



Appeal Decision

Hearing held on 23 October 2024

Site visit made on 24 October 2024

by O S Woodward MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2024

Appeal Ref: APP/Z5630/W/24/3347888

Velindre, 48 Galsworthy Road, Kingston upon Thames, KT2 7BS

- 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 Curated Co-Living Ltd against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/02452/FUL.
 - The development proposed is demolition of existing 2-storey house, and erection of 7x shared living flats with a total of 49 bedrooms in two separate blocks with associated external communal amenity space, landscaping, and bin and cycle stores.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing 2-storey house, and erection of 7x shared living flats with a total of 49 bedrooms in two separate blocks with associated external communal amenity space, landscaping, and bin and cycle stores at Velindre, 48 Galsworthy Road, Kingston upon Thames, KT2 7BS, in accordance with the terms of the application Ref 23/02452/FUL, dated 6 September 2023, subject to the conditions in the attached schedule.

Applications for Costs

2. An application for costs was made by Curated Co-Living Ltd against the Royal Borough of Kingston Upon Thames. This application is the subject of a separate Decision.

Preliminary Matters

Revised drawings

3. The appellant sought to amend the scheme during the course of the application. The amendments were to adjust Block B to be further eastwards and out of the Root Protection Zone (RPZ) of Tree T10, internal re-configuration of Block B, reducing the size and moving the location of the cycle store to be out of the RPZ of T10, and a reduction in proposed bedrooms from 50 to 49. In the lead-up to the appeal, the appellant sought to submit a further set of revisions which updated the accommodation schedule from 50 to 49 beds and reduced the length of the parapet wall for Block B to take account of the no-dig requirements.
4. The above revisions necessitate changing the description of development to from 50 to 49 bedrooms. The appellant has agreed to this change. The Council also agreed to the change in the description but it raised procedural concerns

regarding the need to make such a change. The changes relate to the main issues, in particular with regard to Policy H16 of the London Plan 2021 (the LP) and character and appearance. However, the Council and any interested parties were provided with sufficient time to review and respond to the changes. The changes are relatively minor. Overall, therefore, accepting the revisions would not prejudice the Council's position, or that of any other party. I have therefore had regard to the scheme as amended throughout my Decision.

Additional and revised supporting documentation

5. The third reason for refusal relates to the failure to justify the lack of affordable housing through the submission of a financial viability appraisal. Following determination of the application, the appellant submitted a Financial Viability Appraisal Report, dated May 2024 (the FVA). The issue remains in dispute for the appeal, although instead of regarding the failure to submit a viability appraisal instead goes to the content and conclusions of the FVA. In addition, there remains dispute regarding the need or otherwise for a review mechanism. I turn to this under the affordable housing main issue below.
6. The sixth reason for refusal relates to the failure to demonstrate that the proposal would not cause harm to the sunlight or daylight received by neighbouring occupiers. Following determination of the application, the appellant submitted a Sunlight and Daylight Assessment, dated May 2024, which concludes that the windows and gardens within neighbouring properties would be within industry standard guidance levels with regard to sunlight and daylight levels. The Council withdrew its objection in this regard at the Hearing.
7. The seventh reason for refusal relates to the absence of a legal agreement to preclude future occupants and their visitors from obtaining parking permits and the resultant effect on highway safety and the free-flow of traffic. The appellant has submitted a Unilateral Undertaking, dated 6 December 2024 (the UU) which precludes parking permits. I am content that this meets the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL Regs) because of the provisions of s16 of the Greater London Council (General Powers) Act 1974, which does not require a restriction on land, but only that an undertaking or agreement has a 'connection' with the land. However, highway safety and the free-flow of traffic remain areas of dispute due to the wider implications for on-street parking demand. I deal with this under the relevant main issue below.

Planning policy

8. The Development Plan includes the LP and the Core Strategy 2012 (the CS). The appeal site is in Flood Zone 1 (low risk), it is in a non-designated heritage asset known as Kingston Hill/Coombe Hill Strategic Area of Special Character (the ASC) and it has a Public Transport Accessibility Level (PTAL) of 4.

Main Issues

9. The main issues for the appeal are:
 - whether or not the proposed loss of family-sized accommodation is acceptable, having regard to local and national planning policy;
 - whether or not the proposal complies with Policy H16 of the LP, including consideration of the applicability of the policy;

- whether or not the proposal makes adequate provision for affordable housing;
- the effect of the proposed development on the character and appearance of the area, including the effect on the significance of the ASC, and on trees;
- the effect of the proposal on the living conditions of the occupiers of neighbouring properties, in regard to overlooking and sense of enclosure;
- the effect of the proposed development on highway safety and the efficient operation of the highway network in the vicinity of the appeal site, with particular regard to on-street car parking; and,
- whether or not the proposal achieves acceptable levels of fire safety, having regard to local and national planning policy.

