

DPV Consult

Castleoak Care Developments Ltd

Land forming part of Burston Garden Centre

St Albans

AL2 2DS

Planning Appeal Draft Statement of Common Ground Planning Matters

20 October 2021

Prepared by:

DPV Consult Limited
20 Clyde Road
London N22 7AE
www.dpvconsult.co.uk

DPV ref: DP/20004
LPA ref: 5/20/3022

Contents

1. Introduction.....	3
2. The Appeal.....	4
3. Site and Surroundings.....	7
4. Planning History	10
5. The Appeal Proposals.....	11
6. Planning Policy.....	12
7. Planning Issues	15
8. Conditions and S106 Matters.....	17
9. Signatories	27
Appendices	28

1. Introduction

- 1.1. This Statement of Common Ground has been prepared jointly by DPV Consult Ltd on behalf of Castleoak Care Developments Ltd ("The Appellant") and St Albans District Council ("The LPA").
- 1.2. The appeal by Castleoak Care Developments Ltd is made against the decision of St Albans DC on the 26 May 2021 to refuse planning permission for a new retirement community comprising 80 assisted living apartments with community facilities and 44 assisted living bungalows along with associated ancillary works on land to the rear of Burston Garden Centre, St Albans (LPA ref: 5/20/3022).
- 1.3. This Statement sets out general planning matters agreed and the extent of the matters of disagreement.

2. The Appeal

2.1. The description of development is agreed as follows:

“Demolition of all existing buildings, structures and hardstanding and redevelopment of the site to provide a new retirement community comprising 80 assisted living apartments with community facilities and 44 bungalows together with associated access, bridleway extension, landscaping, amenity space, car parking and associated and ancillary works”

2.2. Members of the Council's Planning Referrals Committee determined to refuse the application on 24 May 2021.

2.3. A decision notice dated 26 May 2021 sets out the Council's 3 reasons for refusing planning permission (RR); namely:

“1. The proposed development would comprise inappropriate development in the Green Belt which would cause in principle and actual harm to the openness of the Green Belt. The proposed development by reason of the quantum of development, together with the size of the assisted living building would be harmful to the character of the wider area. The case made for very special circumstances, together with the contribution towards the provision of housing is not considered to overcome this harm. As such the proposal is contrary to the NPPF 2019 and to Policies 1, 69 and 70 of the St Albans District Local Plan Review 1994.

2. The development would cause less than substantial harm to the grade II* listed Burston Manor and the grade II listed outbuildings. The urbanisation of the application site would sever the last tangible link between the Manor groups and its historic landscape setting. This would cause harm to its significance. The creation of the houses along the southern boundary of the Manor group, with the 3 storey blocks visible beyond together with the amount and scale of built form, would result in the complete reduction in Burston Manor's visual prominence in the surrounding land from the south and east. This would result in the complete loss of the perception that the Grade II* listed Manor house is a historic and important house, set in a wider agricultural setting. The formality of the proposed landscaping would completely erode the designed juxtaposition between the gardens around the Manor Group and the farmland around the site. The development would result in the severing of the last tangible link between the assets and their original setting. The historic relationship between the Burston Manor grouping and How Wood and Birchwood would be all but lost. The

proposed screening in itself would be a harmful addition as this further blocks the long range views from and to the Manor group, in particular those between the Manor group and How Wood and Birch Wood. The proposed screening would fully visually contain the designated heritage assets and substantially reduce the appreciable link between the Manor group and the land which it is associated with. Overall the proposals would result in less than substantial harm to the significance of the grade II and grade II listed buildings forming the Burston Manor group which is not outweighed by public benefits, including the provision of additional dwellings. In accordance with the Framework and the statutory obligation imposed, great weight is given to this harm. As a result, the development would conflict with Local Plan Policy 86 and the NPPF 2019.*

3. In the absence of a legal agreement to secure contributions towards; Community facilities, Travel Plan, bridleway improvements, footpath improvements, NHS Services, Highway projects, affordable housing, occupancy limitation, first marketing limitation the development fails to adequately mitigate its effect upon local services and infrastructure and secure the identified 'very special circumstances'. As such the development fails to comply with Policies 1 and I43B of the Local Plan and the NPPF 2019."

