

Appeal Decision

Hearing held on 07 October 2025

Site visit made on 06 October 2025

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2025

Appeal Ref: APP/P4605/W/25/3369411

Indoor Market, 50 Edgbaston Street, Birmingham B5 4RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Bull Ring Limited Partnership against Birmingham City Council.
 - The application Ref is 2024/06155/PA.
 - The development proposed is “outline application with all matters reserved for the demolition of existing indoor market building and the construction of new buildings providing up to 60,932sqm of new floorspace containing: up to 1,493sqm of commercial, business and service floorspace (Use Class E); up to 745 apartments (Use Class C3) or up to 1,544 student bedrooms and associated communal student facilities (sui generis), or any combination of these residential uses but not exceeding a maximum of 1,544 residential units; together with associated plant, car parking and cycle parking facilities and works to the public realm adjacent to the proposed building(s)”.
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Decision

1. The appeal is allowed and planning permission is granted for outline application with all matters reserved for the demolition of existing indoor market building and the construction of new buildings providing up to 60,932sqm of new floorspace containing: up to 1,493sqm of commercial, business and service floorspace (Use Class E); up to 745 apartments (Use Class C3) or up to 1,544 student bedrooms and associated communal student facilities (sui generis), or any combination of these residential uses but not exceeding a maximum of 1,544 residential units; together with associated plant, car parking and cycle parking facilities and works to the public realm adjacent to the proposed building(s) at Indoor Market, 50 Edgbaston Street, Birmingham B5 4RQ in accordance with the terms of the application, Ref 2024/06155/PA, subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposal before me has been made in outline with all matters reserved for future consideration. I have dealt with the appeal on that basis, treating any details of reserved matters shown on the plans as illustrative.
3. The Council failed to determine the application within the prescribed period. Following the submission of the appeal, the Council confirmed that had it determined the application, planning permission would have been refused for 2 putative reasons relating to the effect of the proposal on the diversity, vitality and overall shopping experience in the city centre and the absence of a legal agreement to secure the off-site affordable housing contribution.

4. During the course of the appeal, a Section 106 Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) dated 19 September 2025 was submitted in relation to a contribution towards off-site affordable housing. The Council has confirmed that this addresses their concerns regarding a lack of suitable legal agreement to secure the off-site affordable housing contribution. I see no reason to disagree. I shall formulate the main issues accordingly.

Main Issues

5. The main issues are the effect of the proposal on:
 - the diversity, vitality and overall shopping experience in Birmingham city centre; and
 - the setting and significance of listed buildings 42-45 Upper Dean Street, the Church of St Martin in the Bull Ring and the statue of Nelson.

Reasons

Diversity, vitality and shopping experience

6. The site is located in Birmingham city centre and comprises a 5-storey building constructed in the early 2000s containing an indoor market to the ground floor and multi-storey car park above. The market is operated by the Council who hold a lease granted by the appellant. The lease currently runs to October 2027 with an option to extend to January 2028. It is stated that the market accommodates approximately 38 market stalls, of which 23 sell fresh produce.
7. The proposal seeks outline planning permission for up to 1,493 m² class E floor space and up to 745 apartments or 1,544 student bedrooms and associated infrastructure following the demolition of the existing building.
8. The Birmingham Development Plan (2017) (BDP) policy GA1 sets out the Council's objectives for the redevelopment of the Southern Gateway, which includes the appeal site and the adjacent rag and open markets, as a focus for the expansion of the city centre through comprehensive redevelopment delivering a vibrant new destination for the city. As part of the Southern Gateway redevelopment, permission has been granted¹ for a mixed-use development (the Smithfield development) which includes, amongst other uses, full planning permission for 5,585m² market space (the permanent market) and outline permission for 9,000m² of further market space, which collectively would accommodate traders from the 3 existing markets: the indoor market, rag market and open market. The Smithfield development encompasses the appeal site.
9. The legal agreement for the Smithfield development sets out triggers for the delivery of the markets and requires that the permanent market be constructed and practically completed before occupation of the 1,000th dwelling. It is understood that the permanent market will be one of the first buildings to be delivered as part of the Smithfield development. It is proposed that the Council will provide a temporary market to accommodate the market traders until the permanent market is available. Development has not yet commenced on either the temporary or permanent market, and the timescale for their delivery is not known.