Reasons

Loss of family-sized accommodation

10. The appeal site includes a large family-sized home. It is proposed to demolish the home. Policy DM14 of the CS resists the loss of family accommodation. The proposal therefore conflicts with this policy. The Strategic Housing Market Assessment for Kingston Upon Thames and North East Surrey Authorities, June 2016 finds¹ that 72% of new housing provision should be 3+ bedroom dwellings to meet Kingston's Objectively Assessed Need. However, the existing property is very large and therefore would not be affordable for many families. I therefore place moderate weight on the conflict with Policy DM14.

Policy H16 of the London Plan 2021

11. Policy H16 of the LP relates to large-scale purpose-built shared living (LSPBSL). The appeal site is relatively small, at 0.16 hectares, and only two relatively small blocks of accommodation are proposed. However, there is no definition of 'large-scale' with regard to the size of the site or buildings within the policy. The proposal is for 49 bedrooms. The supporting text to the policy² states that LSPBSL developments are generally of at least 50 bedrooms. The word 'generally' is important here and it is clear that it is possible for schemes with fewer than 50 bedrooms to qualify as LSPBSL. 49 bedrooms is only one below the guidance of 50 bedrooms and I consider the proposal to be 'large-scale' for the purposes of Policy H16. The development would also be purpose built accommodation. The final consideration is therefore whether or not the proposed accommodation would be 'shared living' as defined by the policy.
12. In this regard, the policy relates to accommodation that offers private facilities for individual households but within a larger development with shared facilities. The proposal is for seven self-contained flats, one to each floor of each proposed building. The proposed accommodation would be under single management and would have minimum tenancy lengths of at least three months, with no restrictions on the occupation or type of person that would occupy the units. The bedrooms would be self-contained, but with en-suites, and then a separate shared kitchen and living room. There would be some private balconies or terraces, but not to all bedrooms. There would be some shared balconies or terraces, but not to all flats. All the bedrooms would have

¹ See Paragraph 6.65

² See Paragraph 4.16.3 of the LP

access to a shared garden. All these factors conform to the definition of LSPBSL contained in the policy.

13. However, the accommodation would not include a concierge. There would be no bedding or linen changing or room cleaning services. Policy H16 is clear that these must be provided for accommodation to be LSPBSL. Although there would be communal spaces, these would be more akin to the main living room in a house in multiple occupation (HMO), rather than the more extensive communal facilities envisaged by the accommodation that relates to the LSPBSL policy. The supporting text to the policy explicitly separates LSPBSL from HMO style accommodation³. The proposed accommodation would be close to an HMO in character and services and it is these factors which distinguish the accommodation from LSPBSL. Policy H16 of the LP does not, therefore, apply to the proposal.

Affordable housing

14. As concluded above, the proposal is not for LSPBSL. Policy H16 of the LP does not therefore apply. It is only through this policy that affordable housing would be required. Therefore, using Clause 5 of the UU, I direct that Schedule 3 of the UU is not required because the proposal does not need to make any provision for affordable housing and therefore such a requirement is not in accordance with Regulation 122 of the CIL Regs.

Character and appearance, including the ASC

Existing

15. The appeal site comprises a substantial, detached family home set in a large garden, but in a relatively narrow plot in comparison to the width of the house. The building is of Edwardian appearance and has a hipped main roof with a gable ended projection to the front elevation and a hipped roof projection to the northern elevation. It is relatively attractive, although is in a poor state of repair.
16. The appeal site is near a cross-roads between four roads; Galsworthy Road, Coombe Lane West, Gloucester Road, and Coombe Road. All four arms of the junction are relatively busy, wide roads. Moving eastwards from the appeal site along Coombe Lane West the area is predominantly similar properties to the appeal building, ie substantial homes with relatively large gardens but relatively densely spaced with limited space to their sides. This also applies to the homes along Wolsey Close to the east. This is with the exception of the site immediately to the south of the appeal site, where two relatively substantial post-war four-storey blocks of flats have been built. These have flat roofs.
17. Moving to the south, along Gloucester Road, there are a number of relatively large blocks of flats, many of which have flat roofs. On the opposite side of Galsworthy Road to the appeal site lies the large campus for Kingston Hospital, which contains a variety of medium and large-scale hospital buildings, of varying architectural appearance but all clearly non-residential in character and appearance, and many of which have flat roofs. Immediately north along Galsworthy Road on the same side as the appeal site is one further detached residential home. However, beyond that home are a series of relatively modern blocks of flats, some of which have flat roofs.