Statements of Common Ground

- 2.4. It is intended to produce separate statements of common ground on the following:
- Character and appearance impact assessment: to include the baseline and visual impact assessment;
 - Impact on openness;
 - Heritage: to identify the significance of Burston Manor (Grade II*) and the associated outbuilding, the Dovecote Granary (Grade II); the contribution which the appeal site makes to the significance of these heritage assets, the extent to which the change which the appeal scheme would give rise to on the appeal site will result in an impact upon the significance of these heritage assets; the gradation of that harm in terms of the scale of "less than substantial harm" for the purposes of the NPPF;
 - Need: to identify the extent of the issues (if any) that the Council has with the Appellant's housing and specialist needs assessment work.
- 2.5. The proposals will also be the subject of a S106 Agreement to address legal matters including satisfaction of infrastructure requirements which should address RfR3

The Planning Issues

- 2.6. It is common ground that the development would cause harm to the Green Belt by virtue of it being an inappropriate form of development and insofar as it would have some detrimental impact on the openness of the Green Belt. There is no dispute between the parties that substantial weight should be given to the harm caused to the Green Belt.
- 2.7. It is also agreed that the proposals would cause less than substantial harm to designated heritage assets. There is a dispute between the parties whether this harm is outweighed by the public interest benefits that the appeal scheme would deliver.
- 2.8. The key issue between the parties is whether there are Very Special Circumstances to justify the grant of planning permission, i.e. whether the harm caused by the scheme's inappropriateness, and any other harm the scheme would cause (including the less than substantial heritage harm it would cause) would be clearly outweighed by the scheme's public benefits.
- 2.9. The matters agreed and not agreed are considered in Section 7.

3. Site and Surroundings

Site Location

- 3.1. The site is located south of the A405 North Orbital Road some 3.6 km south of St Albans city centre and some 8 km north of Watford town centre within the countryside and designated Green Belt.

Site Characteristics

- 3.2. The site, which is 5.8 ha in size, falls within the eastern part of the wider Burston Garden Centre formerly used as a commercial rose production site. This part of the main site represents some 20% of the combined land holding. The site consists of 12 built structures and part structures.
- 3.3. The combined footprint of the 12 structures equates to 7,215 sqm. The sheds, polytunnels and glass houses have maximum heights ranging from circa. 8.8m to 9.8m. The largest buildings are located adjacent to both the western (sheds and glass houses) and southern boundaries (polytunnels) of Burston Manor.
- 3.4. There is a pocket of degraded rough grassland occupying the northeastern part of the site.
- 3.5. The site is generally flat.
- 3.6. The western flank boundary abuts the Burston nurseries outside of the site and comprises glasshouses and planting beds. To the north the Burston Manor House curtilage abuts the site. The majority of the boundary is formed with mature trees. A two-metre boundary fence runs the entire length of the eastern boundary separating the Site from a public bridleway. To the south, temporary heras fencing separates the Site from Birch Wood. The site seamlessly flows into the wider nursery complex with glass houses and outbuildings on the site's western edge.
- 3.7. The site is currently accessed through the storage and distribution area of Burston Carden Centre which is located between Burston Nurseries and the western boundary of Burston Manor and is used for ongoing nursery activities, including deliveries and external storage, single storey post-war buildings and glasshouses. Much of the site here is bounded by fencing with some palisade style security fencing present. The interface between the site and the A405 road presently comprises an access for the nursery and garden centre, and a separate access for the Manor House and other nearby buildings. Further security fencing provides some enclosure around additional car parking for the retail nursery which sits to the immediate northwest of the Burston Manor House grounds.
- 3.8. Notwithstanding the Green Belt status of the site, it is considered that the site is in sustainable location with direct access into the site is from the A405 North Orbital Road through an access which is shared with the main garden centre site. Pedestrian access from How Wood local

centre is also available via an existing bridleway to the southeast of the site, with the local centre located 200 yards away.

- 3.9. It is agreed that the Appeal Site is not a valued landscape under the Framework paragraph 170 definition and there are no other landscape designations are applicable other than is designation within a Landscape Development Area.

Surrounding Area

- 3.10. The adjacent land uses comprise:
- To the west and north-west is the existing Garden Centre (which is to continue operating) which comprises a series of large single storey buildings and structures, with extensive hardstanding. As the site is currently under the same ownership there is no boundary treatment separating this land from the subject site
 - To the north, Burston Manor comprises a series of single and two storey buildings including the Grade II* listed Manor building, and an adjacent Grade II listed outbuilding. At present, this land is separated from the subject site by a combination of large mature trees, high hedgerow and an open fence
 - To the north-east and east, the site is bounded by a close boarded fence immediately to the east of which is a public bridleway. Beyond this is a wooded area that separates the site from residential properties set on Mayflower Road and Grovelands
 - To the south-east is Birchwood Bungalow, dormer bungalow which operates as a care home (C2 use) and is served by a narrow access to its south (which links to the bridleway to the east of the site).
 - To the south of the site is an area of undeveloped land covered by mature trees known as Birch Wood. A telecommunications tower is also located adjacent to the southern boundary of the site.
 - To the south west of the site is undeveloped land.

