



Appeal Decision

Hearing held on 1 October 2024

Site visit made on 1 October 2024

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal Ref: APP/W2465/W/24/3345854

186 Welford Road, Leicester LE2 6BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Kian Parmar on behalf of ASKGD Limited against the decision of Leicester City Council.
 - The application Ref is 20231484.
 - The development proposed is demolition of existing warehouse and the construction of purpose built student accommodation (PBSA) comprising 50 no. studios (Sui Generis), reinstatement of crossing as footway, associated landscaping and erection of boundary treatments.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing warehouse and the construction of purpose built student accommodation (PBSA) comprising 50 no. studios (Sui Generis), reinstatement of crossing as footway, associated landscaping and erection of boundary treatments at 186 Welford Road, Leicester LE2 6BD in accordance with the terms of the application, Ref 20231484, subject to the conditions listed at the end of this Decision.

Applications for costs

2. An application for costs was made by Mr Kian Parmar on behalf of ASKGD Limited against Leicester City Council. That application is the subject of a separate Decision.

Preliminary Matters

3. The Council chose to amend the description of development given on the application form for the purposes of publicising and determining the proposal. Whilst it is my understanding that the Council has a standard way of writing descriptions, it must be borne in mind that the applicant/appellant sought specific permission for that which he described. The description given on the application form is clear and comprehensive, such that I have used it for the purposes of my Decision.
4. A new Local Plan is emerging and has been submitted for examination. However, the examination process is a long way from concluding with hearing sessions having only just commenced. Moreover, on the basis that emerging policies are likely to evolve in advance of their formal adoption, the new Local

Plan is currently at a stage that attracts limited weight. I shall consider the appeal on this basis.

5. A planning obligation pursuant to Section 106 of the Act (the legal agreement) is before me. This is dated 9 October 2024 and is signed by the relevant landowner and the Council. The legal agreement contains provisions related to Green Space, Healthcare, and Private Waste Collection. I shall return to the legal agreement later in this Decision.
6. Various additional documents have been submitted in support of the scheme at appeal stage. These include a Daylight and Sunlight Report, a written Refuse Strategy, a Built Heritage Appeal Statement, an Overheating Technical Note, an Ecological Appraisal Report, an Ecology Walkover and Constraints Summary, an Energy Assessment, and 3D Visuals. Further, revised plans¹ have been submitted illustrating an additional door to Block A (linking a communal room to the planned garden space) and introducing amended text to the Refuse Strategy plan to reflect an intention for a private waste management company to be utilised.
7. I am conscious that the appeal process should not be used to evolve a scheme. However, whilst additional documents (including revised plans) have been submitted, the plans to be determined are essentially the same as those considered by the Council at planning application stage. Although several of the additional documents submitted raise technical matters in response to the Council's various reasons for refusing planning permission, a period of consultation is built into the appeal process and the Hearing has offered a further opportunity for related discussion. I am satisfied that no party with a potential increase in the outcome of the appeal is prejudiced by the appellant's appeal submissions being accepted for consideration.
8. The Council has confirmed that, in lieu of evidence submitted at appeal, it no longer wishes to defend parts A and D of its eighth reason for refusal related to sustainable construction, as well as its ninth refusal reason connected to protected species. I shall formulate the appeal's Main Issues on this basis.

Background

9. The appeal proposal follows a December 2021 grant of planning permission² for development of a similar description at the same site (the extant scheme). Consistent with the proposal now before me, the extant scheme involves the demolition of an existing on-site warehouse and the construction of two blocks of student accommodation.
10. The appeal proposal involves an additional seven student studio flats in conjunction with an increased built development footprint and various design/layout amendments (to include the removal of vehicular access and on-site parking). Notwithstanding these changes, the extant scheme, which represents comprehensive redevelopment and remains live with all pre-commencement planning conditions having been discharged, offers a valid fallback position. I shall consider the proposal in this context.

