The Planning Inspectorate

Appeal Decision

Inquiry held on 27-30 June, 4th and 6 July 2023

Site visits made on 26 June and 4 July 2023

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd August 2023

Appeal Ref: APP/G2245/W/23/3316398
Berkeley House, 7 Oakhill Road, Sevenoaks, Kent TN13 1NQ

- 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 Berkeley Homes (Eastern Counties) Ltd against the decision of Sevenoaks District Council.
- The application Ref 22/00683/FUL, dated 28 February 2022, was refused by notice dated 30 September 2022.
- The development proposed is described as 'Demolition of existing building and ancillary structures and the erection of a residential apartment building (69 units) together with associated parking, basement, refuse and recycling facilities, hard and soft landscaping, and associated earthworks'.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and ancillary structures and the erection of a residential apartment building (69 units) together with associated parking, basement, refuse and recycling facilities, hard and soft landscaping, and associated earthworks at Berkeley House, 7 Oakhill Road, Sevenoaks, Kent TN13 1NQ, in accordance with the terms of the application, Ref: 22/00683/FUL, dated 28 February 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. An application for an award of costs was made by Berkeley Homes (Eastern Counties) Ltd against Sevenoaks District Council (the 'Council'). This application will be the subject of a separate Decision.

3. Amended drawings were deposited with the appeal and these propose a minor reconfiguration of the parking area, to retain two trees, and the reduction in the size of the substation. It is normally inappropriate to evolve a proposal through the appeal process, but amended plans can be accepted if no party would be prejudiced by such a course of action. In this case, the alterations were minor, submitted at the outset of the appeal process and reduced the effects of the scheme. I have therefore accepted the drawings as no party would be prejudiced by such a course of action. Indeed, the Local Highway Authority are satisfied that the loss of two parking spaces would be acceptable.

4. Since the Council issued its decision the Sevenoaks Town Neighbourhood Plan 2020-2038 (NP) has been made and now forms part of the development plan. This amendment was addressed in the proofs and again in oral evidence. It is incumbent upon me to base my decision upon the most up to date planning policy and this is what I have done.

Background and Main Issues

5. Kent County Council (KCC) submitted a Statement of Case outlining why, in its view, the appeal scheme should make a financial contribution towards education infrastructure. KCC objected to the scheme in the absence of a planning obligation securing such. The Council adopted this position despite it not being a reason for refusal. The effect of the proposed development on education infrastructure was therefore identified as a main issue at the case management conference.

6. In response to this, a planning obligation in the form of an agreement between the appellant, Council and KCC pursuant to section 106 of the Town and Country Planning Act has been submitted. This makes provision for an education contribution to be paid. As a result, this matter is not addressed as a main issue because there is common ground.

7. The effect of the proposed development on open space and the setting of nearby conservation areas are not matters in dispute between the Council and appellant. However, they are amongst the concerns raised by interested parties. In particular, the Oakhill Road Development Association (ORDA) have submitted detailed written representations on these points[1], as well as others, which I have carefully considered. These two matters have been addressed as main issues given my findings. The appellant's witnesses presented evidence on these points and have not been prejudiced as a result. I have dealt with the other main concerns of interested parties later in this decision.

8. Accordingly, the main issues in this appeal are:

   - The effect of the proposed development on the character and appearance of the area, including the effect on trees;
   - The effect of the proposed development on designated open space 337; and
   - The effect of the proposed development on the setting of the Kippington and the Granville Road and Eardley Road Conservation Areas.

Reasons

The effect on the character and appearance of the area

9. The appeal site encompasses a parcel of land located towards the northern end of Oakhill Road and within the defined urban area of Sevenoaks. It can broadly be split into two sections loosely marked on the ground by a wire fence. The eastern section encompasses woodland and has a sylvan quality. It is currently in the ownership of the Council and designated as an open space in the development plan. The western section is in the ownership of the appellant and is dominated by a large centrally placed office building and associated car park. This part of the site is previously developed land (PDL) and is generally enclosed by mature and semi mature trees including an important belt of landscaping along the site frontage. This western part of the appeal site has a verdant overall quality despite the extent of existing development.

[1] Including 'Principal Objections' during the Council's consideration of the proposal and appeal stage submissions

10. The character of Oakhill Road is outlined in a residential character assessment (the 'SPD')[2]. Oakhill Road (including the appeal site) falls within the H05 area. This location is broadly focussed on what was once a landed estate developed for housing from the 19th Century onwards. Most of this residential development has taken the form of large houses, generally of two storeys in height and set back from the road in large well vegetated plots that often include mature trees. The houses are individually designed resulting in little architectural coherence, although several exhibit elements of the Arts and Crafts movement. Buildings tend to be apparent but discreet due to the presence of dense roadside planting.

11. As a result, the detached and consistent scale and massing of the houses, the large plot sizes and the verdant landscape framework provide a pleasant overall cohesion and a harmonised suburban character. Indeed, the SPD broadly identifies these attributes as positive features. Conversely, untypically prominent development, loss of hedging, wide driveway openings and substantial paved areas are identified as negative features.

12. Given the above, it is desirable to maintain the existing prevailing character of Oakhill Road. Thus, the SPD provides design guidance that aims to secure development that retains the fragile balance in favour of soft landscaping over built form. It therefore states that new buildings should be well screened and set back from the road to avoid a significant impact on the street scene, with a scale, height and mass that fits in unobtrusively. The guidance also states that development should be served by narrow, hedge lined access drives and mature trees should be retained.

13. Regarding the latter, the appeal site incorporates several mature trees including some that are subject to a Tree Preservation Order. The relevant tree survey[3] identified 6 Grade A trees[4] (the highest grade), 41 Grade B trees and 204 Grade C trees. These gradings are based on a tree's arboricultural, landscape or cultural value. The grade therefore reflects whether they are 'heritage' trees. The gradings are accepted by the Council, which has not suggested that any of the trees are 'veterans' or 'irreplaceable habitat'. Indeed, the biodiversity survey submitted by the appellant demonstrates that the site, including the trees, is currently of low value to wildlife.

14. The appellant commissioned a Landscape/Townscape and Visual Appraisal (LTVA) by Huskisson Brown Associates to accompany the planning application. This outlines a methodology for evaluating and judging the importance of the effect of the proposal on the character and visual amenity of the townscape. Character is considered with reference to the townscape as a receptor, and the visual assessment considers people as a receptor.

15. Ultimately, the magnitude of the effect is plotted against the sensitivity of the receptor (townscape and visual) and is judged at Day 1 and Year 15. The sensitivity of the receptor is informed by specified inputs including the condition of the townscape or value of the view to a typical receptor. Mr Reynolds suggested that I focus my considerations towards the Year 15 effect because new development can be quite raw in its early years and mitigation takes time to take hold.

[2] Sevenoaks Residential Character Area Assessment Supplementary Planning Document
[3] By Mr Forbes-Laird of FLAC
[4] Guidance on tree grading is included in BS 5837:2012 (pages 8-9 in particular)

16. The Council take no issue with the Huskisson Brown methodology as it is based on standard industry practice set out by the Landscape Institute. As such, it is useful and systematic methodology upon which to base my assessment.

17. Huskisson Brown concluded that the townscape condition of Oakhill Road is 'good' (with some places being 'very good'). However, the appeal site was found to be of 'low' condition due, in large part, to the scrappy roadside vegetation and the presence of the office building, which is untypically large and non-residential. However, the existing building is generally unobtrusive, and the existing roadside vegetation is typical of the area. The scrappy condition is on account of the appellant's lack of management. It also provides a dense roadside corridor of foliage that provide some year-round screening. Accordingly, the roadside vegetation responds positively to the generally good quality and condition of Oakhill Road.

18. Moreover, the assessment of the site's condition focussed on the previously developed part of the appeal site. It therefore underplayed the presence of the designated open space, which includes high grade trees and was apparently designated in part due to its contribution to the visual amenity of the area. This woodland is also present on historic maps and is likely to have been a townscape feature for some time. As a result, the condition of the site should be elevated. That said, the woodland is unmanaged and would benefit from some restoration. Overall, the appeal site is in high 'ordinary' condition when applying the guidance in Table 1 of the LTVA.

19. The condition of the site informs its value as do the other attributes listed in Box 5.1 of GLVIA[5]. In addition to the high ordinary condition of the site, it has some scenic value, despite the office building, because of the frontage planting and the woodland to the rear. The woodland is also a priority habitat which conveys some rarity. The designation of the woodland as an open space also indicates some representative and perceptual value. Alternatively, there is limited associative interest with historic events. Although at a local level the mature Wellingtonias have some cultural interest as Victorian specimen trees, perhaps linked to the early suburban development of Oakhill Road. The lack of management means the woodland is currently of low value to wildlife. Overall, the appeal site crosses the threshold for being of medium value as a landscape receptor when applying Table 2 in the LTVA, in that it is an area of moderately positive characteristics.

20. As already explained, the H05 area is characterised by a spacious layout of two storey dwellings in well vegetated plots. A large block of flats is therefore likely to be out of character in this context. The existing office building within the appeal site departs from the established residential suburban character, but not in a visually obtrusive way due to the tall and dense roadside vegetation. Birch Place as a block of flats is also a departure, but not stridently so as it is not large when compared to nearby houses. It is also much smaller than the appeal scheme would be and is set further back from the road behind retained dense landscaping. As a result, it is a weak comparison to the appeal scheme that has little bearing on my assessment.

21. Accordingly, the likelihood of the appeal site and its context being harmed by a large development of flats is high. When this 'high' townscape susceptibility to

[5] Guidelines for Landscape and Visual Impact Assessment, The Landscape Institute.

change is considered alongside the 'medium' townscape value, then the overall townscape sensitivity is 'medium high'.