Accessibility

- 3.11. The appeal site occupies a sustainable location on the rural-urban fringe of How Wood. There are pedestrian links from the site to How Wood Local Centre and Park Street Surgery (0.2 miles and 0.3 miles) and How Wood train station (0.5 miles), which provides connections to St Albans Abbey. The facilities within Chiswell Green to the north are also within close proximity, although this does require access over the A405.
- 3.12. The site benefits from excellent road links to the A405 (North Orbital Road), A414, M1 and M25. A Transport Link Plan and a Local Amenities Plan are provided in the Design & Access Statement.

Visual Receptors

- 3.13. In the wider surrounds, views from the site are largely restricted to the existing nursery complex. The principal public view is from the bridleway to the east and over a 2m close boarded fence. Views are contained to the east and south by the mature woodland planting. Slightly longer views are granted west over parts of the wider nursery outside of the site, though contained by tree screening beyond this. To the north views are granted, in places, into the gardens of Burston Manor House (with some views of the listed buildings within also possible) but only when very close to the site boundary. Further to the north-east views feed into the curtilages of later post-war housing, though partially screened by mature tree planting along the northern boundary.
- 3.14. In return views the site cannot be easily seen from the wider surroundings although some filtered private views are likely obtained from the limited number of dwellings which back onto the Site to the north and from within the wider nursery. The woodland with boundary fencing, in parts, limits views from the south and east. Visibility would be confined to short or medium range views from the bridleway.

Site Designations

- 3.15. Within the adopted Local Plan Proposals Map the site is located within the Green Belt and also within a Landscape Development Area. The site is also identified as an area of Archaeological Significance where planning permission may be subject to conditions regarding archaeological assessment.
- 3.16. There are two statutory listed buildings to the north of the site at Burston Manor; the Grade II* listed Manor Farm building; and an adjacent Grade II listed dovecote. The Site also lies adjacent to two County Wildlife Sites - Birchwood and How Wood.
- 3.17. The site is identified on the Environment Agency Flood Maps as being within Flood Zone 1 and therefore at low risk from flooding.

4. Planning History

- 4.1. Apart from the recently dismissed appeal (PINS ref. APP/B1930/W/19/3235642) there is no directly relevant planning history relating to the subject site itself.
- 4.2. Planning permission was granted in July 2015 for the provision of highway works to provide improvement and introduction of new signal controls at the Garden Centre access onto the A405 (LPA ref: 5/2014/3049).
- 4.3. The planning permission for the highway works has not been implemented and the permission has now expired.
- 4.4. The adjoining garden centre has an extensive planning history relating to the horticultural use. The most recent application relates to an extension to the existing garden centre to create a larger kitchen and restaurant, which was approved in May 2010 (LPA ref: 5/2010/0581). Amendments were later approved in May 2011 under a revised planning permission (LPA ref: 5/2010/2317). This permission has since been implemented.

5. The Appeal Proposals

5.1. The description of development is:

“Demolition of all existing buildings, structures and hardstanding and redevelopment of the site to provide a new retirement community comprising 80 assisted living apartments with community facilities and 44 bungalows together with associated access, bridleway extension, landscaping, amenity space, car parking and associated and ancillary works”

5.2. A schedule of documents submitted with the application is at **Appendix A**.

6. Planning Policy

6.1. The policies referred to below are relevant to the consideration of this appeal.

Development Plan Policy

6.2. Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that, when making a determination under the Planning Acts, the determination shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The relevant statutory development plan is the St Albans Local Plan Review 1994, which was adopted some 27 years ago.

6.3. The following “saved” Local Plan policies are considered to be relevant in the context of this proposal:

- Policy 1 - Metropolitan Green Belt
- Policy 34 - Highways Considerations in Development Control
- Policy 35 - Highways Improvements in Association with Development
- Policy 39 - Parking Standards, General Requirements
- Policy 43 - Elderly Persons Dwellings and Residential Homes Hostels, Parking Standards
- Policy 69 - General Design and Layout
- Policy 70 - Design and Layout of New Housing
- Policy 74 - Landscaping and Tree Preservation
- Policy 84a - Drainage Infrastructure
- Policy 86 – Buildings of Special Architectural or Historic Interest
- Policy 97 – Existing Footpaths, Bridleways and Cycleways
- Policy 104 - Landscape Conservation
- Policy 106 - Nature Conservation
- Policy 111 - Archaeological Sites
- Policy 143a - Watling Chase Community Forest
- Policy 143b – Implementation
- Revised Parking Policies and Standards, January 2002

