



## Appeal Decision

Inquiry held on 7-10 December and 14 December 2021

Site visit made on 7 December 2021

**by Tom Gilbert-Wooldridge MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 31<sup>st</sup> January 2022**

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**Appeal Ref: APP/B1930/W/21/3279463**

**Burston Nurseries Ltd, North Orbital Road, Chiswell Green, St. Albans  
AL2 2DS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Castleoak Care Developments Ltd against the decision of St Albans City Council.
  - The application Ref 5/20/3022, dated 11 December 2020, was refused by notice dated 26 May 2021.
  - The development proposed was originally described as "demolition of all existing buildings, structures and hardstanding and redevelopment of the site to provide a new retirement community comprising assisted living bungalows and apartments, with community facilities together with associated access, bridleway extension, landscaping, amenity space, car parking and associated and ancillary works".
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### Decision

1. The appeal is allowed and planning permission is granted for the 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 at Burston Nurseries Ltd, North Orbital Road, Chiswell Green, St. Albans AL2 2DS in accordance with the terms of the application, Ref 5/20/3022, dated 11 December 2020, subject to the 28 conditions set out in the attached schedule.

### Procedural Matters

2. The original description of development is shown in the banner heading above. The description was amended slightly during the application process to specify the number of assisted living apartments and bungalows and clarify that the community facilities formed part of the apartments. The amended description is used in my formal decision.
3. The application was refused for three reasons and five main issues were identified at the pre-inquiry case management conference. The Council indicated at the conference that the third reason for refusal could be resolved through the submission of a Section 106 (S106) agreement and later confirmed that affordable housing provision was not required due to the nature of the development. A completed and executed S106 was submitted after the Inquiry closed and is assessed below.

## **Main Issues**

4. The appeal site is located within the Metropolitan Green Belt. It is common ground between the appellant and the Council that the proposed development would represent inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and the development plan. Therefore, the main issues are as follows:
- a) the effect of the proposed development on the openness and purposes of the Green Belt;
  - b) the effect of the proposed development on the character and appearance of the area;
  - c) the effect of the proposed development on the significance of the Grade II\* listed Burston Manor and the Grade II listed outbuilding;
  - d) whether the proposed development would make adequate provision for community and infrastructure needs; and
  - e) whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.

## **Background**

### *Site overview and planning history*

5. The appeal site is located within the eastern part of the wider Burston Garden Centre site and incorporates the access junction from the A405 North Orbital Road and the proposed route of a new bridleway through to Lye Lane. The main part of the site was formerly used for commercial rose production but is currently redundant apart from some overspill open-air storage for the garden centre. There are a number of sheds, polytunnels, glasshouses, and planting beds associated with the former use. The remainder of the site comprises open grassland to the east and north-east.
6. To the north of the site is the Grade II\* listed building of Burston Manor and the Grade II listed outbuilding. Further to the north is the A405 dual carriageway and Chiswell Green. There is a close boarded fence along the eastern site boundary adjacent to a public bridleway. The woodland and village of How Wood lie to the east of the bridleway (hereafter the former is referred to as How Wood and the latter as How Wood Village). To the south of the site is the woodland of Birch Wood while a variety of structures and hardstanding associated with the rest of the garden centre lie to the west.
7. The site was subject to a previous proposal for a retirement community with assisted living housing, communal facilities, and a 64-bed care home. An appeal<sup>1</sup> against the Council's refusal of planning permission for that proposal was dismissed on 9 January 2020. The main issues were very similar to the current appeal. The previous Inspector concluded that harm to the Green Belt, the above listed buildings, and the character and appearance of the area, was not outweighed by other considerations so as to amount to very special circumstances.

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<sup>1</sup> APP/B1930/W/19/3235642

8. Before and during the Inquiry, the appellant set out various changes in circumstances that they argue are relevant to the consideration of this appeal. These include changes to the nature and design of the proposed development, the withdrawal of the emerging St Albans City and District Local Plan (ELP) in late 2020, changes to the NPPF in July 2021, appeal decisions<sup>2</sup> from June 2021 for up to 100 dwellings at Roundhouse Farm in Colney Heath, a resolution by the Council in autumn 2021 to grant permission for up to 150 dwellings at land to the rear of Harpenden Road in St Albans<sup>3</sup> (subject to a completed legal agreement), and changes to the district's housing need position.
9. Consistency in decision-making is an important principle. The main parties agree that the previous appeal decision is a material consideration but disagree on the extent to which the current appeal is the same as before. It is necessary for me to consider any changes in circumstances including those outlined above and, where applicable, explain my reasons for coming to a different conclusion to the previous Inspector.

#### *The appeal proposal*

10. The proposed development has a number of comparable elements to the previous appeal. It would be for a retirement community within Class C2 of the Use Classes Order 1987 (as amended). All of the existing structures and hardsurfacing would be removed. Access would be provided via the existing service track from the A405 which would be widened and tree-lined. A new signalised junction would be installed on the A405 for the development and the existing garden centre.
11. The care home, which was intended for the northernmost part of the site, has been removed from the proposed development. The distribution and layout of the bungalows would be different from the previous appeal, with greater landscaping along the northern boundary with Burston Manor House and the eastern boundary with the public bridleway. The assisted living apartments with care and community facilities would be located within the same building and location as the previous appeal with three 3-storey blocks connected by single storey corridors. The number of proposed apartments is unchanged from before at 80, while there would be one less bungalow (44). The total amount of floor area would be around 20% lower than proposed previously.
12. The landscaping strategy would be similar to the previous appeal, albeit with a greater amount of open space throughout the development. There would be planting of trees and hedges and the creation of various communal gardens. The close boarded fence along the bridleway would be removed and replaced with a post and rail fence. The architectural design and materials would be similar to before, with clay tile pitched roofs and red brick walls alongside the use of tile hanging, stone walling, dark facing brick, and weatherboarding.

