



Appeal Decisions

Hearing held on 25 June 2024

Site visit made on 25 June 2024

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2024

Appeal A Ref: APP/U4610/W/24/3340509

Telephone Repeater Station, Fletchamstead Highway, Coventry CV4 7BB

- 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 Mr Parminder Bal against the decision of Coventry City Council.
 - The application Ref is PL/2023/0002181/FUL.
 - The development proposed is change of use and refurbishment of a former BT repeater station to provide 10 bed student accommodation scheme.
-

Appeal B Ref: APP/U4610/W/24/3337238

Telephone Repeater Station, Fletchamstead Highway, Coventry CV4 7BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Parminder Bal against the decision of Coventry City Council.
 - The application Ref is PL/2023/0001752/PAMA.
 - The development proposed is change of use of a Class E Music Recording Studio to a single dwelling.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA of the GPDO for change of use of a Class E Music Recording Studio to a single dwelling at Telephone Repeater Station, Fletchamstead Highway, Coventry CV4 7BB, in accordance with the application Ref PL/2023/0001752/PAMA and the details submitted with it, subject to the standard conditions specified at paragraph MA.2 of the GPDO and the additional conditions listed at the end of these Decisions.

Applications for costs

3. Applications for costs were made by Mr Parminder Bal against Coventry City Council. These applications are the subject of separate Decisions.

Preliminary Matters

4. With respect to Appeal B, a revised Proposed Site Plan¹ was submitted at the Hearing. This has been produced in the interests of ensuring correlation with other plans for determination. I am content that the revised plan does not

¹ Ref: 22-01-2022 05 B (supersedes 22-01-2022 05 A)

advance the scheme and that no party with a potential interest is prejudiced by me accepting it for determination purposes.

5. The provisions of Class MA of the GPDO require the Local Planning Authority to assess proposed development based on a number of different matters, as set out under paragraph MA.2(2) of the GPDO. The Council's reason for refusing the application that is now the subject of Appeal B is focussed upon such matters in the contexts of flood risk, highway impact, and noise impact. I shall determine Appeal B on this basis. Moreover, I have no reason to consider non-compliance with any provision set out under paragraph MA.1 of the GPDO.
6. On 30 July 2024, consultation commenced upon "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation". These consultation documents incorporate various potential future alterations to the National Planning Policy Framework (December 2023) (the Framework), including in the contexts of assessing local housing need and the presumption in favour of sustainable development. In part owing to the nature of the principal matters in dispute and the existence of an acknowledged substantial housing land supply shortfall (as discussed below), it has not been considered necessary to seek observations from the parties as regards any relevance of these consultation documents to the outcome of either appeal.

Main Issues

7. The main issues with respect to Appeal A are:
 - Whether or not the proposal represents acceptable development in a flood risk sense, having particular regard to any implications of the site's flood zone location and the current absence of a detailed drainage strategy;
 - Whether or not it has been satisfactorily demonstrated that acceptable living conditions would prevail for future occupiers, having particular regard to noise;
 - The effect of the proposal upon highway safety;
 - Whether or not it has been satisfactorily demonstrated that acceptable living conditions would prevail for future occupiers, having particular regard to access to light; and
 - Whether or not it has been satisfactorily demonstrated that the proposal would have an acceptable effect upon existing trees and biodiversity.
8. The main issues with respect to Appeal B are:
 - Whether or not flooding risks would make the appeal property unsuitable for residential use;
 - Whether or not noise impacts from commercial premises would make the appeal property unsuitable for residential use; and
 - Whether or not the transport impacts of the development would make the appeal property unsuitable for residential use, having particular regard to whether or not safe site access would prevail.