Other Material Considerations

National Planning Policy Framework (2021)

6.4. The Framework is a material consideration in planning decisions. It sets out the Government’s planning policies for England and how they will be applied in terms of securing sustainable development. Sections of the Framework that are of particular relevance to the appeal proposals are:

- Section 1: Introduction (paras. 1 to 6)
- Section 2: Achieving sustainable development (paras. 7 to 14)
- Section 5: Delivering a sufficient supply of homes (paras. 60 to 80)
- Section 6: Building a strong competitive economy (paras. 81 to 85)

- Section 8: Promoting healthy and safe communities (paras. 9 to 103)
- Section 9: Considering development proposals (paras. 110 to 113)
- Section 11: Making efficient use of land (paras. 119 to 125)
- Section 12: Achieving well-designed places (paras. 126 to 136)
- Section 13: Protecting Green Belt land (paras. 137 to 151)
- Section 14: Meeting the challenge of climate change, flooding and coastal change (paras. 152 to 173)
- Section 15: Conserving and enhancing the natural environment (paras. 174 to 188)
- Section 16: Conserving and enhancing the historic environment (para. 189 to 208)

Planning Practice Guidance

- 6.5. The National Planning Policy Guidance (March 2014 and updated ad-hoc) places significant emphasis on the need for local authorities to meet their housing targets and clearly states that care home bedrooms (falling within Use Class C2) can contribute towards these objectives with specific reference to paras: ID: 3-043-20180913, ID: 2a-17-20190220, ID: 63-001-20190626, ID: 63-002-20190626, ID: 63-003-20190626, ID: 63-004-20190626, 005 Reference ID: 63-000-20190626 01 Reference ID: 63-010-2019062, ID: 63-012-20190626 and ID: 63-013-20190626), ID: 63-016-20190626, ID: 63-017-20190626 and ID: 63-019-20190626.

Supplementary Planning Guidance

- 6.6. The following policy / guidance is also relevant:
- Design Advice Leaflet No. 1: Design and Layout of New Housing, November 1988
 - Revised Parking Policies and Standards, January 2002

Emerging Planning Policy

- 6.7. The Council were in the process of preparing a new Local Plan to cover the period 2020 to 2036, noting the St Albans City & District Local Plan Publication Draft was submitted to the Secretary of State for examination in March 2019. However, on recommendation of 2 inspectors appointed by the Secretary of State to examine the Plan the decision was taken at the Council's Cabinet meeting on the 19 November 2020 to withdraw the Plan.
- 6.8. Hearing sessions into the now withdrawn Plan were held between 21 and 23 January 2020. Over those three days there was discussion on legal compliance, the Duty to Cooperate (Dtc) the spatial strategy and matters relating to the Green Belt. The inspectors then wrote to the Council on the 27 January 2020 raising their serious concerns in terms of legal compliance and soundness.
- 6.9. This was the second time in the last 24 months inspectors appointed by the Secretary of State had directed St Albans to withdraw a draft Local Plan.

- 6.10. A new Local Plan is underway but is at a very early stage. The NPPF, paragraph 48 states that weight can be given to emerging policies,
- 6.11.** Paragraph 48 of the NPPF explains that local planning authorities may give weight to relevant policies in emerging plans according to:
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 6.12. No draft policies for the new Local Plan have been produced to date, therefore the proposed development does not conflict with any policy in a new draft Local Plan. In any event, it is agreed that no weight can be attributed to the draft Local Plan in decision making.

Neighbourhood Plan

- 6.13. The site falls within the St Stephen Neighbourhood Plan area, which was designated in 2014. At the date of the withdrawal of the emerging Local Plan, the draft Neighbourhood Plan allocated the site for a retirement community. It is agreed that the proposed development does not conflict with the draft Neighbourhood Plan.

7. Planning Issues

- 7.1. Parties are in agreement with the following statements.