#### *The policy context*

13. The development plan for the purposes of this appeal is the St Albans Local Plan Review 1994 (LP). The draft ELP had been submitted for examination at the time of the previous appeal. It sought to allocate broad locations for development, including for C2 units, and included a review of the Green Belt as

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<sup>2</sup> APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926 (the site straddles the boundary between St Albans City and District Council and Welwyn Hatfield Borough Council)

<sup>3</sup> Application Ref 5/2021/0423/LSM

part of the identification of such locations. The appeal site was not proposed for allocation. However, the examining Inspectors identified several concerns in April and September 2020 and the ELP was withdrawn from examination in late 2020. Work has begun on a new version of the ELP with initial public consultation expected during 2022. The parties agree that no weight can be attributed to the ELP in decision-making and I have no reason to disagree.

14. The site is located within the St Stephen Parish Neighbourhood Plan (NP) area. The NP pre-submission version dated October 2020 included a draft allocation for this site for around 200 units of specialist housing and supported a retirement village (C2) with the parish. The NP submission version dated February 2021 removed all site allocations, although support for a retirement village remains in the document. The parties agree that the proposed development would not conflict with the draft NP. Given the NP is still at a relatively early stage of production, it can only be afforded limited weight.
15. The NPPF was updated on 20 July 2021. Relevant paragraphs relating to the Green Belt and heritage assets have not changed since the previous decision, but there have been changes to section 12 on achieving well-designed places. This includes paragraph 134 which advocates that significant weight should be given to development that reflects design policies and guidance.

## **Reasons**

### ***Main Issue (a): Green Belt openness and purposes***

#### *Openness*

16. NPPF paragraph 137 explains that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. NPPF paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 148 advises that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to Green Belt by reason of inappropriateness, and any other harm arising from the proposal, is clearly outweighed by other considerations.
17. NPPF paragraph 149 says that the construction of new buildings in the Green Belt is inappropriate unless exceptions exist. LP Policy 1 only permits development in the Green Belt if certain exceptions apply or in very special circumstances. The exceptions are more restrictive than those set out in NPPF paragraph 149 but for the purposes of this appeal the policy is broadly consistent with the NPPF. The parties agree that the proposal would not accord with any of the NPPF or LP exceptions and so would be inappropriate development. However, it remains necessary to consider the effect on Green Belt openness and purposes.
18. Openness is capable of having both spatial and visual elements. Spatially, the development would result in more built form across the entirety of the site compared with the existing situation. The height, footprint and volume of new buildings would greatly exceed the sheds, polytunnels and glasshouses. The amount of built form proposed would be less than in the previous appeal, especially with the removal of the care home. Nevertheless, there would be a

significant loss of openness in spatial terms particularly for the undeveloped parts of the site.

19. Visually, the site is well-contained by woodland and the surrounding built form of the garden centre and How Wood Village. Views of the site from the bridleway and the footpaths through How Wood are constrained by the close-boarded fence. It is difficult to see any existing structures from the bridleway and How Wood due to the solid barrier of the fence. For the same reason, it is also hard to appreciate the site's open grassland apart from on slightly higher ground on the bridleway at the northern corner of the site.
20. The development would result in a greater appreciation of built form along the bridleway. From the higher ground to the north, it would be possible to see bungalow roofs over the fence. However, these buildings would not be as obvious as the taller and bulkier care home from the previous appeal. The buildings would also be largely screened by planting in due course. Further south on the bridleway and from within How Wood, the barrier of the fence would be removed and replaced with views of bungalows behind a landscaped buffer. Such views would gradually diminish as planting matures, but there would remain a visual effect on the openness of the Green Belt from along the bridleway and from How Wood.
21. It would also be possible to see the bungalows and apartment blocks next to the proposed bridleway through to Lye Lane, while the development as a whole would be visible to residents, staff and visitors across the site. There is no existing public access to the site, but the amount of built form would still have an effect on openness in visual terms as the site would be less open than now.
22. The development would not impact on the openness of the Green Belt beyond the site itself due to the level of containment. Moreover, due to the removal of the care home and the greater use of planting and landscape buffers, the impact would be less than the previous appeal. Nevertheless, the development would result in harm to the spatial and visual openness of the Green Belt that would be permanent with a greater degree of activity generated than existing. While the harm to openness would not be as significant as for the previous appeal, it would still be sizeable due to the extent of built form across the site.

### *Purposes*

23. NPPF paragraph 138 sets out five Green Belt purposes: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns from merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land. The parties agree that purpose (d) is not relevant to this appeal.
24. The site lies within a wider Green Belt parcel that covers the land between Chiswell Green and Bricket Wood. The Council's Green Belt Review 2013 states that the parcel's principal function is its significant contribution towards maintaining the existing settlement pattern and gaps between Chiswell Green, How Wood and Bricket Wood. The review also says the parcel makes a partial contribution towards preventing neighbouring towns from merging.

25. The site is close to the urban edge of How Wood Village but is not contiguous with any existing residential development due to the woodland buffers. It is possible to see rear elevations of some housing through the woodland in winter, but the site feels separate to the existing settlement. Chiswell Green to the north is separated from the site by Burston Manor and the A405. The site lies within a gap between How Wood Village and Chiswell Green.
26. The site's visual containment makes it difficult to appreciate the gap between the two settlements from the site. I concur with the previous Inspector that the increased amount of built form across the site would not result in the direct coalescence of How Wood Village and Chiswell Green. This is due to the continuation of existing buffers such as the woodland and road. However, development within the gap would diminish the separation of the two settlements. Thus, there would be an element of sprawl and merger and conflict with purposes (a) and (b).
27. Insofar as the site is partly undeveloped and partly horticultural, it can be argued that the site occupies a countryside location. The development would therefore result in encroachment on the countryside. The degree of encroachment would be limited by the site's contained nature but there would still be conflict with purpose (c). Despite the proximity of built development, the site and land itself is not urban. Therefore, purpose (e) is not a relevant factor in this appeal.

