



Appeal Decision

Hearing held on 10 December 2025

Site visit made on 10 December 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2026

Appeal Ref: APP/M2270/W/25/3370337

Phillips House and Eynsham House, Crescent Road, Tunbridge Wells TN1 2PL

- 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 Kier HGP Tunbridge Wells LLP against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 24/01150/FULL.
 - The development proposed is the redevelopment of the site involving the demolition of existing buildings and the provision of 38no. residential houses and 6no. residential flats, creation of new access, landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the site involving the demolition of existing buildings and the provision of 38no. residential houses and 6no. residential flats, creation of new access, landscaping, and associated works at Phillips House and Eynsham House, Crescent Road, Tunbridge Wells TN1 2PL in accordance with the terms of the application, Ref 24/01150/FULL, subject to the conditions in the attached Schedule.

Application for Costs

2. An application for costs was made by Kier HGP Tunbridge Wells LLP against Tunbridge Wells Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. On 10 December 2025, the Council adopted the Tunbridge Wells Borough Local Plan (LP), which supersedes the Tunbridge Wells Borough Local Plan 2006, the Core Strategy Development Plan Document 2010 (CS) and the Site Allocations Local Plan 2016 and now forms part of the statutory development plan. Policies 6 and 9 of the CS, as referred to on the decision notice, are therefore no longer relevant. Policies EN 1, H 1, H 2 and H 3 are, however, relevant and the appellant has had an opportunity to comment on these.
4. The Royal Tunbridge Wells Town Centre Plan Draft Version 2040 (TCP) is at an early stage of preparation. Consequently, only limited weight can be given to it.
5. On 16 December 2025, the Government commenced consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. The consultation was accompanied by a Written Ministerial Statement. The proposed reforms to the Framework are in draft form

and therefore may be subject to change before the document is published. Consequently, whilst I have had regard to the consultation and the draft Framework, they carry limited weight, and it has therefore not been necessary to consult the parties on these changes.

6. Prior to the Hearing, the appellant submitted a draft legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended). The obligation concerned provision for affordable housing and local infrastructure. The obligations and undertakings within the agreement were discussed at the Hearing, and a completed Unilateral Undertaking (UU) was submitted shortly after the Hearing was closed.

Main Issue

7. The main issue is whether the proposed development would provide an effective and efficient use of brownfield land to provide an appropriate amount and mix of housing, including affordable housing.

Reasons

Site and surroundings

8. The appeal site is located within Tunbridge Wells Town Centre, adjacent to the primary shopping area as defined in the LP. The town centre location is well served by sustainable modes of transport, including bus services and train services from Tunbridge Wells railway station. The site is in Park ward, which extends away from the Town Centre towards Pembury and includes the Hawkenbury and Sandon Park areas of Tunbridge Wells, as well as large rural areas.
9. The site consists of two linked office buildings. The parties agreed that the site comprises previously developed (brownfield) land and that the demolition of the existing buildings would be acceptable. Development in the area comprises a variety of scales, including larger buildings such as the civic buildings opposite the site. A considerable development is under construction at the Former Cinema Site, Mount Pleasant Road and would consist of a part-seven-storey building at the junction with Crescent Road. However, the buildings on either side of Crescent Road are typically two- and three-storey in scale and include a mixture of townhouse and terraced forms.
10. As development extends away from the town centre, the density of development decreases with a prevalence of larger detached properties. The site is close to a number of designated heritage assets, including the neighbouring Grade 2 listed building at the Hotel du Vin (formerly the Calverley Hotel) and the Calverley Grounds Registered Park and Garden (RPG). Moreover, the site is wholly within the Tunbridge Wells Conservation Area (CA).
11. The proposal is for 44 dwellings, following the demolition of the existing buildings at the site. The dwellings would primarily be arranged as three rows of terraces parallel to Crescent Road, with a shorter terrace of four dwellings close to the boundary with the Hotel du Vin and perpendicular to the other terraces. The proposed buildings would be of a similar scale to the existing development within Crescent Road, including the Hotel du Vin.

Use of Brownfield Land

12. The development consisting of the proposed mix of housing would have a density of 75 dwellings per hectare (dph). Although there is variety in built form in the area, including lower density development, the town centre location of the site is an area where existing development is typically at a higher density than that proposed. This includes the development under construction at the Former Cinema Site, which is identified as having a density of 156 dph.
13. Policy STR 3 of the LP states that proposals that provide for the effective use of disused brownfield land and buildings in sustainable locations and that proposals within town centres will be expected to make optimal use of land, in accordance with Policies EN 1 and H 2. Policy EN 1 of the LP states, amongst other things, that density must respect site characteristics including its topography, natural features, relationship with immediate surroundings, historic setting, and views into and out of the site. This is further reflected in Policy H 2, which requires that development should make efficient use of land, having full regard to the context of the site, including its character, landscape setting, topography, surrounding built form, and access to infrastructure and services.
14. The policies have a similar approach to the Framework, which sets out criteria to take into account to ensure that development makes efficient use of land. While the identified need for different types of housing is the first criterion, this does not demonstrate that it is of more importance than the other four criteria. It is thus necessary to consider the criteria as a whole to ensure that a development makes efficient use of land.
15. Given the location of the site within Tunbridge Wells Town Centre and its high level of accessibility, the parties agreed that the proposal should seek to optimise the use of land in accordance with Policy H 2. The Council confirmed that the LP does not include minimum density standards for development within the town centre or the Borough as a whole, but development should be the maximum of what the site can achieve. Nonetheless, the Council acknowledged that there are factors that would influence how the site could be optimised and could limit the amount of development.
16. The Council accept that the site is in a sensitive position and that the proposed development is an acceptable design solution given the constraints of the site and its surroundings. Policies EN 1 and H 2 distinctly require full regard to be had to the context of the site. The development has primarily been design-led and has sought to take into account the context of the site, including the character and surrounding built form. The proposed townhouse typology is accepted by Historic England (HE) to be the least harmful option to deliver a new use for the vacant site, and the Council accepts that the development is of a design that is generally in-keeping with the character of the surrounding area.
17. The Council identified other developments within Tunbridge Wells where the schemes have a density in excess of that proposed at the site. The sites referred to are either under construction or have been allocated within the LP. In addition to the Former Cinema Site, the development at the former bus depot at St John's Road would have a density of 159 dph, considerably in excess of that proposed. However, although the details submitted in respect of these developments are limited, these schemes were primarily for C2 assisted living units and units