³ See Paragraph 4.16.1 of the LP

18. The appeal site is within Character Area 10 (Galsworthy Road) of the 'Coombe' Area (Area 05) of the ASC, as set out in the Kingston Character Area Study 2011 – Towards a Sense of Place. It is outside the area designated as an Area of Established High Quality and within an area which is identified as requiring enhancement to reinforce identity. This reflects the fact that the area has several modern interventions and largely does not retain the positive character of attractive large housing in spacious grounds that exists to the east. I acknowledge the appeal site itself retains that character. However, this is largely isolated. Immediately to the south, opposite and just one property to the north are relatively large blocks of flats or hospital buildings. To some extent, the appeal site and the building immediately to the north have become the outliers in terms of the character of the area.
19. There are several mature, attractive trees within the appeal site, particularly to the boundaries. The Arboricultural Impact Assessment, dated August 2023 (AIA) submitted by the appellant identifies a category A hornbeam tree (T10) and four category B trees (T1, T2, T12, T13), as well as some category C and U trees and some scrubland. These positively contribute to the character and appearance of the site and the area, although to varying degrees depending on their category and location.
20. A positive feature of both the appeal site and the other plots along Galsworthy Road is the retention of fairly significant planting to the front garden and landscaped areas, even where there are relatively substantial blocks of flats. In addition, Tree Preservation Order Ref RBK.01.72 (the TPO) includes three trees⁴ in the front garden area of the appeal site. At the time of the making of the TPO, in 1972, the trees were a False Acacia, Birch and Hawthorn. The AIA identifies the false acacia as remaining in place⁵, and is found to be a category B tree. The AIA does not identify individual trees for the Birch and Hawthorn, which are instead included within a group of trees, G14, in category C. They nevertheless positively contribute to the street scene by being part of the typical planting to the front gardens along Galsworthy Road.

Proposed

21. It is proposed to demolish the existing house and to build two blocks of flats. The first, Block A, would be largely in the location of the existing house. The second, Block B, would be to the rear of the rear garden. Block A would be four storeys, brick and with a natural slate penthouse level and steel balconies. Block B would be three storeys, albeit with the lowest storey partially below ground level, largely brick and with some timber and steel detailing.
22. There would be re-landscaping to the existing front garden area to provide access for deliveries and parking for the disabled, and a bin store. There would be a communal garden, largely between the two proposed blocks, and using significant parts of the existing rear garden. This would have some landscaping features and a bike store. The majority of the existing trees would be retained, although four trees, two groups and part of the scrub woodland would be lost. All category A and B trees would be retained. Additional planting is also proposed.

⁴ Tree refs T20, T21 and T22 within the TPO

⁵ It is labelled as T13 in the AIA

Assessment

23. Both blocks would benefit from articulation from different approaches to brick coursing, perforated brick finishes, and the use of other materials such as natural slate and steel to help break up the facades. They would have flat roofs. However, this is a common feature in the area and is in-keeping with the character and appearance of the surroundings. There is a strong rhythm to the fenestration, helping to break up the facades by introducing verticality. The detailed design would therefore be acceptable.
24. Block A would be four-storeys which is taller than the existing building. However, it is a very similar height to the existing blocks to the south and north of the appeal site on Galsworthy Road. It would be relatively wide within its plot, but this is a common feature of the existing development in the area, even to those plots which remain as houses. The top floor would be recessed and of a different material, both of which would reduce its evident bulk.
25. Block B would be within the rear garden. However, it would be smaller and lower than Block A, therefore appropriately being visually subservient to this principal block fronting Galsworthy Road. In addition, Liddesdale House East (LHE) to the south and the garages to the blocks of flats to the north have established the principle of buildings within the former rear garden areas of the plots along Galsworthy Road. Overall, the scale of the buildings would therefore be acceptable.
26. This part of the ASC has seen significant change over several decades. There are many post-war buildings of relatively significant scale. The proposed buildings would be of acceptable scale and appearance, as set out above. In this context, the proposal would at least preserve the significance of the non-designated heritage asset of the ASC and would help to contribute to the enhancements to reinforce identity that have been identified as being necessary by the Council.
27. The revised proposal has removed the sculptural element of the landscaping, bike store, and Block B away from the RPZs of trees T01, T02 and T10. It has also been confirmed that the access roads and paths could be constructed using no-dig techniques. Subject to control of the detail by condition(s), this would therefore be acceptable. The trees to the front garden could be retained subject to control of the detail of the construction and location of the bin store by condition. All other trees to be lost would be of lesser importance and, crucially, a comprehensive landscaping plan including significant new planting is proposed. This could also be controlled by condition. Subject to the condition(s), the proposal would therefore have an acceptable effect on the character and appearance of the area with regard to trees.