#### *Green Belt conclusion*

28. The site has some parallels with the Roundhouse Farm and Harpenden Road sites with regard to its visual containment and its location next to existing built-up areas. However, the sites are not identical and I do not have all the information considered by the decision-makers in either case. Therefore, I have reached my own views based on the evidence before me.
29. In addition to its inappropriateness, the development would result in a sizeable degree of harm to the openness of the Green Belt and would conflict with three Green Belt purposes. In accordance with the NPPF, such harm to the Green Belt should be afforded substantial weight. This weighting will form part of the planning balance in due course along with my conclusion on compliance with NPPF paragraphs 147 and 148 and LP Policy 1.

#### ***Main Issue (b): Character and appearance***

30. LP Policy 69 requires all development to have an adequately high standard of design taking into account, amongst other things, context. The policy defines context as the scale and character of the surroundings in terms of height, size, scale, density or plot to floorspace ratio. LP Policy 70 states that the design of new housing should have regard to its setting and the character of its surroundings and meet 12 listed objectives. The parties agree that the proposed development would not conflict with any of the objectives and that it is only the first part of the first sentence of Policy 70 that is disputed.
31. The site's existing structures are generally lightweight and modest in scale. They are also utilitarian and, in the case of the glasshouses, polytunnels and planting beds, are disused and dilapidated. The grassland in the eastern part of the site is rough and unkempt. While the site can be regarded as part of a

countryside gap due to its open and horticultural nature, I agree with the parties that it is of poor quality and low landscape value.

32. In wider character and appearance terms, the site relates closely to the adjoining garden centre with its collection of large glasshouses and commercial buildings. Residential properties in How Wood Village are only a short distance away through woodland and the noise of major roads like the A405 and M25 are clearly audible. Therefore, I also agree with the parties that the site's immediate context is urban fringe, settled landscape, and major infrastructure, and that it has a very contained character.
33. The dispute between the parties relates to the overall effect on character and appearance rather than detailed design. In respect of the latter, the quality of architectural treatment and materials would be good and reflect the local vernacular. The deletion of the care home from the previous appeal and the greater use of planting buffers along the site's northern and eastern boundaries would result in attractive landscaping and generous amounts of green space. The Council did not dispute the proposal's compliance with the National Design Guide and NPPF paragraph 134(a) which promotes good design that reflects local and national policies and guidance. There has also been detailed stakeholder consultation as advocated by NPPF paragraph 132.
34. The bulk and footprint of the care home has been removed from the current proposal, which would reduce the visual impact from the bridleway and any glimpsed views from How Wood Village through the woodland. However, the large interconnected 3-storey blocks containing the assisted living apartments and communal facilities would remain unchanged. The bungalows would be of a similar scale to the previous appeal. The development would contrast markedly with the garden centre buildings, while the height and scale of the apartments blocks would be greater than the prevailing form of development in How Wood Village. As a consequence, the character and appearance of the site would change considerably to a more built-up and urban form with the loss of a countryside gap. How Wood would be enclosed by residential development on all sides while Birch Wood would become enclosed on three sides.
35. Nevertheless, the greater use of landscaping, particularly along the boundaries, and a less regimented layout of bungalows would lessen the overall impact in both landscape and visual aspects. Views from the bridleway would not be as dominated by large building footprints and would be softened by vegetation screening in due course. Any views from How Wood Village and through the woodland would also be less affected. The proposed bridleway through the site has no existing visual baseline in terms of public access. Future users would experience the large apartment blocks close to the bridleway, but this would be a new effect and one that would be mitigated as planting matures.
36. In conclusion, the proposed development would alter and urbanise the site and result in the loss of an open countryside gap. However, this would be offset to some extent by the high quality design and layout as well as changes since the previous appeal to reduce the scale and footprint of buildings and incorporate greater areas of landscaping. Any landscape and visual effects would be broadly contained to the site itself rather than any wider impacts. With regards to the NPPF, the development would align with paragraphs 132 and 134, as well as paragraph 130(c) which requires development that is sympathetic to local character and history including the surrounding built environment and

landscape setting. Therefore, the development would have no more than a moderate harmful effect on the character and appearance of the area. As such, there would be some moderate conflict with LP Policies 69 and 70 insofar as the development would fail to fully respond to its context and surroundings.

**Main Issue (c): Listed buildings**

37. LP Policy 86 sets out that for any planning application which affects a listed building or its setting, the Council will have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses. This reflects the statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act).
38. NPPF paragraph 199 places great weight on the conservation of heritage assets (and the more important the asset, the greater the weight should be) irrespective of the degree of harm. NPPF paragraph 200 states that any harm to the significance of a designated heritage asset should require clear and convincing justification.
39. Burston Manor dates back to the 12<sup>th</sup> century with alterations and extensions from the 15<sup>th</sup> and 17<sup>th</sup> centuries and further changes from the 19<sup>th</sup> century onwards. It was a manor house and today is a residential property. The house is 2-storey and timber framed, with brick and painted external walls and a plain clay tile roof. There is a historic moat on the south side of the property. The red brick outbuilding originates from the late 17<sup>th</sup> century with early 19<sup>th</sup> century alterations. It was built as a granary and dovecote and has a plain tile pyramid roof. It remains an ancillary building to Burston Manor.
40. The parties agree the listed buildings have aesthetic, historical and evidential value. This begins with their role as part of a manorial estate which by the 19<sup>th</sup> century had become a farm complex and by the 20<sup>th</sup> century a private dwelling. They contain a range of architectural details and historic materials and are attractive buildings that complement each other. These values inform the listed buildings' significance and special interest.
41. The setting of the listed buildings also contributes to their significance and special interest. As historic map evidence in the appellant's Built Heritage Statement shows, the setting has changed dramatically over the past 200 years. In the 19<sup>th</sup> century there were agricultural fields and woodland around Burston Manor, including How Wood and Birch Wood. The 20<sup>th</sup> century witnessed extensive suburban and infrastructure development on all sides of the listed buildings. There are a number of adverse components of the buildings' setting including the noise of major roads and the proximity of built form and activity related to the garden centre. Individually and cumulatively, these detract from the significance and special interest of the listed buildings.
42. Based on the map evidence, the site has formed part of the wider surroundings of the listed buildings since at least the 19<sup>th</sup> century as agricultural land previously associated with Burston Manor. The main part of the site was divided into two fields by a footpath between Burston Manor and How Wood. This division disappeared by the 1960s as the garden centre began to emerge. By the mid to late 20<sup>th</sup> century, there was an established area of tree planting to the south of the listed buildings and adjacent to the site.