Matters Agreed

- 7.2. There is no objection to the demolition of the existing structures on the Appeal Site.
- 7.3. The Appeal Site is a sustainable location in terms of transport sustainability.
- 7.4. The proposals fall within Class C2 of the Use Classes Order of the 1990 TCPA (as amended).
- 7.5. The proposal comprises 'inappropriate' development within the Green Belt, for which "Very Special Circumstances" must be demonstrated.
- 7.6. The proposals would cause less than substantial harm to the significance of the Grade II* listed Burston Manor House and the Grade II listed ancillary outbuilding.
- 7.7. The LPA cannot demonstrate a five-year supply of deliverable homes. Whilst there is disagreement between the parties regarding the extent of this shortfall it is agreed that, even taking SADC's supply position of 2.4 years¹, the shortfall is considerable and significant. The dispute between the parties as to the precise 5YHLS position is not one on which the appeal will turn.
- 7.8. It is common ground that in respect of affordable housing the LPA has some serious shortcomings in terms of past delivery trends.
- 7.9. It is common ground that there is a demonstrable need for specialist housing to meet the needs of older people as part of the overall housing need.
- 7.10. It is common ground that there are no other suitable alternative sites for accommodating specialist housing of the scale proposed.
- 7.11. It is common ground that the appeal site occupies a sustainable location on the rural-urban fringe of How Wood. There are pedestrian links from the site to How Wood Local Centre and Park Street Surgery (0.32 km (0.2) miles and 0.48 km (0.3 miles)) and How Wood train station (0.8 km (0.5 miles)), which provides connections to St Albans Abbey. The facilities within Chiswell Green to the north are also within close proximity, although this does require access over the A405.
- 7.12. The appellant states that the proposals will deliver a range of benefits. However, the respective parties disagree on the weight to be attached to each of these benefits. To assist the Inspector

¹ The position was described by the Inspector as a bleak one in recent appeal decision reference APP/B1930/W/20/3265925

the table at **Appendix B** sets out at the time of the determination of the application by the LPA both parties' positions on the relative weight to be ascribed to the benefits of the proposed development.

- 7.13. The appellant is undertaking a net biodiversity gain assessment to inform the appeal proposals. It is the intention to get the calculation agreed with the LPA in advance of the Inquiry.
- 7.14. The landscape and visual impacts of the development would be limited in extent and nature to the immediate environs of the site.
- 7.15. Subject to the imposition of appropriate conditions the scheme's arboricultural impact would be acceptable.
- 7.16. The proposed scheme will not give rise to any material harmful impacts in respect of residential amenity (both in respect of neighbouring properties and within the development itself).
- 7.17. The scheme is acceptable in respect of impacts on highways capacity, access and car parking provision subject to an appropriately worded condition.
- 7.18. There are no known environmental or technical constraints such as contamination, flood risk that preclude the site from development.
- 7.19. The servicing and refuse arrangements for the use are acceptable, subject to conditions.

Matters Disputed

- 7.20. The following matters remain in dispute:
 - The extent of previously developed land
 - The degree to which the site is contained within the existing landscape particularly the extent the proposals would contribute towards the merging of How Wood and Chiswell Green;
 - The degree of harm to openness;
 - The weight to be attached to and full extent of the public benefits the scheme would deliver.
 - The nature and extent of the contribution that the Appeal Site makes to the significance of the proximate heritage assets, the extent to which the change that the proposed development would bring about would impact upon the significance of those heritage assets within the spectrum of less than substantial harm through development.
 - Whether the public interest benefits would outweigh any harm to the significance of heritage assets.
 - Whether the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations such that very special circumstances can be seen to exist.

8. Conditions and S106 Matters

Conditions Agreed

- 8.1. The Appellant and the LPA agree to adopt the following planning conditions.
- 8.2. These are:

Time limit

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Approved plans, documents and strategies

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, strategies and documents

Architects Plans (PRP)	Drawing Number
Site Location Plan	0653-00-SL-PL-A-G7-010 B
Existing Site Plan	0653-00-SL-PL-A-G7-011 B
Proposed Block Plan	0653-00-SL-PL-A-G7-012 B
Proposed Site Plan	00-SL-PL-A-G7-013 B
Landscape Masterplan	00-SL-PL-L-G7-014 C
Contextual Site Sections	00-SL-SE-A-G7-015 B
Proposed Site Sections	00-SL-SE-A-G7-016 B
Proposed Arrival	00-SL-PL-A-G7-017 B
Cycle & Refuse Store - Plans and Elevations	00-SL-PL-A-G7-018 B
Assisted Living - Ground Floor Plan	0653-01-00-PL-A--110 B
Assisted Living - First Floor Plan	0653-01-01-PL-A- 111 B
Assisted Living - Second Floor Plan	0653-01-02-PL-A--112 B
Assisted Living - Roof Plan	0653-01-03-PL-A -113 B
Assisted Living - Elevations Sheet 1	0653-01-99-EL-A--114 B
Assisted Living - Elevations Sheet 2	0653-01-99-EL-A--115 B
Bungalows Type A - Plans and Elevations	0653-03-00-PL-A--310 B
Bungalows Type B - Plans and Elevations	0653-03-00-PL-A--311 B
Bungalows Type C - Plans and Elevations	0653-03-00-PL-A--312 B
Bungalows Type D - Plans and Elevations	0653-03-00-PL-A--313 B
Bungalows Type E - Plans and Elevations	0653-03-00-EL-A- 314 B
Bungalows Type F - Plans	0653-03-00-PL-A--315 B
Bungalows Type F - Elevations	0653-03-00-PL-A- 316 B