¹ 23016-P-102 Rev D; 23016-P-103 Rev D; 23016-P104 Rev D; 23016-P-113 Rev E

² Ref: 20192082

Main Issues

11. The main issues are:

- The effect of the proposal upon the character and appearance of the area, having particular regard to the design of Block A and any implications of bins in the streetscene;
- The effect of the proposal upon the setting and thereby the significance of The Donkey Public House, a non-designated heritage asset;
- The effect of the proposal upon highway and pedestrian safety, having particular regard to any implications of the intended bin storage and collection arrangements;
- Whether or not the scheme's entrances and internal routes would function in an acceptable manner;
- Whether or not it has been satisfactorily demonstrated that acceptable living conditions would prevail for future occupiers, having particular regard to outlook;
- Whether or not it has been satisfactorily demonstrated that acceptable living conditions would prevail for future occupiers, having particular regard to the size of studio flats and the makeup/availability of communal areas;
- Whether or not it has been satisfactorily demonstrated that acceptable living conditions would prevail for future occupiers, having particular regard to noise and potential overheating;
- Whether or not it has been satisfactorily demonstrated that acceptable living conditions would prevail for neighbouring and future occupiers, having particular regard to access to light; and
- Whether or not it has been demonstrated that satisfactory provisions would be in place to ensure a sustainable form of construction.

Reasons

Character and appearance

12. The site contains a vacant warehouse that is of large footprint and uncomplicated design. A variety of commercial and residential uses are in place nearby, and buildings can be observed to exhibit a range of different heights, forms, and external-facing materials. Whilst a short row of consistently designed 1930s semi-detached houses fronts Welford Road to the north of the site (the adjacent row), the appeal building itself comprises part of an eclectic terrace that contributes to a varied townscape. It is also relevant that a modern 14-storey block is prominent in northward views along Welford Road. In summary, a mixed character and appearance is much in evidence local to the site.
13. There is common ground between the main parties that a four-storey building with setback top storey would be acceptable fronting Welford Road. However, disagreement arises from the intended composition and finish of the fourth storey. To my mind, although this element would be of vertical form, contain windows of narrow dimension, and be setback a short distance behind the

principal elevation, it would not objectionably emphasise the height or bulk of Block A. Instead, it would be read as a subservient domestic feature that would neither over-dominate nor unacceptably jar with the adjacent row. It is also noteworthy that, when compared to the extant scheme, a slight reduction in overall height is now proposed.

14. The intended use of red zinc cladding with vertical seams is appropriate within an area where roof tiles of consistent/similar colouring are prevalent, and a varied material palette is in existence. To offer further assurances in this sense, the final appearance/specification of all external facing materials could be secured via condition in the event planning permission be granted.
15. I do not take issue with the solid to void ratio intended to elevations and see merit in a suggestion made that the dimensions and positions of upper floor window openings would promote a sense of rhythm and symmetry to the front façade. These findings are applicable even should approved redevelopment³ at neighbouring 188 Welford Road not come to fruition. I also note that the front of Block A would incorporate features to promote visual interest including brick detailing and elements of decorative stone.
16. In terms of the effect of bins in the streetscene, it is the intention that waste collections be carried out on a private basis by an appointed waste management company. Such collections would involve private operatives retrieving wheeled containers from a designated on-site storage compound and returning them from the roadside once unloaded. Whilst there are related provisions within the legal agreement that I shall need to be satisfied are fit-for-purpose, it cannot be fairly anticipated that bins would be left out to the front of the site for any sustained period. I am thus content that the appearance of the streetscene would be safeguarded in this particular sense.
17. For the above reasons, having particular regard to the design of Block A and any implications of bins in the streetscene, the proposal would safeguard the character and appearance of the area. The proposal accords with Policy CS3 of the Leicester City Core Strategy (July 2014) (the CS) and the National Planning Policy Framework (December 2023) (the Framework) in so far as these policies promote high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment.

The Donkey Public House

18. The Donkey is a public house that incorporates three above-ground floors and dates to the early 20th-century. Whilst not a designated heritage asset, it features upon the Council's Local Heritage Asset Register. Its heritage significance is drawn, in-part, from the long-standing role it continues to perform as a social focal point for the community and from its array of surviving decorative architectural features. The setting of The Donkey, which is inherently urban and diverse with a wide range of modern influences at play, makes a limited contribution to the asset's significance.
19. The appeal site is situated almost directly opposite The Donkey and thus within its setting. Even so, the considerable width of Welford Road affords a discernible degree of separation. Although Block A would rise to four storeys, it would appear suitably sympathetic to its surroundings and would not appear as

³ Ref: 20182726

an excessively prominent addition to the streetscene. Moreover, The Donkey would continue to be experienceable as a building of high local status within a diverse urban context.

20. For the above reasons, the proposal would not cause harm to the heritage significance of The Donkey Public House by virtue of development within its setting. The proposal accords with Policies CS3 and CS18 of the CS and the Framework in so far as these policies set out that the historic environment, including the character and setting of designated and other heritage assets, will be protected.

