

# Pre-Submission Publication Representation Form



Ref:

**R046**

(for official use only)

Name of the document (DPD) to which this representation relates:

Draft Revised Lambeth Local Plan Proposed Submission Version January 2020 (DRLLP PSV Jan 2020) and associated Proposed Changes to the Policies Map January 2020 (PCPM Jan 2020)

Please return to: [localplan@lambeth.gov.uk](mailto:localplan@lambeth.gov.uk)

or by post: Planning Policy Team, London Borough of Lambeth, PO Box 734 Winchester SO23 5DG

by 11pm on 13<sup>th</sup> March 2020.

**Please read the Guidance Note and Privacy Notice attached to this form before completing the representation form or submitting your comments**

This form has two parts –

Part A – Personal details (please see applicable privacy notices in Section 5 of the guidance note)

Part B – Your representation(s). Please fill in a separate sheet for each part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 you wish to make a representation about.

## Part A

### 1. Personal details\*

### 2. Agent's details (if applicable)

\* If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in 2.

Title	<input type="text" value="c/o"/>	<input type="text" value="Ms"/>
First name	<input type="text" value="ROK Planning"/>	<input type="text" value="Bethan"/>
Last name	<input type="text"/>	<input type="text" value="Hawkins"/>
Job title <sup>†</sup>	<input type="text"/>	<input type="text" value="Senior Planner"/>
Organisation <sup>†</sup>	<input type="text" value="Unite Students"/>	<input type="text" value="ROK Planning"/>
Address	<input type="text"/>	<input type="text" value="16 Upper Woburn Place"/>
	<input type="text"/>	<input type="text" value="London"/>
	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>
Postcode	<input type="text"/>	<input type="text" value="WC1H 0AF"/>
Telephone	<input type="text"/>	<input type="text" value="07849848236"/>
Email <sup>†</sup>	<input type="text"/>	<input type="text" value="bethan.hawkins@rokplanning.co.uk"/>

<sup>†</sup> where relevant

# Pre-Submission Publication Representation Form

## Part B – please use a separate sheet for each representation

**3. To which part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 does this representation relate?** *(identify specific reference if possible)*

Paragraph no.  Policy no.  Policies Map

Please refer to the representation letter submitted with this form.

**4. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is:**

*(please tick)*

<b>4.1 Legally compliant</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
<b>4.2 Sound<sup>^</sup></b>	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
<b>4.3 Complies with the Duty to co-operate</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

<sup>^</sup> The considerations in relation to being 'sound' are explained in the notes at the back of this form. If

you have ticked 'No' to 4.2, please continue to Q5. Otherwise please go to Q6.

**5. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is unsound because it is not:**

*(please tick)*

5.1 Positively prepared	<input type="checkbox"/>
5.2 Justified	<input checked="" type="checkbox"/>
5.3 Effective	<input checked="" type="checkbox"/>
5.4 Consistent with national policy	<input checked="" type="checkbox"/>

*(Please tick only one option. A separate form should be used if you wish to raise more than one concern.)*

**6. Please give details of why you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible**

If you wish to support the legal compliance or soundness of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 or their compliance with the duty to co-operate, please also use this box to set out your comments and then go to Q9.

Please refer to the letter of representation submitted with this form.

# Pre-Submission Publication Representation Form

7. Please set out what change(s) you consider necessary to make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound, having regard to the test you have identified in Q5 above where this relates to soundness. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination.) You will need to say why this change will make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of this part of policy or text. Please be as precise as possible.

Please refer to the letter of representation submitted with this form.

*(if required continue on the additional comments page attached)*

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support / justify your representation and your suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he/she identifies for examination.

8. If your representation is seeking a change to the DRLLP PSV Jan 2020 or associated PCPM Jan 2020, do you consider it necessary to participate at the oral part of the examination?

No I do not wish to participate at the oral examination

Yes I do wish to participate at the oral examination

Please note that while this will provide an initial indication of your wish to participate in hearing sessions(s), you may be asked at a later point to confirm your request to participate. If you have selected 'No', your representation(s) will still be considered by the independent Planning Inspector by way of written representations.

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Unite is a key provider of student accommodation in the borough.

*(if required continue on the additional comments page attached)*

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

10. Please tick relevant boxes if you require notification of any of the following to your address stated in Part A:

That the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 have been submitted for independent examination

The publication of the inspector's recommendations following the independent examination

The adoption of the Revised Lambeth Local Plan and Policies Map.