43. The listed buildings today are set within a private garden, enclosed by mature boundary planting on all sides. There is no tenable evidence that this planting would not remain in future. The planting limits views of the listed buildings from beyond the garden including from the garden centre and the bridleway. There is some intervisibility between the site and the listed buildings, particularly through the vegetation boundary in winter months. Looking south from the upper floors of the rear elevation of Burston Manor, and from within the garden, it is possible to see some existing site structures as well as the wider garden centre. Glimpses of How Wood and Birch Wood are also possible.
44. The condition and appearance of the site detracts from the setting of the listed buildings where existing structures can be seen, due to their utilitarian and dilapidated form. The need for extensive restoration combined with difficult road access means the site is unlikely to return to any wider agricultural use such as arable or livestock management. At the same time, the grassland in the eastern part of the site and the backdrop of woodland provides a remnant of the historic rural setting of the listed buildings. It is likely that views of the site and woodland from the listed buildings have been limited for around 100 years based on the existence of planting. Nevertheless, the openness and greenery of the site and woodland to the east and south-east of the listed buildings makes a minor positive contribution in evidential and historical terms to the setting of these heritage assets and thus informs their significance.
45. The development would result in an urbanised built form across the site that would enclose the listed buildings. The unsightly existing structures would be removed but it would be possible to see the roofs of the nearest bungalows from the house and garden and the woodland backdrop would be partially obscured. Compared to the previous appeal, there would be more of a landscape buffer along the shared boundaries while the bulkier form of the care home would be removed. Once planting matures, the bungalows would be largely obscured even in winter months. Nevertheless, the open and green setting provided by the site and woodland would be diminished and the remnant historic rural setting would be lost.
46. Based on the revised form and layout of the proposed development including its landscaping, and the minor contribution the site makes to setting, I conclude that there would be a low to moderate level of less than substantial harm to the significance of the listed buildings. NPPF paragraph 202 requires less than substantial harm to be weighed against the public benefits of the proposal. This will be carried out in the planning balance below along with my conclusions on compliance with the NPPF, the LBCA Act and LP Policy 86.

***Main Issue (d): Community and infrastructure needs***

47. The planning obligations contained with the S106 need to comply with the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and NPPF paragraph 57. The obligations must be 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.
48. The Bridleway and Access Improvement Scheme is necessary to provide a new bridleway linking How Wood and Lye Lane that would assist pedestrians, cyclists and horse riders and avoid the need to use the A405. The Communal Facilities Scheme is necessary to ensure the provision of such facilities that would form an important part of the development. The Clinical Commissioning

Group Contribution is necessary to fund additional GP services locally, recognising the increased health needs of the proposed occupants.

49. The Occupation Restriction would require that the proposed units are only occupied by residents who have a defined care need (and by a spouse, partner, full-time carer, or sibling). This is necessary to ensure the development operates as C2 use and prevents the need for an affordable housing obligation. The Eligible Purchasers obligation would require 20% of the care units to be marketed at first sale to local residents within the district or their direct relatives. It is necessary to prioritise such people given that the development is intended to address local need, although it would not prevent more than 20% of the units being purchased by local people.
50. The Highways Contribution is necessary to secure contributions towards local road improvements set out in the South Central Hertfordshire Growth and Transport Plan mindful that the development would generate additional movements. The Travel Plan obligation and the Travel Plan Evaluation and Support Contribution are necessary to encourage sustainable modes of transport. The Library Contribution is necessary to address additional demand on local services as a result of the development.
51. The Fire Hydrant Provision is necessary to ensure that the development is provided with sufficient firefighting capabilities. This provision could be secured via a condition which is normally preferable to an obligation wherever possible. However, I have not been given any specific wording for a condition, while the wording in the obligation is more detailed than any condition is likely to be. Moreover, the use of an obligation is the preferred approach of Hertfordshire County Council as the Fire and Rescue Service. Therefore, I am content with the use of an obligation in this instance.
52. I am satisfied that all of the S106 obligations are material planning considerations and that they 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. They would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and NPPF paragraph 57. Therefore, I can take all of the obligations into account as part of my decision.
53. In conclusion, the development would make adequate provision for community and infrastructure needs arising from the development. Therefore, it would accord with LP Policy 143B which expects proposals to include provision for the infrastructure consequences through on-site or off-site facilities as necessary.

***Main Issue (e): Other considerations***

54. The range of other considerations presented at this appeal are very similar to those assessed in the previous decision. As with the previous appeal, the weight to be attributed to most of these considerations is disputed.

*General and specialist elderly housing needs*

55. The previous Inspector gave substantial weight to the very significant benefit and contribution that the previous appeal would have made in addressing general and specialist elderly (C2) housing needs. She noted the parties' agreed position on housing land supply was 2.2 years but that they were unable to agree on the precise extent of need for older people's housing. Even

using the Council’s figures, she considered there was an immediate unmet and growing need which would not be met by the ELP in the short term.

56. The housing land supply position at this appeal is generally accepted to stand at 2.4 years. This is a slight increase in supply from the previous appeal, but it does not represent a material improvement over the past 2 years. It is still considerably short of the required 5 year supply.
57. The parties agree there remains an immediate and growing need for extra care accommodation within the district. The extent of the need and shortfall in extra care units currently and in the future remains disputed. The parties’ figures are helpfully summarised in the additional statement of common ground on need and is replicated below (the figures shown are numbers of units).