targeted at older residents, and do not provide a reasonable or direct comparison to the appeal proposal. Moreover, there is no suggestion from the Council that the circumstances at these sites allow for an appropriate comparison to be made with the appeal proposal.

18. The Council has also referred to sites allocated in the LP within Tunbridge Wells. Each of the sites identified are allocated for residential development at a higher density than that proposed. The Council suggests that this demonstrates the level of density that new development should achieve in Tunbridge Wells. However, the Council acknowledge that the circumstances of each site are different and that the current appeal site experiences a significant number of constraints that place restrictions on what can be achieved on the site.
19. The appellant carried out feasibility studies of alternative options for development at the site. This included higher density development, incorporating alternative scales of development with a wider mix of housing than that proposed. While the parties agreed that the alternative schemes do not represent a valid fall back to the appeal proposal, the Council's viability consultants concluded that the options presented were unlikely to be viable. The most viable option, which was identified as Option 3a, included a mix of townhouse and apartments that would better reflect the recommendations of the SHMA. However, the review carried out by Council's viability consultants included adopting the Building Cost Information Service (BCIS) median rate for construction costs. Given the topography and brownfield nature of the site, it is likely that construction costs would be higher than the figures suggested under the BCIS median costs and would not represent a reasonable comparison. Consequently, Option 3a would be unlikely to be a viable option.
20. The Council presented a massing study produced by Arup as part of the preparation for the TCP. This provided an indication of how higher density development could be set out at the site and how it may relate to its surroundings. Nevertheless, the Council acknowledge that the work undertaken by Arup is at a high level and the details were provided to demonstrate alternative massing and density at the site. These details are indicative and do not form part of the proposal or any formal alternative scheme. Moreover, due to the early stage of preparation of the TCP, the weight I can attribute to this information is minimal.
21. The evidence before me demonstrates that a higher density scheme with an alternative mix of housing would be unlikely to be viable and therefore would not be deliverable. Furthermore, an alternative design response including an increase in scale and massing to accommodate a greater number and wider mix of housing sizes may not be achievable given the limited size and the constraints of the site, including its topography and its position within the CA and in relation to the nearby designated heritage assets.

Amount and mix

22. The proposal comprises a mix of 30 four-bedroom dwellings and 8 three-bedroom dwellings. In addition, the development would provide 5 two-bedroom and 1 one-bedroom affordable units. Policy H 1 of the LP states that proposals for residential development should support the creation and maintenance of balanced communities by providing an appropriate housing mix with a range of sizes, types, and tenures of dwellings and that the mix should reflect any requirements set out

in relevant policies in the LP or a 'made' neighbourhood plan for the area. There is no dispute that the site is not within a Neighbourhood Plan area. Moreover, the Council confirmed that there are no other relevant policies in the LP setting out any specific requirements in relation to housing mix.

23. The policy further states that the mix may be informed by intelligence on local housing needs and demand, including that contained in local planning evidence base documents, parish housing surveys, and other relevant analyses. The Sevenoaks and Tunbridge Wells Strategic Housing Market Assessment 2015 (SHMA) and the Tunbridge Wells Housing Needs Survey 2018 (HNS) formed part of the evidence base for the LP and identified the type of housing needed and preferred in the area. Although the recommended appropriate mix of housing set out in Table 78 of the SHMA has not been taken forward into the LP, it provides an indication of the type of housing needed for the plan period. The SHMA shows that the strongest demand for market housing is for three-bedroom dwellings and whilst this is followed by two-bedroom dwellings, the SHMA has also identified a clear need for four-bedroom dwellings in the Borough.
24. The HNS sets out the preferences and expectations for housing in the Borough. In comparing the stock at the time of the survey, the HNS identified a shortfall in the provision of housing of a range of sizes. However, the HNS noted that there was ample provision of flats and apartments of all sizes in Park ward. Although the data within SHMA and HNS has informed the preparation of policies of the LP, in particular Policy H 1, they date from 2015 and 2018 respectively and the Council acknowledged that the data is aged.
25. In addition to the SHMA and the HNS, the appellant has referred to advice received from a local estate agent in determining the market demand for housing in the area. The advice noted a significant oversupply of apartments and a strong demand for three and four-bedroom townhouses. While no contrary evidence has been provided that would contradict the advice given, the weight attributed to the advice is restricted by the paucity of evidence from other sources to corroborate this advice.
26. Data from the Department of Levelling Up, Housing and Communities and the Valuation Office Agency presented by the appellant indicated that changes in the dwelling stock between 2013 and 2024 had largely aligned with the recommended appropriate mix of housing set out in the SHMA. While the datasets are inconsistent with each other and their precision is limited, they do show a considerable under delivery of three-bedroom dwellings and an over-delivery of one-bedroom dwellings during the specified period. Moreover, the figures set out in the Council's Housing Land Supply Statement 2024 show that the supply of three and four-bedroom market dwellings is below proportions of the recommended mix set out in the SHMA.
27. The proposed mix of housing is heavily weighted towards three-bedroom and particularly four-bedroom dwellings and would not address all of the needs and preferences identified within the SHMA and the HNS. Moreover, the mix of housing is not reflective of the proportions of the recommended mix in the SHMA and does not fully meet the aspirational range of housing types within the HNS. However, the Statement of Common Ground (SoCG) acknowledges that the development would deliver 38 three and four-bedroom dwellings, which would