22. The LTVA identified ten representative views that can be used to predict the visual impact of the proposal and the associated loss of trees. I cannot completely discount the potential that the trees proposed for felling may be glimpsed from other locations[6], but I am satisfied the ten views are representative and cover what would be the most affected vantage points. The views are from public rather than private locations as a means of testing the effect on the public realm.

23. The views can broadly be grouped into near distance[7] and medium distance[8]. Each of the views have been subject to an assessment that identifies the receptor sensitivity in the location of the viewpoint. The Council is understandably content with this analysis because the sensitivity scores are logical and robust and have taken account of the presence of the Kippington Road and Granville Road Conservation Areas.

24. Turning to the effects of the proposal. The appeal scheme would introduce a new block of flats into the site that would be considerably larger than the existing office block, which is already untypically big in the context of Oakhill Road. The scale and massing would be more appropriate in a town centre setting rather than a suburban location such as Oakhill Road. As a result, the proposal would be an incongruous addition in the context of the much smaller surrounding buildings and suburban townscape. Indeed, the extent of landscaping required to screen and soften the development is an indicator that it would be inappropriate in the receiving townscape/landscape.

25. This finding is further supported when the density and site coverage of the scheme is considered. In this respect the density would be around 128 dwellings per hectare (dph) on the previously developed part of the site or about 50dph if the entire site, including the woodland, was factored in. The vast majority of the woodland would not be developed and would be unusable as private open space save for a path. Therefore, I prefer the approach of Mr Sperryn and ORDA in calculating the density of the scheme at around 128dph. In any event, by either measure the density would be a significant uplift in the average density of that already found in Oakhill Road, which is around 5-6dph[9].

26. Of course, it would not be an efficient use of land to develop at a density that matches that currently found in Oakhill Road. Indeed, Policy SP7 of the Sevenoaks Core Strategy 2011 (CS) expects schemes in the Sevenoaks Urban Area to achieve a density of 40dph with higher densities in suitable locations close to the town centre. This expectation is not expressed as a minimum and is subject to an overriding consideration that all new housing will be delivered at a density that is consistent with good design and does not compromise the distinctive character of the area.

27. Mr Sperryn adopted the view that the appeal site was close to the town centre because residents could walk there. That may be true, but the walk is undulating and at around a mile would exceed the 800m 'walkable' distance

[6] There is a suggestion from an interested party that it might be possible to see the Wellingtonia trees within the appeal site from South Park – CD16.22. I investigated this on site but it was not obviously apparent.
[7] Viewpoints 3, 4, 5 and 6
[8] Viewpoints 1, 2, 7, 8, 9 and 10
[9] See Mr Sperryn's Proof – Para 7.51

outlined in the National Design Guide. Nevertheless, the appeal site is a walkable distance from the mainline rail station. Accordingly, a density in the previously developed part of the site of around 40-50dph, similar to Birch Place, would balance the efficient use of land with the distinctive character of the area. Nevertheless, the appellant has made a design choice to go beyond this and that would explain, in part, why the building would be contextually large and result in extensive tree loss. Thus, exceeding an appropriate density would contribute to the proposal being out of character. Whether this approach is an optimisation[10] of the site will ultimately come down to my planning balance, where I examine the scheme's adverse impacts and benefits.

28. That said, the building has been designed in three elements with the central part set back from the road by some way and behind dense planting. The top floor of the southern wing would also be set back from the eaves to provide some articulation to the massing. Although the northern wing would not, and consequently it would fail to step down as a response to the presence of 5 Oakhill Road. Nevertheless, the extent to which the massing would be perceived as a single block in the townscape would be reduced because of the design and this provides some mitigation.

29. The building would also be architecturally attractive and include a rich earthy pallet of materials that would work well with the landscaping. In addition, the gables would take inspiration from local Arts and Craft influences. These features of the design, which are a response to the Design Review Panel's (DRP) comments, would also assist in reducing the impacts of the proposal. However, the amendments do not fully address the fundamental concerns of the Panel - the scale of the building and extent of tree loss. Thus, the design alterations would not mitigate or reduce the impact of the scheme to the point that the scale and massing would be in keeping with the area.

30. The appeal scheme would result in the existing frontage planting being removed and thus a reduction in the verdant framework of the area would occur at Day 1. However, the replacement planting would be of a large stock and include both hedging and trees. Over time, this planting would represent a qualitative enhancement of the verdant landscape framework along the site frontage. In this respect, the proposal would contribute positively to a key townscape attribute, as described by a previous Inspector[11] and the SPD. Indeed, the Council take no issue with the concept of replacing the planting along the site frontage.

31. However, the effect of the planting cannot be divorced from that of the proposed building. In this respect, the proposed building would still have a looming presence above the landscaping. This is because the apartments would be tall, set close to the road and the extent of frontage landscaping would not be proportionately dense across the whole site frontage. The fragile balance of landscaping and built form would be towards the latter when it should be the former.

32. Thus, the impact of the proposed building would be negative even with the frontage planting. The implication being that key townscape attributes would be harmed, including the discreet presence of buildings and the coherence found in the scale and massing of buildings in the HO5 area. The proposal

[10] 'Optimisation' is making the most effective use of a resource and 'effective' means producing a desired result.
[11] T/APP/G22245/A/98/290702 & 297226/PS

would also be served off a wide access drive which would lead to an extensive area of hardstanding projecting someway into the site. This would all be at odds with the guidance in the SPD.

33. The felling of mature trees would also be a departure from the SPD. In this respect, about 50% of the trees on site would be removed. Of these, three Grade A trees and 17 Grade B trees would be felled. Mr Forbes -Laird's evidence demonstrates that the loss of some of these trees would not be apparent in public views, but there would be an impact on landscape character whether the trees are visible or not. Earlier iterations of the scheme proposed the loss of other high-quality trees, including one especially important Wellingtonia (T3040). This makes me doubt whether the scheme has ever been truly landscape led, which was an important recommendation of the DRP.

34. Many Grade C trees (around 110) would also be removed, but these are not normally considered a constraint on development. It is possible for Grade C trees to collectively have value and the Council suggests this is one such circumstance. However, if that were the case then the Council would have sought to re-grade the relevant tree groups from 'C' to 'B' in accordance with the methodology in BS5837:2012. It has not, and therefore a contradiction was exposed in its case. By accepting the Grade C status of the trees, the Council is also accepting that they are not a constraint on development. I share this view because the Grade C trees are generally dispersed around the site and not of collective townscape value as a result.

35. Nevertheless, the discordant scale of the building and the loss of high-quality trees would have an adverse impact on the verdant character of the area and thus the receiving townscape as a receptor. The residual harm would result in a partial loss or alteration to one or more key elements of the townscape. Due to the mitigation proposed, the magnitude of effect would be 'medium adverse' rather than 'high adverse'. When this is plotted against the medium high sensitivity of the townscape as a receptor, the importance of the impact on the townscape would be 'moderate'. The planting within the site would mature over time but this would not mitigate for the loss of mature trees for decades, if at all, and the building would still be out of place regardless. Therefore, the magnitude of effect in Year 15 would endure at moderate. This means the proposal would cause a clear deterioration in the townscape as a resource.

36. The LVTA identified adverse visual effects in winter views at Day 1 and at Year 15 in all the representative views. This is due to the presence of the proposed building, the loss of trees or a combination of the two. The medium distance views were scored as having 'low' to 'medium low' adverse effects at Day 1, principally due to the loss of trees, including an imposing Wellingtonia (T3035). This is because the overall effect from the medium distance views would still be one of a well vegetated and wooded townscape with retained skyline trees. The residual magnitude of effect at Year 15 in medium distance views is predicted to fall to 'low' or 'minimal' over time as the proposed landscaping matures and the presence of the development settles.

37. This is a generally sound assessment although I have some reservations regarding the scoring at VP7 and VP8. T3035 is quite prominent in these views, which are from a conservation area. Moreover, once it (and the other trees in the site) are felled the gable end of the proposed building would be apparent. The relevant verified visual montages (VVMs) demonstrate that the

new planting would have little effect in these views at Year 15 and certainly would not reach a similar level of maturity as T3035, which is perhaps 130 years old. However, public receptors would need to be looking for the effect from these vantage points, which are within a built-up townscape, rather than it being a strident impact to users of Granville Road. Thus, a finding of medium/low adverse effects from these vantage points is reasonable, although there would not be a drop in the magnitude of effect by Year 15.

38. When the magnitude of visual effects in medium distance views is plotted against the sensitivity of the viewpoint receptors, then the importance of effect at Day 1 in winter conditions in most medium distance views would be 'slight' adverse, with this rising to 'slight/moderate adverse' at VP7, VP8 and VP9. The magnitude of effect would drop slightly as planting matures, but this is unlikely to have much effect in VP7, VP8 and VP9. Overall, the proposal would result in a small but perceptible deterioration in the visual amenity of the wider area at Year 15. The importance of the visual effect in medium distance views would therefore be 'slight' adverse overall, but borderline moderate from VP7, VP8 and VP9, principally on account of the loss of T3035.

39. The magnitude of visual effect on near distance views would be acute and unmissable. The LTVA suggests it would range from 'medium', 'medium/high' and 'high' adverse at Day 1. Again, this is a fair categorisation that is shared by the Council and factors in views into the site from the access (VP4 and VVM10). This is where the impact would be at its greatest as the long southern elevation would be apparent in its entirety with little tree planting to soften it (unlike the western elevation). The loss of trees would also open views of the sky and therefore the balance between building and soft landscaping would very much be in favour of the former. However, this view would be fleeting and localised as receptors pass the site entrance and the presence of some trees and the woodland beyond would provide softening. A medium residual adverse effect in this view at Year 15 is therefore likely.