	Appellant 2019 inquiry	Council 2019 inquiry	Appellant 2021 inquiry	Council 2021 inquiry
2020 need	567	315	567	368
2020 shortfall	447	154	447	248
Future need	787 (to 2035)	437 (to 2035)	815 (to 2040)	538 (to 2036)
Future shortfall	667	276	695	418

58. The dispute focuses on prevalence rates with regard to housing demand for extra care per 1,000 people aged 75+, particularly in terms of private tenure. The Council relies on the South West Hertfordshire Local Housing Needs Assessment September 2020 (LHN) which applies an average prevalence rate based on 4 different sources. The appellant utilises a higher rate to reflect local demographic trends and the policy aspirations of Government as set out in the recent Adult Social Care Reform White Paper published in December 2021.
59. The Council’s figures on need and shortfall for now (2020) and the future (2036) have increased since the previous Inquiry due to higher prevalence rates in the LHN compared to the data it relied on before. The appellant’s figures on need and shortfall for 2020 remain unchanged from the previous Inquiry. For a broadly equivalent date to the Council (2035), the appellant confirmed that its future figures on need and shortfall have fallen by around 70 units since the previous Inquiry due to changing population projections.
60. While the appellant’s future figures have fallen somewhat, the Council’s figures have increased by nearly 100 units for the 2020 shortfall and over 100 units in terms of the 2036 need and shortfall compared to the previous Inquiry. The situation has not materially improved in the past 2 years whichever approach is preferred with regard to prevalence rates.
61. It is evident that St Albans has higher owner occupation levels amongst older people than the national average. It is reasonable to assume that owner occupiers are more likely to be attracted to private tenure options should they require extra care. The current provision of market extra care housing in St Albans is around 4 units per 1,000 people aged 75+, which is noticeably lower than the prevalence rate used in the LHN at 13 units per 1,000 people and significantly lower than the rate used by the appellant of 30 units per 1,000.

62. The Government's policy aspirations in the White Paper seek provision of a greater range of specialist housing for older people in both the private and social sectors, with the aim of increasing choice and allowing people to live independently while having better access to care and support. While the White Paper has yet to translate into specific actions and initiatives, it clearly recognises the growing issues and the need for them to be addressed.
63. As noted above, the ELP was withdrawn from examination in late 2020 and public consultation on a revised version is due to take place in 2022. The Local Development Scheme (LDS) published in January 2021 anticipates an initial consultation in early 2022, pre-submission consultation in late 2022, examination in summer/autumn 2023, and adoption by the end of 2023. At the Inquiry it was noted that the initial consultation has been postponed until June 2022, which the Council did not dispute.
64. At this stage, it is difficult to be certain about the progress and adoption of the ELP. Unlike at the previous appeal where it had reached examination, the ELP is currently at a very early stage of preparation. Even based on the current LDS timetable, the adoption of the ELP is still around 2 years away. The delay to the ELP may not directly worsen the general or specialist elderly housing supply position, but there is little evidence before me to indicate when the Council will be able to demonstrate sufficient supply of either in the short to medium term. Due to the continuing inadequate housing land supply position with the district, and the ability of this proposal to deliver over 120 units, more weight should be given to addressing general housing needs than previously.
65. With regard to specialist elderly housing needs, even if I were to rely on the Council's figures for extra care units, the need for and shortfall of such housing remains high. It has not improved in any meaningful way since the previous appeal and the delay to the ELP gives no certainty of resolution any time soon. Even if this development were to be implemented, the current and future need and shortfall figures would remain significant. Combined with the local tenure and Government policy issues outlined above, these factors indicate that more weight should be attached to addressing specialist elderly housing needs than previously.
66. Taking all of the above into account, I afford the benefits relating to general and specialist housing needs very substantial weight in favour of the development.

#### *Alternative sites*

67. At the previous appeal, the parties disagreed on the existence of alternative sites for this type of development based on issues relating to availability and disaggregation. On the former, the Council now accepts due to updated evidence that there are no suitable or available alternative sites within the district that are large enough to deliver a retirement village. I have no reason to disagree with this evidence.
68. The Council continues to argue that C2 accommodation for the elderly can be disaggregated across smaller sites within urban and non-Green Belt locations, as demonstrated by the recent approval at appeal of 63-bed care home at Chelford House in Harpenden. I accept that C2 accommodation for the elderly can vary significantly in size and nature. However, smaller sites are less likely to provide the range of integrated facilities alongside a large number of

bungalows and apartments designed for independent living with on-site care and support. This is partly due to space but also site viability. The Council could not point towards any other known planning proposal within the district for a comparable scale and range of C2 accommodation for the elderly. I am not persuaded from the evidence before me that the absence of other proposals is due to the Covid pandemic. It is more likely due to the viability and site availability issues highlighted by the appellant and not disputed by the Council, where specialist housing developers have difficulties in competing for sites with general housing developers.

69. Uncertainties regarding the availability of sites meant the previous Inspector had to moderate the weight she could attach to the lack of alternative sites. However, based on the updated evidence on availability and the impracticalities of delivering this form of development on smaller sites, more weight can now be given to the lack of alternative sites. This consideration overlaps with the previous one, but nevertheless should be afforded very substantial weight in favour of the development.

#### *Health and well-being*

70. The previous Inspector gave substantial weight to health and well-being benefits and the parties both maintain this same weighting. A number of documents have been provided with this appeal setting out the various benefits of specialist extra care accommodation. This includes supporting the physical and mental health of residents, providing independence for longer, and reducing financial and resource burdens on the health system. All of these benefits can be achieved with this development and so I concur that substantial weight can be given to this consideration.