Reasons

Flood risk – Appeal A

9. The site is situated partially within Flood Zone 2 of the Environment Agency's Flood Map, with the portion of the site that contains the appeal building falling solely within Flood Zone 2. The Framework advocates the application of the sequential test whereby new development should be steered towards areas with the lowest risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, in this case Flood Zone 1.
10. As set out at paragraph 174 and associated footnote 60 of the Framework, proposals for some minor development, including householder development and small non-residential extensions, and changes of use should not be subject to the sequential test. It is a matter of disagreement between the parties as to whether the appeal proposal is eligible to sidestep the sequential test.
11. The description of development refers to a change of use and refurbishment of the existing building. It is important to note that the intended refurbishment works include the construction of a two-storey upward extension as well as minor enlargements to the building's footprint at ground level to the front. It is thus not the case that solely a change of use of the appeal building is under consideration. Extensions to provide additional new residential floorspace are also proposed.
12. It was suggested at the Hearing that the planned extensions would represent householder development. However, householder development comprises development within the curtilage of an existing dwellinghouse. Whilst I acknowledge the future potential for the proposed student accommodation to constitute a dwellinghouse, this is not the current baseline from which the sequential test must be applied. Moreover, the appeal building has a commercial use such that householder development cannot be under consideration.
13. It has been hypothetically suggested that, as an alternative to the appeal proposal, an application could be made to change the use of the existing building and then followed, if successful, by an application to extend the building. I do not dispute the possible hypothetical potential for such an approach to be taken. However, notwithstanding the outcome of Appeal B, I attach little relevance to untested hypothetical proposals and find no reason for the sequential test to be avoided in the case of the proposal before me that is the subject of Appeal A.
14. Based on the stance taken by the appellant that the sequential test does not apply, no comprehensive assessment of the potential suitability and availability of alternative sequentially preferable sites has been carried out. In view of my above findings, this is a significant shortcoming of the proposal.
15. I acknowledge the submission of a Flood Risk Assessment (November 2023) (the FRA), which addresses flood risk from different sources including a nearby main river. Anticipated flood levels during different flood events have been calculated to fall beneath the existing floor level of the building. However, these calculations, nor the possible future installation of flood resilience

measures, do not alter the site's Flood Zone 2 classification and do not justify non-adherence with the sequential test.

16. With respect to the future management of surface water at the site, a Drainage Appraisal (May 2024) (the DA) has been submitted that sets out an intention to manage surface water via an on-site soakaway subject to future percolation testing. Without prejudice to my findings above, I am suitably satisfied that, in view of existing and proposed site layouts, a fit-for purpose solution for managing both surface and foul water could be found. This is subject to the full details being secured via condition prior to the commencement of development in the event Appeal A be successful.
17. However, having particular regard to the implications of the site's flood zone location, the proposal does not represent acceptable development in a flood risk sense and would thus cause harm. The proposal conflicts with Policy EM4 of the Coventry City Council Local Plan (December 2017) (the Local Plan) and the Framework in so far as these policies require that a sequential, risk-based approach to the location of suitable development will be undertaken to steer new development to areas with the lowest probability of flooding.

Noise – Appeal A

18. The site is situated adjacent to a busy dual carriageway such that it is directly impacted upon by road noise. It had been suggested that the noise survey data relied upon by the appellant, which dates to 2020, may not be representative of current conditions/traffic levels. However, following clarification in respect to the precise position from where readings were taken, the Council, at the Hearing, accepted that there is broad correlation between the 2020 survey data and its own readings taken in May 2024 to support its stance at appeal.
19. The proposal before me follows a previous scheme to provide live-work accommodation that was also centred upon a change of use and refurbishment of the appeal building. That proposal was ultimately unsuccessful at appeal² in 2022 for reasons that included a failure to achieve acceptable living conditions having particular regard to noise. The previous Inspector identified that the design then before her would likely require future occupants to live with windows closed for the majority of the time to achieve acceptable living conditions. She also found that, despite the intended provision of an acoustic barrier, access to quieter outside space away from road noise would be highly limited.
20. As regards this latest proposal, it is proposed, as it was previously, that noise mitigation to internal areas be provided via closed window units with trickle ventilation. In response to the previous Inspector's concerns, no habitable room windows are now positioned to face the highway. It is also the intention to install acoustic fire doors to internal landing areas. As regards noise to external spaces, a small dedicated external amenity space is now intended to the rear of the site but a continuous acoustic barrier to the site's frontage is no longer proposed.
21. In view of the relevant guidelines for desirable outdoor noise levels, recorded noise readings, and the precise setback position of the intended external

² Ref: APP/U4610/W/21/3283038, decision date 28 April 2022

amenity space beyond the appeal building, future occupiers would, on balance, have access to an outdoor space satisfactorily removed/protected from the effects of road noise. This is despite the constrained nature of the external space in question and the absence of mitigation associated to any new acoustic fencing to be installed.