Overall

28. The proposed development would not, therefore, harm the character and appearance of the area, nor would it negatively affect the significance of the ASC. The overall effect on trees would be acceptable. The proposal therefore complies with Policies CS8, DM10 and DM12 of the CS. It complies with Policy D3 of the LP. It also complies with Chapters 12 and 16 of the Framework. All these policies require high quality design and the protection of heritage assets.

Living conditions

29. To the south of the appeal site are two blocks of flats, Liddesdale House West (LHW) and LHE. Further to the east are Nos 1A and 3a Combe Lane West (CLW), which are residential properties. There is also a residential property to the north, No 46 Galsworthy Road, and its associated garden. There is no dispute regarding the proposed Block A with regard to its effect on the living conditions of the occupiers of those neighbouring properties. However, there is dispute with regard to Block B and both overlooking and sense of enclosure.

Overlooking

30. In Block B there would be no windows in the elevations that face south and north, ie towards the surrounding properties. There are, however, both windows and terraces on the west elevation. At first floor level, the terrace would also afford overlooking to the south, towards windows likely to be habitable rooms in LHE. The distance would be relatively short. There would therefore be the potential for harmful levels of overlooking. However, this could be mitigated to acceptable levels by the provision of a privacy screen along the southern boundary of that terrace and screening from both existing and proposed planting, both of which could be secured by condition.
31. Any overlooking towards No 46 would be acceptable because of the relatively long distance and significant screening provided by both the existing hornbeam tree and as could be secured by condition for enhanced landscaping along that boundary.
32. There would be windows, but no terraces, to the east elevation of Block B facing towards Nos 1A and 3A. However, although relatively close to 1A, the views would be off-set at an angle between the existing and proposed buildings. There would also be extensive screening from both existing and proposed planting, as could be secured by condition. 3A is further away than 1A to the east and is almost entirely blocked from inter-visibility with Block B by 1A. Any effect on that property would be limited.

Sense of enclosure

33. Block B would be close, at just over 2m, to the garden boundary to No 46 to the north. However, it would only present as a two-storey building, with the lower ground floor being dug into the ground. It would also be alongside a rear part of the rear garden to No 46, and only along part of the boundary with the rear garden. Any sense of enclosure created by Block B to the occupiers of No 46 would therefore be limited in extent. With regard to any effect on LHE to the south, the fact that Block B would only be two storeys and would be set behind significant intervening landscaping on the boundary, would mitigate any harmful sense of enclosure that would be created.

Overall

34. Therefore, the proposal would have an acceptable effect on the living conditions of the occupiers of neighbouring properties, in regard to overlooking and sense of enclosure. It consequently complies with Policy DM10 of the CS, which requires proposals to have regard to the amenities of neighbours. I acknowledge that the separation distances to No 46, No 1A and LHE are less than the minimum separation distances set out in Policy Guidance 16 of the Kingston Residential Design SPD 2013. However, the policy explicitly states

that the minimum distances are 'in general'. In this case, for the reasons set out above, shorter distances have achieved the overall policy aim of achieving acceptable levels of amenity for neighbouring residents. The proposal therefore also complies with the SPD.

Highway safety and the free-flow of traffic

35. It is proposed to provide two on-site car parking spaces, one of which would be for deliveries and one of which would be for disabled persons. The proposed development would therefore, in effect, be car free. The four roads that lead into the cross-junction near to the appeal site are all relatively major roads. There are no on-street car parking opportunities along the roads within easy walking distance of the appeal site, through a combination of double yellow lines, single yellows with time restrictions, and dropped kerbs.
36. There is some parking available slightly further afield, particularly along Wolsey Close and Blenheim Gardens. However, this is all controlled by residents parking permits. The UU ensures that the future occupiers of the proposed development would not be able to apply for such permits.
37. Through a combination of the lack of on-street parking opportunities and the control to prevent parking permit applications by the UU, there are therefore no opportunities to park on the surrounding road network within a walking distance of the appeal site that would likely encourage future occupiers to park their car. There would therefore likely be no, or at most very limited, additional on-street car parking pressure as a result of the proposal and a parking stress survey, or similar, is not required.
38. Consequently, the proposed development would likely not have a harmful effect on highway safety and the efficient operation of the highway network in the vicinity of the appeal site, with particular regard to on-street car parking. It therefore complies with Policies DM9 and DM10 of the CS, which require proposals to have regard to local traffic conditions and highway safety. It also complies with Paragraph 115 of the Framework, which states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Fire safety