address some identified local housing needs for three and four-bedroom, family-sized market homes.

28. The supporting text to Policy H 1 indicates that an appropriate mix will usually include a range of sizes and forms of residence within the site, but recognises that there will be locations where there is a dominance of particular housing types and sizes. However, the supporting text notes that the policy is not prescriptive and the evidence submitted indicates that the range of housing sizes that the development proposes would meet the needs of different types of families and provide adaptable homes that could meet the lifetime needs of future occupants.
29. The Council state that the preference would be to include a greater number of two-bedroom dwellings, whilst larger dwellings could be provided elsewhere within Park ward where a lower density may be more appropriate. Nevertheless, the Council has not presented any substantive evidence, including details of other approved developments, that demonstrates that larger dwellings would be provided elsewhere. Furthermore, while the provision of a greater number of two-bedroom dwellings would be preferable to the Council and may be more aligned with the recommendations of the SHMA, the evidence before me indicates that such a scheme would be unlikely to be viable. In any event, I must consider the proposal before me rather than any theoretical options or alternative schemes that may be preferred by the Council.

Affordable housing

30. The proposal would include 6 affordable homes consisting of 5 two-bedroom and 1 one-bedroom shared ownership flats. Policy H 3 of the LP states that sites comprising over half brownfield land (i.e. previously developed land) delivering a net increase of more than nine dwellings will be expected to include a minimum of 30 percent of the gross number of residential units as on-site affordable housing provision.
31. Although the proposal would not deliver the required on-site provision, following an independent viability assessment, the Council agreed that there are exceptional circumstances and the provision of the expected level of on-site affordable housing would not be viable. In addition to the on-site affordable housing, a financial contribution for off-site affordable housing would be provided as part of a planning obligation. The Council has not disputed this approach and agreed the financial contribution.
32. Policy H 3 of the LP includes a requirement for further viability assessments at agreed stages of the development, and there is no dispute that the planning obligation would include a late-stage review to this effect. The late-stage review would provide a mechanism to seek greater compliance with Policy H 3 over the lifetime of the project in the event that the development would be more profitable than expected. The PPG states that such review mechanisms should not be used to avoid policy compliance or reduce agreed contributions.
33. The parties differ in the figure relating to the application stage gross development value (GDV). This stems from whether the costs of the development should include holding costs associated with the existing buildings at the site. While the Council's viability consultants note it is uncommon to include these costs, they are nonetheless known costs that add to the overall costs of developing the site rather than risks that could affect the financial viability of the development. Although not

specifically referred to, the PPG notes that costs include general finance costs as well as abnormal costs including costs associated with brownfield, phased or complex sites and should be taken into account when defining benchmark land value.

Conclusion

34. While the proposed amount and mix of housing would not meet the Council's expectations and meet all the identified needs and preferences, the proposal would nonetheless meet some of the types of housing identified within the SHMA and HNS and would deliver 44 homes within a suitable location, including 6 affordable homes. Moreover, it has been demonstrated that alternative schemes with a greater spread of housing types would be unlikely to be viable and deliverable. Accordingly, the development would optimise the use of the site at a suitable density and would incorporate an appropriate mix of housing.
35. I conclude that the proposal would provide an effective and efficient use of brownfield land at a suitable density to provide an appropriate amount and mix of housing, including affordable housing. The development therefore accords with Policies EN 1, H 1, H 2 and H 3 of the LP, as set out above.