22. However, whilst habitable room windows would not be located to the front elevation, multiple side-facing windows serving either bedrooms or the main communal living space are intended. Some of which would be positioned in proximity to the building's front façade where, on the basis of the survey data before me, background noise levels comfortably exceed those recommended for living rooms and bedrooms during both daytime and night-time hours.
23. Notwithstanding the side-facing nature of these windows, it remains, in my judgement, highly likely that future occupiers, most particularly (but not solely limited to) the inhabitants of Bedrooms 3 and 7 as depicted upon the proposed floor plans, would be forced to live with windows serving habitable rooms closed on a persistent basis to the detriment of their quality of life. It has not been clearly or robustly demonstrated otherwise. Moreover, it has not been suitably substantiated that an adequate degree of mitigation would be achieved by locating habitable room windows away from the front elevation.
24. For the above reasons, having particular regard to noise, it has not been satisfactorily demonstrated that acceptable living conditions would prevail for future occupiers and thus harm would be caused. The proposal conflicts with Policy H3 of the Local Plan in so far as it promotes the provision of a high-quality residential environment safe from excessive noise.

Highway safety – Appeal A

25. The site is served by an existing dropped kerb access that connects to the southeast-bound Fletchamstead Highway, a busy multi-lane route that is subject to a 40 mile per hour speed limit. The design of the site's access necessitates that any driver wishing to enter the site is required, realistically, to slow to a speed noticeably lower than this maximum speed limit. Along this stretch of highway, other drivers would be unlikely to expect vehicles to slow to such a degree. I do not dispute that traffic could be slow-moving at certain times owing to the effects of congestion and/or the presence of a nearby roundabout. However, as was apparent upon inspection, such circumstances do not prevail on a constant basis.
26. The site contains a small single storey building that I understand is presently used on an occasional basis by an architectural practice for meetings. My internal inspection of the building corroborated that one of the building's main rooms could be, and most likely has been, actively used for such purposes in recent times. On this basis, a very limited number of vehicular trips currently take place to and from the site.
27. The change of use that is proposed would be brought forward in conjunction with the provision of two additional storeys, such that up to 10 students would be able to reside on site at any one time. Other than the removal of gates, which promotes assurances that drivers accessing the site would be able to pull off the highway and access the site's driveway, no changes are proposed to the site's existing access arrangements. Based on the increase in floor space that is proposed, and the number of residential occupiers intended, there is clear