¹ 2022/09643/PA

10. The Council's principal concern relates to the loss of the indoor market prior to provision of the temporary or permanent market replacement. It is stated that an absence of market space for the indoor market traders would adversely affect the diversity, vitality and overall shopping experience in the city centre. To prevent this from occurring, the Council suggest that it is necessary to condition that the loss of the indoor market not take place until a replacement is available.
11. The temporary market will be delivered by the Council on an already cleared site and the Council states that the marquee type structure could be constructed quickly. Whilst it will be necessary for funding to be secured to progress the planning application and the delivery of the temporary structure, the Council anticipates this will be a relatively easy and uncontroversial planning process and there is no indication that funding will not be granted, in particular as no external bodies are involved in the allocation of funding. Given this, no compelling evidence has been presented establishing that the delivery of the temporary market is unlikely to take place before the lease expires in October 2027/ January 2028.
12. BDP policy GA1 sets out the Council's objectives for the Southern Gateway, stating that development *will be supported* that diversifies the city's offer as a retail and leisure destination *including* niche retail, improved markets, food and leisure space. The Council suggests that this policy requires the delivery of improved markets, and that a scenario where there is a temporary loss of the market would fail to deliver this.
13. The policy wording "*will be supported*" does not specify that a particular outcome *must* be met, and reference to '*including*' in the list of development forms that will be supported indicates that this is not a closed list. This policy does not therefore specify that existing markets must be retained and enhanced: it provides a non-closed list of development types which will be supported in the delivery of the comprehensive redevelopment of the Southern Gateway and there is no indication that other development forms will not be supported. Neither BDP policy GA1 nor BDP policy TP21 (which requires that the vitality and viability of the centres will be maintained and enhanced) explicitly safeguard the existing market use or require that enhanced markets *must* be delivered. Given this, the certainty of alternative market provision sought by the Council is not a development plan requirement.
14. There is limited evidence before me to support the Council's assertion that a temporary loss of the market would risk the permanent loss of market stalls, permanent damage to individual business or the loss of jobs for market stall holders such that the vitality and variety of retail options and the overall shopping experience in the city centre would be harmed. Whilst concerns regarding the loss of stalls within the indoor market and the unique fresh produce sold there are noted, there is nothing compelling before me which indicates that these retail options would not be met elsewhere, noting the diverse retail offering, including independent operators, within the city centre. Furthermore, the market comprises a very small component of the city centre's vast retail core and there is no compelling evidence that it generates a significant amount of footfall or that it makes a significant contribution to the vitality and viability of the city centre noting its limited scale and occupation.
15. Drawing on the above, there is no development plan policy which requires that the proposal must deliver enhanced markets. Therefore, even if alternative provision is not available before the loss of the market, there would be no development plan

conflict nor is there evidence that this would result in any adverse impact on the diversity, vitality and overall shopping experience of the retail offer in the city centre. The proposal would accord with BDP policy GA1's aims of expanding the city centre and delivering a vibrant new destination for the city. This would accord with the National Planning Policy Framework's (the Framework) aims of ensuring that decisions support the role that town centres play at the heart of local communities by taking a positive approach to their growth, management and adaptation.

16. Given the lack of conflict with the development plan and the Framework, a condition which safeguards the existing market until alternative provision is made is not necessary to render the development acceptable in planning terms. Additionally, as the appellant has no control over the delivery of the permanent or temporary markets, such a condition would not meet the test of reasonableness set down in the Planning Practice Guidance (PPG).
17. In light of the above I find that the proposal would not harm the diversity, vitality and overall shopping experience in Birmingham city centre. I therefore find no conflict with BDP policies TP21 and GA1, the aims of which are set out above. I also find no conflict with the Framework.