40. Mr Smith has scored the impacts lower than those in the LTVA because of the VVMs he has prepared. However, I have taken a precautionary approach because the extent and form of the landscaping shown in the VVMs has been subject to professional judgment. Thus, the trees may not grow as quickly as shown or in the shape or density presented. Mr Smith's view is also somewhat of an outlier, as Huskisson Brown, Mr Reynolds and Petrow Harley Chartered Landscape Architects have all arrived at broadly similar findings about the scheme's visual impacts.

41. The near distance views from Oakhill Road would therefore be subject to a 'moderate/substantial' importance of effect at Day 1 which would reduce to 'moderate adverse' at Year 15 as the landscaping matures. This would be an effect of significance because it would cause a noticeable and clear deterioration in the visual appearance of the townscape. The impact would not be substantial because of the quality of the architecture and landscaping, and because the views would be localised to a short section of Oakhill Road.

42. This finding is predicated on the assumption that the existing landscaping which would be retained, alongside that planted, would endure. Therefore, it is necessary to assess whether there would be post development pressure to heavily manage or fell the existing and proposed trees within the site. This is a

matter referred to in both BS 5837:2012 and BRE Guidance[12] and can be driven by matters including anxiety from living close to a large tree(s), nuisance (such as leaves falling) and interference with day and sunlight. This pint has been reinforced by appeal decisions submitted by the Council.

43. In contradiction to Mr Reynolds evidence, Mr Cashman was not concerned that the newly planted trees would be subject to reasonable post development pressure. This was because the species and precise locations of the trees could be carefully considered. The trees would also mature over time giving residents a chance to become accustomed to them. This is a view I share given the available evidence and the broad consensus between the arboricultural experts at the Inquiry. Indeed, the authors of the daylight sunlight assessment have confirmed[13] that light levels in the apartments with the proposed tree planting is likely to be acceptable when measured over a year. I afford this expert view significant weight. Moreover, the Council's Arboricultural Officer was not concerned by this aspect of the proposal and welcomed the new planting. Accordingly, I am satisfied the proposed planting is likely to endure, especially as it would be protected through a Landscape and Ecological Management Plan (LEMP). The Council could also impose a Tree Preservation Order to further highlight to future residents and the management company the importance of the proposed tree planting.

44. Alternatively, Mr Cashman is concerned by the relationship between the proposed building and the group of trees to its immediate east. T3040 (a large Wellingtonia) is a prominent skyline feature in most of the representative views which Mr Forbes-Laird agreed should not be felled given its townscape value. The other trees in this group would have minimal presence in public vantage points but their retention would contribute to the verdant character of the area.

45. The proposed building would be close to the root protection area of T3040 as well as the other trees. The evidence before me does not however, indicate that building the appeal scheme would damage these trees to the point their longevity would be in jeopardy. At worst, some minor cutting back may be required to facilitate construction work. Moreover, the layout of the flats has been carefully considered to minimise the number of homes with a single aspect towards these trees. This would assist in providing outlooks and light levels that would not be harmfully constrained by trees.

46. Future occupants are also likely to choose this development because they want to live close to trees. The number of mature trees in Oakhill Road is testament to this, although many of these properties are in large single dwelling plots. That said, the podium garden would provide a sense of space around the trees. Wellingtonias are also very sturdy species so concerns about them falling onto the flats would be misplaced. The existing trees would also be protected through the LEMP, and no single resident would have a final say on whether to fell or prune them due to the trees being in common ownership through a management company. It is also of note that expert opinion is mixed regarding the extent to which post development tree resentment is an issue. Neither Mr Forbes-Laird nor the Council's Arboricultural Officer identified pressure on these trees as a potential problem. A colleague of Mr Cashman has also confirmed that post development pressure is seldom an issue[14].

[12] CD16.9
[13] See the evidence provided by Anstey Horne including Appendix 7 of Mr Leggett's proof
[14] CD16.13

47. On balance, I am satisfied the group of trees in question would not be subject to justified post development pressure to fell or aggressively prune and would therefore endure broadly as they are. Accordingly, the residual level of harm to townscape character and visual amenity, and thus the character and appearance of the area, would remain at moderate adverse in Year 15.

48. In summary, the appeal scheme would harm the townscape character and visual amenity of the area because it would be contextually out of scale and several mature trees would be felled. However, the package of mitigation, especially the frontage planting, would assist in moderating the effect, as would the contained nature of the site on account of surrounding landscaping. As a result, the effect on the character and appearance of the area would be localised, although noticeable and clear from Oakhill Road and from Granville Road to a much lesser extent. Consequently, the overall level of harm to the character and appearance of the area would be moderate or middling.

49. Thus, the proposal would moderately harm the character and appearance of the area. It would therefore be at odds with Policy SP1 of the CS[15], which seeks to secure development that responds to the distinctive local character of the area and properly takes account of the SPD. There would also be a conflict with Policy SP7 of the CS because the density would be above that appropriate for the location, and this would contribute to the distinctive character of the area being compromised. Policy EN1 of the ADMP[16] would also be breached because the scale, height, massing and site coverage would not respond to the character of the surrounding area and natural features (mature trees) would be lost from the site. The proposal would also fail to conserve the landscape[17] and therefore a conflict with Policy EN5 would occur. Policies C4 and L4 of the NP would also be breached because the scheme would not be of a high quality due to the harm it would cause, including the felling of high-quality trees.

The effect of the proposed development on open space

50. The woodland within the appeal site is part of a wider open space allocation (Site 337) and is categorised as Natural and Semi-Natural Greenspace (NSN). Policy GI2 of the ADMP seeks to protect open spaces (including green infrastructure) within the urban confines of Sevenoaks. It does this by only permitting a change of use if the open space is surplus to requirements, or the loss will be mitigated by equivalent replacement provision in terms of quality, quantity and accessibility. The policy also states that the change of use should not result in a significant adverse impact on the character of the area and any loss to biodiversity interest should be mitigated.

51. The appeal scheme would result in the creation of a woodland walk within the open space. But it would be routed around retained trees and the works would be sensitive to the woodland character. Consequently, the woodland walk would not result in a harmful domestication of the woodland.

52. That said, a small part of the open space would be built upon to facilitate the construction of the proposed apartments. Mr Leggett suggested this effect would be insignificant. That may be the case in quantitative terms, but the encroachment into the open space would result in several mature trees having

[15] Core Strategy 2011
[16] Allocations and Development Management Plan 2015
[17] As townscape can be considered a landscape

to be felled, including T3035 and impressive copper beeches (T3013 and T3014, the latter being subject to a TPO). This would not be an insignificant outcome because the loss of the trees would contribute towards a moderate adverse impact on the character and appearance of the area.

53. The appellant suggests that the incursion into the open space can be justified because it is surplus to requirements due to the extensive amount of NSN elsewhere in the district. However, that is approaching the test in the policy in an unduly narrow way because it simply considers quantity (land use) against quantitative standards. Such an approach fails to consider quality and accessibility or the multifunctional value of open spaces. For example, NSN can be important to landscape character, heritage, biodiversity, mitigating climate change and flood prevention.

54. Instead, to properly understand whether an open space is surplus to requirements it is necessary to consider why it was designated and what function and value it has. In this instance, there is no public access to the section of the open space within the appeal site, so it does not serve a recreational function. Instead, the open space seems to have been designated as a green corridor that contributes to the verdant character of the townscape between Oakhill Road and Granville Road. Open space elsewhere in the district cannot fulfil this role. It is therefore difficult to see how Site 337 in full or in part could be surplus to requirements on these terms.

55. The proposal would result in a net gain to biodiversity and therefore it would enhance the quality of the open space on this measure. However, due to the removal of mature trees, the quality of the green canopy within Site 337 would diminish, especially when viewed from Oakhill Road. This would undermine one of the functions of the open space that has apparently led to its designation. Accordingly, the proposed loss of open space would not be mitigated by equivalent provision.

56. That said, it is important to acknowledge that most of the open space would remain and therefore its contribution to the character of the area would endure. However, if the open space within the appeal site was left undeveloped then several trees would be retained, and the proposed building would be smaller. As a result, the effects described under the first main issue can, in part, be attributed to the design choice to encroach into the open space. Thus, there would be conflict with Policy GI2 of the ADMP.

The effect of the proposal on the setting of conservation areas

57. The Kippington Conservation Area (KCA) is broadly focussed on the core of the historic Kippington House estate. The parkland associated with this estate has been progressively developed since the second half of the 19th Century with housing. The first wave of development involved large, detached villas in generous well vegetated plots in a lightly settled parkland landscape.

58. Oakhill Road followed this initial phase and was constructed towards the end of the 19th Century as a suburban street. It is not a pre-existing rural lane and does not have that character given the continuous presence of housing. It was probably developed in response to a growing demand for housing from affluent commuters using the newly arrived railway. From this point onwards development has involved smaller houses in smaller plots, albeit they are still large by comparison with other forms of housing nearby, such as the former

railway workers cottages to the northern end of Oakhill Road. Overall, the area has retained a very spacious, verdant and exclusive suburban character despite some intensification and plot subdivision in the 20th Century.

59. Indeed, the Kippington Conservation Area Appraisal and Management Plan (KCAA) identifies three common characteristics including the landscape setting, the high number of trees and hedges and the architecture being large individually designed houses standing in substantial plots surrounded by mature planting. These are unifying features that distinguish the townscape of the KCA. As a result, the KCA has aesthetic and historic interest and value as an interesting example of high-end suburban town planning and the evolution of a historic landed estate. This value provides the KCA with significance.

60. The ability to experience the KCA as an early example of suburban town planning is important to understanding and appreciating its significance. In this respect, the suburban character of the entirety of Oakhill Road contributes to the setting of the KCA and the closer a site is to the boundary of the conservation area the more important it becomes in this respect. This is a point reiterated in the SPD[18]. Indeed, the KCAA includes a photograph (on page 1) taken from outside the appeal site looking into the KCA which demonstrates the cohesion found in the roadside planting and a lack of prominent buildings.