39. Policy D12 of the LP requires a Fire Statement for all major development proposals. Major development is not defined in the policy but it is reasonable to relate this to a major planning application, ie for 10 dwellings or above. The proposal is therefore a major development and requires a Fire Statement. The appellant has submitted a Fire Statement, dated July 2024. It has been written by a qualified fire engineer. It refers to BS9991:2015. It describes the evacuation strategy, horizontal means of escape, vertical means of escape, commits to providing evacuation lifts, refers to warning systems and emergency lighting, confirms sprinkler systems would be required, assesses several passive and design related fire suppression measures, and considers the provision of firefighting access including dry risers. The Statement therefore covers part a) of the policy.
40. With regard to part b), some more detail is still required, for example regarding the buildings construction materials. However, this could be addressed by

Building Regulations, and all measures as relevant to planning could be secured by condition. The Council agreed to this at the Hearing. The Statement is therefore suitably comprehensive and robust for this stage of the development and planning process and there is no reason to believe that the proposal would not achieve acceptable levels of fire safety. It is therefore acceptable in this respect and complies with Policy D12 of the LP.

Other Matters

Urban Greening Factor

41. Policy G5 of the LP requires that all major residential development proposals achieve an Urban Greening Factor (UGF) of at least 0.4. The appellant has submitted an UGF calculation that demonstrates that the proposal would achieve an UGF of 0.498. The Council accepts this is accurate, subject to control that this be achieved by condition.

Biodiversity Net Gain

42. The appellant has submitted a Biodiversity Net Gain (BNG) Assessment v 3.0 dated 6 August 2024. This concludes that the proposal would achieve a 23.69% BNG with regard to habitat units. Hedgerow and watercourse units are not applicable to the appeal site or proposal. The Council has raised concerns regarding the accuracy of the assessment, specifically with regard to the baseline. However, it has not substantiated these concerns. There is nothing before me to suggest that a BNG at least to a similar level to that in the assessment could not be achieved, subject to control by condition(s).

Cycle storage

43. Policy T5 and Table 10.2 of the LP set out cycle parking standards. The proposed accommodation would be partly like an HMO but not entirely of that character because of the scale of the proposal and the nature of the proposed shared facilities. It would also not be precisely the same as a block of studio flats, or student accommodation. The standards as set out in the LP are not therefore directly relatable to the proposal. However, to provide an indication, Table 10.2 states that the minimum standards are one space per studio for residents and two spaces for visitors for up to 40 dwellings and one further space per additional 40 dwellings. For LSPBSL it would be the same as studio units. Student accommodation would be 0.75 spaces per bedroom.
44. The proposed bike store would be within the relatively large communal garden area. Even allowing for the areas where it would be more difficult to construct the store outside of relevant RPZs, there is adequate space for a bike store of varying sizes, and visitor spaces, up to and including the largest potential size based on applying the Table 10.2 standards for studio units. The size, design and precise location of the proposed visitor and residents cycle parking could therefore be controlled by condition.

Planning Balance

Positives

45. The proposal would provide 49 bedspaces within seven flats. There would be the loss of one existing large, family-sized house. The proposal would also be a particular type of accommodation that sits somewhere close to an HMO, rather

than self-contained dwellings. Nevertheless, it would provide much needed housing accommodation in a Borough which cannot demonstrate a five year supply of housing land. Overall, I place significant positive weight on this factor.

46. There would be short term economic advantages from construction of the project. There would also be long term economic benefits by the expenditure on goods and services in the local area by the future occupants of the proposal, which would be many more than the potential occupants of the existing family home. I place moderate positive weight on this factor.
47. There would be a BNG of around 23.69%. This is significantly in excess of the Framework requirement for 'a' net gain and also above the incoming statutory requirement for 10% BNG, which does not apply to the proposal in any event. In addition, the proposal would achieve an UGF of over 0.4 and would involve new landscaping and planting, enhancing the ecology of the site. I place moderate positive weight on these factors.