Highway and pedestrian safety – bin storage and collection

21. As set out in my reasoning with respect to the first Main Issue in this appeal, an appointed waste management company is proposed to undertake waste collections. On this basis, subject to the related provisions of the legal agreement being deemed satisfactory, waste containers would not be left at the roadside for any sustained period. There is thus no clear reason to suspect that the pavement or carriageway of Welford Road would be obstructed by stray bins to the potential detriment of safety.
22. No vehicular access is to be provided on to the site. Indeed, the existing dropped kerb crossover is intended to be removed and replaced with full-height kerbs and reinstated footway. Thus, servicing of (and deliveries to) the site would take place from the double-laned southbound Welford Road carriageway where waiting/loading is permitted outside of specified peak hours adjacent to the site. I note here that the Highway Authority (HA) has not objected to the proposal, which is a matter of importance as the HA are responsible for the safety of users of the local highway network.
23. A package of highway measures, to include the reinstatement of footway and necessary adjustments to promote safe servicing and bin collections could be suitably secured via planning condition in the event the appeal be successful. Whilst a full dropped kerb may ultimately be required for the purposes of manoeuvring bins and/or promoting the scheme's accessibility and serviceability, alternative arrangements could be pursued if to be agreed by the Council. As such, it would be fair, in my view, for explicit reference not to be made to a dropped kerb in any such planning condition.
24. It is also noteworthy that manageable drag distances across a direct route are achieved via the intended placement of the bin store, and correspondence from two different private waste management companies has been submitted confirming acceptance to the refuse strategy that is proposed.
25. For the above reasons, having particular regard to any implications of the intended bin storage and collection arrangements, the proposal would have an acceptable effect upon highway and pedestrian safety. The scheme accords with the Framework in so far as it promotes that places are safe, secure and attractive, and that schemes minimise the scope for conflicts between pedestrians, cyclists and vehicles and avoid unnecessary street clutter.

Entrances and internal routes

26. It is proposed that a gated pedestrian undercroft be installed to provide access to the rear of the site. Concerns have been raised that future users of the undercroft could be vulnerable owing to its length and the alleged lack of

surveillance that would be afforded to it. The threat of unauthorised access via tailgating has also been raised as a potential threat to security.

27. As to be set only a short distance back from Welford Road, it is not the case that the undercroft would be so discreetly sited to raise clear vulnerability concerns. Further, a suite of measures to promote site security could be embedded within a Management Plan securable via planning condition in the event the appeal be successful. Such measures, as alluded to on behalf of the appellant at the Hearing, would be anticipated to include the provision of security lighting to the undercroft and the installation of CCTV.
28. Any suggestions that the entrances to, and corridors through, Block A would be unacceptably narrow and/or indirect have not been robustly substantiated. Moreover, notwithstanding the absence of a lift, I am content that the scheme would be satisfactorily accessible/adaptable for wheelchair users. I am also satisfied that suitable letter box and parcel storage provision would be accommodated via the undercroft. Thus, the scheme's entrances and internal routes would function in an acceptable manner in compliance with Policy CS3 of the CS and the Framework in so far as these policies promote high-quality, well-designed developments and reductions in crime and the fear of crime.

Living conditions of future occupiers – outlook

29. Various concerns have been raised by the Council in the context of the extent/quality of outlook that would be provided for future occupiers of the development. In association with these concerns, references have been made to standards for two-storey extensions that are set out at Appendix G (design guide for house extensions) of the Residential Amenity Supplementary Planning Document (February 2008). These standards include that: where a wall with no windows faces a wall with windows to a principal room on an adjacent property, the separation distance must not be less than 15 metres; and that the minimum distance between any principal room windows in an extension and the boundary with undeveloped land, including gardens, should be 11 metres.
30. However, a proposal involving two-storey house extensions is not before me. Moreover, whilst the standards set out in the preceding paragraph offer relevant context, they are not directly applicable to a PBSA scheme that incorporates two separate new blocks of accommodation ranging between three and four storeys in height.
31. To my mind, an innovative design approach has been taken to ensure that acceptable standards of outlook would avail without compromising either the privacy of neighbouring occupiers or the development potential of the site. For example, various sizeable oriel window openings are proposed that would direct and maximise available outlook over garden grounds within the appeal site. It is also the case that a decent degree of separation would be achieved between the two flat-roofed blocks, with a range of intervening planted features intended that would assist in softening the appearance of the rear elevation of Block A.
32. Further, I am satisfied that the external bin store, to be bound by low-level hit-and-miss panels and positioned adjacent to the site's northern boundary, would not prejudice an acceptable standard of outlook for future occupiers of the ground floor studio flats that would face it. In addition, on the basis that waste

containers would not be left to the front of the site for any sustained period, it cannot be fairly envisaged that the future ground floor occupiers of Welford Road-facing studio flats would be negatively affected in an outlook sense.