Other Matters

Heritage Assets

36. The site is close to several designated heritage assets, including the Grade II listed buildings at the Hotel du Vin (formerly the Calverley Hotel), part of the wall to the front of the site, the Lloyds bank building (82 Mount Pleasant Road) and the buildings forming the civic complex and 9 & 10 Crescent Road on the opposite side of Crescent Road. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCAA') requires special regard be had to the desirability of preserving listed buildings, their setting and any features of special architectural or historic interest which they possess.
37. The Hotel du Vin dates from the early 19th century and is built of Tunbridge Wells stone. Before being enlarged and becoming a hotel, the Duchess of Kent and Princess Victoria (later Queen Victoria) stayed at the house. The low wall to the front of the hotel, constructed of Tunbridge Wells stone blocks is also a Grade II listed building. The special interest of these buildings arises in part from their historical and architectural interest, which, despite alterations remain legible and illustrative of their original design. Significance and special interest are also derived from the buildings' historic function and relationship with Crescent Road, including the appeal site, which forms part of their setting.
38. The Lloyds bank building dates from the late 19th Century and is finished with ragstone. The building addresses both Crescent Road, with a hipped stone weatherporch, and Mount Pleasant Road, with a three light bay from basement to first floor level. The special interest of the building partly arises from its architectural interest and its prominent position within, and relationship with, the town centre.
39. The buildings forming the civic complex comprise the Town Hall, Assembly Hall and Police Station and Courts are opposite the site. The buildings are a good example of interwar municipal buildings, built in 1939 by Percy Thomas and

Ernest Prestwich in a neo-Georgian-style with 'Moderne' details. Their position within the town centre at a wide junction emphasises that these are important civic buildings within Tunbridge Wells.

40. The building forming 9 & 10 Crescent Road is set back towards the rear of the Police Station and comprises the remaining pair of a series of houses finished in Tunbridge Wells stone with a hipped slate roof. The building dates from the early 19th century and its special interest arises in part from its historical and architectural interest through its association with the buildings forming Calverley New Town.
41. Beyond the Hotel du Vin are the Grade II* listed buildings comprising Victoria Lodge, Calverley Park Crescent and 1-24 Calverley Park. This collection of buildings, in addition to the Hotel du Vin and 9 & 10 Crescent Road, forms Calverley New Town and through their group value, their significance is enhanced. The buildings each have significance owing to their forms and style, being reminiscent of the formal types of architecture procured for the middling and aspirational members of society at the time.
42. Victoria Lodge is an early 19th Century high carriage arch with rooms on either side. The arch is historically significant in imposing the grandeur intended for Calverley New Town and provides a framing device for the entrance to the villas at 1-24 Calverley Park. Consequently, Victoria Lodge forms a group of buildings including 1-24 Calverley Park. The villas constructed by the architect Decimus Burton are predominantly Georgian neoclassical, which includes a variety of Italianate, Old English and Neo Gothic elements in their forms of 1-24 Calverley Park. The villas and Victoria Lodge have historical significance as a piece of comprehensive urban town planning based around a designed landscape and have further significance through being one of the most major pieces of urban planning completed by Burton.
43. In addition, the site is within the Tunbridge Wells CA, which covers a large area of Tunbridge Wells. The site falls within the Town Centre character area, but is historically associated with the Calverley Park character area. As required by Section 72(1) of the LBCAA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area.
44. The special interest of the CA includes the municipal buildings, ecclesiastical structures, and The Pantiles. It also includes areas of housing synonymous with the expansion of the town after the railways arrived and designed landscapes. The site is also bounded to the side and rear by the Grade II listed Calverley Park and Grounds RPG. This is primarily a public park comprising mature landscaping positioned on the plateau and steep, south-facing slopes of Mount Pleasant and extends across the floor of the narrow west-facing valley. From the higher slopes and the plateau there are extensive views through tree cover, over Tunbridge Wells and to the more distant countryside.
45. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
46. The existing buildings have a negative impact on the significance of the Hotel du Vin and a neutral contribution to the significance of the CA and the buildings forming the Civic Complex opposite the site, as well as Victoria Lodge, Calverley

Park Crescent and 1-24 Calverley Park. The scale and sensitive design of proposed development would lead to an enhancement of the significance of the Hotel du Vin. Moreover, due to the limited intervisibility between the site and Victoria Lodge, Calverley Park Crescent, 9 & 10 Crescent Road and 1-24 Calverley Park, the proposal would sustain their significance. The proposal would therefore meet the expectations of S66(1) of the LBCAA, the historic environment policies of the Framework and Policy EN 4 of the LP.

47. The proposal includes the removal of trees, including a Wellingtonia tree towards the rear of the site. The removal of the trees, particularly to the rear of the site would erode the character and appearance of the CA and that of the RPG. In terms of the Framework, this would lead to less than substantial harm to the significance of the CA and the RPG. Both the Council and HE concur. The impact in relation to the CA as a whole would however be minor given the extent of the CA and the limited number of trees to be removed, at the lower end of the less than substantial scale. That said, such harm to each of the designated heritage assets would not equate to less than substantial importance and weight; indeed, I attach considerable importance and weight to these harms. In accordance with Paragraph 215 of the Framework, the harm identified needs to be weighed against the public benefits of the scheme.
48. Public benefits of the scheme including the delivery of market and affordable housing in a sustainable location. The design of the development would be more sympathetic to local character than the existing buildings that would be replaced. Whilst new landscaping is proposed this would weigh neither for or against the proposal as this would be expected of any well-designed development and would, in any event, be necessary to mitigate the loss of trees.
49. Cumulatively, it is my judgement that these benefits would outweigh the less than substantial harm that would be caused to the significance of the CA and RPG as designated heritage assets. Accordingly, the proposal complies with the historic environment policies of the Framework, the expectations of S72(1) of the LBCAA and Policy EN 4 of the LP. It is noteworthy that the Council found similarly in this regard.