Neutral

48. The proposed buildings would meet modern energy performance levels, as opposed to the relatively old and inefficient existing house. However, there is no evidence before me that anything above and beyond the minimum requirements of policy and Building Regulations is being proposed. Overall, these factors sit neutrally in the planning balance.
49. The proposal would not harm the character and appearance of the site or the wider area. Nor would it result in unacceptable effects on the living conditions of neighbouring occupiers. Subject to control of the future details by condition, the effects on fire safety would be acceptable. Subject to the control of parking permits in the UU, the proposal would likely not have a harmful effect on highway safety and the efficient operation of the highway network in the vicinity of the appeal site. These factors sit neutrally in the planning balance.

Negatives

50. The proposed loss of a family sized house conflicts with Policy DM14 of the CS. The proposed loss of a large garden conflicts with Policy MC1 of the CS, which seeks to retain large gardens in this part of the Borough. However, the existing property is very large and therefore would not be affordable for many families. I therefore place moderate weight on these conflicts.

Planning balance

51. The benefits of the proposal are the provision of new residential accommodation, short and long term economic factors, and biodiversity and ecological enhancements. These are many and weighty. The harms are limited to the conflict with the policies restricting loss of family housing and large gardens, against which I place moderate weight as set out above. The proposal therefore complies with the Development Plan when read as a whole. The Council has confirmed that it cannot demonstrate a five year supply of housing land. However, in this instance, it is not necessary to carry out a 'tilted balance' as set out at Paragraph 11dii of the Framework, because this could only further weigh in favour of the proposal. There are therefore no material considerations that indicate that a decision should be made otherwise than in accordance with the Development Plan.

Conditions

52. Both the appellant and the Council provided schedules of suggested planning conditions. These were discussed at the Hearing. I have also considered and amended the proposed conditions in the light of government guidance on the use of conditions in planning permissions.
53. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty.
54. Conditions relating to the Construction Management Plan (CMP), the Basement Impact Assessment (BIA), landscaping, external lighting, flat roof, and privacy screen are all necessary to protect the living conditions of neighbouring occupiers.
55. Conditions relating to the CMP, the BIA, cycle parking facilities, and car parking are all necessary to protect highway safety and the free-flow of traffic.
56. Conditions relating to the Arboricultural Method Statement (AMS), materials, detailed window drawings, landscaping, waste and recycling facilities, cycle parking facilities, external lighting, and flat roof are all necessary to protect and enhance the character and appearance of the area.
57. Conditions relating to the AMS, landscaping, UGF and BNG are all necessary to protect and enhance biodiversity and ecology.
58. Conditions relating to archaeology, the AMS, the BIA, cycle parking, car parking, waste and recycling facilities, fire statement, unexpected contamination, UGF and BNG are all necessary to ensure a satisfactory standard of development and to comply with the relevant technical requirements and standards.
59. The archaeology, CMP, AMS, drainage and BIA conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.
60. I have not included a suggested condition related to water usage rates because there is no planning policy basis for the control, which instead is from Building Regulations.

Conclusion

61. For the reasons above, the appeal is allowed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE APPELLANT:

- Louise Cutts MRTPI - Director, Wessex Planning;
- Daragh McLoughney MCIAT - Director, MCL Architecture;
- Max Pickett MRICS - Director, Roscoe Group; and,
- Jennifer Wiltshire – Owner, Curated Co-Living Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

- Andrew Forrest – Case Officer, the Royal Borough of Kingston upon Thames.

ANNEX B: DOCUMENTS SUBMITTED DURING AND AFTER THE HEARING

HD1 - Appellant comments on the conditions schedule

HD2 – Policy H5 of the London Plan 2021

HD3 – Email from Mr Forrest, dated 24 October 2024 at 2.51pm and email from Mrs Cutts, dated 24 October 2024 at 2.35pm

HD4 – Email from Mrs Cutts, dated 23 October 2024 at 6.58pm

HD5 – Email from Mr Forrest, dated 23 October 2024 at 3:38pm, and email from Mrs Cutts, dated 23 October 2024 at 7.04pm

HD6 – Unilateral Undertaking, dated 6 December 2024

ANNEX C: CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 2221 GR-P-OS-OG-01-01 Rev P1; E-70-MF-01-01 Rev P2; E-25-MF-01-01 Rev P1; P-70-LG-01-01 Rev P3; OG-01-01 Rev P3; 01-01-01 Rev P3; 02-01-01 Rev P2; 03-01-01 Rev P3; P-20-OR-01-01 Rev P3; P-25-MF-01-01 Rev P1; 01-02 Rev P1; 01-03 Rev P1; 01-04 Rev P1; 01-05 Rev P2; 01-06 Rev P2; 01-07 Rev P3; 01-08 Rev P2; 01-09 Rev P2; 01-15 Rev IN1; and, P-26-MF-01-01 Rev P2.