Signature

*T. Küpper*

Date

12/03/2020

# Pre-Submission Publication Representation Form

## Part B – please use a separate sheet for each representation

**3. To which part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 does this representation relate?** *(identify specific reference if possible)*

Paragraph no.  Policy no.  Policies Map

Please refer to the representation letter submitted with this form.

**4. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is:**

*(please tick)*

<b>4.1 Legally compliant</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
<b>4.2 Sound<sup>^</sup></b>	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
<b>4.3 Complies with the Duty to co-operate</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

<sup>^</sup> The considerations in relation to being 'sound' are explained in the notes at the back of this form. If

you have ticked 'No' to 4.2, please continue to Q5. Otherwise please go to Q6.

**5. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is unsound because it is not:**

*(please tick)*

5.1 Positively prepared	<input type="checkbox"/>
5.2 Justified	<input checked="" type="checkbox"/>
5.3 Effective	<input checked="" type="checkbox"/>
5.4 Consistent with national policy	<input checked="" type="checkbox"/>

*(Please tick only one option. A separate form should be used if you wish to raise more than one concern.)*

**6. Please give details of why you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible**

If you wish to support the legal compliance or soundness of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 or their compliance with the duty to co-operate, please also use this box to set out your comments and then go to Q9.

Please refer to the letter of representation submitted with this form.

# Pre-Submission Publication Representation Form

7. Please set out what change(s) you consider necessary to make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound, having regard to the test you have identified in Q5 above where this relates to soundness. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination.) You will need to say why this change will make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of this part of policy or text. Please be as precise as possible.

Please refer to the letter of representation submitted with this form.

*(if required continue on the additional comments page attached)*

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support / justify your representation and your suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he/she identifies for examination.

8. If your representation is seeking a change to the DRLLP PSV Jan 2020 or associated PCPM Jan 2020, do you consider it necessary to participate at the oral part of the examination?

No I do not wish to participate at the oral examination

Yes I do wish to participate at the oral examination

Please note that while this will provide an initial indication of your wish to participate in hearing sessions(s), you may be asked at a later point to confirm your request to participate. If you have selected 'No', your representation(s) will still be considered by the independent Planning Inspector by way of written representations.

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Unite is a key provider of student accommodation in the borough.

*(if required continue on the additional comments page attached)*

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

10. Please tick relevant boxes if you require notification of any of the following to your address stated in Part A:

That the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 have been submitted for independent examination

The publication of the inspector's recommendations following the independent examination

The adoption of the Revised Lambeth Local Plan and Policies Map.

Signature

*T. Küpper*

Date

12/03/2020

# Pre-Submission Publication Representation Form

## Part B – please use a separate sheet for each representation

**3. To which part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 does this representation relate?** *(identify specific reference if possible)*

Paragraph no.  Policy no.  Policies Map

Please refer to the representation letter submitted with this form.

**4. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is:**

*(please tick)*

**4.1 Legally compliant**

Yes

No

**4.2 Sound<sup>^</sup>**

Yes

No

**4.3 Complies with the Duty to co-operate**

Yes

No

<sup>^</sup> *The considerations in relation to being 'sound' are explained in the notes at the back of this form. If*

*you have ticked 'No' to 4.2, please continue to Q5. Otherwise please go to Q6.*

**5. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is unsound because it is not:**

*(please tick)*

5.1 Positively prepared

5.2 Justified

5.3 Effective

5.4 Consistent with national policy

*(Please tick only one option. A separate form should be used if you wish to raise more than one concern.)*

**6. Please give details of why you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible**

**If you wish to support the legal compliance or soundness of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 or their compliance with the duty to co-operate, please also use this box to set out your comments and then go to Q9.**

Please refer to the letter of representation submitted with this form.

# Pre-Submission Publication Representation Form

7. Please set out what change(s) you consider necessary to make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound, having regard to the test you have identified in Q5 above where this relates to soundness. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination.) You will need to say why this change will make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of this part of policy or text. Please be as precise as possible.

Please refer to the letter of representation submitted with this form.

*(if required continue on the additional comments page attached)*

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support / justify your representation and your suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he/she identifies for examination.

8. If your representation is seeking a change to the DRLLP PSV Jan 2020 or associated PCPM Jan 2020, do you consider it necessary to participate at the oral part of the examination?