Biodiversity Net Gain

50. Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act) introduced a statutory framework for biodiversity net gain (BNG). Under the statutory framework, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the Biodiversity Gain Condition (BGC).
51. The objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits. The biodiversity gain condition is a pre-commencement condition: once planning permission has been granted, a Biodiversity Gain Plan (BGP) must be submitted and approved by the planning authority before commencement of the development.
52. It is proposed that the BGC would be met primarily through off-site measures, including the purchase of off-site credit units. The Council did not have any concerns with this approach. If the 10% net gain could not be achieved onsite, the

purchase of credits, or an agreement with a relevant off-site provider, would need to be secured through a planning obligation. Such an obligation could form part of the BGP required by the deemed condition. Therefore, granting planning permission without a formal mechanism in place, to secure off-site gains or credits, would not affect the Council's ability to ensure that the BNG objective is achieved at a later stage.

Car Parking

53. The development would lead to a loss of on-street parking within Mount Pleasant Avenue. In addition, the proposal includes a lower provision to the adopted standards of on-site parking for future occupants. Nonetheless, a financial contribution would be made towards compensatory parking in the area, whilst the site's location close to sustainable modes of transport and everyday facilities and services would reduce the need for occupants to use private vehicles. Based on the evidence before me, I am satisfied that the proposal would not harm highway safety due to indiscriminate parking.

Effect on Water Supply

54. Concerns have been raised that the site is in an area that is subject to water shortages. While South East Water acknowledges the challenges to ensure sufficient reliable supplies, it considers that the Water Resources Management Plan is sufficient to demonstrate how this would be managed. In the absence of any substantive evidence to the contrary, I see no reason to consider that the proposal would alter this position.

Planning Obligation

55. I have considered the obligations within the submitted UU in light of tests for obligations outlined at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 ('the CIL Regulations') which are reflected in the Framework. These tests require that obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
56. The completed UU contains a number of obligations. It secures the payment of financial contributions in relation to education, healthcare, parking, learning/social care and libraries, children's services, adult social care, waste and sports and recreation facilities. The obligation also commits to providing a total of 6 affordable homes and a financial contribution in lieu of on-site provision. The UU includes a late-stage review mechanism to allow for an additional contribution to be made in the event that the development is more viable than what has been estimated.
57. With regard to the evidence provided, I consider that all of these obligations would be required to address the impacts of the development, and I am satisfied that they would in each case be necessary to make the development acceptable in planning terms, directly related to the development proposed and fairly and reasonably related in scale and kind to it, in accordance with the Framework and the Community Infrastructure Levy (CIL) Regulations 2010. I have therefore taken these obligations into account in my decision.
58. The UU also includes provision for a financial contribution towards tree planting in Calverley Grounds Park. The contribution was suggested to be included to offset

the loss of the Wellingtonia tree within the site. However, there is little detail to show how the contribution was calculated, whilst a suggested planning condition would require a scheme for landscaping, including tree planting. It is not therefore clear that the contribution would be necessary to make the development acceptable nor that it would be fairly and reasonably related in scale and kind to the development so as to meet the tests in the CIL Regulations. In accordance with Clause 4.1.2 of the UU, this obligation shall have no effect and consequently the owner and/or other covenanters shall not have liability for payment or performance of the tree planting contribution. I have not taken this matter into consideration in my decision.

Conditions

59. Suggested planning conditions have been provided by the Council. I have considered the conditions having regard to the Framework and advice contained in the Planning Practice Guidance. I have adjusted the wording of some conditions to improve precision.
60. In addition to the standard time limit condition, I have imposed Condition 2 requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
61. Condition 3 requiring the submission of construction management arrangements is required to safeguard the living conditions of local residents and to prevent adverse impacts on the local road network during the construction phase. As this relates to the early stages of the development, it is necessary for this condition to be discharged prior to the commencement of the development.
62. Condition 4 is required to preserve the quality of the environment, including the CA and the setting of the designated heritage assets. In addition, Condition 5, removing permitted development rights for the gates, walls, fences and other means of enclosure, is included as it is necessary and clearly justified to preserve the CA and the setting of the listed buildings and RPG.
63. Condition 6 is necessary to provide an appropriate public realm and suitable play equipment, whilst Conditions 7, 8, 9 and 10 are necessary to protect the character and appearance of the area, including the retention of trees at the site.
64. Conditions 11 and 12 are required to control surface water run-off and minimise the risk of flooding. To enhance the public realm, Condition 13 is necessary to allow access to be gained from the site to Calverley Grounds.
65. Conditions 14 and 15 are necessary to ensure the sustainability of the development, including incorporating renewable energy and energy efficiency features. To provide suitable parking for future occupants and appropriate cycle and refuse storage facilities, Conditions 16 and 17 are reasonable and necessary. Although the Council suggested the removal of permitted development rights in respect of the parking spaces, this is not necessary given that the condition requires the spaces to be used for parking only. The local environment and living conditions of occupants of neighbouring properties would be safeguarded through the inclusion of Condition 18.
66. Conditions 19 and 20 are necessary given the proposed sensitive use for human occupation. To safeguard protected species, Condition 21 is included and is

adjusted to include reference to demolition and site clearance as these elements of the development could affect protected species. Conditions 22 and 23 are required to ensure that suitable living conditions in respect of noise would be provided for future occupants and occupants of neighbouring properties. Condition 24 is included to seek to limit crime and the fear of crime.