Topographical Survey (Clifton)	Drawing Number
Topographical Survey Sheet 1	186/3493/1 Rev. A
Topographical Survey Sheet 2	186/3493/2 Rev. A

Transport Drawings (Peter Evans Partnership)	Drawing Number
Indicative Site Access Vertical	3019.09
215m Forward Visibility Envelopes and Longitudinal Sections, 8 January 2019	3019.14
Permitted Signalised Junction and Proposed Site Access Arrangement with 215m Forward Visibility Envelope and Speed Mitigation Measures, 8 January 2019	3019.15
Proposals for 60mph Speed Limit on A405 North Orbital Road, 11 January 2019	3019.16
Isopachytes Existing Ground Level to Proposed Finished Ground Levels	3019.17
Longitudinal Sections	3019.18

Drainage (Intrado)	Drawing Number
Storm Water Drainage Strategy	IR20077 001 Rev. D

Lighting (Designs for Lighting)	Drawing Number
Horizontal Illuminance Plan	1178-DFL-LSD-003-A Rev. B

Flood Risk and Drainage (Intrado)	Drawing Number
Flood Risk Assessment and Drainage Strategy	IR20077/DS1 (September 2020)
Drainage Calculations	Appendix A of Drainage Strategy
Storm Water Drainage Strategy	IR20077 Rev. B - Appendix B of Drainage Strategy

Trees (Quaife Woodlands)	Drawing Number
Arboricultural Survey and Planning Integration Statement	AR/3741 (10 December 2020)

Materials

- 3) No above ground works, other than demolition and site clearance, shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

- 4) No above ground works, other than demolition and site clearance, shall take place until details of all materials to be used for hard surfaced areas within the site including roads, driveways and car parking area have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Tree Protection

- 5) The development hereby approved shall be carried out wholly in accordance with the tree protection measures set out in the document entitled “Arboricultural Survey and Planning Integration Statement” (ref AR/3741) dated 10 December produced by Quaife Woodlands.

Landscaping

- 6) The development hereby approved shall not be occupied until details of a scheme of hard and soft landscaping, which shall include the submission of a planting schedule prescribing details of the size and species of proposed planting, are submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full in the first planting season following the completion of the development or otherwise in accordance with a timetable which shall have been agreed in writing by the local planning authority. If within a period of 5 years from the date of initial planting, any trees or shrubs planted in accordance with the approved landscaping works are removed, die, become diseased or seriously damaged then replacement trees or shrubs shall be planted in the next planting season with others of similar size and species, unless the local planning authority gives its written approval to any variation.

External lighting details

- 7) No lighting columns or external lights shall be installed until details of external lighting has been submitted to and approved in writing by the Local Planning Authority. The details shall include the design and location of lights and lighting columns, the level of illumination and time of operation. The development shall be implemented in accordance with the approved details.

Highway Works

- 8) Prior to the occupation of any of the buildings hereby permitted the vehicular access at North Orbital Road shall be upgraded in accordance with drawing numbers 3019.09, 3019.14, 3019.15, 3019.16, 3019.17 and 3019.18, or such other plans as approved in writing by the LPA, and arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Construction Management

- 9) No development shall commence, including demolition, until a Construction Management Plan (or Construction Method Statement) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall only be carried out in accordance with the approved plan unless otherwise agreed with the Local Planning Authority. The Construction Management Plan/Statement shall include details of:
 - A. Access arrangements to the site.
 - B. Traffic management requirements.

- C. Construction and storage of compounds (including areas designated for car parking, loading/unloading and turning areas).
- D. Siting and details of wheel washing facilities.
- E. Cleaning of site entrances, site tracks and the adjacent public highway.
- F. Provision of sufficient on-site parking prior to commencement of construction activities.
- G. Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- H. Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

Rights of Way

- 10) Notwithstanding the details indicated on the submitted drawings no works impacting on Rights of Way shall commence on site unless otherwise agreed in writing until a Rights of Way Improvement Plan for the off-site and on-site Rights of Way improvement works has/have been submitted to and approved in writing by the Local Planning Authority.
- 11) Prior to the first occupation/use of the development hereby permitted the off-site and on-site Rights of Way improvement plan works (including any associated highway works) referred to in this condition shall be completed to the written satisfaction of the Local Planning Authority.