No I do not wish to participate at the oral examination

Yes I do wish to participate at the oral examination

Please note that while this will provide an initial indication of your wish to participate in hearing sessions(s), you may be asked at a later point to confirm your request to participate. If you have selected 'No', your representation(s) will still be considered by the independent Planning Inspector by way of written representations.

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Unite is a key provider of student accommodation in the borough.

*(if required continue on the additional comments page attached)*

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

10. Please tick relevant boxes if you require notification of any of the following to your address stated in Part A:

That the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 have been submitted for independent examination

The publication of the inspector's recommendations following the independent examination

The adoption of the Revised Lambeth Local Plan and Policies Map.

Signature

*T. Küpper*

Date

12/03/2020

# Pre-Submission Publication Representation Form

## Part B – please use a separate sheet for each representation

**3. To which part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 does this representation relate?** *(identify specific reference if possible)*

Paragraph no.  Policy no.  Policies Map

Please refer to the representation letter submitted with this form.

**4. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is:**

*(please tick)*

**4.1 Legally compliant**

Yes

No

**4.2 Sound<sup>^</sup>**

Yes

No

**4.3 Complies with the Duty to co-operate**

Yes

No

<sup>^</sup> *The considerations in relation to being 'sound' are explained in the notes at the back of this form. If*

*you have ticked 'No' to 4.2, please continue to Q5. Otherwise please go to Q6.*

**5. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is unsound because it is not:**

*(please tick)*

5.1 Positively prepared

5.2 Justified

5.3 Effective

5.4 Consistent with national policy

*(Please tick only one option. A separate form should be used if you wish to raise more than one concern.)*

**6. Please give details of why you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible**

**If you wish to support the legal compliance or soundness of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 or their compliance with the duty to co-operate, please also use this box to set out your comments and then go to Q9.**

Please refer to the letter of representation submitted with this form.

*(if required continue on the additional comments page attached)*



# Pre-Submission Publication Representation Form

7. Please set out what change(s) you consider necessary to make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound, having regard to the test you have identified in Q5 above where this relates to soundness. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination.) You will need to say why this change will make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of this part of policy or text. Please be as precise as possible.

Please refer to the letter of representation submitted with this form.

*(if required continue on the additional comments page attached)*

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support / justify your representation and your suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he/she identifies for examination.

8. If your representation is seeking a change to the DRLLP PSV Jan 2020 or associated PCPM Jan 2020, do you consider it necessary to participate at the oral part of the examination?

No I do not wish to participate at the oral examination

Yes I do wish to participate at the oral examination

Please note that while this will provide an initial indication of your wish to participate in hearing sessions(s), you may be asked at a later point to confirm your request to participate. If you have selected 'No', your representation(s) will still be considered by the independent Planning Inspector by way of written representations.

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Unite is a key provider of student accommodation in the borough.

*(if required continue on the additional comments page attached)*

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

10. Please tick relevant boxes if you require notification of any of the following to your address stated in Part A:

That the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 have been submitted for independent examination

The publication of the inspector's recommendations following the independent examination

The adoption of the Revised Lambeth Local Plan and Policies Map.

Signature

*T. Küpper*

Date

12/03/2020

# Pre-Submission Publication Representation Form

## Part B – please use a separate sheet for each representation

**3. To which part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 does this representation relate?** *(identify specific reference if possible)*

Paragraph no.  Policy no.  Policies Map

Please refer to the representation letter submitted with this form.

**4. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is:**

*(please tick)*

<b>4.1 Legally compliant</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
<b>4.2 Sound<sup>^</sup></b>	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
<b>4.3 Complies with the Duty to co-operate</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

<sup>^</sup> The considerations in relation to being 'sound' are explained in the notes at the back of this form. If

you have ticked 'No' to 4.2, please continue to Q5. Otherwise please go to Q6.

**5. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is unsound because it is not:**

*(please tick)*

5.1 Positively prepared	<input type="checkbox"/>
5.2 Justified	<input checked="" type="checkbox"/>
5.3 Effective	<input checked="" type="checkbox"/>
5.4 Consistent with national policy	<input checked="" type="checkbox"/>

*(Please tick only one option. A separate form should be used if you wish to raise more than one concern.)*

**6. Please give details of why you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible**

If you wish to support the legal compliance or soundness of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 or their compliance with the duty to co-operate, please also use this box to set out your comments and then go to Q9.

Please refer to the letter of representation submitted with this form.