Pre-commencement

- 3) No development including demolition shall take place until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the local planning authority. The WSI shall include the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works, and a programme for post-investigation assessment and subsequent analysis, publication, dissemination and deposition of the resulting material. No development including demolition shall take place other than in accordance with the approved WSI.
- 4) No development including demolition shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall thereafter be adhered to throughout the construction period. The Plan shall include:
 - i. How the proposed development will be built;
 - ii. Hours of working to be limited to 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays, and not at all on Sundays and Bank Holidays;
 - iii. The procedure for loading/unloading materials;
 - iv. The route(s) to and away from the site for much away and vehicles with materials;
 - v. The protocol for managing deliveries to one vehicle at a time on sites with restricted access or space;
 - vi. The protocol for managing vehicles that need to wait for access to the site;
 - vii. Whether any reversing manoeuvres are required onto or off the public highway into the site and whether a banksman will be provided;
 - viii. Temporary site access;
 - ix. Signing system for works traffic;
 - x. Whether site access waiting signs will be required in adjacent roads;
 - xi. Whether it is anticipated that statutory undertaker connections will be required into the site;
 - xii. The storage of plant, materials, and operatives vehicles;
 - xiii. The potential for impacts from dust and emissions during the demolition and/or construction phase upon local air quality and surrounding residents;
 - xiv. Measures for the laying of dust, suppression of noise and abatement of other nuisance arising from the development works;

- xv. The location of all ancillary site buildings;
 - xvi. The means of enclosure of the site, its erection and maintenance;
 - xvii. Wheel washing equipment;
 - xviii. The parking of vehicle of site operatives and visitors; and,
 - xix. The method of recycling and disposing of waste resulting from the demolition and/or construction phases.
- 5) No development including demolition shall take place until a detailed Arboricultural Method Statement (AMS) and Tree Protection Plan have been submitted to and approved in writing by the local planning authority. The submission shall include:
- i. A plan to a scale and level of accuracy appropriate to the proposal, that shows the positions, crown spreads and root protection areas (RPAs) of every retained tree on site, and on nearby ground or land adjacent to the site;
 - ii. A schedule of pre-construction works for the above detailed trees, where appropriate;
 - iii. Calculated dimensions and positions of all tree RPAs;
 - iv. Details and positions of any construction exclusion zones;
 - v. Details and positions of the existing and proposed underground service runs, to be routed to avoid RPAs where possible and if not possible for alternative methods of installation to be detailed within the AMS;
 - vi. Details and positions of any change in levels or positions of any excavations within 5m of the RPA of retained trees;
 - vii. Details of any special engineering required to accommodate proposals within the RPAs of retained trees; and,
 - viii. Details of the working methods to be employed for the installation of drives, paths or any other form of hard surfacing within the RPAs of retained trees in accordance with the principles of 'No Dig' construction. All details shall be in accordance with BS5837:2012.

The approved scheme shall be implemented prior to commencement of any work on site including demolition, and be maintained to the reasonable satisfaction of the local planning authority until completion of the development or until such stage as detailed within the approved AMS.

- 6) No development shall take place, excluding demolition and site investigations, until a final detailed drainage design, including drawings, supporting calculations, SuDS Statement and Drainage Assessment Form, have been submitted to and approved in writing by the local planning authority. A detailed Management Plan confirming routine maintenance tasks for all drainage components must also be submitted to demonstrate how the drainage system is to be maintained for the lifetime of the development. Prior to occupation of the development, the system shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 7) No development shall take place, excluding demolition and site investigations, until a Basement Impact Assessment (BIA) has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details. The BIA shall consider:
- i. The methodology for constructing the basement;

- ii. The impact of the development on the risk of flooding from all sources, both to the site itself and elsewhere;
- iii. The impact of the development on surface water drainage; and,
- iv. The impact of the development on land stability.