33. For the above reasons, having particular regard to outlook, it has been satisfactorily demonstrated that acceptable living conditions would prevail for future occupiers. The proposal accords with saved Policy PS10 of the City of Leicester Local Plan (January 2006) (the LP), Policy CS3 of the CS, and the Framework in so far as these policies seek well-designed developments and require the amenity of proposed residents to be taken into account.

Living conditions of future occupiers – communal areas

34. A communal room of fair size is proposed at ground floor to the rear element of Block A, in a positioned stepped back from where the bin store would be sited. It would be directly accessible from the communal garden and approximately centrally positioned on site such that it would be realistically useable by all future occupiers. Notwithstanding the relatively small size of each proposed studio flat, I am satisfied that acceptable communal facilities and on-site socialising spaces would ensue. This is especially so when considered in the context of an inherently useable and well-sized communal garden space.
35. For the above reasons, having particular regard to the size of studio flats and the makeup/availability of communal areas, it has been satisfactorily demonstrated that acceptable living conditions would prevail for future occupiers. The proposal accords with saved Policy PS10 of the LP, Policy CS3 of the CS, and the Framework in so far as these policies seek well-designed developments and require the amenity of proposed residents to be taken into account.

Living conditions of future occupiers – noise and overheating

36. The proposal is supported by a Noise Assessment Report (June 2023) which concludes that, based on survey work carried out, closed acoustic double-glazed windows are required to the front façade of Block A to reduce to an acceptable level internal noise levels within studio flats sited alongside Welford Road. The Report indicates that, where windows are to remain closed other than for the purposes of purge ventilation, an additional means of ventilation shall be required.
37. An Overheating Technical Note (May 2024) has been produced in response to Council concerns that no overheating assessment or ventilation details were submitted at application stage. This Note sets out a recommendation that a Mechanical Ventilation Heat Recovery system is installed, which would draw fresh air from the rear of Block A in order to prevent overheating within the block. Noting the localised nature of the issue to hand and a fair expectation that no consequential external flues/ductwork would be necessitated, the final details of any such system could be suitably secured via planning condition should the appeal be successful. Furthermore, noise/ventilation details were secured via condition on the extant scheme and there is no clear or persuasive evidence before me to indicate that I should stray from the general approach taken in that case.
38. For the above reasons, having particular regard to noise and potential overheating, it has been satisfactorily demonstrated that acceptable living

conditions would prevail for future occupiers. The proposal accords with saved Policy PS10 of the LP, Policies CS3 and CS18 of the CS, and the Framework in so far as these policies seek well-designed developments and require – with respect to noise – the amenity of proposed residents to be taken into account.

Living conditions of neighbouring and future occupiers – access to light

39. The proposal is supported by a Daylight and Sunlight Report (May 2024) (the Report) produced in line with relevant and up-to-date British Research Establishment (BRE) guidance. In terms of daylight, Vertical Sky Component assessment has considered a total of 106 windows serving 73 habitable rooms within neighbouring properties, and daylight distribution analysis has been undertaken with respect to the same 73 rooms. Full compliance with BRE guidelines has been recorded. Similarly, sunlight assessment of neighbouring habitable rooms has highlighted the universal achievement of BRE recommendations. I have no reason to doubt the veracity of these findings.
40. Furthermore, assessment of the levels of direct sunlight to neighbouring garden spaces has been carried out. It is confirmed through the Report that all but the garden space serving the neighbouring 184 Welford Road would achieve the relevant BRE guideline. Having assessed the Surrounding Amenity Contour Plan that is contained within the Report, considered the precise placement and height of proposed built form, and noted the anticipated effects of the extant scheme, I am satisfied that no unacceptable overshadowing effects would be experienced by neighbouring occupiers (including the occupiers of 184 Welford Road). Further, even though, as highlighted in the Report, the orientation of the site represents a constraint to receiving sunlight in some instances, I am content that future occupiers of the scheme would be served by acceptable levels of daylight and sunlight.
41. For the above reasons, having particular regard to access to light, it has been satisfactorily demonstrated that acceptable living conditions would prevail for neighbouring and future occupiers. The proposal accords with saved Policy PS10 of the LP, Policy CS3 of the CS, and the Framework in so far as these policies seek well-designed developments and require that, with respect to light, the amenity of existing or proposed residents to be taken into account.