# Pre-Submission Publication Representation Form

7. Please set out what change(s) you consider necessary to make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound, having regard to the test you have identified in Q5 above where this relates to soundness. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination.) You will need to say why this change will make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of this part of policy or text. Please be as precise as possible.

Please refer to the letter of representation submitted with this form.

*(if required continue on the additional comments page attached)*

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support / justify your representation and your suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he/she identifies for examination.

8. If your representation is seeking a change to the DRLLP PSV Jan 2020 or associated PCPM Jan 2020, do you consider it necessary to participate at the oral part of the examination?

No I do not wish to participate at the oral examination

Yes I do wish to participate at the oral examination

Please note that while this will provide an initial indication of your wish to participate in hearing sessions(s), you may be asked at a later point to confirm your request to participate. If you have selected 'No', your representation(s) will still be considered by the independent Planning Inspector by way of written representations.

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Unite is a key provider of student accommodation in the borough.

*(if required continue on the additional comments page attached)*

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

10. Please tick relevant boxes if you require notification of any of the following to your address stated in Part A:

That the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 have been submitted for independent examination

The publication of the inspector's recommendations following the independent examination

The adoption of the Revised Lambeth Local Plan and Policies Map.

Signature

*T. Küpper*

Date

12/03/2020

**REF: R00129/BH/MR**

**SENT BY EMAIL ONLY:** [localplan@lambeth.gov.uk](mailto:localplan@lambeth.gov.uk)

Planning Policy  
London Borough of Lambeth

13<sup>th</sup> March 2020

Dear Sirs,

**LONDON BOROUGH OF LAMBETH  
SUBMISSION UNDER REGULATION 19 - LOCAL PLAN PROPOSED SUBMISSION  
REPRESENTATIONS ON BEHALF OF UNITE STUDENTS**

I write on behalf of our client, Unite Students (Unite), to submit representations to the consultation on the London Borough of Lambeth's Regulation 19 Local Plan Review on the pre-submission publication of the draft revised Lambeth Local Plan. Having submitted representations to the Publication Draft Consultation in December 2018, Unite now wish to make further representations at this current consultation stage in order to reinforce their view on the policy approaches taken by the Council towards student accommodation, co-living accommodation, cycle space provision, town centres and affordable workspace, expressed in the previous round of consultation.

The London Borough of Lambeth has prepared and published the draft Local Plan (proposed submission) for consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended. The consultation on both draft documents is due to close on Friday 13<sup>th</sup> March 2020. Following this consultation, it is understood that the draft Local Plan will be submitted to the Secretary of State (SOS) for examination (Regulation 22).

Unite Students is the UK's leading manager and developer of purpose-built student accommodation (PBSA), providing homes for around 74,000 students in more than 177 purpose-built properties across 27 of the UK's strongest university towns and cities.

Our representations are set out in the following paragraphs to the relevant draft policies.

**Draft Policy H7 (Student Housing)**

**Part A** of the draft policy sets out that *'proposals for student housing will be acceptable only where it can be demonstrated that the development:'*

- i)** *'does not compromise capacity to meet the need for conventional dwellings, especially affordable family homes, nor displace other key uses such as employment development. Proposals should not result in the loss of employment land or floorspace, unless relevant policy tests (set out in section 6 of the Local Plan) are met, or the loss of existing self-contained dwellings;'*

We note that there has been no change to this section of the policy following the previous round of consultation.

This requirement of the policy is strongly objected to as the position has been made clear by the NPPG and emerging London Plan which states contrary to this. The delivery of student accommodation can be counted towards the supply of conventional housing and does not result in the loss of existing self-contained

residential accommodation. In addition to this national and strategic policy position, there have been a series of appeal decisions where Inspectors have granted consent for student development where issues have been raised by the local planning authority in terms of the perceived conflict with conventional residential development plan policies due to the view that the site should deliver conventional housing. The appeal decisions include the following and are appended as follows:

- a) 315-349 Mill Road, Cambridge (APP/Q0505/W/15/3035861) (Enclosed in **Appendix A**);
- b) Land at Fish Strand Hill, Falmouth, Cornwall (APP/D0840/W/17/3177902) (Enclosed in **Appendix B**); and
- c) Land at Ocean Bowl, Falmouth, Cornwall (APP/D0840/W/17/3182360) (Enclosed in **Appendix C**).