Archaeology

- 12) No development-related works shall take place within the site until a written scheme of archaeological work (WSI) has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off-site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority. This must be carried out by a professional archaeological/building recording consultant or organisation in accordance with the agreed WSI.
- 13) Following the completion of the fieldwork, formal provision for the post investigation assessment shall be put in place. This assessment will be in accordance with the programme set out in the approved WSI. Provision will be demonstrated and confirmed in writing with the LPA for the analysis and publication of the site archive, if appropriate. This will include all necessary works up to and including an appropriate publication and will include an agreed timetable and location for that publication. Should these provisions not be required, formal agreement will be sought and shall be agreed in writing with the LPA.

Flood Risk and Drainage

14) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy produced by Intrado reference IR20077/DS1 dated September 2020 including the following mitigation measures detailed within the FRA, unless otherwise agreed in writing with the Local Planning Authority:

- A. Undertake appropriate drainage attenuation to limit discharge into unnamed ditch/watercourse to 10 l/s.
- B. Provide attenuation to ensure that there is no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.
- C. Implement the drainage strategy to include permeable paving, swales, ponds, tree pits and attenuation tanks as indicated in accordance with the strategy referenced in the following documents and plans:
 - Flood Risk Assessment and Drainage Strategy IR20077/DS1 (September 2020)
 - Storm Water Drainage Strategy IR20077 001 Rev. D
 - Drainage Calculations Appendix A of Drainage Strategy
 - Storm Water Drainage Strategy IR20077 Rev. B - Appendix B of Drainage Strategy

unless otherwise agreed in writing with the Local Planning Authority.

15) No development shall commence, excluding demolition and site clearance works, until the final design of the drainage scheme, which shall be based upon the submitted Flood Risk Assessment is submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme, which shall include:

- A. Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should also show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.
- B. Silt traps for protection of any residual tanked elements.
- C. Details of final exceedance routes, including those for an event which exceeds 1:100 + climate change rainfall event.

16) Within 1 month of completion of the approved drainage works a management and maintenance plan for SuDS features and drainage network shall be submitted to the Local

Planning Authority for approval. The Plan shall include final confirmation of management and maintenance requirements and a complete set of as-built drainage drawings. The management and maintenance of the drainage infrastructure shall be carried out in accordance with the approved plan.

Refuse

- 17) Facilities for the storage of refuse shall be provided within the development hereby approved. Details of such facilities, including screening shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The refuse areas shall remain thereafter and shall not be used for any other purpose.

Car Parking

- 18) The Car Parking shown on the approved drawings shall be retained as car parking and used for no other purpose, unless otherwise agreed in writing by the Local Planning Authority.

Contamination

- 19) The development shall be carried out in accordance with the methodology and recommendations contained within the Preliminary Geoenvironmental and Geotechnical Assessment by Tweedie Evans Consulting dated August 2017, unless otherwise agreed in writing with the local planning authority.
- 20) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

Slab levels and surrounding ground levels

- 21) Details of the proposed finished floor levels of all buildings and the finished ground levels of surrounding property, including the finished relationship with the adjacent buildings shall be submitted to and approved in writing by the Local Planning Authority before any work commences. The development shall be thereafter be implemented in accordance with the approved details.

Removal of permitted development rights

- 22) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be constructed without the prior permission of the Local Planning Authority.

Public Access Strategy

- 23) Prior to the occupation of the development a public access strategy shall be submitted to the local planning authority for approval that identifies external amenity areas of the development that are accessible to the public. The public access strategy will be maintained for the lifetime of the development, unless otherwise agreed in writing with the local planning authority.

Electric vehicle charging

- 24) Prior to occupation, a scheme for Electric vehicle charging points (EVCP) shall be submitted to the local planning authority for approval that provides for 20% of the proposed car parking spaces to have active charging points. The EVCP shall thereafter be constructed and marked out and the charging points installed prior to any of the units being brought into use and thereafter retained permanently to serve the vehicles of occupiers.

Noise issues

- 25) Before the use commences a noise assessment shall be carried out in accordance with BS8233: 2014 Guidance on sound insulation and noise reduction for buildings to establish the potential impact of noise on the proposed development.

Sound insulation measures shall be incorporated into the design of the proposed development as necessary, so that the indoor ambient noise criteria described in BS8233:2014 are achieved within all habitable rooms.

In general, for steady external noise sources, it is desirable that the internal ambient noise level does not exceed the guideline values in the table below:

Internal ambient noise levels for dwellings

Activity	Location	0700 to 2300	2300 to 0700
Resting	Living room	35 dB Laeq, 16 hour	
Dining	Dining room/area	40 dB Laeq, 16 hour	
Sleeping (daytime resting)	Bedroom	35 dB Laeq, 16 hour	30 dB Laeq, 8 hour

The levels shown in the above table are based on the existing guidelines issued by the World Health Organisation.