Sustainable form of construction

42. I first note that details of on-site installations to provide renewable energy and energy efficiency measures were secured via condition on the extant scheme. Notwithstanding this, the proposal is supported by an Energy Assessment (May 2024) (the Assessment) that contains commitments to, amongst other sustainable construction measures, the utilisation of energy efficient materials and the installation of low-energy lighting and water-efficiency measures. Consideration of renewable technology options is also contained within the Assessment, and an acceptance to the full details of photovoltaic panels being secured via planning condition was sounded at the Hearing.
43. Whilst electric panel heaters and point-of-use water heating are provisions pinpointed in the Assessment and resisted by the Council, the anticipated carbon emission performance of the development, when considered as a whole, would be noticeably improved when compared to baseline specifications. It has thus been clearly demonstrated that satisfactory provisions would be in place to ensure a sustainable form of construction. The proposal accords with

Policy CS2 of the CS and the Framework in so far as this policy promotes the use of best practice energy efficiency and sustainable construction methods.

Legal Agreement

44. The legal agreement secures a Green Space contribution to be directed towards sports pitch improvements and additional seating and picnic tables at Victoria Park. This has been calculated and requested in accordance with the Council's Green Space Supplementary Planning Document (April 2011), which concerns developer contributions towards the maintenance, enhancement, and provision of the green space network within Leicester. The proposal would result in a net increase in the number of residents residing in an area that already exhibits a deficiency in green space such that suitable justification for a contribution prevails. For the avoidance of doubt, the provision of a private communal garden space on-site does not justify a proportionate contribution not being made towards improvements to the city's green space network.
45. A Healthcare contribution is also secured. This has emanated from a request made by the Leicester, Leicestershire and Rutland Integrated Care Board (the ICB) for a contribution towards improving primary care services (through expanding GP facilities) in line with an anticipated increase of 50 new patients. Specific local facilities have been pinpointed by the ICB and the requested contribution has been calculated in accordance with an average build cost based on recent local examples of surgery development work. Even in the absence of a specific scheme of works, I am content that sufficient and suitable justification has been produced and that a contribution would be satisfactorily consistent with the overarching requirements of Policy CS19 of the CS.
46. The legal agreement also secures the submission and implementation of a Private Waste Collection Scheme. It must be noted that a statutory duty to collect waste/recycling from domestic households applies to the Council, and that it would be unusual for alternative private arrangements to be put in place. Nevertheless, comprehensive and fit-for-purpose provisions related to the delivery of private waste collection measures and the subsequent retention of such measures are laid out in the legal agreement. To my mind, such provisions offer the necessary degree of certainty that, should the scheme be implemented, private waste collections would continue from the site in perpetuity (unless the Council, or any other body responsible for performing the Council's statutory duty, were to confirm otherwise in the future).
47. Moreover, I am satisfied that the contributions and provisions secured through the legal agreement are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind.

Other Matters

48. I have noted various concerns raised by interested parties with respect to the limited availability of on-street parking in the locality and the additional demand that could be created by the development. Reflective of the on-street parking constraints that avail, the site is located within the Clarendon Park Residents Parking Zone where permits are issuable to residents.
49. Whilst the development is proposed to be car-free, there is no mechanism formally before me to provide full assurance that the list of properties eligible

for permit applications (as listed in the relevant Traffic Regulation Order) would be updated in the event the appeal be successful and the scheme be implemented. However, it is proposed that a Management Plan be secured via planning condition whereby, amongst other provisions, procedures for restricting car ownership and car use by residents (most likely via the terms of future tenancy agreements) would be obtained. I note that the extant scheme to provide 43 student studio apartments was found acceptable and granted permission on the same basis. In this context, I am content that the securance of a Management Plan would offer the necessary assurances that the proposal would not place undue additional pressure upon on-street parking capacity/availability.