61. The boundaries of the KCA have been irregularly drawn, especially along Oakhill Road where some buildings are included, and others excluded despite the broad overall cohesion in the townscape. This seems to be because the boundaries have been drawn to incorporate fine examples of historic buildings, especially where they still occupy large plots, as well as important areas of frontage planting. The appeal site is not within the KCA, but 34 Oakhill Road is, as is about half the street along the appeal site frontage.

62. The appeal site is therefore within the setting of the KCA. The large scale and commercial use of the existing building, along with the generic quality of the architecture, jars with the high-quality suburban character of KCA and therefore does nothing to better reveal its significance. That said, it is not unusually tall and is set lower than the frontage boundary treatment, which is reasonably dense. As a result, it is not an obtrusive presence in the approach to the KCA and therefore it only harms its setting in a minor way.

63. The existing planting along the site frontage contributes positively to the cohesion of the street scene and therefore adds to the setting of the KCA. The appeal scheme would result in the removal of the frontage landscaping but overtime the replacement planting would similarly contribute positively to the cohesion of the street scene, especially as it would be managed through the LEMP. There would probably be a slight benefit to the setting as a result.

64. However, for the reasons already given the proposed flats would be a conspicuous 'urban' departure from the low-density suburban character and appearance of Oakhill Road as a whole, including that part which is within the KCA. The proposed frontage planting would soften the negative impact but not extinguish it, as the building would still be evident in vantage points from within the street scene of the KCA and its immediate setting. The loss of trees would also be apparent, and this would erode the verdant setting. Indeed, the

[18] See p373

LTVA has identified residual adverse effects in views from within the KCA, which is something the Council's Conservation Officer has failed to grapple with. Indeed, Mr Sperryn was unable to explain at the Inquiry why the Council took issue with the effect of the proposal on the character and appearance of the area but not the setting of the KCA, which the appeal site directly abuts.

65. The proposed apartments would also relate poorly to the modest scale, mass and setting of 34 Oakhill Road. This is a locally listed building identified as a positive feature of the KCA and is a non-designated heritage asset experienced as a relatively modest and attractive period property.

66. The evidence before me, including the VVMs, indicates the proposal would impact only a short stretch of Oakhill Road on account of existing and proposed planting, and this would dissipate quite quickly when entering the KCA and travelling south along Oakhill Road. As a result, the effect would be to a small part of the conservation area's setting, which would otherwise retain a verdant suburban character, albeit diminished by the appeal scheme. As a result, and when accounting for the impact of the existing building, the positive effect of the new planting, the quality of the architecture and that only localised harm that would be caused, the overall outcome would be moderate harm to the setting and significance of the KCA.

67. The Granville Road and Eardley Road Conservation Area (GECA) is focussed on an area of townscape originating in the second half of the 19th Century and was also part of the Kippington Estate. This area was likewise developed on account of the demand from commuters following the expansion of the railway. The area is suburban in character, but the houses are closer together and more uniform in appearance than in the KCA. There are a high number of trees and hedges within the GECA and this, taken with views out towards the North Downs and the woodland alongside the railway, provide a verdant character and appearance of aesthetic value and significance.

68. As already explained, the removal of T3035, and to a lesser extent other trees, would be apparent from the GECA as would a small part of the proposed building. This would result in a very minor diminution in the significance of the GECA because its setting would be a little less verdant, principally due to a skyline tree being felled. However, this impact would be peripheral to the main view looking north along Granville Road. In essence, the overall experience of the conservation area as a leafy historic townscape would remain broadly unaffected. The harm would therefore be low.

69. In conclusion, the proposal would result in some moderate harm to the setting of the KCA (and by extension that of 34 Oakhill Road) and some low harm to the setting of the GECA. As a result, the proposal would fail to adhere to Policy EN4 of the ADMP, because the setting of designated and non-designated heritage assets would not be conserved.

Other Matters

The effect of the proposed development on employment land

70. Policy EMP1 of the ADMP, reinforced by the NP, allocates the appeal site as an employment site. The policy states it will be retained as such in accordance with Policy SP8 of the CS. Policy SP8 of the CS states that sites used for business purposes will be retained in business use unless it can be

demonstrated that there is no reasonable prospect of their take up or continued use during the period of the Core Strategy. The supporting text to Policy EMP1 explains that the 'reasonable prospect' test would be addressed through one year of unsuccessful marketing.

71. There are other employment uses at the northern end of Oakhill Road and in the broad vicinity of the rail station. The appeal site is located a short walk from the rail station and is in an attractive leafy street. It has a limited presence but could still be attractive to businesses that do not require passing trade. As a result, marketing would not be a fruitless exercise. As it has not been done the appeal scheme is at odds with Policies SP8 and EMP1.

72. However, it is common ground that permitted development rights[19] would allow the building to be converted to flats. Prior approval[20] has been granted in the past for a residential conversion and the appellant has confirmed that they would explore this again if the appeal was unsuccessful. As a result, there is a genuine and realistic fallback position that would result in the loss of the existing office use from the appeal site.

73. Moreover, the Council's Economic Needs Study[21] has recommended the release of the appeal site from the policy designation aimed at retaining it in an employment use. The building has also been vacant for around a year as the previous occupant (the appellant) has moved. Thus, in this instance, the conflict with Policies SP8 and EMP1 would be outweighed by other considerations and would not be an adverse impact of the scheme.

The effect on the living conditions of the occupants of 5, 9 and 34 Oakhill Road, with reference to outlook, privacy and day and sunlight

74. 34 Oakhill Road (No 34) is located opposite the appeal site. Thus, some of the proposed flats would have an aspect towards this property. However, the outlook from many of the apartments would be filtered by the proposed landscaping. It would also be towards that part of No 34 that is already overlooked from the public realm, whereas other parts of No 34 would remain private. There would be no harmful loss of privacy as a result. The appeal scheme would be visible from No 34 but the gap would be sufficient to ensure the outlook would not be harmfully compromised.

75. 9 Oakhill Road (No 9) is a large property with a generous rear garden. It would be possible to see the appeal scheme in oblique views from the rear garden, but the proposal would not directly block the existing rear aspect towards woodland. The distance of around 22m, and intervening planting, would prevent harmful overlooking from occurring. There would be some noise and disturbance from use of the car park, but the impact would not be constant and would be part of the background ambience found in a residential area.

76. The main amenity space at 5 Oakhill Road (No 5) is the large rear garden and the most sensitive part of this space to overlooking is the large patio. The appeal scheme has been designed to respond to this constraint, as well as the privacy of the internal rooms beyond (a kitchen and bedroom). The apartments in the vicinity of No 5 would have a principal outlook to the east. Where windows would face north towards No 5, they would be set back from

[19] Class MA of The Town and Country Planning (General Permitted Development) Order 2015 (as amended)
[20] See Paragraphs 7-11 of the Committee Report
[21] CD 12.2

the midpoint of the patio by around 20-25m and 30m from the south facing kitchen window of No 5 (and the bedroom above). Mature trees would also be planted to filter views, and privacy screens installed at the balconies of the proposed apartments. Overall, privacy at No 5 when in the rear garden, kitchen and bedroom above would be adequate.

77. The northern elevation of the proposed apartments would be located closer to the front garden of No 5 than the existing offices are and would be taller. No 5 is also set on lower ground. A high number of windows would face towards the front garden, and this would result in overlooking. The outlook from the front garden would also be compromised. The front garden is a reasonably private space and receives the evening sun. However, it is steeply sloping and dominated by a driveway which means its usability as an amenity space is less pronounced than the large rear garden. On balance, the compromising effect on the ability to enjoy the front garden as an outdoor amenity space would not result in the living conditions at No 5 being harmed overall.

78. Some of the apartments that would overlook the front garden of No 5 would have an oblique view towards the windows in the front of the property as well. Many of the proposed windows in the north elevation of the appeal building would serve bedrooms and therefore may not be intensively used. Nevertheless, the ability to look towards No 5 would remain. The occupants of No 5 would also have a perception of being overlooked. That said, the rooms in No 5 with a west facing outlook are very large with areas that would be entirely private. Moreover, the aspect from windows within the appeal scheme would not be directly towards the windows in No 5. The window-to-window distance would also be around 20-25m, which adheres to the privacy distance suggested in the National Model Design Code. There are two rooflights in No 5 facing due south, but these serve a dressing room and ensuite. Compromising privacy, light and outlook in these spaces would not be harmful because they are no main living spaces. On balance, the occupants of No 5 would retain adequate privacy when in their property.

79. It would be possible to see the proposed flats from several rooms within No 5, but these are mostly large rooms in a large house. As a result, the appeal scheme would not be constantly apparent in the eastern or western outlook from the property. The south facing outlook from No 5 would change markedly, especially as the beech trees would be felled. However, there would still be many visible trees in the southern aspect as well as views of the sky. Consequently, the apartments would not, on balance, appear oppressive.

80. A day light sunlight assessment has been submitted by the appellant considering the impacts on the occupants of 5, 9 and 34 Oakhill Road. The report is clear that all properties would suffer a loss of light to varying degrees. Nevertheless, BRE Guidance[22] explains that daylight may be adversely affected if the vertical sky component (VSC) measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value.

81. Nearly all the windows at 5, 9 and 34 Oakhill Road would retain VSC above 27%. That said, a small number would have a VSC below 27% with the appeal scheme in place. Nevertheless, only one window at No 34 would also be below 0.8 times its former value. The window in question would have a VSC of 0.78 and therefore only a minor 'fail' would occur. It must also be borne in mind

[22] Site Layout Planning for Daylight and Sunlight: A guide to good practice (second edition, 2011).

that all the windows where a score below 27% was recorded would nevertheless serve rooms where the overall daylight distribution would be adequate, as demonstrated by the daylight assessment.