#### *The release of under-occupied housing*

71. It is accepted that the provision of specialist accommodation for the elderly can free up other parts of the housing market including family-sized dwellings. This benefits other people on the property ladder. The previous Inspector acknowledged this benefit as part of her finding of substantial weight in favour of addressing general and specialist housing needs.
72. There is little evidence before me that this scenario has changed in any way since the previous appeal. The S106 would require 20% of units to be marketed to local people or immediate family members on first sale, but even without this provision it is probable that many of the proposed units will be occupied by existing local residents given the local support and interest in this development. Therefore, I see no reason to alter the substantial weight afforded by the previous Inspector.

#### *Employment*

73. The previous appeal would have involved the creation of around 90 full time equivalent jobs along with construction employment. The appellant's Planning Needs Assessment for this proposal estimates 65-85 people would be employed in the retirement village. The lower numbers appear to reflect the removal of the care home. The previous Inspector noted that the high levels of employment and low unemployment for the district moderated the benefits and I am not aware that this situation has changed materially. The development would also generate income for local businesses that would support the

residents and facilities but no greater than the previous appeal. Therefore, some weight can be given to this consideration in favour of the development.

#### *Highway and access improvements*

74. From the evidence before me, I am content that the development would not have unacceptable effect on traffic congestion or pollution. The installation of a traffic light controlled junction onto the A405 would improve highway safety for existing and future users of the road, garden centre, and the development, including pedestrians and for other non-motorised transport modes. It is a scheme that received planning permission in 2015 although that lapsed. Therefore, I concur with the previous Inspector and the parties that some weight can be afforded to this consideration in favour of the development.

#### *Biodiversity*

75. Supporting documents demonstrate a net biodiversity gain of over 137% for habitats and over 7600% for hedgerows. This assessment was not carried out for the previous appeal and the previous Inspector did not address this matter. Nevertheless, there would be more landscaping within the proposed development than the previous appeal. Therefore, this consideration can be afforded moderate weight in favour of the development.

#### *Site availability and achievability*

76. The parties do not dispute the deliverability of the development and the appellant refers to this being possible in the short-term based on purchase options and agree terms with the future operation. This supports the weight that I have given to the housing and employments benefits outlined above.

#### *Design*

77. NPPF paragraph 134(a) is a new insertion to the NPPF since the previous appeal. Given that it is agreed that the design would reflect government guidance, some weight can be afforded to this consideration.

#### *Local support*

78. Finally, there is significant local support for this development despite its location within the Green Belt, with only a few objections at application stage. Interested parties in their representations and at the Inquiry itself have set out why they consider the development should be granted permission. Notwithstanding its emerging status, there is also support for a retirement village in the draft NP. While planning is not a popularity contest, the unusually high level of support merits some weight in favour of the development.

#### ***Main Issue (e): Planning balance and very special circumstances***

79. Starting with the heritage balance set out in NPPF paragraph 202, it is necessary to weigh the low to moderate less than substantial harm to the significance of the listed buildings against the public benefits of the proposal. Most of the other considerations set out above are public benefits. The development would address general and specialist housing needs, which I have given very substantial weight due to the specific circumstances including the lack of alternative sites. The health and well-being benefits and the release of under-occupied housing have been afforded substantial weight.

80. There are other public benefits including those relating to employment and highways, but the above public benefits alone are more than sufficient to outweigh the low to moderate harm to the significance of the listed buildings. I have given considerable importance and weight to the harm as set out in case law<sup>4</sup> and great weight to the conservation of the listed buildings as required by the NPPF. Nevertheless, greater weight can be afforded to the public benefits in this instance and so there is clear and convincing justification for the harm to the listed buildings. Thus, the development would have an acceptable effect on the significance of the listed buildings and would accord with LP Policy 86, NPPF paragraphs 199, 200 and 202, and Section 66(1) of the LBCA Act.
81. Turning to the overall planning balance in line with NPPF paragraph 148, the development would cause harm to the Green Belt due to its inappropriateness, loss of openness and conflict with the Green Belt purposes. Although the harm to openness would be reduced from the previous appeal, the NPPF requires substantial weight to be given to any harm to the Green Belt. The development would also result in no more than moderate harm to the character and appearance of the area and low to moderate harm to the listed buildings. As with the heritage balance, I have given considerable importance and weight to the harm to the listed buildings and great weight to their conservation.
82. The other considerations include those that have been afforded very substantial or substantial weight, along with moderate or some weight to a range of other considerations. When taken together, I find that the other considerations in this case clearly outweigh the harm I have identified to the Green Belt, character and appearance, and listed buildings. Looking at the case as a whole, very special circumstances exist to justify the development in the Green Belt as required by NPPF paragraphs 147 and 148 and LP Policy 1.
83. Having regard to NPPF paragraph 11(d), due to the absence of a 5 year housing land supply, the application of NPPF policies that protect areas or assets of particular importance such as Green Belt and listed buildings do not provide a clear reason for refusing the development. Any adverse impact of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole. Therefore, despite some moderate conflict with LP Policies 69 and 70, the development would accord with the NPPF and the development plan taken as a whole. This points towards the grant of planning permission.