Listed buildings

18. The site is located close to a number of listed buildings. The starting point for the consideration of the impact of a development on the setting of a Listed Building is Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard is had to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest it possesses.
19. The proposal is accompanied by a design code and parameter plans which set out the maximum and minimum floor levels. The development would comprise 4 stepped blocks, one on each corner of the site. The height of the tallest of the blocks (block A) would measure between 178.05m and 190.05m and the height of the smallest of the blocks (block D) would measure between 139.05m and 151.05m. The proposal would result in a significant increase in the scale, massing and height of buildings on the site in comparison to the existing building.
20. I have been provided with details of the Smithfield development which show that zone 5A, which lies immediately to the south of the Church of St Martin in the Bull Ring, will comprise an indoor market with a maximum height of approximately 132m. Zone 4 comprises the land between the appeal site and zone 5A. This element of the Smithfield development proposal is in outline and the design code sets out that it will comprise a mixed-use segment with maximum heights of between 145m and 165m.
21. 42-45 Upper Dean Street are a group of 3-storey grade II listed buildings located to the south of the site originating from the early 19th century. The side and rear elevations of the buildings are obscured from public view, and the fabric and character of the buildings have been heavily repaired and partially reconstructed. These buildings are engulfed and dominated by large modern developments surrounding them which has radically altered their original setting. The significance of these buildings lies in their architectural interest as examples of early/mid-19th century urban commercial architecture. Given the extensive changes to the setting

of these buildings which have effectively divorced them from their historic context, there would be no harm to the setting or significance of these buildings.

22. The Church of St Martin in the Bull Ring is a grade II* listed building located to the northeast of the site which has been subject to various repairs and alterations. The church has very high significance due to its architectural and historic interest as the ancient parish church of Birmingham with origins dating back to the medieval period. The church forms a historic landmark building, reflecting its social and community importance, and is a visual focal point of the surrounding area. Views of the church dominate the wider street scene reflecting the prominence of the church which would have formed a beacon in the wider landscape. The church is surrounded by large-scale modern development including the Bull Ring shopping centre which has radically altered its original setting including the ability to view the spire. The significance of the church lies in its physical fabric and character.
23. Views of the church from surrounding streets, including from Upper Dean Street, Edgbaston Street, Moat Lane and Smallbrook Queensway would not be affected by the proposal. Given its scale, the development would screen the church spire in views from Ladywell Walk to the west of the site. However, in this view the church is presently heavily screened by existing development (including the existing market/ multistorey car park) such that only the top of the spire is visible. Given this, the proposal would not harm a view which enables aspects of the building's significance to be appreciated.
24. In street scene views from Park Street the proposal would be seen against the backdrop of the Smithfield development from which it would appear as a gradual stepping up in building height relative to the Smithfield development. Whilst the proposal would be visible in views of the church from Park Street, from which there is a currently uninterrupted view of the spire, when seen against the scale of consented buildings in the foreground, the development would not appear to dominate the street scene views or compete with the prominence of the church spire. Given this, the proposal would not result in harm to the setting of the church or compromise the ability to appreciate its significance.
25. The statue of Nelson is a grade II* listed building erected in the early 19th century which sits on raised ground in a balconied walkway to the northwest of the church of St Martin in the Bull Ring, having originally been sited closer to the church. The setting of the statue has been altered by large-scale modern development. The statue has historical and cultural significance as the first publicly funded statue in the city and the first statue of Lord Nelson in Britain, reflecting Birmingham's industrial ties to Britain's naval power. The significance of the building lies in its physical fabric, character and its historical and cultural significance. Given the statue's altered setting including large modern developments and the separation of the statue from the appeal site by existing and proposed built form there would be no harm to the setting or significance of this building.
26. In light of the above the proposal would not result in harm to the setting or significance of the nearby listed buildings. I therefore find no conflict with the development plan or Chapter 15 of the Framework.

Other Matters

27. The site of the Church of St Martin in the Bull Ring contains buried remains of a moated manor, the original seat of the medieval Lords of Birmingham which marks

the birthplace of the city. Historic England identify the significance of this scheduled ancient monument (SAM) as lying in its archaeological value which provides insight into urban development, land use, and social hierarchy and is foundational to the understanding of how Birmingham grew. Based on the information before me, I concur with this assessment of significance. There is no suggestion that the appeal site makes any contribution to the significance of the SAM. I am satisfied that the changes within its setting would not affect its physical integrity or archaeological value. Given this I am satisfied that the proposal would not have a harmful impact on archaeological remains and that the scheduled ancient monument's setting would be preserved.