- potential for the proposal to lead to noticeably more vehicular trips being generated when compared to current circumstances.
28. Whilst the development is intended to be car-free, this aim is not fully consistent with a proposal that incorporates an on-site driveway area and thus opportunities to park or wait on-site. It is intended that car free development be secured by tenancy agreements and the implementation of a booking system for using parking slots at the start and end of term. However, in my judgement, even if a comprehensive student management scheme were to be secured via condition, it would be unduly challenging to effectively enforce that the proposed development at this site remain car free in the absence of perpetual on-site management.
29. In addition to the potential for trips to be generated directly by any car-owning future residents, a variety of other trips for the purposes of deliveries to or collections from the site (including by refuse collection vehicles and taxis) would inevitably occur. There is also realistic potential for at least some future occupiers to host visits by family and/or friends arriving by car. Moreover, up to 10 unrelated persons would occupy the extended property, each with their own individual domestic demands and personal connections.
30. The appellant has provided data from the TRICS (Trip Rate Information Computer System) database related to car-free student accommodation. This data, it has been suggested, indicates that a mere one vehicular trip would be generated per day by the 10 students intended to occupy the proposed accommodation. However, as confirmed by the appellant, very few examples of similar developments are present on the database currently. Further, the three examples provided each far exceed the appeal scheme in terms of the total number of occupying residents such that it is difficult to draw direct comparisons. It is also the case that each example is situated in London where specific site circumstances would likely differ, including with respect to the availability/proximity of services/public transport options and their suitability to be classified as car-free.
31. To my mind, the total number of daily trips likely to occur to and from the appeal site would be significantly higher than one trip, and noticeably higher than the very limited number of trips currently generated. This would mean additional vehicles decelerating to very slow speeds in order to enter the site, which would be to the detriment of highway safety.
32. It is also relevant that the site's front driveway, which is to remain the same size as existing, is constrained in area. This could make it problematic for a vehicle to leave the site in a forward gear especially if another vehicle (or vehicles) were to be present on-site at the same time. Indeed, the swept path analysis for a large car contained within the appellant's Technical Note (December 2020) highlights the extent and complexity of manoeuvres that could be necessitated. The anticipated increase in trips would raise the likelihood of multiple vehicles being present on-site at any one time. The potential for drivers being forced to enter the highway in reverse gear would thus increase, raising further legitimate safety concerns at this busy location on the highway network.
33. Whilst recent local accident data may indicate no existing highway safety issues within the vicinity, this is on the basis of very limited trips to and from the site

in recent times. Thus, the accident data that has been provided is of limited relevance.

34. My attention has been drawn to a lawful development certificate (LDC) that was issued on appeal³ in June 2023, which confirms that the use of the appeal building falls within Class E⁴. Class E covers a wide range of commercial, business and service uses, which include offices, retail, and the music studio use that was found not to have been abandoned at the point in time the LDC was granted. It has been suggested that a Class E use could give rise to significantly greater traffic impacts when compared to the proposal before me. Indeed, TRICS data related to office uses in various different locations elsewhere has been provided in the interests of illustrating an anticipated daily trip rate at the appeal site of up to 13 trips.
35. In view of the LDC's existence, it has been established that there is a real prospect that a more intensive Class E use when compared to current circumstances could occupy the site in the future. There is thus a legitimate fallback position (the fallback position), which is a material consideration.
36. However, having considered the space/layout constraints of the small appeal building in question, it is, to my mind, unlikely that as many as 13 daily trips would be generated by any future Class E use. It is also relevant that no specific details of any future occupier/commercial operation with a live interest in the site have been provided in the interests of clearly demonstrating this number of daily trips to be realistic. Furthermore, the TRICS data that has been obtained relating to office uses cannot be relied upon to provide a truly accurate picture of anticipated trips to and from the appeal site. This is not least due to the relatively modest extent of the survey data relied upon and the differences in individual site circumstances that would inevitably avail.
37. Therefore, mindful of my finding that the total number of daily trips likely to be generated by the proposal would be significantly higher than one trip, it has not been satisfactorily demonstrated that the fallback position would be more harmful to highway safety than the appeal scheme. Thus, insufficient justification has been provided for a proposal that raises legitimate and significant highway safety concerns for reasons that are set out above.
38. Therefore, the proposal would have an unacceptable harmful effect upon highway safety and conflicts with Policy AC2 of the Local Plan in so far as this policy seeks to ensure that proposals that would cause highway safety problems are designed to mitigate those effects.

Access to light – Appeal A

39. A Daylight and Sunlight Assessment (February 2024) is before me, which indicates that acceptable levels of sunlight and daylight would serve each habitable room. It has been confirmed, and accepted by the Council, that the results include consideration of the impact from established trees, including during summertime when in full leaf. In addition, confirmation of the detailed specification of boundary treatments could be secured via condition in the event Appeal A be successful. When also factoring in my own on-site observations, I am content that, having particular regard to access to light, it has been satisfactorily demonstrated that acceptable living conditions would

³ Ref: APP/U4610/X/22/3307404

⁴ to Part A, Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended)

prevail for future occupiers. The proposal satisfactorily accords with Policies H3 and DE1 of the Local Plan in so far as these policies support the provision of a high-quality residential environment.