50. Suggestions have been raised by interested parties that there is already an excessively high level of student housing in the area. Moreover, reflective of an abundant student presence locally, the site is situated within an area where permitted development rights to convert dwellinghouses into houses in multiple occupation have been withdrawn. Nevertheless, there is no detailed and compelling evidence before me to demonstrate that the proposal would either unacceptably compromise a mixed local community or escalate disturbances and/or anti-social behaviour. This is especially so in circumstances where a Management Plan would be formulated, and planning permission is already in place for 43 student studio flats on the same site.
51. It has also been suggested that there are already more than enough available PBSA options in the locality, and reference has been made to other recently approved schemes nearby. However, in the context of a trend of rising student numbers at nearby universities, any suggestion that the proposed accommodation would not respond to local demand has not been satisfactorily substantiated and is at odds with detailed evidence compiled by the appellant in this respect.
52. Upon inspection I visited neighbouring garden land that abuts the rear boundary of the site and that would be faced by the rear elevation of Block B. Views over this neighbouring garden land would be created by the proposal. However, a compact urban environment is observable whereby a degree of mutual overlooking across neighbouring garden spaces is already commonplace. In this instance, I am satisfied that Block B would be sufficiently setback from the rear boundary to avoid any unacceptable overlooking or overbearing effects upon neighbouring occupiers. Such findings similarly apply to other built elements of the scheme.
53. The proposal accords with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conditions

54. In advance of the Hearing, a list of draft planning conditions was worked upon by the main parties to this appeal. Following further discussion at the Hearing, I have considered the conditions against advice in the Framework and Planning Practice Guidance. As a result, I have made amendments to the list for consistency and clarity purposes. Pre-commencement conditions have only been applied where agreed to by the appellant and where necessary to guide initial works on site.

55. In the interests of certainty, a condition setting out the approved plans is required. In the interests of ensuring that the development is used for the purpose that it is intended, a condition is reasonable and necessary that restricts future occupation to by students and that requires a register of occupiers to be maintained on an ongoing basis for inspection if requested by the Council.
56. To ensure that contamination and associated health risks are properly dealt with, a condition is reasonable requiring the implementation of a remediation scheme, the submission of a completion report, and further steps should previously unidentified contamination be encountered during the construction phase.
57. In the interests of protecting the character and appearance of the area, conditions are reasonable and necessary that secure the protection of adjacent trees during construction and full details of the external facing materials and window/reveal specifications to be installed (to include the construction of a sample panel for inspection).
58. In the interests of visual amenity, safeguarding living conditions, site security, and promoting biodiversity, a landscaping scheme to incorporate full boundary treatments details is reasonable and necessary to secure via condition. Whilst a Detailed Hard and Soft Landscape Plan has already been submitted for consideration, it is my understanding that tweaks to this Plan shall likely be necessitated. In this context, it is reasonable to condition final details.
59. In the interests of promoting biodiversity and safeguarding protected species, a condition is reasonable and necessary to ensure that works are carried out in accordance with relevant mitigation measures specified within a submitted Ecological Report.
60. To ensure the suitable management of surface water runoff and foul water and to guard against flood risk, conditions requiring full details of a Sustainable Drainage System and foul drainage provisions are reasonable to impose.
61. In the interests of safeguarding the living conditions of neighbouring occupiers, it is reasonable to restrict construction hours and to require the submission of a Construction Method Statement (CMS). I have not included a provision offering the potential for unforeseen emergency work to be undertaken outside of permitted hours due to the associated complications that could arise in an enforceability sense. The requirement for a CMS would also be in the interests of highway safety and flood risk management. In the absence of an adjacent watercourse, I have not imposed provisions directly related to any such feature. It is also necessary to require construction to be undertaken in accordance with specified mitigation measures in the interests of protecting air quality.
62. In the interests of protecting the living conditions of future occupiers of the development, it is reasonable to secure via condition confirmation of the measures to be installed to secure acceptable ventilation whilst guarding against unacceptable noise, overheating, and poor air quality.
63. In the interests of ensuring a sustainable and energy efficient form of construction, it is reasonable to secure that the development is implemented in accordance with the measures detailed within the Assessment. In association

to this, it is reasonable that full details of the photovoltaic panels to be installed are secured. To promote sustainable travel choices, conditions requiring full details of secure/covered cycle storage and Travel Packs for new residents are also reasonable and necessary.

64. In the interests of security and designing out crime, a condition is reasonable and necessary to secure full details of the means of gating the on-site undercroft access. In the interests of highway safety, safeguarding residential amenity, and promoting site security, the submission and ongoing implementation of a Management Plan is reasonable and necessary to secure via condition.
65. Further, in the interests of safeguarding general amenity, it is necessary to condition that bin storage is provided and retained in accordance with the approved plans. Whilst the storage compound would be situated adjacent to neighbouring garden spaces, it would form part of a managed facility whereby it can be fairly assumed that measures would be put in place to assist in guarding against unacceptable odours or associated vermin.