### **Conditions**

84. Conditions 1 (time limit for commencement) and 2 (approved plans) are necessary for clarity and compliance. Conditions 3 to 5 need to be pre-commencement conditions as they relate to measures that should be addressed before works begin on site. Condition 3 is necessary to ensure that the construction phase of the development is carried out appropriately. Condition 4 is necessary to deal with the archaeological potential of the site. Condition 5 is necessary to cover any contaminated land issues.
85. Conditions 6, 7, 8 and 9 are necessary to ensure that the development has a satisfactory appearance. Condition 9 is also necessary having regard to drainage, access, and the living conditions of neighbouring occupiers. Condition

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<sup>4</sup> *Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG* [2014] EWCA Civ 137

- 10 is required to secure access improvements into the site and address surface water drainage to and from the highway. Condition 11 is necessary to ensure the development has an acceptable effect on rights of way.
86. Conditions 12 and 13 are necessary to address surface water drainage within the site including the appropriate management of any approved system. Although the disposal of wastewater may be an issue for building control, Thames Water has been unable to determine the infrastructure needs of this proposal from the information provided. Therefore, Condition 14 is necessary to ensure that sufficient capacity is available.
87. Conditions 15 and 16 are necessary to achieve the provision of adequate refuse facilities and cycle parking respectively. Condition 17 is necessary to deal with the management of any publicly accessible parts of the development. Condition 18 is necessary to enable the charging of electric vehicles in the interest of sustainability. Conditions 19 and 20 are necessary to secure the benefit of biodiversity net gain and positive ecological management across the site.
88. Conditions 21, 22, 23 and 24 are necessary protect the living conditions of future occupiers. Condition 21 deals with detailed design matters in terms of internal noise levels while Condition 22 addresses the testing of such levels. Condition 23 deals with odour from the commercial kitchens while Condition 24 limits the hours of vehicular activity associated with the communal facilities.
89. Condition 25 is necessary to ensure that if any piling works are required that they do not have harmful effects on the living conditions of the occupiers of neighbouring properties. It is necessary to remove permitted development rights for the construction of fences, gates, walls or other means of enclosure in Condition 26 in order to control the overall appearance of the development and its effect on the surrounding area. Condition 27 is necessary to retain adequate parking facilities on site. Condition 28 is necessary to ensure that the development remains within the specified specialist housing use that forms a key part of the overall justification for this development.

### **Conclusion**

90. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Tom Gilbert-Wooldridge*

INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT

Reuben Taylor QC, instructed by David Phillips of DPV Consult Limited.

He called:

Nigel Appleton MA (Cantab)  
Executive Chairman, Contact Consulting (Oxford) Ltd

Richard Garside BSc (Hons) MRICS  
Director and Head of Development Consultancy, Newsteer

Kevin Murphy B.Arch MUBC RIBA IHBC  
Consultant, KM Heritage

Andrew Smith BSc (Hons) MSc CMLI  
Fabrik Limited

David Phillips BA (Hons) MSc MRPTI  
Director, DPV Consult Limited

John Kerr  
Castleoak Care Developments Ltd

### FOR THE LOCAL PLANNING AUTHORITY

Guy Williams of Counsel, instructed by David Edwards, Solicitor at St Albans City and District Council.

He called:

Shaun Greaves BA (Hons) DipURP MRTPI  
GC Planning Partnership

Sarah Smith  
St Albans City and District Council

### INTERESTED PARTIES

Dianah Ellis	Bricket Wood Residents' Association
Cllr Richard Curthoys	Ward Councillor, St Albans City and District Council
Cllr Sue Featherstone	Ward Councillor, St Albans City and District Council
Cllr David Yates	Parish Councillor, St Stephen Parish Council

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- ID01 Briefing note on the Adult Social Care Reform White Paper
- ID02 Appellant's opening statement
- ID03 Council's opening statement
- ID04 Statement by Cllr David Yates, including copy of the Inspectors' letter dated 14 April 2020 on the St Albans City and District Local Plan examination
- ID05 Statement by Cllr Sue Featherstone
- ID06 Statement by Dianah Ellis
- ID07 Landscape Masterplan drawing from the previous appeal (0653-00-SL-PL-L-G7-010 REV G)
- ID08 St Albans City and District Local Development Scheme 2020-2023
- ID09 Updated draft Section 106 agreement
- ID10 Council's closing submissions including six legal judgments:
  - (a) *Catesby Estates Ltd v Steer* [2018] EWCA Civ 1697
  - (b) *City & Country Bramshill Ltd v SSHCLG* [2021] EWCA Civ 320
  - (c) *Redhill Aerodrome Ltd v SSCLG* [2014] EWCA Civ 1386
  - (d) *Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG and Richborough Estates Partnership LLP & SSCLG v Cheshire East BC* [2017] UKSC 37
  - (e) *St Modwen Developments Ltd v SSCLG* [2017] EWCA Civ 1643
  - (f) *Trusthouse Forte Hotels Ltd v SSE* [1987] 53 P&CR 293
- ID11 Appellant's closing submission including one legal judgment:
  - (a) *R (Smech Properties Limited) v Runnymede BC* [2015] EWHC 823 (Admin)

## **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

1. Email from Council dated 16 December 2021 containing the agreed unsigned final version of the S106 agreement
2. Completed and executed S106 dated 28 January 2022
3. Certificate of authority to third parties containing authorised signatories of Barclays Security Trustee Limited (as the mortgagee to the S106)

**SCHEDULE OF CONDITIONS (28)**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

<b>Plan Name</b>	<b>Drawing Number</b>
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 Sheet 1	186/3493/1 Rev A
Topographical Survey Sheet 2	186/3493/2 Rev A
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
Storm Water Drainage Strategy	IR20077 001 Rev. D
Horizontal Illuminance Plan	1178-DFL-LSD-003-A Rev B
Tree Protection Plan	AR/3741 TPP 201130

- 3) 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. 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; and
  - (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.
- 4) (A) No development shall commence until a written scheme of archaeological work (WSI) has been submitted to and approved in writing by the local planning authority. This scheme may 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. This must be carried out by a professional archaeological/building recording consultant or organisation in accordance with the agreed WSI.
- (B) 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 local planning authority 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 local planning authority.