Trees and Biodiversity – Appeal A

40. The site is in an area of extensive tree cover and falls within the Burnsall Road Local Wildlife Site. There are various established trees positioned to the perimeter of the site. The proposal is supported by a comprehensive ecology report⁵ that identifies biodiversity within the site to be very low and suggests no evidence of protected or notable species, including no potential roost features for bats.
41. At appeal, an Update Letter of Ecological Assessment (February 2024) has been submitted. This has been produced by the ecologist who authored the original report. She undertook a daytime site walkover, and has confirmed that, from her perspective, no ecologically significant change has occurred to the site since it was last surveyed in 2020.
42. I have had regard to reference made to various ecological features identified during an April 2024 site visit undertaken by Council ecologists. However, no clear evidence of protected or notable species being present on site has been provided. Following discussions at the Hearing and my own visit to the site, I am content that ecological/biodiversity matters could be suitably dealt with via planning condition in the event Appeal A be successful. For the avoidance of doubt, in view of the potential roosting opportunities highlighted by the Council, I am of the view that a survey for the presence of bats would be prudent and justified prior to the commencement of development.
43. Whilst it is the appellant's stance that all existing trees are to be retained, my own inspection along the rear boundary of the site casted some doubt over whether this could indeed be the case. Nevertheless, I am satisfied that, across the site taken as a whole, works required to be undertaken to (or in immediate proximity of) existing trees would be relatively limited. I am also mindful that the previous 2022 Inspector, based on a proposed development of the same or similar footprint, identified that conditions could reasonably be imposed to secure appropriate retention of trees and construction methods to minimise effects upon retained trees. Notwithstanding that an upward extension of two storey height is now proposed, there is no clear reason for me to come to different conclusions on this matter.
44. For the above reasons, it has been satisfactorily demonstrated that the proposal would have an acceptable effect upon existing trees and biodiversity. The proposal accords with Policies GE1 and GE3 of the Local Plan and the Framework in so far as these policies promote biodiversity and seek the protection of green infrastructure and Local Wildlife and Geological Sites.

Flooding risks – Appeal B

45. The Council has accepted that the sequential test is not applicable in the case of Appeal B. As a change of use is proposed without any physical extension to the appeal building, I have no reason to disagree. Nevertheless, at application stage, the Lead Local Flood Authority issued an objection related to the site's vulnerability to flooding and the absence of robust supporting information.

⁵ Ecological and Biodiversity Impact Assessment Report and Ecological Management Plan (October 2020)

46. Since the Council resolved to refuse to grant prior approval, the FRA and the DA have been produced (albeit tailored to the student accommodation proposal that is the subject of Appeal A). As set out above, anticipated flood levels during different flood events have been calculated to fall beneath the existing floor level of the building and an intention to manage surface water via an on-site soakaway has been put forward.
47. Some concerns were raised at the Hearing with respect to the veracity/comprehensiveness of the supporting evidence provided, including with respect to on-site levels. Even so, no robust or detailed evidence to clearly demonstrate different calculations or conclusions to those presented in the FRA have been provided. Of further relevance, as discussed at the Hearing, it would be possible to secure the installation of a scheme of flood resilience measures via condition.
48. To my mind, having considered all related evidence, taken into account the 'more vulnerable' classification of the proposed use, and noted the proximity to a main river, it would be prudent and appropriate to secure a scheme of flood resistance/resilience measures should Appeal B be successful. This approach would provide suitable assurances that the development would be safe for its lifetime. The package of mitigation measures to be secured should be proportionate to a low level of flood risk from fluvial sources, as illustrated by the FRA.
49. Further, consistent with earlier findings, I am content that a fit-for purpose solution for managing surface and foul water at the site could be found and suitably secured via condition. This is especially as no increases to the footprint of the building or to the extent of on-site hardstanding are proposed. I therefore conclude that flooding risks would not make the appeal property unsuitable for residential use.