28. With the exception of 6 disabled parking spaces, which would be provided for residents, the proposal is designed as a car-free development. This accords with the Council's aim to deliver a sustainable transport network by ensuring that proposals support and promote sustainable travel. Noting the site's highly sustainable location within the city centre and the range of public transport options available nearby, the car-free nature of the development and the removal of the existing car park would contribute to a modal shift towards sustainable forms of transport.
29. Given the presence of other car parks in the vicinity of the site, there is no suggestion that less mobile or disabled visitors dependent on accessing the city by car would not be adequately accommodated or would be precluded from accessing the city centre. Having regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, I am satisfied that the loss of the existing car park would not unlawfully discriminate against the disabled or less mobile.
30. Noting the availability of other car parks nearby and the accessibility of the site by public transport, there is no evidence that the loss of the existing car park would result in a reduction in pedestrian footfall which would adversely impact upon businesses near to the site.
31. The design code sets out that the ground floor will feature dynamic corners and edges that respond to current site conditions while anticipating future developments at Smithfield. The design code requires that retail units be positioned at corners to ensure an active edge is achieved, noting that retail spaces are key to energizing the public realm. I am satisfied that the proposal would successfully integrate with the Smithfield development.
32. I am satisfied on the basis of the evidence before me that local infrastructure has the capacity to accommodate the development and that the proposal would result in benefits including housing delivery, contributions towards affordable housing, changes to the wider townscape and the creation of job opportunities during the construction and operation of the development, all of which would accord with the Council's wider objectives for the growth and regeneration of the city centre and which would benefit the local community.

Conditions

33. I have had regard to the conditions suggested by the Council having regard to the PPG on conditions. I have amended a number of conditions in the interest of clarity.

34. As the application was made in outline, I impose conditions relating to the submission and approval of reserved matters. I have attached a condition detailing that the development should be in accordance with the submitted plans in the interest of certainty. As the lease between the appellant and the Council for the market runs until October 2027/ January 2028 it is appropriate, in this instance, to allow for up to 5 years for the submission of reserved matters applications.
35. I have attached conditions requiring the submission of an additional wind assessment and details of the housing mix with the reserved matters for each phase to secure the satisfactory development of the site. To support low and zero carbon energy generation as required by UDP Policy TP4 I have attached conditions which require the submission of an Energy Statement for each phase of development, and which require that the non-residential uses achieve a minimum BREEAM (Building Research Establishment Environmental Assessment Method) rating of excellent.
36. In the interest of the character and appearance of the area, conditions are necessary to control details of finished site and building ground floor levels, external materials of the development, hard and soft landscaping and to require that the development be carried out in accordance with the submitted Design Code. In the interests of character and appearance and biodiversity, there is a need for conditions requiring the submission of an Ecological Enhancement Strategy, Landscape and Ecological Management Plan, a construction ecological management plan, and details of bird/bat boxes, green/brown roofs and lighting.
37. To ensure that the development does not breach the Safeguarding Surfaces associated to Birmingham Airport, endanger the safe movement of aircraft and to minimise the site's attractiveness to birds (which could endanger the safe movement of aircraft), I have attached conditions requiring the approval of an Instrument Flight Procedure assessment and a Bird Hazard Management Plan and the installation of obstacle lights.
38. In the interests of health and safety a condition requiring the approval of a preliminary risk assessment, site investigation scheme, remediation strategy and verification plan is necessary to deal with the risks associated with contamination. I have imposed conditions requiring the submission of surface water and foul water drainage schemes, a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan to ensure adequate drainage.
39. In order to promote job training opportunities for local people as required by BDP policy TP26 I have attached a condition which requires the submission of a construction employment plan.
40. In the interests of securing a satisfactory living environment I have attached a condition relating to the installation of closed-circuit television cameras. Conditions relating to the provision of storage for cycles and motorcycles, vehicle parking and a 'student moving in, moving out' strategy are necessary in the interests of highway safety and promoting sustainable travel.
41. In the interests of safeguarding the living/ working conditions of future occupiers/ the occupiers of premises/ dwellings in the vicinity of the site, conditions requiring the approval of a noise assessment, a Construction Environmental Management Plan, extract ventilation and odour control equipment, noise insulation and a condition which limits the noise levels for plant and machinery are necessary.

42. A condition which limits the gross internal Class E floorspace is necessary to maintain the vitality and viability of the City Centre.
43. I have omitted a suggested condition which requires that no development take place until the replacement indoor market is fully fitted out and available for use. In view of my conclusions on the first main issue, this condition is not reasonable or necessary and thus does not meet the tests set down in the PPG.

