPAs. I have undertaken this on a proportionate basis, with regard to the evidence submitted by the main parties, which includes the Council's AA, which sets out

- the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, and confirmation from Natural England (NE) that no objection is raised, subject to appropriate mechanisms being put in place to secure such mitigation measures.
36. In 2017 the Council adopted the *Solent Recreation Mitigation Strategy* (SRMS) which provides a strategic solution to ensure that the requirements of the Habitats Regulations regarding the in-combination effects of increased recreational pressure on the SPAs arising from new residential development are met through mitigation measures.
37. The SRMS provides for the payment of a mitigation contribution, in this case £585, to offset the effects of an increased population on the SPAs. Contributions made under the SRMS are put towards a package of mitigation measures including a team of rangers, communications marketing and education initiatives, the facilitation and encouragement of responsible dog walking, codes of conduct, site-specific visitor management and bird refuge projects, new/enhanced strategic greenspaces, a delivery officer and monitoring of the mitigation measures.
38. The Council's updated *Interim Nutrient-Neutral Mitigation Strategy for new dwellings* (June 2022) (the INNMS), recognises that developments that result in additional overnight stays comprise developments for which mitigation is required in respect of the associated increase in waste-water discharge, since parts of the SPAs are currently in unfavourable conservation status and any additional nutrient discharge has the potential to worsen the existing situation.
39. The INNMS allows developers to purchase 'mitigation credits' from the Council's Mitigation Credit Bank, which would be used to provide mitigation measures to achieve nutrient neutrality in the Solent. In this instance, since there would be no increase in the overall number of dwellings, in accordance with the INNMS, the development would not result in a net change in the total nitrogen load and would not, therefore require mitigation in respect of Nutrient Neutrality.
40. I concur with the opinion of Natural England, that the SRMS and INNMS set out suitable measures for the mitigation of the likely significant effects of the development on the SPAs, and that the recreational mitigation contribution secured by the above means is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, and therefore meets the statutory tests set out in regulation 122 of the CIL Regulations.
41. The appellant, on 23 February 2024, paid £585 mitigate the likely significant effect of the proposal on the SPAs due to increased recreation disturbance of wading birds around the shorelines of the harbours.
42. This contribution was paid pursuant to section 111 of the Local Government Act 1972¹, and as an alternative to the appellant entering into a planning obligation under section 106 of the Town and Country Planning Act 1990 (TCPA 1990). This has been acknowledged by the Council as a satisfactory means of addressing this matter.

¹ As explained in a 'Section 111 Agreement' completed by the appellant on 26 February 2024

43. In line with the guidance in the Planning Practice Guidance², measures intended to inform decisions about the effects on the integrity of habitats, such as an SPA, need to be sufficiently secured and likely to work in practice. It is usual for financial contributions intended to mitigate the effects of new development to be secured through the making of a planning obligation under section 106 of the TCPA 1990. Although the SPA contribution that has been paid has not been secured through the operation of a planning obligation, I am content through the provisions of the submitted Section 111 Agreement that the appellant has submitted to the Council that the Solent Recreational Mitigation Contribution could only be used by the Council for the purposes of mitigating the development's effect on the SPAs.
44. Accordingly, I conclude that the appeal scheme provides adequate measures to avoid and mitigate its potential adverse impacts on the integrity of the SPAs, and that, with the payment of the Solent Recreation Mitigation Contribution, the requirements of the Habitats Regulations have been fulfilled. The appeal scheme would therefore accord with PP Policy PCS13, which amongst other things, seeks to ensure that unavoidable negative impacts on biodiversity are appropriately mitigated, and Paragraph 186 of the Framework. That is because mitigation would be available to conserve the natural environment, most particularly the integrity of the SPAs.