Noise impacts from commercial premises – Appeal B

50. The provisions of Class MA require the impacts of noise from commercial premises upon the intended occupiers of the development to be assessed. Thus, the impacts of noise in a wider or more general sense fall beyond the remit of the relevant prior approval provision. There is acceptance from the Council, as discussed at the Hearing, that, at the site in question, noise arises from the highway as opposed to from commercial premises. It follows that noise impacts from commercial premises do not make the appeal property unsuitable for residential use.

Transport impacts – Appeal B

51. Class MA requires the transport impacts of development to be assessed, having particular regard to ensuring safe site access. The proposed establishment and occupation of a single dwelling on the site would be fairly anticipated to result in an increase in vehicular trips to and from the site when compared to current circumstances. Consistent with my Appeal A highway safety findings above, this material increase in trips holds the potential to raise transport impact concerns.
52. Nevertheless, a modest two-bedroomed dwelling is under consideration which assists in offering assurances that the number of future occupiers and associated trips would not be excessive. Further, as a single household would

occupy the site, those future occupiers would have a high degree of control over how vehicles could be parked and manoeuvred on-site. Thus, it could be reasonably expected that it would be rare for instances to arise of drivers being unable to exit the site in a forward gear.

53. In addition, without prejudice to my Appeal A highway safety findings and even without a clear understanding of the specific details of any likely future occupation of the site, the fallback position is an important material consideration in this case. Moreover, when compared to the proposal that is the subject of Appeal B, there is, to my mind, fair potential for a broadly comparable number of trips to occur should the intensity/makeup of the existing Class E use increase/alter in the future.
54. All related matters considered, having particular regard to whether or not safe site access would prevail, the transport impacts of the development would not make the appeal property unsuitable for residential use.

Other Matter

55. A successful appeal decision⁶ relating to student accommodation at Brookside House, Burnshall Road has been brought to my attention, which is a site that is situated close by. Amongst other findings, it was identified by the Inspector that the development would be in an appropriate location and that the scheme would not give rise to unacceptable highway safety issues. I also note that a booking system for parking slots on moving days factored favourably in the Inspector's deliberations.
56. However, site and case circumstances differ markedly when the Brookside House scheme is compared to the proposal now before me. For example, Burnshall Road is a much lower trafficked route when compared to Fletchamstead Highway such that different highway safety and noise constraints would apply. I am also unaware of any Flood Zone constraints at this other site. Furthermore, a 196-room development was under consideration such that an active management presence would be much more likely and realistic at Brookside House. It is also evident that, unlike with respect to the proposal before me, a Planning Obligation was submitted containing provisions related to the management of the property and the control of car usage. Thus, notwithstanding similarities in locational and accessibility terms, I find the Brookside House scheme to be of limited relevance to my considerations.

Planning Balance

Appeal A

57. In terms of the scheme's benefits, it would make an effective use of brownfield land through refurbishing and reusing a presently underutilised building. It is also the case that additional accommodation for up to 10 students in a satisfactorily accessible location, compliant with the requirements of Policy H10 (Student Accommodation) of the Local Plan, would be created. The Council confirmed at the Hearing that this level of provision would equate to the delivery of four additional units for the purposes of calculating its housing land supply. The proposal could also be fairly anticipated to help reduce the number of market houses lost to conversion in a local authority area where there is an

⁶ Ref: APP/U4610/W/23/3317673, decision date 24 July 2023

acknowledged housing land supply shortfall. Indeed, the latest published position of a 2.12-year supply represents a substantial shortfall. The scheme would also generate investment in the local economy during the construction phase as well as once occupied and increase, to some minor degree, available surveillance along Fletchamstead Highway and over an adjacent public right of way.