Recommendation: Unite therefore maintain their strong objection made in December 2018, that this policy requirement should be removed as it has been demonstrated that PBSA does not compromise the delivery of conventional housing. This assumption is contrary to both the national and strategic policy position. In addition, the supporting text to this requirement (part A i) should also be subsequently removed as this is also contrary.

- (iii)** *'is supported by evidence of a linkage with one or more higher education provider (HEP) in Lambeth, or within a reasonable travelling distance of Lambeth, as defined in the London Plan. This evidence must include confirmation that the proposed rental levels for the student accommodation are supported by the linked HEP(s) and that the majority of the bedrooms in the development including all of the affordab*
- (iv)** *le student accommodation will be secured through a nominations agreement for occupation by students of one or more HEP, for the lifetime of the scheme, as required by London Plan policy H15';*

As this draft policy requirement has remained in place in the advanced version of the draft Local Plan, Unite wish to reiterate that this requirement is onerous and should be deleted as it is not possible for a nominations agreement to be in place prior to the grant of planning permission. It is also noted that a further level of complexity has been added through the requirement that all of the affordable student accommodation is secured through a nomination's agreement for occupation by students of one or more HEP for the lifetime of the scheme. Although the approach of this extra policy requirement is broadly in line with Policy H15 of the draft London Plan, it should be recognised that the London Plan does not specify the nominations agreement to be in place for the lifetime of the scheme.

We acknowledge the policy requirement which seeks to secure the accommodation through planning agreement or condition for long-term student use and be secured by nomination agreement for occupation by students of one or more identified Higher Education provider. However, the policy could prohibit PBSA developments coming forward and suggests that unless the accommodation is secured by a specified University through a binding legal agreement, the development will not be supported. Unite do not support this approach as this type of binding connection with a specified provider at such an early stage in the planning process is extremely restrictive and does not coincide with the manner in which Unite operate which is to generate demand through students letting directly.

Additionally, Unite have found that Universities are often reluctant to engage in such agreements where they are liable to pay void payments if they are unable to fill rooms or take a risk on losing a development (and therefore committed rooms) if it falls behind in the planning and / or construction process, which can take between 4 – 5 years. The removal of this restriction will afford the applicant a greater degree of flexibility and enable rather than hinder the delivery of high-quality student accommodation schemes which is essential to addressing the student accommodation shortfall in London Boroughs over the plan period. Additionally, any hindrance to the delivery of bed-spaces, whilst demand remains the same or increases, is in fact likely to increase rents and thus worsen the availability of affordable student rooms.

Recommendation: We wish to reiterate that this policy requirement should be removed as it is not possible to have a nominations agreement in place and secured for the lifetime of the accommodation prior to the grant of planning permission.

**(v)** *'would not lead to an over-concentration of similar uses which may be detrimental to residential amenity or the balance and mix of uses in the area or place undue pressure on local infrastructure'*;

We point out that there has been no change to this policy requirement following the previous stage of consultation. Whilst we acknowledge that officers have a concern over the concentration of student accommodation as set out in the report to committee for the development at Rudolf Place (16/03954/FUL), this policy requirement is onerous and there is no evidence or justification provided that the concentration of PBSA creates harm to residential communities or to support the presumption against PBSA in Vauxhall as included within the supporting text at paragraph 5.69. Furthermore, this supporting text advises that when considering the concentration of students in a single area, the council will have regard to the character of the area, the existing mix of uses, and the particular impact on any permanent residential occupiers.

Furthermore, the supporting text at paragraph 5.70 sets out that developments should not place undue pressure on local infrastructure, transport or open space. The policy approach suggests that the assessment of a planning application for student accommodation should be based upon whether a scheme would place pressure on the surrounding infrastructure, transport, and open space and whether there will be an adverse impact upon residential occupiers in the area, however, no evidence has been put forward that student accommodation will have an adverse impact on these factors. In contrast, in our experience, student accommodation can have very positive impacts on these aspects as explained below:

- 1) Infrastructure – the student population supports and enhances this;
- 2) Transport – there is no evidence as to how students will have an adverse impact on transport network compared to conventional residential. There are a number of institutions in the local area including London Southbank University and the University of Greenwich, and thus a large proportion of students will walk or cycle;
- 3) Open space – there are extensive existing areas of open space in the local borough which can also be supplemented by internal and external space on site; and
- 4) Residential occupiers – purpose-built student accommodation is very well managed and co-exists with residential developments across London and the wider UK.