Conclusion

44. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed

N Robinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1.) Details of the access, appearance, landscaping, layout and scale (hereinafter called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 2.) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than five years from the date of this permission.
- 3.) The development for which permission is granted must be begun before the expiration of three years from the final approval of the reserved matter(s) or, in the case of approval on different dates, the final approval of the last matter to be approved.
- 4.) The development hereby permitted shall be carried out in accordance with the following approved plans:
- 2490-HWS-SWD-ZZ-D-A-05001 P01,
2490-HWS-SWD-ZZ-D-A-05010 P01,
2490-HWS-SWD-ZZ-D-A-05011 P01,
2490-HWS-SWD-ZZ-D-A-05012 P01,
2490-HWS-SWD-ZZ-D-A-05013 P01,
2490-HWS-SWD-ZZ-D-A-05014 P01,
2490-HWS-SWD-ZZ-D-A-05015 P01,
2490-HWS-SWD-ZZ-D-A-05016 P01,
2490-HWS-SWD-00-D-A-05017 P01,
2490-HWS-SWD-ZZ-D-A-05018 P01,
2490-HWS-SWD-LG-D-A-05019 P01,
2490-HWS-SWD-00-D-A-05020 P01,
2490-HWS-SWD-UG-D-A-05021 P01,
2490-HWS-SWD-ZZ-D-A-05022 P01,
2490-HWS-SWD-ZZ-D-A-05023 P01.
- 5.) An Energy Statement shall be submitted with each reserved matters application which shows that feasibility has been completed to consider the incorporation of low

and zero form of energy generation into the development or connection into low and zero carbon energy generation networks where they exist.

6.) An additional wind assessment shall be submitted with each reserved matters application that assesses the proposed wind impact of that phase and if necessary, highlights any mitigation required.

7.) Full details of the housing mix proposed shall be provided with the reserved matters application for each phase of the development.

8.) All Reserved Matters applications shall be in accordance with the Edgbaston Street Gardens Design Code (Rev P01 dated 16/09/2024).

9.) No development shall take place until the following components of a remediation scheme to deal with the risks associated with contamination of each phase for the intended use have been submitted to and approved in writing, by the Local Planning Authority:

a) A preliminary risk assessment, which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on (a) to provide information for a detailed risk assessment of the risk to all receptors that may be affected, including those off site.

c) An options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken, timetable of works and site management procedures.

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved and must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 (and subsequent legislation) in relation to the intended use of the land after remediation.

10.) No development shall take place (excluding demolition) until details of finished site and building ground floor levels in relation to existing site levels, adjoining land and buildings, for each phase of the development, have been submitted to and approved in writing by the Local Planning Authority.

Information submitted shall include cross sections through the site showing existing and proposed levels and relationship with the adjoining landform and buildings.

The development shall be implemented in accordance with the approved details.

11.) No development shall take place (excluding demolition) until a surface water drainage scheme and foul water drainage scheme, based on sustainable drainage principles as set out in the Ramboll 'Drainage Strategy Report for Planning Version 1.1' (09 September 2024) and an assessment of the hydrological and hydro geological context of the development for each phase of development, has been submitted to and approved in writing by the Local Planning Authority.

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

12.) No development shall take place (excluding demolition) until a scheme of noise insulation between the commercial and residential premises has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the building and thereafter maintained.

13.) No development shall take place (excluding demolition) until an Instrument Flight Procedure (IFP) Assessment has been submitted to and approved in writing by the Local Planning Authority. Assessments must be completed by CAA Approved Procedure Design Organisation (APDO) and shall assess the development and any planned cranes against all published flight procedures at Birmingham Airport to determine if the building and associated crane infringes any of the protection surfaces of the IFPs serving the Airport.

The development shall thereafter be implemented in accordance with the approved details.

14.) No development shall take place (excluding demolition) until a Bird Hazard Management Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of the management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and 'loafing' birds.

The management plan shall comply with Advice Note 3 'Wildlife Hazards Around Aerodromes'. The Management Plan shall be implemented as approved on completion of the development and shall remain in force for the life of the building.

15.) No development shall take place (excluding demolition) until a 30-year Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved LEMP. The LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Description of the management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period).
- g) Details of monitoring needed to measure the effectiveness of management.