58. In view of the substantial housing supply shortfall that is in existence, the proposal's benefits attract significant weight in cumulative terms. However, in the circumstances of this case, such benefits would not, in my judgement, outweigh the various harms I have identified in the contexts of flood risk, noise, and highway safety.
59. The proposal conflicts with the flood risk policies contained within the Framework, which provide a clear reason for refusing the development proposed. Thus, the presumption in favour of development, as set out at paragraph 11 of the Framework, is not engaged. Moreover, there is identifiable conflict with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Appeal B

60. For the avoidance of doubt, as an application for either prior approval or a determination as to whether prior approval is required is not an application for planning permission, there is no need for me to conduct a planning balance with the respect to the proposal that is the subject of Appeal B. Thus, as I have identified acceptability with respect to each of the matters in contention, there is no clear reason for me to resist granting prior approval for a change of use to a single dwellinghouse.

Conditions – Appeal B

61. Paragraph W (13) under Schedule 2, Part 3 of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. I have had regard to the draft list provided by the Council, the written comments of the appellant, and discussions that took place at the Hearing. I have made amendments to suggested wordings for clarity and consistency purposes.
62. I have not imposed a time limit condition, as the relevant three-year time limit for completing development is set out at paragraph MA.2(5) of the GPDO. I have not imposed noise assessment or bin storage conditions in the absence of any demonstrated direct relationship to the subject matter of the prior approval. Further, notwithstanding the heavily trafficked nature of Fletchamstead Highway, I have not imposed a construction method statement condition. This is on the basis that an existing single building of modest stature is the subject of Appeal B, the conversion of which could not be fairly anticipated to generate a high number or regular flow of construction/delivery vehicle movements.
63. In the interests of ensuring safe site access, a condition is reasonable and necessary to ensure that the development is implemented and retained in full accordance with the details illustrated upon the proposed site plan. Owing to the existence of a grassed highway verge and wide pavement between the site and the carriageway and having noted the extent of land to fall under the

appellant's control, I have considered it neither reasonable nor necessary to condition details of visibility splays. For the avoidance of doubt, the provision and retention of an on-site parking/manoeuvring space is reasonably related to the subject matter of the prior approval. This is because it would promote that site egress occur in a forward gear and that the site's access be used in a safe and appropriate manner.

64. In the interests of suitably mitigating flood risk, conditions are reasonable and necessary to secure both a scheme of flood resistance/resilience measures and a foul and surface water drainage strategy.

Conclusion

65. For the above reasons, Appeal A is dismissed. I separately conclude that Appeal B should be allowed such that prior approval is granted.

Andrew Smith

INSPECTOR

Schedule of Conditions – Appeal B

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 22-01-2022 01; 22-01-2022 02; 22-01-2022 03; 22-01-2022 04; 22-01-2022 05 B; 22-01-2022 06.
- 2) Prior to the first occupation of the development hereby permitted, the site access and driveway shall be laid out in full accordance with the details depicted upon approved plan 22-01-2022 05 B. The driveway shall thereafter be retained at all times for the purposes of parking and manoeuvring vehicles.
- 3) Prior to the first occupation of the development hereby permitted, details of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided in full accordance with the approved details prior to the first occupation of the development and shall thereafter be retained at all times.
- 4) Prior to the first occupation of the development hereby permitted, a scheme of flood resistance/resilience measures to minimise the impact of flood risk for future occupiers of the development shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall be provided in full accordance with the approved details prior to the first occupation of the development and shall thereafter be retained at all times.
- 5) Prior to the first occupation of the development hereby permitted, a foul and surface water drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented in full prior to the first occupation of the development and shall thereafter be retained at all times.

APPEARANCES

FOR THE APPELLANT

Shemuel Sheikh	Counsel
Neil Boughey	Director, Acorn Planning Limited
Mark Rayers	Director, BSP Consulting
Parminder Bal	Appellant

FOR THE COUNCIL

Richard Edgington	Principal Planning Officer
Grace Goodman	Town Planner
Ben Malin	Senior Highways Engineer
Mark Holden-Brown	Senior Engineer – Drainage
Steve Dewar	Senior Environmental Protection Officer
Simon Newell	Ecology and Biodiversity Manager

DOCUMENTS SUBMITTED AT THE HEARING

Revised Proposed Site Plan, referenced 22-01-2022 05 B, submitted by the appellant

Noise Note, produced by BSP Consulting, dated 18 June 2024, submitted by the appellant