82. In respect of sunlight, it is only necessary to consider the effect on certain windows at Nos 5 and 34 due to the intervening distance and orientation with the appeal scheme. Relevant guidance in BS:8206 recommends that interiors where the occupants expect sunlight should receive at least one quarter (25%) of annual probable sunlight hours (APSH), including at least 5% APSH in the winter months (between 21 September and 21 March). The sunlight report confirms that No 34 would receive adequate sunlight on this measure and I have no reason to doubt this.

83. At the inquiry, the occupant of No 5 did query the results in respect of his property. Indeed, three windows would receive winter sunlight levels of below 5% with one losing all direct sunlight in the winter. The latter serves the main living room and faces west. However, the guidance refers to rooms not windows and states that if a room has multiple windows on the same wall or adjacent walls, then the highest value APSH should be taken. If a room has two windows on opposite walls, the APSH due to each can be added together. On this basis, the rooms would receive adequate levels of winter sunlight and therefore a separate over shadowing report would be unnecessary. The annual sunlight scores for all the tested rooms would generally comfortably exceed 25% of APSH which suggests that living conditions would be adequate.

84. In respect of outdoor amenity space at No 5, a plan indicating the two-hour sun contour on 21 March has been plotted and this demonstrates that there would be no change in the proportion of the garden receiving at least two hours of sunlight following the construction of the appeal scheme. It is unclear whether the rear garden would experience additional over shadowing because of the appeal scheme, but the rear amenity space would adhere to minimum guidance. I am also conscious that the garden at No 5 is very large and therefore sunlight would be available in different locations. Sunlight to the front garden was not considered, but this is more of a functional space as opposed to the rear garden.

85. Overall, the effect on sunlight and daylight is a highly technical area based on computer models and other inputs. The National Planning Policy Framework also indicates that daylight and sunlight effects should be considered flexibly. Thus, the results often need careful interpretation. In this case, there is no technical report before me prepared by an expert in the field that comes to an alternative view to that advanced by the appellant's consultants. I have therefore afforded the findings in the report significant weight given the balance of the evidence. I am also mindful that the current owner of No 5 purchased the property recently and in full awareness of the application. This perhaps indicates that the impacts would not be as severe as he suggested.

86. The activity associated with the occupation of the proposed building, including vehicle movements and general comings and goings, would not be out of character in a residential street or at a level off intensity that would become harmfully apparent in an established residential location. This is a judgment informed in part by the accessible location close to the rail station (which may suppress vehicle use), the extant use of the site, which gives a baseline of activity and the distance/screening between the appeal site and neighbours.

87. On balance, I am satisfied that the effects of the appeal scheme, individually and cumulatively, would not harm the living conditions of the occupants of either 5, 9 or 34 Oakhill Road, which would be the most affected properties. The Council reached the same view following assessments by Officers and members of the planning committee. Accordingly, a conflict with Policy EN2 of the ADMP would not occur.

Whether the proposal would make adequate provision for affordable housing

88. Policy SP3 of the CS requires 40% of the properties to affordable housing in schemes of 15 or more homes. This is unless, in exceptional circumstances, an independent assessment demonstrates it would be unviable to do so. The appeal scheme proposes no affordable housing for this reason. The evidence underpinning this conclusion is set out in a summary report[23]. It is unclear who the author of the summary report is and what their credentials are. Moreover, the full report with all supporting evidence is not before me, which is at odds with the thrust of advice in the PPG[24].

89. The Sevenoaks Society raised some reasonable challenges to the summary reports findings at the Inquiry[25], including the absence of evidence underpinning the sales values, the existing use value of the site[26], the cost of marketing and sales and the extent of developer profit in a high value/low risk area. However, the Sevenoaks Society failed to demonstrate that an acceptable level of profit would be achieved even if I accepted their points.

90. Significantly, the Council commissioned an independent review of the evidence[27] and these consultants agreed that the scheme as proposed would make something in the region of a 5% profit. This would be substantially below a target profit of between 15-20% as set out in the PPG. The Council's appraisal is not before me either and has apparently not been made public. The all-round lack of transparency is troubling, but I have no substantive reason to doubt the robustness of the process and subsequent findings.

91. Indeed, if the situation was marginal or in doubt then the Council could have sought a review mechanism[28] that would see viability re-tested once the costs and revenues were known. The Council has not done this, which indicates the extent to which it is satisfied the scheme would be unviable with affordable housing. On balance, the available evidence demonstrates that a conflict with Policy SP3 of the CS would not occur.

The effect on highway safety and the road network

92. The appeal scheme would result in an intensification in traffic from residents and due to deliveries. The effect on traffic is considered in a comprehensive Transport Statement (TS). This analysis concluded that the site is in an accessible location without accident patterns and could accommodate a safe entrance and appropriate levels of parking consistent with local standards.

[23] CD1.25
[24] Planning Practice Guide - Paragraph: 021 Reference ID: 10-021-20190509
[25] CD16.17
[26] The existing use value in the appellant's report is purported to be around £800,000 despite the site being designated open space and woodland. This valuation seems to be based on an earlier scheme proposing detached houses in the woodland, which Mr Leggett confirmed would not be appropriate.
[27] Confirmed in Para 155 of the Committee Report
[28] Planning Practice Guide - Paragraph: 009 Reference ID: 10-009-20190509

93. Moreover, when the anticipated trips are considered against those that can be associated with the existing use of the site, there would be a negligible impact on traffic flows and consequently the residual impact on the road network would not be severe. The Local Highway Authority (LHA) has undertaken an independent expert review of the TS and is satisfied with its findings subject to the imposition of conditions. The Council has also accepted the findings of the TS. Both the LHA and the Council arrived at their findings following a review of the report by L Brown Associates Ltd. In the circumstances, the findings of the TS carry significant weight.

94. On street parking has been raised as a concern but this is controlled by a management company. Future residents may have home deliveries but there would be space in the site for associated vehicles to pull off the road. Even if that were not the case, it has not been demonstrated that on street parking would harm highway safety given the low traffic speeds and generally good forward visibility. There is also a pavement for pedestrians. Overall, the appeal scheme would preserve the safety of road users.

Other points

95. The ecological assessments submitted by the appellant indicates that the proposal would result in a net gain in biodiversity of around 48%. The summary of these findings has been submitted but not the detailed calculations. Nevertheless, the Ecologist at Kent County Council has accepted the findings. Again, this is an independent expert view to which I afford significant weight in the absence of substantive evidence to the contrary. Furthermore, the appellant is content for a condition to be imposed that would secure the extent of net gain outlined. The recommended bat surveys have also been undertaken and confirmed the low value of the site in this regard.

96. Paragraph 152 of the National Planning Policy Framework explains that the planning system should help to reuse existing resources to assist in the transition to a low carbon future, including the conversion of existing buildings. The appeal scheme would result in the existing building being demolished rather than reused. However, for reasons I go into, the comprehensive redevelopment of the site would facilitate the delivery of several benefits. Many of which would address other aims in Framework. In particular, the demolition of the building, which is of no architectural merit, would allow a more intensive use of a finite resource (vacant previously developed land) for housing in an urban location close to a railway station.

97. It is also a point of note that I have not been directed to a development plan policy that requires the retention of buildings in these circumstances or that whole life/embodied carbon should be a determinative factor. Accordingly, the considerations and policy context are very different to the those outlined in a recent Secretary of State decision[29].

98. Concerns have been expressed that an approval would set a precedent, but the circumstances are specific to this case and therefore a generalised precedent would not be set. The evidence before me does not demonstrate that the proposal would have an adverse impact on infrastructure given the ability to use funds from the Community Infrastructure Levy.

[29] APP/X5990/V/3301508

99. The nearby lamp posts along Oakhill Road are listed and I have had special regard to the desirability of preserving their setting. These structures are of significance as surviving examples of street furniture from the early phase of the suburban development of the area. Consequently, they have historic and architectural value. This value would still be apparent and undiminished if the appeal scheme were to go ahead. As a result, the setting of the structures would be preserved.

100. The appeal site is not within the Sevenoaks Air Quality Management Area and would include facilities for electric vehicles. Moreover, when compared to the existing use the number of trips is unlikely to increase greatly. As a result, the proposal would not have a discernible impact on air quality or from pollution caused by vehicle movements. Impacts from construction would be short lived and can be managed by condition, as can drainage. The latter is also supported by technical reports that have not be substantively challenged. In both respects there are no objections from the Council's Environmental Health Team or the Lead Local Flood Authority.

101. The updated daylight and sunlight assessment[30] reaffirms the earlier findings that most rooms within the appeal scheme would meet or exceed the advisory target illuminance. Therefore, adequate living conditions would be achieved for future occupants despite some properties being single aspect. Japanese knotweed has apparently been evident at No 5 and may be present within the appeal site. This would be addressed pursuant to the Wildlife and Countryside Act 1981. The perceptions from interested parties about the Council's conflict of interest and lack of transparency in agreeing to sell the woodland to the appellant are not supported by substantive evidence.

Planning Obligation and Conditions

102. The appeal scheme is supported by a completed planning obligation. This has been reviewed by the Council and Kent County Council (KCC) are broadly satisfied it has been properly drafted. KCC have raised one concern that relates to the signatories to the obligation. In summary, the Council owns part of the appeal site but has not signed the agreement in this capacity. As a result, the obligation would not be enforceable on the Council or any successor in title to that part of the appeal site. KCC have therefore recommended the imposition of an 'Arsenal' condition[31] to ensure all owners of the appeal site sign the agreement before development commences.

103. In this instance the land owned by the Council would encompass only the woodland walk and a small part of the proposed apartment building. It would be entirely impractical to construct and occupy the part of the building on the land currently owned by the Council in advance of works commencing on the appellant's land. As a result, the suggested condition is unnecessary.