- h) Details, including a timetable, for each element of the monitoring programme.
- i) Details of the persons or organisation(s) responsible for implementation and monitoring.
- j) Mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required aims, objectives and targets.

The LEMP shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The LEMP shall be implemented as approved.

16.) No development shall take place within a phase (excluding demolition), until a construction employment plan has been submitted to, and approved in writing by the Local Planning Authority for that phase. The approved plan for that phase shall be adhered to throughout the construction of that phase.

The construction employment plan shall provide for a minimum total of 60 person weeks of employment per £1million spend on the construction of the site for New Entrants whose main residence is in the Local Impact Area identified from Birmingham City Council's Employment Access Team or an alternative source agreed by the Council provided that each New Entrant is suitably qualified for the relevant role.

The development shall be implemented in accordance with the approved details.

17.) No development shall take place (excluding demolition) on a phase until details of hard and/or soft landscape works have been submitted to and approved in writing by the Local Planning Authority for that phase.

These details shall include proposed finished levels or contours, means of enclosure, hard surfacing materials, minor artefacts and structures, proposed and existing functional services above and below ground, fully annotated planting plans to a scale of 1:100, showing, where used, locations of individually planted trees, areas of woodland, shrubs, hedges, bulbs, and areas of grass. Other information shall include planting schedules, noting species, plant sizes and proposed numbers / densities and details of the proposed planting implementation programme.

All hard and/or soft landscape works shall be implemented in accordance with the approved details. The works shall be implemented prior to the first occupation of the phase to which the detail relates or in accordance with a programme agreed with the Local Planning Authority and thereafter maintained.

Any trees or shrubs which, within a period of two years from the completion of the development, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species.

18.) No development shall take place (excluding demolition) on a phase until details of the number, design, location and post-development monitoring arrangements of bird nesting boxes/bat boxes/bricks/tubes to be provided as part of the development, have been submitted to and approved in writing by the Local Planning Authority for that phase. The bird/bat boxes shall be installed in accordance with the approved details for that phase and thereafter maintained.

19.) No development shall take place (excluding demolition) on a phase until a construction ecological management plan (CEcMP) has been submitted to and approved in writing by the Local Planning Authority for that phase. The CEcMP shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEcMP shall be adhered to and implemented throughout the construction period for the phase to which it relates in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

20.) No development shall take place (excluding demolition) on a phase until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority for that phase. The approved statement shall be adhered to throughout the construction period of that phase.

The method statement shall provide for details of the following:

- a) The parking of vehicles of site operatives and visitors
- b) Location of loading and unloading of plant and materials and the management of traffic on and off the site
- c) Hours of demolition/construction/delivery including an agreed procedure for out-of-hours working
- d) Public communication, including a complaints procedure
- e) Site drainage and water management
- f) The management of noise and vibration from demolition and groundwork, including monitoring.
- g) The management of dust emissions from all sources including stockpiled material.
- h) Details of onsite lighting
- i) Management of waste and hazardous materials
- j) Details of the erection and maintenance of security hoarding including facilities for public, viewing (if relevant)
- k) Details of cranes and other tall construction equipment (including details of obstacle lighting) to comply with Advice Note 4 'Cranes' produced by the AOA.

The development shall be implemented in accordance with the approved details.

21.) No development shall take place (excluding demolition) on a phase until a noise assessment for that phase has been undertaken to demonstrate that the layout of the proposed development has been designed to ensure that noise and vibration levels for facades containing habitable rooms and for outdoor living spaces do not exceed the criteria provided in the current EPU Planning Consultation Guidance Note 1 (Noise and Vibration) (V6 March 2020), or any successor document.

The assessment shall be submitted to and approved in writing by the Local Planning Authority and the development shall be undertaken in accordance with the approved details.

22.) Prior to commencing construction of the building to which they relate, full details of the external materials and architectural treatment of building facades and roofs shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:

- Facades - walls, windows (surrounds, glazing systems, reveals, panels), building entrances, decorative features;
- Roofs - including edges / eaves / parapets, ridges, chimneys;
- Rainwater goods, external vents, flues and other structures attached to the façade or roof of the building.