Pre-development above ground level

- 8) No development above ground level shall take place until details of the privacy screen to be installed to the south elevation of the balcony to Block B at first floor level have been submitted to and approved in writing by the local planning authority. Block B shall not be occupied until the screen has been installed in accordance with the approved details and the screen is to remain in perpetuity.
- 9) No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.
- 10) No development above ground level shall take place until detailed drawings at a scale of 1:10 of the windows including any aprons, sills, mouldings, heads, jambs, transoms, mullions, lintels or reveals and rainwater goods have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 11) No development above ground level shall take place until a detailed Landscape and Planting Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include, where appropriate, a clear key or legend corresponding to the landscaping plan and providing the following information:
 - i. Species for all plants;
 - ii. Locations of all plants or areas of planting;
 - iii. Plant numbers and planting densities;
 - iv. Sizes of all plants and particularly trees at time of planting; and,
 - v. Details of all hard landscaping including materials.

The approved Plan shall be implemented within the first planting season following substantial completion of the development. The tree planting and landscaping shall thereafter be maintained for five years to the satisfaction of the local planning authority. Any trees or shrubs which die during this period shall be replaced at the beginning of the following planting season, and the areas shown to be landscaped shall be permanently retained for that purpose.

- 12) No development above ground level shall take place until details of waste and recycling facilities have been submitted to and approved in writing by the local planning authority. This shall include, as appropriate, details regarding the construction within the RPAs of retained trees in accordance with the principles of 'No Dig' construction. All details shall be in accordance with BS5837:2012. The facilities as approved shall be provided prior to occupation of the development and shall be permanently retained thereafter. The developer and/or their successors in title shall take all reasonable steps to ensure that all refuse and recyclable materials associated with the development are either stored within these facilities or internally within the buildings of the site, and

that no refuse or recycling material is stored or placed for collection on the public highway except on the day of collection.

- 13) No development above ground level shall take place until details of secure cycle parking facilities have been submitted to and approved in writing by the local planning authority. This shall include, as appropriate, details regarding the construction within the RPAs of retained trees in accordance with the principles of 'No Dig' construction. All details shall be in accordance with BS5837:2012. The approved facilities shall be provided prior to occupation of the development and shall be permanently retained for that purpose and kept clear of obstruction thereafter.
- 14) No development above ground level shall take place until details of the car parking, servicing and manoeuvring areas have been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved details.

Pre-occupation

- 15) Prior to occupation of the development, details of any external lighting shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 16) Prior to occupation of the development, a Fire Safety Strategy shall be submitted to and approved in writing by the local planning authority. The Strategy shall demonstrate how the development will achieve the highest standards of fire safety and shall include the following details:
 - i. Suitably positioned outside space for fire appliances/ an evacuation assembly point;
 - ii. Appropriate fire alarm systems;
 - iii. Passive and active fire safety measures;
 - iv. Appropriate construction details to minimise the risk of fire spread;
 - v. Provision of suitable and convenient means of escape/ an evacuation strategy; and,
 - vi. Provision of suitable access and equipment for firefighting which is appropriate for the size and use of the development.

The Strategy shall include a statement of competence. The development shall be carried out in accordance with the approved Strategy and thereafter maintained. The Strategy shall reference the London Plan Guidance Fire Safety (February 2022), where applicable and a Reasonable Exception Statement shall be submitted in relation to those fire safety requirements which the applicant does not consider to be relevant.

- 17) Prior to occupation of the development, an updated Urban Greening Factor (UGF) calculation shall have been submitted to and approved in writing by the local planning authority. The calculation must demonstrate that the proposal achieves at least an UGF of 0.4. The development shall thereafter be constructed in accordance with the approved details.
- 18) Prior to occupation of the development, an update to the Biodiversity Net Gain (BNG) Assessment v 3.0 dated 6 August 2024 shall have been submitted to and approved in writing by the local planning authority. The Assessment must demonstrate that the proposal achieves a BNG 23.69%

or provide robust justification for any shortfall, and must as a minimum achieve a net gain. A BNG Management Plan shall subsequently be submitted to and approved in writing by the local planning authority to ensure the site is developed in accordance with the approved Assessment. The development shall thereafter be constructed and operated in accordance with the approved details.

For observation

- 19) The flat roof areas of the development to which this permission relates shall not be used as a roof garden, balcony, searing area or other similar amenity area, and shall not be accessed except for the purpose of maintenance or in the case of emergency.
- 20) In the event that contamination is found (at any time) that was not previously identified, development shall cease and the contamination reported in writing to the local planning authority as soon as is reasonably practicable. An assessment, remediation scheme and verification report shall then be submitted to and approved in writing by the local planning authority before development resumes.

===== END OF SCHEDULE =====