67. In the interests of highway safety, including pedestrian safety, and to encourage sustainable modes of transport, Conditions 25, 26 and 27 are necessary. Conditions 28 and 29 are necessary to preserve the significance of heritage assets, including the boundary wall and any archaeological remains.
68. Condition 30 is necessary in the interests of the character and appearance of the area and to safeguard the living conditions of occupants of neighbouring properties.

Conclusion

69. The proposed development would accord with the development plan and material considerations do not indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 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 numbers:
 - 4688-AWW-XX-00-DR-A-02110-P02 (Site Location Plan)
 - 4688-AWW-XX-ZZ-DR-A-02200-P07 (Proposed Site Plan – Lower Ground)
 - 4688-AWW-XX-ZZ-DR-A-02201-P08 (Proposed Site Plan – Crescent Road West Entry Level)
 - 4688-AWW-XX-ZZ-DR-A-02202-P08 (Proposed Site Plan – Crescent Road East Entry Level)
 - 4688-AWW-XX-XX-DR-A-02325-P03 (Apartment Building Elevations)
 - 4688-AWW-XX-ZZ-DR-A-02220-P02 (House Type 1 - GA Plans)
 - 4688-AWW-XX-ZZ-DR-A-02221-P02 (House Type 2 - GA Plans)
 - 4688-AWW-XX-ZZ-DR-A-02222-P02 (House Type 3 - GA Plans)
 - 4688-AWW-XX-ZZ-DR-A-02223-P02 (House Type 4 - GA Plans)
 - 4688-AWW-XX-ZZ-DR-A-02224-P02 (House Type 5 - GA Plans)
 - 4688-AWW-XX-ZZ-DR-A-02224A-P01 (House Type 5a - GA Plans)
 - 4688-AWW-XX-RF-DR-A-02203-P07 (Roof Plan)
 - 4688-AWW-XX-XX-DR-A-02350-P03 (House Type 1 - Detail Elevations)
 - 4688-AWW-XX-XX-DR-A-02351-P03 (House Type 2 - Detail Elevations)
 - 4688-AWW-XX-XX-DR-A-02352-P03 (House Type 3 - Detail Elevations)
 - 4688-AWW-XX-XX-DR-A-02353-P03 (House Type 4 - Detail Elevations)
 - 4688-AWW-XX-XX-DR-A-02354-P03 (House Type 5 - Detail Elevations)
 - 4688-AWW-XX-XX-DR-A-02355-P01 (House Type 5a - Detail Elevations)
 - 4688-AWW-XX-ZZ-DR-A-02225-P04 (Apartment Plans)
 - 4688-AWW-XX-XX-DR-A-02310-P03 (Site Sections – Sheet 1)
 - 4688-AWW-XX-XX-DR-A-02311-P04 (Site Sections – Sheet 2)
 - 4688-AWW-XX-XX-DR-A-02312-P04 (Site Sections – Sheet 3)
 - 4688-AWW-XX-XX-DR-A-02313-P04 (Site Sections – Sheet 4)
 - 4688-AWW-XX-XX-DR-A-02320-P02 (House Type 1 Elevations – North Terrace Houses 31-38)
 - 4688-AWW-XX-XX-DR-A-02321-P02 (House Type 2 Elevations – North Terrace Houses 27-30)
 - 4688-AWW-XX-XX-DR-A-02322-P03 (House Type 3 Elevations – Houses 14-22)
 - 4688-AWW-XX-XX-DR-A-02323-P03 (House Type 4 Elevations – South Terrace Houses 1-13)
 - 4688-AWW-XX-XX-DR-A-02324-P02 (House Type 5 Elevations – East Terrace Houses 23-26)
 - 4688-AWW-XX-XX-DR-A-02360-P03 (Boundary Details – Sheet 1)
 - 4688-AWW-XX-XX-DR-A-02361-P03 (Boundary Details – Sheet 2)
 - 4688-AWW-XX-RF-DR-A-02207-P01 (Site Permeability and Connection into Calverley Grounds)
 - 1039.0001.002-P05 (Access Visibility Assessment)
 - 1039.0001.003-P05 (Removal of Permit Parking)

- 1039.0001.006-P02 (Pedestrian Secondary Access Visibility)
 - Ecological Assessment (Greenspace, July 2024)
 - Travel Plan (Paul Basham Associates, February 2024)
- 3) Prior to the commencement of both demolition and the construction phases of the development, a Construction Environmental Management Plan (CEMP) relating to each phase shall be submitted to and approval in writing by the Local Planning Authority. The CEMP shall include:
- An indicative programme for carrying out the works;
 - Measures to minimise the production of dust on the site(s);
 - Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s);
 - Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s);
 - Design and provision of site hoardings;
 - Management of traffic visiting the site(s) including temporary parking or holding areas;
 - Provision of off road parking for all site operatives;
 - Measures to prevent the transfer of mud and extraneous material onto the public highway;
 - Measures to manage the production of waste and to maximise the re-use of materials;
 - Measures to minimise the potential for pollution of groundwater and surface water;
 - The location and design of site office(s) and storage compounds;
 - The location of temporary vehicle access points to the site(s) during the construction works;
 - The arrangements for public consultation and liaison during the construction works.

The development shall be carried out in accordance with the approved CEMP.