104. The planning obligation has been drafted to ensure financial contributions towards secondary school education infrastructure (school places and land for a new school) is paid if receipts from the Community Infrastructure Levy are not used for these purposes or would not cover the relevant sum. This is necessary because without such mitigation the appeal scheme would place

[30] Appendix 7 of Mr Leggett's proof
[31] Planning Practice Guide - Paragraph: 010 Reference ID: 21a-010-20190723

harmful pressure on secondary school education infrastructure due to a lack of capacity. The contribution is therefore directly related to the impacts of the scheme. Furthermore, it has been calculated in a proportionate and evidenced based manner, as set out in KCC's Statement of Case and supported by the Council's 'CIL Compliance Statement'. I can therefore take the submitted planning obligation into account.

105. Turning to conditions. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council and appellant. The following conditions would be necessary to make the development acceptable.

106. In addition to standard commencement conditions, it is necessary for the avoidance of doubt to define the approve plans. To safeguard living conditions and highway safety it is necessary for the proposal to be implemented in accordance with a Construction & Demolition Environmental Management Plan.

107. In the interests of the character and appearance of the area it is necessary to secure details of external facing materials, landscaping, tree protection fencing and levels. In respect of external materials, I share the view of the Council's Urban Design Officer that the central buff brick section would be jarring and therefore a more muted earthy finish, such as a red brick or such like, should be used as that would better integrate with the soft landscaping. The condition has been amended accordingly. For similar reasons it is necessary to prevent additional alterations that could clutter the façade of the building.

108. To promote sustainable transport, it is necessary to secure cycle parking and a travel plan. To ensure adequate visibility at the site entrance and thus protect safety, it is necessary for splays to be provided and maintained. To ensure adequate drainage it is necessary for a scheme to be approved and implemented. To safeguard residents from the risk of contaminated land, it is necessary for investigation, remediation, and verification. To prevent pollution of ground water it is necessary to secure details of pilling.

109. To protect living conditions, it is necessary to mitigate noise and vibration impacts from the railway and to ensure fire safety measures and adequate parking are in place. For the same reason it is necessary to control the noise levels of external plant. To protect bats, it is necessary to secure details of external lighting. Also, in the interests of protecting and enhancing biodiversity and securing a scheme benefit, it is necessary to require a LEMP which will also deliver 48.46% biodiversity net gain and a woodland management plan. To minimise the risk of crime it is necessary for security measures to be approved. To secure sustainable construction and low carbon energy generation it is necessary to secure details. To protect the privacy of neighbours it is necessary to secure details of privacy screens and for their retention.

110. To safeguard T3040 from lightning strikes it is necessary to secure details of a protection system. To effectively manage waste, it is necessary for a strategy to be secured. To address the presence of yet unknown archaeology it is necessary to secure a scheme of investigation and recording.

111. Some pre commencement conditions would need to be imposed because the matters required for approval may ultimately affect the design or layout of the scheme or the approach to construction. Moreover, some pre commencement conditions are necessary because they seek to mitigate impacts arising during the construction phase.

Other Considerations

112. For the reasons set out above, the appeal scheme would adhere to several policies in the development plan, including Policies EN2 and T1 of the ADMP and Policies LO1, LO2, SP2, SP3 and SP11 of the CS. However, the proposal would moderately harm the character and appearance of the area, including the contribution Site 337 makes to the townscape, and the setting of two conservation areas. It would therefore fail to adhere to Policies SP1 and SP7 of the CS, Policies EN1, EN4, EN5 and GI2 of the ADMP and Policies C4 and L4 of the NP. As such, the proposal would not adhere to the development plan taken as a whole.

113. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. The benefits of the scheme are important material considerations to examine, as is the National Planning Policy Framework (the 'Framework').

The benefits of the proposal

114. The Council's most recent assessment of five-year housing land supply was published in September 2021 and covers the period April 2021 to March 2026. The Framework requires local planning authorities to provide an annual update of its five-year housing land supply sufficient to provide a minimum of five years' worth of housing. Therefore, the Council should have provided an update in 2022 to cover the period April 2022 to March 2027 and should currently be working on an update covering the period April 2023 to March 2028. By failing to do this the Council has not demonstrated a five-year housing land supply covering an appropriate five-year period.

115. Notwithstanding this, the 2021 report indicates that the supply is 2.89 years and in September 2021 the Council agreed that the supply was 2.6 years[32] in the context of an appeal. Moreover, the Council only achieved 62% of the housing requirement over the past three years in the Housing Delivery Test (HDT). These are all indicators that the Council is currently unable to demonstrate a five-year housing land supply and the shortfall is acute.

116. Interested parties suggested that housing land supply is being addressed because several large housing schemes have recently been granted[33]. However, recent approvals are only part of the calculation. It is also necessary to assess other points including the current need, how many completions have occurred and whether there is clear evidence that the approved homes granted pursuant to any outline applications would be deliverable in the relevant period. To not factor in these matters would result in a partial and unbalanced assessment. Interested parties have not undertaken such a balanced assessment and therefore I have adopted the agreed position in the Statement of Common Ground - that the housing land supply is currently around 2.89 years. This is the 23rd worst in the country (out of 312) and amounts to a shortfall of around 1800 homes. Difficult decisions will need to be made to address this acute and persistent situation.

117. However, the recently adopted NP does not include any housing allocations. It is also unlikely the Council will be able to demonstrate a five-year housing land supply until it adopts a new local plan that contains housing allocations. This is

[32] APP/G2245/W/21/3271595
[33] Including the approval of around 800 homes at Sevenoaks Quarry – CD16.19

currently programmed to occur in 2025, 14 years after the CS was adopted. In any event, it is common ground between the Council and appellant that the emerging local plan currently carries minimal weight. As such, there has been a long-standing failure to strategically plan for an adequate housing land supply in a high demand and highly constrained area.

118. That said, the appeal scheme is unlikely to start delivering homes for around three years[34]. As such, dwellings may start to be delivered when the Council may be able to demonstrate a five-year housing land supply, but slippages are not uncommon in the local plan process. Moreover, the proposed apartments are likely to be high end and expensive and would therefore contribute little towards the acute problem with housing affordability. This, and the absence of public open space and affordable housing, would limit the ability of the scheme to foster a mixed community. Nevertheless, the Government has an aim to significantly boost the supply of housing and the current shortfall is acute. Overall, the benefit of additional housing in this instance would be a matter of significant weight, although not very significant.

119. Planning and building the flats would take around 2-3 years and this is likely to create 159 construction jobs. Following on from this, 'first occupation' expenditure by residents could be in the region of £376,878 with ongoing household expenditure of around £2.5 million per annum. Some of this would be spent locally and thus support local services and the local economy more generally. This would be a significant benefit when viewed through the prism of Paragraph 81 of the Framework.

120. The appeal scheme would result in a 48.46% biodiversity net gain. This would be someway higher than the usual 10% that is sought. There is nothing of substance before me to demonstrate the woodland would improve in this way under a 'do nothing' scenario, or that the Council would achieve this level of gain on the part of the site it owns if the appeal were unsuccessful. However, the uplift would be from a low base. Therefore, in absolute terms the benefit to wildlife would be a matter of moderate weight in favour of the proposal.

121. The scheme would also include sustainable construction measures, but these would only partially offset the impact of the proposal on carbon emissions. The extent to which it is a benefit is therefore debatable. That said, housing is required and consequently there is a benefit in providing it in a way that would reduce carbon emissions relative to baseline standards. Accordingly, there would be a modest benefit on account of this. The location of the appeal site close to the rail station and within walking and cycling distance of the town centre would promote sustainable active travel, with associated health and environmental benefits. This would be a significant benefit. The proposal would also include the installation of a lightning protection system to T3040. Given its townscape importance and the lightning damage that occurred to T3035, this would be a benefit of further moderate weight.

122. Paragraph 120 of the Framework states that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. The western part of the site includes a large office building and hardstanding that is underutilised PDL suitable for redevelopment. Reusing it would help to meet identified needs for housing in an area where the land supply is highly constrained. Indeed, most of the district is in the Green Belt and falls within

[34] CD1.25

Areas of Outstanding Natural Beauty. Accordingly, the reuse of previously developed land in this instance carries substantial positive weight.

Fallback and alternatives

123. It is fair to say that reducing the massing of the proposed building to something like that of the existing would better conserve the character and appearance of the area. However, such an approach would notably reduce the number of homes and the social and economic benefits flowing from this. For example, the prior approval scheme would only have delivered around 30 small and relatively low-quality homes. I have no reason to doubt Mr Leggett's proposition that a conversion of the existing building would probably yield around 10-12 homes if a better-quality scheme with a similar mix to that currently proposed was advanced. Moreover, these 'fall back schemes' would not include benefits such as the LEMP and the frontage planting.

124. Setting aside the fallbacks, it would be possible to redesign the scheme so that it was smaller. However, not encroaching into the designated open space would probably result in 10 fewer homes and perhaps more depending on how this is calculated. Retaining T3035 could well see 21 fewer homes proposed according to the scheme architects. It would probably be necessary to have a 30m planted buffer to the road to ensure the building was screened in a similar way to others nearby. This would sterilise a large part of a site that is PDL. It is therefore highly unlikely that the proposal could be altered to the point of not harming the character and appearance of the area whilst retaining the current suite of benefits. Accordingly, the harmful impacts of the scheme, which I have outlined above, are balanced against its benefits below to ascertain whether the harm would be appropriate in this instance.

Heritage Balance

125. The harm that would occur to the setting and significance of the KCA (including 34 Oakhill Road) and the GRCA would be 'less than substantial' within the meaning of the Framework. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal. The Framework also states that designated heritage assets are an irreplaceable resource that should be conserved for existing and future generations. Any harm to their significance is therefore an important matter. Indeed, the Framework states that great weight should be given to an asset's conservation. Conservation in this context means sustaining, and thus not harming, an asset's significance. In this case, the assets are of local significance.