Other Matters

45. I have noted third-party objections on the grounds of highway safety and convenience due to inadequate parking and visibility and increased traffic. The Council has raised no highway safety concerns in respect of the development, finding the proposed access and parking provision to be acceptable. I have no reason to disagree based on the evidence before me and my site inspection. In this respect, I have taken account of the highly accessible location of the site in relation to nearby community facilities and services, employment opportunities and public transport connections. As such, future occupiers of the appeal scheme will not be dependent upon the car as a means of travel and the proposed single parking space for each dwelling, together with cycle parking facilities is acceptable in this location.
46. I have taken account of third-party concerns in respect of disruption, traffic congestion, highway danger and pollution during the construction of the development. Whilst there may be some disruption during the construction period, this would be for a relatively short time, and working practices during the construction of the development are capable of being controlled by means of a condition to ensure that the development is carried out in accordance with an approved Construction Environmental Management Plan (CEMP).
47. Interested party concerns regarding potential pollution and contamination arising from the redevelopment of the site due to the former presence of a commercial garage on adjacent land can be addressed through planning conditions requiring the potential for land contamination to be addressed prior to, and then, if found to be necessary, during development works.
48. I have taken account of third-party objections on the grounds of loss of privacy. I am satisfied that material harm would not arise in this respect, having regard to the design of the proposal and the juxtaposition and

² Paragraph 4 in section 65 of the Planning Practice Guidance, published by the Government on 22 July 2019

separation distances between the appeal scheme and neighbouring properties. This is subject to a condition to ensure appropriate screening to the front elevation first floor balconies.

49. I have noted interested party concerns that the development would provide inadequate outdoor living space for future occupiers. I am satisfied that the proposed private rear gardens together with first and second floor balconies would comprise an acceptable amount of outdoor living space for each dwelling, noting the proximity of the appeal site to public outdoor amenity space at Southsea Common and the seafront, and subject to a planning condition to remove the right to undertake future permitted development works that could result in the reduction of the approved on-site outdoor living space.
50. Having regard to interested party concerns about a loss of existing housing, there would be no resulting reduction in the number of dwellings on the appeal site. Moreover, speculation that the development is profit-motivated and concerns that the new dwellings would be occupied as second homes or buy-to-lets are not matters for consideration as part of this appeal.
51. Several third-party objections refer to housing proposals on the nearby St John's College site. This is not directly relevant to my determination of the current appeal.

Conditions

52. The Council has suggested 13 conditions, if the appeal is allowed. I have considered these in the light of the tests set out in Paragraph 56 of the Framework and the National Planning Practice Guidance (PPG) and imposed them where I consider them to be necessary and reasonable. Where necessary, I have altered them, in the interests of clarity and precision.
53. Some conditions require scheme pre-commencement submission and approval in the instances where such details need to be taken into account in the construction of the development, and therefore go to the heart of the planning permission.
54. In addition to the standard implementation condition (1), it is necessary to define the plans for certainty (2). In the interests of highway safety and to protect the living conditions of neighbouring occupiers it is necessary to ensure that demolition and construction of the development take place in accordance with an approved Construction Environmental Management Plan (CEMP) (3).
55. Having regard to the residential nature of the development, and the former motor car garage on adjacent land, conditions are necessary to ensure that any existing site contamination is appropriately dealt with (4) and (5).
56. To protect the character and appearance of the area a condition is necessary to ensure the provision of appropriate external materials (6). To ensure on-site biodiversity enhancement, a condition is necessary to ensure the installation of swift bricks within the development (7).
57. In the interests of the character and appearance of the area and the enhancement of on-site biodiversity and to minimise flood risk due to surface water run-off, a condition is necessary to ensure the provision of an appropriate hard and soft landscaping scheme (8).

58. A condition to minimise water usage is necessary to ensure that the lower threshold under the Building Regulations is applicable, to ensure compliance with the Council's Nutrient Neutral Mitigation Strategy in respect of SPA mitigation (9).
59. A condition requiring the provision of secure cycle storage is necessary to encourage the use of alternative means of transport to the private car (10). A condition is required to ensure that adequate provision is made for the storage of refuse and recyclable materials (11).
60. In the interests of protecting the living conditions of neighbouring occupiers in respect of privacy impacts, a condition is necessary to ensure appropriate screening to the front elevation first floor balconies, noting that the plans that were the subject of the Council's decision do not include balcony screening measures (12).
61. To ensure appropriate living conditions for future occupiers of the development in respect of outdoor living space, protect the character and appearance of the area and retain on-site biodiversity, a condition is required to remove specified permitted development rights (13).