Conclusion

66. For the above reasons, the appeal is allowed and planning permission is granted subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development shall be begun within three years from the date of this permission.
- 2) The development hereby permitted shall be carried out only in accordance with the following approved plans: 23016-P-101 Rev E; 23016-P-102 Rev D; 23016-P-103 Rev D; 23016-P-104 Rev D; 23016-P-105 Rev C; 23016-P-106 Rev C; 23016-P-107 Rev C; 23016-P-113 Rev E.
- 3) Prior to the commencement of development, a Construction Method Statement (CMS), with consideration being given to highway management and safety, the water environment and flood risk management, shall be submitted to and approved in writing by the Local Planning Authority. The CMS shall provide for: (i) the vehicle and pedestrian temporary access arrangements including the parking of vehicles of site operatives and visitors; (ii) the loading and unloading of plant and materials; (iii) the storage of plant and materials used in the development; (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; (v) wheel washing facilities; (vi) measures to control the emission of dust and dirt during construction; (vii) a scheme for storage and management of waste resulting from excavation works; (viii) the proposed phasing of development and a detailed description of the works in each phase; (ix) procedures to ensure flood risk is managed on site during the period of works for personnel, plant and members of the public; (x) the procedures to ensure flood risk is not increased anywhere outside of the site for the duration of the works. The approved CMS shall be adhered to throughout the construction period.
- 4) Prior to the commencement of development (excluding the demolition of the existing building), full details of the Sustainable Drainage System (SuDS) to be installed shall be submitted to and approved in writing by the Local Planning Authority. Those details shall include: (i) full design details; (ii) a timetable for implementation; (iii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime. No studio flat hereby permitted shall be occupied until the SuDS has been implemented in full. The SuDS shall thereafter be managed and maintained in accordance with the approved details.
- 5) Prior to the commencement of development (excluding the demolition of the existing building), foul drainage details shall be submitted to and approved in writing by the Local Planning Authority. The foul drainage shall be installed in accordance with the approved details prior to the occupation of any studio flat hereby permitted and shall be retained and maintained thereafter.
- 6) Prior to the commencement of development above ground level, a detailed landscaping scheme showing the treatment of all parts of the site to remain unbuilt upon shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of: (i) new tree and shrub planting, including plant type, size, quantities and

locations; (ii) means of planting, staking, and tying of trees, including tree guards; (iii) other surface treatments; (iv) fencing and boundary treatments; (v) any changes in levels; (vi) the position and depth of service and/or drainage runs (which may affect tree roots); (vii) details of the make and type of five bird boxes/tiles/bricks and three invertebrate boxes to be installed under the guidance and supervision of a qualified ecologist. The approved landscaping scheme shall be carried out within one year of the completion of the development. Any trees or plants which within a period of five years from the date of planting die, are removed, or become seriously diseased, shall be replaced in the next planting season in accordance with the approved landscaping scheme. The approved fencing/boundary treatments shall be installed prior to the occupation of any studio flat hereby permitted and retained thereafter.

- 7) Prior to the commencement of development above ground level, a full material schedule (with specification and manufacturer information) for all the proposed materials to be used for external parts of the building, largescale plans of the windows and reveals, and a one square metre sample panel (showing the brickwork detailing, mortar and bond, capping and a section of the window and window reveal), shall be submitted to/constructed for inspection and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and approved sample panel.
- 8) Prior to the commencement of development above ground level, details of measures to ensure residents of the scheme are protected from unreasonable levels of noise and overheating, and poor air quality, and to ensure that each studio flat hereby permitted has acceptable levels of ventilation, shall be submitted to and approved in writing by the Local Planning Authority. No studio flat shall be occupied until the approved measures have been implemented. The approved measures shall be retained thereafter.
- 9) The development shall not be occupied until a package of highway measures, to include the reinstatement of footway and adjustments to allow safe servicing and bin collection, have been carried out in accordance with details to have first been submitted to and approved in writing by the Local Planning Authority. All street works shall be constructed in accordance with the Council's standards contained in the 'Leicester Street Design Guide (First Edition)' and be carried out at the developer's expense.
- 10) Prior to the occupation of any studio flat hereby permitted, the remediation scheme – informed by and detailed in the Phase 1 Contaminated Land Risk Assessment by Soil Environment Services Ltd (November 2018), Phase 2 Intrusive Site Investigation by Oakshire Environmental (26 July 2022), and Phase 3 Remediation Options Appraisal by Oakshire Environmental (14 September 2022) – shall be implemented and a completion report shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any studio flat, any parts of the site where contamination was previously unidentified and found during the development process shall be reported and subject to remediation works approved in writing by the Local Planning Authority. The report of the findings shall include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of

the potential risks to: human health, property (existing or proposed) including buildings, pets, service lines and pipes, adjoining land, ground waters and surface waters, ecological systems; (iii) an appraisal of remedial options, and proposal of the preferred option(s); and shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