126. The proposal would result in less than substantial harm and this carries great weight. Against this the public benefits of the proposal would collectively carry weight of a high order for the reasons already set out. Overall, the public benefits of the scheme would be of sufficient force to outweigh the less than substantial harm that would occur. Accordingly, there would be no conflict with Paragraph 200 of the Framework as harm to the significance of designated heritage assets would have clear and convincing justification.

Paragraph 11 of the Framework

127. Paragraph 11 of the Framework is relevant on account of the Council currently being unable to demonstrate a housing land supply. In such circumstances the development plan policies most important to determining the application should

be deemed out of date. In this instance[35] Paragraph 11 states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole – this is the 'tilted balance'.

128. The Framework has strong policies aimed at achieving well-designed places. Indeed, it states that development schemes should add to the overall quality of an area and be sympathetic to local character. It also states that trees should be retained wherever possible. The proposal would not adhere to these policies. Ultimately, Paragraph 134 of the Framework states that developments which are not well designed should be refused, especially where it would fail to reflect local design policies and government guidance on design. In this respect, the proposal does not adhere to the SPD.

129. In ascertaining whether a scheme is well designed for the purposes of Paragraph 134 it is instructive to consider it against the ten principles of a well-designed place in the National Design Guide. Mr Pullen did this, and many of his findings were not directly criticised by the Council.

130. It is fair to say that the appeal scheme would meet the characteristics of a well designed place under the headings of 'movement', 'nature', 'homes and buildings', 'resources' and 'lifespan'. 'Public spaces' would not be provided as there is apparently no development plan requirement to do so, but the podium gardens and woodland walk would be safe and social spaces for future residents and their guests. The appeal scheme would also include mixed and integrated uses in so far as it is viable and necessary to do so. The built form would also be coherent to move around, compact and accessible by sustainable modes of transport. The proposed building would also be architecturally attractive and would therefore meet some of the guidance under 'identity', as would the proposed landscaping along the site frontage.

131. Accordingly, the scheme would exhibit many of the components of a well-designed place. However, the overall size of the proposed building taken together with the net loss of landscaping means it would not enhance its surroundings. The failure to respond to 'context' means the scheme would not be well designed overall. Paragraph 134 of the Framework therefore states that the proposal should be refused. However, Paragraph 134 is not a 'footnote 7' policy listed in Paragraph 11d)i of the Framework and therefore failure against it does not disapply the 'tilted balance'.

132. When applying the tilted balance, the adverse impacts include moderate harm to the character and appearance of the area and moderate harm to heritage. The proposal would also result in harm to a designated open space. However, Site 337 does not meet the definition of an open space in the Framework because it has no public access. Accordingly, the protection policies in Paragraph 99 of the Framework do not apply. That said, Site 337 does meet the definition of green infrastructure in the Framework, and Paragraph 20d therein seeks to conserve such features. However, I am cautious not to double count the harm to the character and appearance of the area and green infrastructure, as they are broadly the same impact in this instance on account of Site 337 being designated for its townscape value.

[35] As the public benefits of the proposal would outweigh the harm to the setting of the CAs, the application of policies in the Framework that protect designated heritage assets do not provide a clear reason for refusal

133. Although the harm to the character and appearance of the area, encompassing that to Site 337, would be of a moderate, middling magnitude I nevertheless afford this matter significant weight given the Framework's emphasis on achieving well-designed places. Likewise, the moderate harm to heritage, encompassing that to the setting of two conservation areas, carries great weight because of their importance as finite cultural resources. Collectively the adverse impacts of the proposal, which would be at odds with both the development plan and policies within the Framework, carries weight of a high order. The scheme would be in trouble if an ordinary balance were applied.

134. However, Paragraph 11d) of the Framework starts with the premise that a proposal should be granted in circumstances where a five-year housing land supply cannot be demonstrated. This presumption can only be displaced if the adverse impacts would significantly and demonstrably outweigh the benefits. The tilted balance has therefore been designed to authorise some harm because of the importance the Government places on housing delivery.

135. In this instance, both the adverse impacts and benefits of the scheme carry weight of a high order. Overall, the benefits would just about outweigh the adverse impacts when applying the policies in the Framework. Principally because the harm would be localised and as things currently stand the proposal would facilitate the reuse of PDL in a sustainable urban area as a means of helping to address an acute housing land supply deficit. Accordingly, the adverse impacts of the scheme would not significantly and demonstrably outweigh its benefits. On this basis, the proposal can be considered an optimisation of the site. Thus, material considerations of considerable force indicate the proposal should be allowed.

Conclusion

136. The appeal scheme would not adhere to the development plan taken as a whole but material considerations, namely the Framework, indicate that the appeal should be determined otherwise than in accordance with the development plan. Accordingly, for the reasons given, and having regard to all other matters raised, the appeal is allowed.

Graham Chamberlain,
INSPECTOR

APPEARANCES

For the Appellant:

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assisted by Nick Grant

Called:

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INTERESTED PARTIES:

Emma Dowell
Adele Cleaver, Oakhill Road Development association
John Stambollouian, Sevenoaks Society
Catherine Daniell, Sevenoaks Town Council
Cllr Chole Gustard, Sevenoaks Kippington Ward
Robert Cronin
Andrew Parson
Graham Laber
Richard Mitchell
Charles James Stewart FCA
Paul Kopke

INQUIRY DOCUMENTS

Rather than assigned separate reference numbers as Inquiry documents, I have taken the reference numbers from the Core Documents list.

16.1	Design Review Panel Report
16.2	9 Western Road, Poole BH13 7BE (APP/21/00771/F)
16.3	Willow Tree House, Shinfield RG2 9BX (203560)
16.4	Colar v Highways England Judgement
16.5	Felbrigg Judgement
16.6	Proposed North & South Elevations A.08 Rev B
16.7	Proposed Ground Floor Plan A.03 Rev C
16.8	Land at Nos 6, 61-81 and Coopers Yard (20/1924/F)
16.9	BRE Site layout planning for daylight and sunlight
16.10	Opening Statement of the Appellant
16.11	Opening Statement of the Council
16.12	Anstey Horne Letter
16.13	Willow Tree House Arboricultural Assessment
16.14	Dimension Drawings
16.15	Emma Dowell Representations
16.16	ORDA Representations
16.17	Sevenoaks Society Representations
16.18	Cllr Daniell Representations
16.19	Cllr Gustard Representations
16.20	Robert Cronin Representations
16.21	Andrew Parson Representations
16.22	Graham Laber Representations
16.23	Andrew Parson Representations
16.24	Charles James Stewart Representations

16.25	Paul Kopke Representations
16.26	Colin Pullan Erratum Sheet
16.27	Historic Environment Report by Dr Miele
16.28	5-year Land Supply Data Sheet
16.29	Housing Delivery Test Data Sheet
16.30	Open Space Documents
16.31	Tarmac Planning Statement Extract
16.32	Tarmac Officers Report
16.33	Tarmac Committee Minutes
16.34	GLVIA Extract
16.35	Sevenoaks Housing Permissions
16.36	Berkeley Awards 2021-2023
16.37	Council's closing
16.38	Appellant's closing
	Revised list of suggested planning conditions
	Finalised planning obligation
	SoS decision in respect of APP/X5990/V/3301508
	Appellant's comments in respect APP/X5990/V/3301508
	Council's comments in respect of APP/X5990/V/3301508

SCHEDULE OF CONDITIONS

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

2) The development hereby permitted shall be carried out in accordance with the following approved plans or any other approved plans required pursuant to any other condition hereby imposed:

00978C P-01_4 Rev.P2, Proposed Level -01
00978C P-02_4 Rev.P2, Proposed Level -02
00978C P00_4 Rev.P2, Proposed Level 00
00978C P01_4 Rev.P2, Proposed Level 01
00978C P02_4 Rev.P2, Proposed Level 02
00978C P03_4 Rev.P2, Proposed Level 03
00978C P04_4 Rev.P2, Proposed Roof Plan
00978C_BE_00 Rev.P1, Proposed West and South Elevations
00978C_BE_01 Rev.P1,Proposed East and North Elevations
00978C_BE_02 Rev.P1, Proposed Courtyard Elevations
00978C_BE_03 Rev.P1, Proposed Oakhill Road Elevations
00978C_BP_00 Rev P1, Proposed Lower Ground Floor 02 Plan
00978C_BP_01 Rev P1, Proposed Lower Ground Floor 01 Plan
00978C_BP_02 Rev P1, Proposed Ground Floor Plan
00978C_BP_03 Rev P1, Proposed First Floor Plan
00978C_BP_04 Rev P1, Proposed Second Floor Plan
00978C_BP_05 Rev P1, Proposed Third Floor Plan
00978C_BP_06 Rev P1, Proposed Roof Plan
SUB_00 Rev. P1, Substation and Bin Store – Plans, Elevations & Section
00978C_S_00 Rev.P1, Site Location Plan
00978C_S_03 Rev.P1, Proposed Site Plan
00978C_S_02 Rev P1, Demolition Plan
00978C_BS_00 Rev P1, Proposed Block Sections A and B
00978C_BS_01 Rev P1, Proposed Block Sections C and D
SCH_01 Rev P1, Apartment Schedule
PS_00 Rev P1, Proposed Site Sections 1
PS_01 Rev P1, Proposed Site Sections 2
PS_02 Rev P1, Proposed Site Sections 3
PS_03 Rev P1, Proposed Site Sections 4
42-1052.03, Tree Survey Removal and Retention Plan
42-1052.04, Tree Protection Plan
HBA-868-101 Rev.E, Landscape Masterplan
HBA-868-102 Rev.C, Hard Landscape Plan
HBA-868-103 Rev.C, Soft Landscape Plan
D3237_FAB_00_XX_DR_L_101, Tree Planting Plan
00978D_SK_008 Rev P1, Potential Site Plan Amendments – Parking Revisions
00978D_SK_007 Rev P1 Potential Site Plan Amendments – Substation Revisions.