Conclusion

62. The development accords with the development plan taken as a whole and there are no material considerations that indicate that the decision should be made other than in accordance with the development plan.
63. Therefore, for the reasons given above, I conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings: Drawing numbers:
- 2204-EMR-ZZ-RL-AP-A-01101 PL01;
 - 2204-EMR-ZZ-01-AP-A-02102 PL01;
 - 2204-EMR-ZZ-ZZ-AP-A-04101 PL01;
 - 2204-EMR-ZZ-RL-AP-A-02104 PL01;
 - 2204-EMR-ZZ-02-AP-A-02103 PL01;
 - 2204-EMR-ZZ-ZZ-AP-A-05102 PL01;
 - 2204-EMR-ZZ-00-AP-A-02101 PL01; and
 - 2204-EMR-ZZ-ZZ-AP-A-05101 PL01.
- 3) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted to and

approved in writing by the Local Planning Authority. The CEMP shall include, and not necessarily be limited to, details of: Construction vehicle routing; Site access management; Times of deliveries; Loading/offloading areas; Crane siting; Site office facilities; Contractor parking areas; and Method Statement for control of noise, dust and emissions from construction work.

The development shall be carried out in accordance with the CEMP approved pursuant to this condition.

4) Prior to the commencement of the development hereby permitted, the following, in sequential order, shall be submitted to and approved in writing by the Local Planning Authority:

- A desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the site and potential contaminants associated with those uses. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including sampling rationale for a site investigation scheme based on the conceptual model, explaining all proposed sample locations and depths (Phase 1 report).
- A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas – Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end use or can be made so by remediation. Remedial options shall be detailed with a remedial options appraisal. The report shall include a detailed assessment of the risk to all receptors that may be affected, including those off-site (Phase 2 report).
- A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, detailing proposals for future maintenance, monitoring and arrangements for contingency action as necessary. If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality – Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion (Phase 3 report).

The remedial scheme shall be implemented as approved.

5) The development shall not be occupied until a stand-alone verification report has been submitted by the competent person approved pursuant to condition (4). The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement and demonstrate that site remediation criteria have been met. For the verification of gas protection schemes the applicant should follow the agreed validation plan.

Thereafter the remedial scheme shall be maintained in accordance with the details approved under condition (4).

6) No development shall take place above slab level until a full and detailed schedule of all materials and finishes (including brick, roof slate and window section samples) to be used in the construction of the external surfaces of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority.

The development hereby permitted shall be carried out and thereafter maintained in accordance with the approved details.

7) Prior to the occupation of the development hereby permitted, three swift bricks shall be installed within the new building and shall thereafter be permanently retained.

8) No development shall take place above slab level until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include: the alignment, height and full architectural details of all boundary treatments (front, rear and side) walls, gates and fences and other means of enclosure; the landscaping for the site to include soft landscaping and planting which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted; details of any hard surfacing, to include materials and sustainable drainage details; details of a lighting scheme for the front parking area, to include design location and the intensity of the illumination; and an implementation programme.

The approved hard and soft landscaping shall be carried out in accordance with the approved details and implementation programme. All hard landscaping, means of enclosure and lighting shall be completed prior to first occupation of the development hereby permitted. The soft landscaping scheme shall be carried out in the first planting and seeding seasons following the first occupation of the development. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of similar size, species and number as those originally approved.

9) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to and approved in writing by the local planning authority, demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

10) The development hereby permitted shall not be occupied until the cycle storage facilities shown on plan 2204-EMR-ZZ-00-AP-A-02101 and 2204-EMR-ZZ-

ZZ-AP-A-05101 have been provided. Thereafter these facilities shall be permanently retained for the storage of bicycles at all times.

11) No development shall take place above slab level until details of facilities for the storage of refuse, recyclable materials and food waste have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided prior to the first occupation of the development hereby permitted and shall thereafter be permanently retained.

12) No development shall take place above slab level until details of screening for the front elevation first floor balconies have been submitted to and approved in writing by the Local Planning Authority. The approved screening shall be provided prior to the first occupation of the dwelling to which it relates and thereafter be permanently retained.

13) Notwithstanding the provisions of the Town and Country Planning [General Permitted Development] Order 2015 [or any order revoking and re-enacting that Order with or without modification], no development permitted by Classes A and F of Part 1 of Schedule 2, and Class A of Part 2 of Schedule 2, of the Order shall be carried out.

*****End of Conditions*****