- 11) Prior to the occupation of any studio flat hereby permitted, the renewable energy and energy efficiency measures, as detailed in the Energy Assessment (Clearstream Projects Ltd, May 2024), shall be installed in full. These measures shall include photovoltaic panels, the full details of which shall first be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any studio flat, evidence demonstrating satisfactory operation of the approved scheme, including on-site installation, shall be submitted to and approved in writing by the Local Planning Authority.
- 12) Prior to the occupation of any studio flat hereby permitted, secure and covered cycle parking shall be provided in accordance with details to have first been submitted to and approved in writing by the Local Planning Authority and shall be retained thereafter.
- 13) Prior to the occupation of any studio flat hereby permitted, the bin store shall be provided in accordance with the approved plans. It shall be retained thereafter for that purpose.
- 14) Prior to the occupation of any studio flat hereby permitted, a means of gating the approved undercroft access shall be implemented in accordance with details to have first been submitted to and approved in writing by the Local Planning Authority. The approved means of gating shall be retained thereafter.
- 15) Prior to the occupation of any studio flat hereby permitted, a Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall set out procedures for the security of the development and its residents, dropping-off and collection at the beginning and end of terms, use and allocation of cycle storage, restriction of car ownership and use by residents, refuse collection arrangements, and dealing with any issues or complaints arising from occupiers of nearby properties. At all times the scheme shall be managed and operated in full accordance with the approved Management Plan.
- 16) Prior to the start of each academic year (or period of tenancy), each student taking up residency in each of the studio flats shall be provided with a 'New Residents Travel Pack'. The contents of this shall first be submitted to and approved in writing by the Local Planning Authority. The packs to be provided shall include walking, cycling and bus maps, latest relevant bus timetable information and bus travel and cycle discount vouchers.
- 17) The studio flats hereby permitted shall only be occupied by students enrolled on full-time courses at further and higher education establishments, or students working at a medical or educational institution, as part of their medical or education course. The owner, landlord or authority in control of the development, shall keep an up-to-date register of the name of each person in occupation of the

development together with course(s) attended, and shall make the register available for inspection by the Local Planning Authority on demand at all reasonable times.

- 18) All works shall be carried out in accordance with the mitigation measures listed at Table 4 on page 12 of the Ecological Appraisal Report, produced by FPCR and dated April 2024.
- 19) Trees shall be protected during the demolition of the existing building including the removal of hard standing, and during the construction of the development, in accordance with the details produced by Bramley Tree Consultancy Limited – Arboricultural Impact Assessment, 13 May 2023; Arboricultural Method Statement; Tree Protection Plan, 13 May 2023.
- 20) No construction works shall be undertaken outside of the hours of 0730 to 1800 Monday to Friday, 0730 to 1300 Saturday, or at any time on Sundays or Bank Holidays, unless the methodology has first been submitted to (at least 10 working days before such work commences) and approved in writing by the Local Planning Authority in consultation with the City Council Noise Team.
- 21) At all times, demolition and construction practices shall comply with all 'highly recommended' and 'desirable' mitigation measures set out within Tables 5.5 and 5.6 (pages 23-25) of the Air Quality Assessment produced by BWB and dated June 2023.

APPEARANCES

FOR THE APPELLANT:

Sachin Parmar	Planning Director, Marrons
Ellen Keen	Planner, Marrons
Kylie Wesson	Partner, Shakespeare Martineau LLP
Adam Wilson	Director, Wilson Architects

FOR THE LOCAL PLANNING AUTHORITY:

William Josey	Senior Planner
Sophie Rasmussen	Waste Team

INTERESTED PARTIES:

Ian Brown	Chair, Friends of Clarendon Park
Sally Williams	Local resident
Clare Hudson	Local resident

DOCUMENTS RECEIVED AFTER THE HEARING

Email from Leicester, Leicestershire and Rutland Integrated Care Board, confirming GP surgeries where a contribution could be spent, dated 21 September 2024 – submitted by the Council, 1 October 2024

Email and accompanying plan confirming the extent of the Clarendon Park Residential Parking Zone – submitted by the Council, 2 October 2024

Completed legal agreement, certified version, dated 9 October 2024 – submitted by the appellant, 14 October 2024