- 5) (A) No development shall commence until an assessment of the risks posed by any contamination within the site, including a desktop study and an intrusive site investigation as necessary, has been carried out, and the results have been submitted to and approved in writing by the local planning authority. The assessment shall include a survey of the extent, scale and nature of contamination and an assessment of the potential risks to human health, property (existing or proposed) including buildings, service lines and pipes, adjoining land, ground waters, surface waters, chalk groundwater table and ecological systems.
- (B) In the event that the assessment indicates that remediation is necessary, development shall not commence until a remediation statement has been submitted to and approved in writing by the local planning authority. The remediation statement shall include details of all works to be undertaken, proposed remediation objectives and criteria, a timetable for the carrying out of any necessary remediation works, and details of the verification or validation of those works. No part of the development hereby permitted shall be occupied until any necessary remediation scheme has been carried out and completed in accordance with the details thereby approved, and until any necessary verification or validation report has been submitted to and approved in writing by the local planning authority.
- (C) If any contamination is found during the course of construction of the approved development that was not previously identified, no further development shall take place until a scheme for the investigation and remediation of that contamination has been submitted to and approved in writing by the local planning authority. Any remediation works thereby approved shall be carried out and completed, and any necessary verification or validation report shall be submitted to and approved in writing by the local planning authority, before any part of the development is first occupied.
- 6) 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 and retained thereafter.
- 7) 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 and retained thereafter.
- 8) 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, have been 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 submitted to and 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.

- 9) With the exception of demolition and site clearance works, no development shall begin until details of the existing and finished site levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) Prior to the occupation of any of the development hereby permitted the vehicular access at North Orbital Road (A405) shall be upgraded in accordance with drawing numbers 3019.09, 3019.14, 3019.15, 3019.16, 3019.17 and 3019.18 , 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
- 11) Notwithstanding the details indicated on the submitted drawings no works impacting on Rights of Way shall commence on site until a Rights of Way Improvement Plan for the off-site and on-site Rights of Way improvement works has been submitted to and approved in writing by the local planning authority. Prior to the first occupation 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.
- 12) With the exception of demolition and site clearance works, development shall not begin 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 on the principles recommended within the Flood Risk Assessment and Drainage Strategy and Storm Water Drainage Strategy Layout drawing referenced in Condition 2.
- 13) With the exception of demolition and site clearance works, development shall not begin until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include a timetable for its implementation, and a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
- 14) No development shall be occupied until written confirmation has been provided by the local planning authority that either:
  - (a) Wastewater capacity exists off site to serve the development; or
  - (b) A development and infrastructure phasing plan has been submitted to and approved in writing by the local planning authority in consultation

with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan; and

(c) All wastewater network upgrades required to accommodate the additional flows from the development have been completed.

- 15) Prior to the first occupation of the development, details of facilities for the storage of refuse, including screening, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented before the development is first occupied and thereafter retained for this purpose.
- 16) Prior to the first occupation of the development, a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is first occupied and thereafter retained for this purpose.
- 17) Prior to the first occupation of the development, a public access strategy that identifies external amenity areas of the development that are accessible to the public shall be submitted to and approved in writing by the local planning authority. The public access strategy will be maintained for the lifetime of the development.
- 18) Prior to the first occupation of the development, a scheme for Electric vehicle charging points (EVCP) that provides for 20% of the proposed car parking spaces to have active charging points shall be submitted to and approved in writing by the local planning authority. 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.
- 19) No development shall take place above slab level until a biodiversity plan and programme have been submitted to and approved in writing by the local planning authority. The biodiversity works shall be completed in full accordance with the approved details and retained thereafter.
- 20) No development above slab level shall take place until a landscape and ecological management plan, has been submitted to and approved in writing by the local planning authority. The content of the plan shall include the following:
  - (a) Details of any vegetation/trees to be cleared; associated ecological risks involved and suitable risk avoidance, such as timing of works;
  - (b) How any invasive species found will be managed;
  - (c) Maintenance regimes;
  - (d) Any new habitat created on the site;
  - (e) Management responsibilities and timetable;
  - (f) Treatment of site boundaries and/or buffers around water bodies; and
  - (g) Details of silt mitigation/management measures in preventing silt and debris entering existing watercourses.

The plan shall be carried out in accordance with the approved details and timetable.

- 21) Prior to first occupation of the development, full details demonstrating that the internal noise levels for all habitable rooms within the units comply with the internal noise level criteria set out in the table below shall be submitted to and approved in writing by the local planning authority. The internal noise level criteria are to apply to all external noise sources including, but not limited to, traffic, industry and construction. The development shall thereafter be fully implemented in accordance with the agreed details prior to the first occupation and such agreed details shall thereafter be permanently retained.

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 L <sub>Amax,f</sub> for night-time noise in bedrooms should be below 45dBA.			

- 22) Prior to the first occupation of the development, an acoustic report detailing the testing of noise levels in living rooms and bedrooms of all the units shall be submitted to and approved in writing by the local planning authority. Such a report shall demonstrate compliance with the internal noise level criteria contained within the table of the previous condition and be undertaken in accordance with standards set out within BS8233: 2014 Guidance on sound insulation and noise reduction for buildings (or in an equivalent British Standard if replaced). If the noise levels have not been achieved, the report shall detail what additional measures will be undertaken to ensure that they are achieved. These additional measures shall be implemented prior to the occupation of the building in accordance with the details so approved and retained thereafter.
- 23) 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 kitchens hereby permitted are first used and shall be maintained including deep cleaning and operated thereafter in accordance with manufacturer specification to ensure their continued satisfactory operation.
- 24) No vehicular movements nor any loading or unloading of vehicles associated with the permitted communal elements of the development (the restaurant, café/bar, library, gym, treatment/therapy room and cinema) will be permitted outside the following times, before 0630 or after 2000 Monday to Saturday, and before 0900 or after 1800 on Sundays or Bank Holidays.



- 25) If piling is to be the method of foundation construction, with the exception of demolition and site clearance works, no development shall take place until a method statement detailing the type of piling and noise emissions has been submitted to and approved in writing by the local planning authority. All piling works shall be carried out in accordance with the agreed details.
- 26) 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.
- 27) The Car Parking shown on the approved drawings shall be retained as car parking and used for no other purpose.
- 28) The development hereby permitted shall be used only as assisted living apartments with community facilities and as assisted living bungalows and for no other purpose (including any other purpose in Class C2 of Schedule 1 to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).