- 4) Prior to commencement of the relevant element of construction work above slab level, detailed plans and information regarding the following elements shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details:
- a) The materials for final surfacing and kerbing through the development (including details showing dedicated and continuous footway routes will be demarked, and use of a bound surface for the first 5 metres of the access from the edge of the highway);
 - b) Full details of all windows and doors;
 - c) Written details including manufacturer of all external materials for the buildings;

- d) Details of the existing and proposed ground levels detailing any changes to levels and including finished slab levels and any retaining structures and areas of cut and fill. Such matters to be demonstrated through long-sections showing how the site relates to surrounding development;
 - e) Full details of all boundary treatment to be used within the development.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification), no gates, walls, fences or other means of enclosure (other than as hereby approved or approved pursuant to condition 4 of this permission) shall be erected.
- 6) Prior to first occupation of any part of the development hereby approved, detailed plans and information regarding the following aspects of the proposed development shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details:
- Details of the on-site play areas, as shown on the approved plans including details and finished levels, contours, surfacing materials, and vandal resistant play equipment;
 - Provision of fencing at a minimum height of 1.2m, along with dedicated entry and exit points (to enable adult supervision);
 - Details of seating, litter bins, and signs/artwork (where applicable);
 - Full details of all wayfinding measures, to be based on the approved plan no. 4688-AWW-XX-RF-DR-A-02207-P01.

All of the above shall be retained as approved thereafter.

- 7) Prior to first occupation of any part of the development hereby approved, a full landscaping scheme for the site (which may include new planting, retention of existing planting or a combination) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion of the development. Any trees or other plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 8) A landscape management plan, including long term design objectives, management responsibilities, maintenance schedules and a timetable for implementation for all landscape areas, other than privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved. The landscape management plan shall be carried out as approved.
- 9) Prior to the commencement of development, an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken in accordance with the approved details.

The approved development shall be carried out in such a manner as to avoid damage to the existing trees, including their root systems, and other planting to be retained by observing the following:

- a) All trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with the TPP and AMS. Such tree protection measures shall remain throughout the period of construction;
 - b) No fires shall be lit within the spread of branches or upwind of the trees and other vegetation;
 - c) No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation;
 - d) No roots over 50mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or Root Protection Areas of the trees and other vegetation;
 - e) Ground levels within the spread of the branches or Root Protection Areas (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level;
 - f) No trenches for underground services shall be commenced within the Root Protection Areas of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained unless as agreed in writing by the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.
- 10) All existing trees, hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All trees, hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any trees, or parts of hedges or hedgerows removed or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of similar size and species.
- 11) No development (except for demolition/site clearance) shall begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Drainage Strategy Report prepared by Tullys dated 10.07.24 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The development shall be undertaken in accordance with the approved plans.

- 12) No building on any phase of the development hereby approved shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.
- 13) The new pedestrian access linking the development hereby approved and Calverley Grounds shown on the approved plans no. 4688-AWW-XX-ZZ-DR-A-02200-P07, 4688-AWW-XX-ZZ-DR-A-02201-P08 and 4688-AWW-XX-ZZ-DR-A-02202-P08 shall be made available for public use prior to the first occupation of the southern terrace. It shall thereafter be retained free and unobstructed as a public walkway.

Prior to the first occupation of the development a management plan for the operation of the gate between the application site and Calverley Grounds shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include details of any periods the gate will be closed and contact details in the event of vandalism, or in the event of the gate malfunctioning, or any other event that prevents pedestrian access to Calverley Grounds via this route.

The pedestrian access and gate shall thereafter be retained and operated in accordance with the approved management plan in perpetuity.

- 14) Notwithstanding the approved plans, prior to the commencement of construction work above slab level, full written and illustrative details for renewable energy technologies and energy saving measures within the development shall be submitted to and approved in writing by the Local Planning Authority. This submission shall include details of EV charging points and passive provision to any parking areas not served by EV points. All Electric Vehicle chargers provided within the development shall be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wi-Fi connection). The development shall be undertaken in accordance with the approved details, prior to the first occupation of the development.
- 15) Before development commences (excluding demolition) works to facilitate the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 1000mb OR nearest maximum available broadband strength in the area) connections to multi point destinations and all new buildings shall be carried out within the development hereby approved.
- 16) The area shown on the approved plans as vehicle parking space and turning shall be provided, surfaced and drained in accordance with details approved under condition 4 before first occupation of the relevant phase of the development hereby approved, and shall be retained for the use of the occupiers of, and visitors to, the development.

- 17) Prior to the commencement of construction work on the buildings hereby approved above slab level, full details of bicycle and refuse storage facilities shall be submitted to and approved in writing by the Local Planning Authority. These shall be completed in accordance with the approved details and made available for use prior to first occupation of the development hereby approved and shall thereafter be retained.
- 18) Prior to the first occupation of any part of the development hereby approved details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority.

These shall include a lighting layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and shall include lighting of publicly accessible areas alongside lighting attached to buildings. The external lighting scheme shall demonstrably reflect the lighting recommendations within para 6.4.17 of the approved Ecological Impact Assessment (Greenspace, July 2024) with regards to impacts upon bat species. The approved scheme shall be installed, maintained and operated in accordance with the approved details.

- 19) Prior to the commencement of the development (excluding demolition) the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority.