The L_{Amax,f} for night time noise in bedrooms should be below 45dBA; this is not included in the 2014 standard but note 4 allows an L_{Amax,f} to be set. 45dBA and over is recognised by the World Health Organisation to be noise that is likely to cause disturbance to sleep.

Piling Works

- 26) If piling is to be the method of foundation construction, prior to commencement of development, a method statement detailing the type of piling and noise emissions, shall be submitted to and approved in writing by the Local Planning Authority. All piling works shall be carried out in accordance with the agreed details.

Kitchen Extraction System – Odour Control

- 27) The commercial kitchens of the approved buildings shall be fitted in accordance with a scheme detailing the equipment for the purpose of extraction, filtration and abatement of fumes and odours which has first been submitted and approved in writing by the Local Planning Authority. This shall include noise and vibration mitigation systems. The approved extraction/filtration/abatement equipment shall be installed before the use hereby permitted is commenced and shall be maintained including deep cleaning and operated thereafter in accordance with manufacturer specification to ensure its continued satisfactory operation.

Hours of Delivery

- 28) No commercial deliveries shall be taken at or dispatched from the premises outside the following times, before 6:30 hours or after 20:00 hours Monday to Saturday, and before 9:00 or after 18:00 hours on Sundays or Bank Holidays.

- 8.3. At the time of the previous appeal the following condition sets out what was agreed:

Contamination

The development shall be carried out in accordance with the methodology and recommendations contained within the Preliminary Geoenvironmental and Geotechnical Assessment by Tweedie Evans Consulting dated August 2017, unless otherwise agreed in writing with the local planning authority.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

- 8.4. In its place the LPA are now seeking the imposition of the following 6 conditions due to the Contamination Report being carried out in 2017:

Desk-top study and site walkover

A desk-top study shall be carried out by a competent person, prior to any demolition and clearance of the site, to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The desk-top study shall comply with BS10175:2011+A2:2017 Investigation of potentially contaminated sites – Code of practice. Copies of the desk-top study shall be submitted to the LPA without delay upon completion.

Site Investigation

A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and provide information for a detailed assessment of the risk to all receptors that may be affected. The site investigation shall comply with BS10175:2011+A2:2017 Investigation of potentially contaminated sites – Code of practice. Copies of the interpretative report shall be submitted to the LPA without delay upon completion. The site investigation shall not be commenced until:

- i. a desk-top study has been completed satisfying the requirements of (10) above;
- ii. (The requirements of the LPA for site investigations have been fully established; and
- iii. (The extent and methodology have been agreed in writing with the LPA.

Copies of the interpretative report on the completed site investigation shall be submitted to the LPA without delay on completion.

Options Appraisal and Remediation Strategy

The results of the site investigation and the detailed risk assessment referred to in (11), shall be used to prepare an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. It shall also include a verification plan. The options appraisal and remediation strategy shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person.

Verification Report

A verification report demonstrating completion of the works set out in the remediation strategy in (12) and the effectiveness of the remediation shall be submitted in writing and approved by the LPA prior to the occupation of any buildings. The report shall include results of validation sampling and monitoring carried out in accordance with an approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency

action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Remediation

Prior to the commencement of the construction works hereby permitted, reclamation of the site shall be carried out in accordance with the options appraisal and remediation strategy approved by the LPA. Any amendments to these proposals relevant to the risks associated with the contamination shall be submitted to the Planning Authority for prior approval in writing.

On completion of the works of reclamation, the developer shall provide a validation report which confirms that the works have been completed in accordance with the approved documents and plans.

Unsuspected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

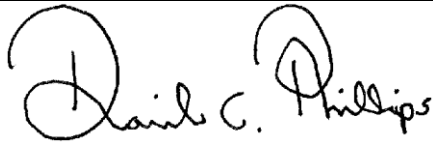
Planning Obligations

- 8.5. An agreed draft version of the proposed S106 Agreement will be submitted to the Planning Inspectorate as soon practicable. An engrossed S106 Agreement will be provided to the Inquiry before it closes.

Community Infrastructure Levy

- 8.6. There is no adopted CIL charging schedule in place.

9. Signatories

	
David Phillips	Shaun Greaves
Director-DPV Consult Ltd	GC Planning Partnership Ltd
On Behalf of the Appellant	On Behalf of the LPA
Date: 20 October 2021	Date: 21 October 2021

Appendices

A. Schedule of Plans and Documents

B. Assessment of Benefits at time of the Planning Application