3) No development including demolition hereby approved shall commence until a Construction & Demolition Environmental Management Plan (CDEMP) has been submitted to and approved in writing by the Local Planning Authority. The CDEMP shall include details of the following measures:

i. An introduction consisting of definitions and abbreviations and project description and location;

ii. A description of management responsibilities;
iii. A description of the demolition and construction programme;
iv. Site working hours and a named person for residents to contact;
v. Detailed site logistics arrangements;
vi. Details regarding parking, deliveries, wheel washing facilities and storage;
vii. A comprehensive Air Quality and Dust Management Plan (AQDMP) including all mitigation measures listed.
viii. Noise and vibration controls, vibration limits and a monitoring programme (in compliance with BS 5228-1:2009+A1:2014);
ix. Details of the hours of works and other measures to mitigate the impact of demolition on the amenity of the area and safety of the highway network; and

The development shall thereafter be carried out in accordance with the details and measures approved in the CDEMP, unless otherwise approved in writing by the Local Planning Authority.

4) Notwithstanding the approved drawings, prior to their first use details of the external facing materials to be used in the development shall be submitted to and approved in writing by the local planning authority. Only the approved materials shall be used.

5) Prior to the occupation of the development hereby approved the resident and visitor cycle parking spaces as shown on the approved plans shall be constructed and shall thereafter be retained for cycle parking.

6) Prior to the occupation of the development hereby approved site access visibility splays of 22 metres x 2.4 metres x 22 metres shall be provided as per drawing 2021/5892/001 in the Transport Assessment and retained with no obstructions over 1.05 metres above carriageway level within the splays.

7) Prior to the commencement of development (excluding demolition), a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and the Drainage Strategy prepared by JNP Group dated February 2022 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any 2 proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

8) Prior to commencement of development a site investigation scheme shall be submitted to and approved in writing by the local planning authority. The site investigation scheme, shall be based on the Preliminary Risk Assessment within the Phase II Geo-Environmental Report by JNP Group and provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. No development approved by this planning permission shall take

place until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include: a) The results of the site investigation and the detailed risk assessment referred to in the preliminary risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken, including a programme of work. b) Details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The scheme shall be implemented in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

9) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved, unless otherwise approved in writing by the Local Planning Authority. Should remediation be deemed necessary, the applicant should demonstrate that any remedial measures have been undertaken as agreed and the environmental risks have been satisfactorily managed so that the site is deemed suitable for use.

10) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

11) No piling, or other foundation designs using penetrative methods, shall be carried out shall until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority. No piling shall be undertaken unless in accordance with the terms of the approved piling method.

12) Prior to first occupation of any of the dwellings, a verification report to include vibration testing shall be submitted for approval in writing to the local planning authority to demonstrate that Vibration Dose Values are in accordance with those predicted in the RSK Acoustics 'Railway Vibration Assessment' report (dated 16th May 2022), that they do not exceed 0.4 ms-1.75 during any 10 minute period during the daytime (07.00 - 23.00 hours), and do not exceed 0.2 ms-1.75 during any 10 minute period during the night time (23.00 - 07.00 hours).

13) Prior to first occupation of any of the dwellings, a lighting design plan for biodiversity shall be submitted to, and approved in writing by, the local planning

authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the approved plan and will be maintained thereafter, unless otherwise agreed in writing by the Local Planning Authority.

14) Prior to commencement of development a Landscape and Ecological Management Plan (LEMP) to include a Woodland Management Plan and Biodiversity Gain Plan shall be submitted to, and be approved in writing by, the local planning authority. The LEMP (and Woodland Management and Biodiversity Gain Plan) shall include the following.

a) Description and evaluation of features to be managed, mitigated and/or enhanced;
b) Ecological constraints on site that might influence management;
c) Aims and objectives of management;
d) Appropriate management prescriptions for achieving aims and objectives;
e) Preparation of a work schedule (including an annual work plan capable of being rolled forward in accordance with a management plan);
f) Details of the body or organisation responsible for implementation of the LEMP;
g) Ongoing monitoring and remedial measures;
h) Details and measures of how the development will achieve a biodiversity net gain of 48.46% on the site, (as measured under the DEFRA 3.0 Metric) and which specifies:

(i)information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat,
(ii)the pre-development biodiversity value of the onsite habitat,
(iii)the post-development biodiversity value of the onsite habitat, and

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery.

The development shall be implemented and thereafter occupied in accordance with the approved LEMP, unless otherwise agreed in writing by the Local Planning Authority.

15) Prior to first occupation of any of the dwellings, details of security measures to measures to minimise the risk of crime and to meet the specific security needs of the development shall be submitted to, and approved in writing by, the local planning authority. The development shall be constructed and operated thereafter in accordance with the approved details.

16) Notwithstanding the approved plans, prior to commencement of development (excluding demolition), full details of hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The soft landscaping details shall include planting plans (identifying existing planting, plants to be retained and new planting); a schedule of new planting (noting species, size of stock at the time of planting and proposed numbers/densities); and a programme of implementation for the works.

The soft landscaping scheme shall be carried out in accordance with the approved details and programme of implementation.

The hard landscape details to be submitted shall include details of hard surfacing materials, including type and specification, and boundary/retaining walls/fences to be erected.

The hard landscaping scheme shall be implemented in accordance with the approved details prior to first occupation of any part of the development hereby permitted.

Should any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting season with others of similar size, species and number, unless otherwise agreed in writing by the local planning authority.

17) Prior to commencement of development (excluding demolition), full details of sustainable construction and low-carbon energy generation measures that will enable the development to exceed the minimum performance requirements of Building Regulations Approved Document Part L 2021 shall be submitted to and approved in writing by the Local Planning Authority.

The measures shall include:

a. Measures to reduce energy demand,
b. Measures to reduce carbon emissions,
c. Measures to generate on-site renewable energy, and
d. Measures to reduce water usage.

The sustainable construction and low-carbon energy generation measures shall be implemented in accordance with the approved details and programme of implementation.

18) Prior to commencement of development, including works of demolition and site clearance, tree protective fencing shall be installed on the site in strict accordance with the recommendations set out in the report by FLAC and plan 42-1052.04, unless otherwise agreed in writing by the Local Planning Authority

19) Prior to the occupation of each dwelling, the relevant noise mitigation measures as set out in Section 5 the Planning Noise Report by RSK Acoustic shall be installed and thereafter permanently maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

20) Prior to commencement of development (excluding demolition), details of the existing levels and the proposed finished floor levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

21) Prior to first occupation of any of the dwellings, details of a Travel Plan shall be submitted to and approved in writing by Local Planning Authority. The Travel Plan shall include details, including timescales for implementation, of the following measures:

- Appointment of a Travel Plan Coordinator (TPC)
- Details of Nearby Transport Facilities
- Walking / Cycling Routes
- Bicycle Purchase Scheme
- Local Bike Shop Discounts
- Cycle Training
- Public Transport Information
- Health, Fitness and Travel Apps
- Public Transport Discounts
- Car Sharing
- Promotion of the Travel Plan in Sales Literature
- Resident's Welcome Packs
- E-Newsletters
- Travel Plan Events
- Details of monitoring.

The Travel Plan shall be implemented in full accordance with the approved details.

22) Prior to first occupation of any part of the development hereby permitted, details of solid privacy screens to the north facing ends at a minimum height of 1.7 metres from finished floor levels of the balconies and roof terrace serving plot units 14, 30, 31, 49, 50, 64 shall have been submitted to and approved in writing to the local planning authority. The development shall be carried out in accordance with the approved details and the screens shall be retained.

No other privacy screens or alterations to any balcony shall be undertaken unless in accordance with details which have first been submitted to and approved in writing by the local planning authority.

23) No new grilles, security alarms, lighting, cameras, damp-proof course or other appurtenances shall be fixed on the external faces of the building, including its roof other than those shown on the drawings hereby approved unless first approved in writing by the local planning authority.

24) The development hereby approved shall incorporate fire safety measures in accordance with submitted Fire Strategy, unless otherwise agreed in writing by the local planning authority.

25) Prior to the occupation of the development hereby approved the vehicle parking spaces and turning areas as shown on the approved plans shall be constructed, surfaced and retained for vehicle parking, turning and deliveries.

26) No external plant shall be installed unless in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Such details to include mitigation measures if necessary to ensure that plant noise levels shall not exceed 30dB(A) at the nearest residential windows.

27) Prior to commencement of development tree number 3040 in the FLAC survey, located as shown in FLAC dwg no. 42-1052.05, shall be fitted with a lightning protection system in accordance with a detailed methodology, to include details of fixings to the tree and any associated ground works, to be submitted to and approved in writing by the local planning authority. The lightning protection

system shall be installed in accordance with the approved details and maintained as installed thereafter.

28) Prior to occupation of any apartment a waste management strategy shall be submitted to the local planning authority for approval in writing, based on section 2 (Waste Strategy) contained with the Berkeley Residential Waste Management Strategy dated February 2022. The waste strategy will be operated in accordance with the approved details thereafter.

29) No development shall take place until the applicant has secured the implementation of a programmed of archaeological work comprising an archaeological trenching exercise in accordance with a written scheme of investigation, together with details of a suitably qualified investigating body to undertake the work, which has first been submitted to and approved in writing by the local planning authority, such details to include.

The development shall be carried out in strict accordance with the detailed scheme of investigation.

End of Schedule