A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment by Delta Simons dated January 2024 ref 97006.578038). This shall give full details of the remediation measures required and how they are to be undertaken. The RMS shall also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS 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 express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

- 20) Prior to the first occupation of any relevant phase of the development a closure report shall be submitted for approval to the local planning authority. The closure report shall include full verification details as set out in the approved remediation strategy.

This shall include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean. The scheme shall thereafter be implemented as approved.

- 21) The development, including demolition and site clearance, shall be carried out in strict accordance with the recommendations for all protected species identified within section 6.4 of the approved Ecological Impact Assessment (Greenspace, July 2024).

Prior to the commencement of construction work above slab level, full details of biodiversity enhancement measures (which shall be based on the recommendations within section 7 of the approved Ecological Impact Assessment (Greenspace, July 2024)) along with a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and the enhancements shall thereafter be retained in perpetuity.

- 22) Prior to the commencement of construction work above slab level, a scheme to demonstrate that the internal noise levels within the residential units areas will conform to the standard identified by the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - shall be submitted to and approved in writing by the Local Planning Authority. The assessment should have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation and thermal comfort for future occupants. It is expected that higher levels of noise that require windows to be closed to meet BS8233 internal level specifications will need greater ventilation than the minimum standard in the Building Regulations in trying to achieve open window equivalence which will involve user control of ventilation rates to key rooms such as living rooms and bedrooms. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.
- 23) An acoustic assessment and subsequent report shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any plant and equipment to be installed on the site. The acoustic assessment and report shall be completed by a suitably qualified person to demonstrate that the rating level of noise emitted from any plant and equipment to be installed on the site (determined using the guidance of the current version of BS 4142 for rating and assessing industrial and commercial sound) is 5dB below the existing measured background noise level LA90, T. The equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic report, whenever it is operating.
- 24) The development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific security needs of the development in accordance with the principles and objectives of the Secured by Design initiative. Prior to the commencement of each relevant phase or plot (other than demolition, site clearance and ground works), details of these measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 25) Prior to the first occupation of the development hereby approved, the new vehicular and pedestrian accesses from Mount Pleasant Avenue shown on approved plan no. 4688 AWW XX ZZ DR A 02200 P07 shall be completed in accordance with the surfacing details approved under condition 4 and remain available for use thereafter.
- 26) Prior to the first occupation of any part of the site, the visibility splays shown on approved plan no.1039.0001.002 P05 at the vehicular access point, within which there shall be no obstruction in excess of 0.6m in height above the carriageway

edge, shall be provided at the access and the splays shall be so maintained at all times.

Prior to the first occupation of any part of the site, the pedestrian visibility splays shown on approved plan no. 1039.0001.006 P02 at the new pedestrian access point on to Mount Pleasant Avenue, within which there shall be no obstruction in excess of 0.9m in height above the carriageway edge, shall be provided at the access and the splays shall be so maintained at all times.

- 27) The approved Travel Plan (Paul Basham Associates, February 2024) measures at Part 6 of that document shall be implemented and thereafter maintained within three months of the first occupation of any part of the development hereby approved.
- 28) Prior to the commencement of development (excluding the demolition of the existing building) the applicant, or their agents or successors in title, will secure:
- i. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority;
 - ii. further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority; and
 - iii. programme of post excavation assessment and publication.
- 29) The existing unlisted sandstone walls fronting Crescent Road and Mount Pleasant Avenue, along with the existing steps leading from Mount Pleasant Avenue, shall be retained as part of the development, except where otherwise permitted to be removed.

Prior to the first occupation of any part of the development hereby approved, details of a scheme for the ongoing repair and enhancement of the sandstone boundary walls which enclose the site and fall within the application boundary (including a timetable for implementation) shall be submitted to and approved in writing by the Local Planning Authority. The walls shall then be maintained in accordance with the approved details.

- 30) Prior to development commencing (except demolition and enabling works), a phased programme of works for the development, identifying the phases of development (including the means of access, layout of buildings, car parking and servicing arrangements) and their sequence of implementation, and identifying within each phase all areas to be developed or landscaped, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and programme.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Paul G Tucker – Barrister, Kings Chambers

Nicholas Alston BA(Hons) MRTPI – Avison Young

David Perkin BA(Hons) BArch ARB RIBA – AWW

Anthony Lee BSc(Hons), MSc (Econ), MA (TP), PhD, MRTPI, MRICS – BNP Paribas

David Taylor BSc(Hons), MA, MSt, MRTPI – Montagu Evans

Chris Callaway BA(Hons) MA – Paul Basham Associates

Guy Newman BSc(Hons) MCIEEM – Greenspace Ecological Solutions

FOR THE LOCAL PLANNING AUTHORITY:

Alison Hutchinson BA (Hons) MRTPI - Planning Consultant, on behalf of the LPA

Lucinda Roach BA(Hons) DipTP, Cert UD, DMS, MRTPI - Development Manager, TWBC

Jeremy Fazzalero BA(Hons) MSc IHBC ACIfA - Principal Conservation and Urban Design Officer, TWBC

Emily Hatch LLB (Hons) - Dixon Searle Partnerships, on behalf of the LPA

Nick Molyneux BA (Hons) CIHCM MRICS – Associate Director (Technical) – Dixon Searle Partnerships, on behalf of the LPA

INTERESTED PARTIES:

Cllr Hugo Pound

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING:

- Certified copy of the Planning Obligation