The details shall include sufficient information to demonstrate building appearance including elevation drawings annotated to show materials; schedule and specification of materials (samples and/or product literature and images); large (1:20) scale sections and part-elevation drawings showing detailing of windows, edges of roofs and any other key features.

The development shall be implemented in accordance with the approved details.

23.) Before above ground level development commences on a phase that includes non-residential uses (development outside of C3 use class), written documentary evidence in the form of a design stage assessment demonstrating that the development on that phase will achieve a minimum rating of excellent against the BREEAM standard shall be submitted to and approved in writing by the Local Planning Authority. No non-residential building shall be brought into use until a Final BREEAM Certificate has been issued for it and produced to the local planning authority certifying that BREEAM Level excellent has been achieved.

24.) A scheme for the provision of green and/or brown roofs on the flat roofs of the development, including identified qualitative biodiversity benefits, shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching roof level/their installation. The approved details shall be implemented prior to first occupation of the building to which the roof relates and thereafter maintained.

25.) No building hereby permitted shall be first occupied or the use commenced until a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation as required by condition 9 has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with

the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

26.) No building hereby permitted shall be first occupied or the use commenced until a sustainable drainage operation and maintenance plan has been submitted to and approved by the Local Planning Authority for that phase. The drainage system approved by condition 11 shall be operated and maintained in accordance with the approved Sustainable Drainage Operation and Maintenance Plan.

27.) No building hereby permitted shall be first occupied or the use commenced until vehicle parking has been constructed, surfaced and marked out in accordance with the approved details and that area shall not thereafter be used for any purpose other than parking, loading and unloading of vehicles.

28.) Prior to the first occupation of each phase of the development, an Ecological Enhancement Strategy for each phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

29.) Prior to the first occupation of each phase of the development, a detailed lighting scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include annotated plans showing lighting positions for the external spaces, facades, building elevations and structures they illuminate, site plans showing horizontal and vertical overspill to include light trespass and source intensity, affecting surrounding residential premises and details of the lighting fittings including colour, watts and periods of illumination.

All lighting works shall be implemented in accordance with the approved details and shall be completed prior to the first occupation of that phase and thereafter maintained.

30.) Prior to the first occupation of each phase of the development, details of the provision for the secure, and where appropriate, covered storage for cycles and motorcycles for that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of that phase and thereafter maintained.

31.) Prior to the first occupation of each phase of the development, obstacle lights shall be placed on the building associated with that phase. These obstacle lights must be steady state red lights with a minimum intensity of 2000 candelas. Periods of illumination of obstacle lights, obstacle light locations and obstacle light photometric performance must be in accordance with the requirements of 'CAP168 Licensing of Aerodromes'. The installed lights shall be retained in perpetuity.

32.) Prior to the first occupation of each phase of the development, a scheme for the provision of closed circuit television cameras (CCTV) for that phase, including the proposed location of the cameras, mounting columns, proposals for the use and management of the system and proposals for its installation on that particular plot, shall be submitted to and approved in writing by the Local Planning Authority. The CCTV

system shall be installed in accordance with the approved details prior to first occupation of that phase and thereafter maintained.

33.) Prior to the first occupation of any student accommodation, a 'student moving in, moving out strategy' for that phase shall be submitted to and approved in writing by the Local Planning Authority. The student accommodation shall thereafter be operated in accordance with that strategy.

34.) Details of the extract ventilation and odour control equipment, including any details of any noise levels from fixed machinery, and external ducting for each phase of development shall be submitted to and approved in writing by the Local Planning Authority prior to its installation and operation. The development shall be implemented in accordance with the approved details and thereafter maintained.

35.) The rating levels for cumulative noise from all plant and machinery shall not exceed the existing LA90 background levels as assessed in accordance with British Standard 4142(2014) or any subsequent guidance or legislation amending, revoking and/or re-enacting BS4142 with or without modification.

36.) The floorspace permitted to be used for uses falling within Use Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument amending, revoking and/or re-enacting that Order) shall not exceed a total of 1,493sqm gross internal floorspace cumulatively across the development.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Miles Drew, Director, Avison Young

Jonatan Carling, Development Director, Hammerson

James Kharade, Planner, Avison Young

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Fulford – Principal Planning Officer

DOCUMENTS

Planning committee report for planning application reference 2022/09643/PA

Amended list of Suggested Conditions