Specifically, for the Vauxhall area and as set out in Rudolph House report to planning committee, officers' concerns are around the 25% threshold, although this is not dictated by planning policy. There are a number of appeal decisions and planning applications, as listed below (and enclosed in the appendices) which provide examples where Inspectors have granted consent for student development proposals where the main issue for consideration has included whether the proposals would result in an excessive over-concentration of student accommodation in the local area. In all cases, the accepted student population percentage of the local area was well above 30% and the Inspector did not consider this to be an excessive over-concentration:

- h) Lower Albert Street, Exeter (APP/Y1110/W/17/3178667) (Enclosed in **Appendix D**);
- i) Oakbase House, Chester (APP/A0665/W/16/3166180) (Enclosed in **Appendix E**);
- j) The Old Printworks, Bernard Terrace, Edinburgh (PPA-230-2122) (Enclosed in **Appendix F**); and
- k) Salisbury Court, St Leonard Street, Edinburgh (PPA-230-2146) (Enclosed in **Appendix G**).

These are discussed in turn below.

1. Lower Albert Street, Exeter (APP/Y1110/W/17/3178667)

There is no defined policy threshold within the local plan, however it is noted that 32% of houses in the local area are in student use. Whilst this was considered as a high concentration by the Inspector, the Inspector also noted student numbers are increasing and supply of PBSA is low. The Inspector did not consider that the development would result in a detrimental over-concentration. The applicant agreed to provide a student management plan to address issues of noise and disturbance. The Inspector was satisfied this would reduce and manage issues associated with over-concentration of student accommodation within unmanaged HMO accommodation.

2. Oakbase House, Chester (APP/A0665/W/16/3166180)

There is no defined policy threshold or reference to any percentage figures within the appeal decision in respect of student population or proportion of student accommodation. The Inspector did not consider that the provision of an additional 150 bedrooms would result in an over-concentration. The proposal was deemed to meet all of the policy criteria and was seen as consistent with the underlying objective of the policy, especially alleviating the pressure on the use of family homes as HMOs.

3. The Old Printworks, Bernard Terrace, Edinburgh (PPA-230-2122)

Although different legislation, this appeal decision is relevant as the principle is the same with regards to over-concentration. There is no policy threshold for the percentage of student accommodation; however, a 30% threshold is referred to in supplementary guidance. It was agreed that the proportion of students in the local population based on updated census data is approximately 60%. The Inspector concluded that the existing student population was already above the threshold and did not regard a numerical figure for the proportion of students to be a determining factor. The purpose of the policy is to encourage provision of PBSA in locations which relate well to Universities therefore it would be illogical if those locations which policy accepts are most suitable were ruled out solely on the basis they were, unsurprisingly, already popular with students.

4. Salisbury Court, St Leonard Street, Edinburgh (PPA-230-2146)

Although different legislation, this appeal decision is relevant as the principle is the same with regards to over-concentration. There is no policy threshold for the percentage of student accommodation; however, a 30% threshold is referred to in supplementary guidance. It is agreed that the current student proportion of the local population is 55%; therefore, the Inspector had to determine whether the increase to 61.73% would result in an excessive concentration. He concluded on balance; the scheme will result in a higher concentration but it was an area close to the University where student accommodation is already at a high level and the appeal site is preferable to less sustainable locations further afield, so he did not consider this to result in an excessive over-concentration.

In the examples referred to above, the percentage of the student population exceeded 30% and reached a maximum of 62% and in all cases the Inspector concluded that this did not result in an over-concentration. To conclude, it is apparent that there is no evidence that concentration of PBSA development create harm to residential communities and they in fact have a positive impact on residential communities as evidenced in the examples above. Therefore, it is recommended that part iv should be removed and the presumption against PBSA in Vauxhall should be removed as there is no policy justification to support this.

Recommendation: the policy reference and requirement to overconcentration should be removed as there is no threshold set or justification as to how PBSA causes harm to residential communities. In addition, the presumption against PBSA in Vauxhall at supporting paragraph 5.69 should be removed.

**(vii)** *'is well-designed, providing appropriate space standards and facilities and is sustainable by virtue of being adaptable to alternative residential use';*

We wish to reiterate our objection to this, particularly the supporting text which states *'the ability to accommodate students with disabilities should be fully integrated into any student housing development, with 10 per cent of rooms wheelchair-accessible or easily adaptable for occupation by a wheelchair user in line with London Plan policy D7'* (paragraph 5.72).

We argue that the requirements for conventional residential accommodation should not be applied to student housing as in reality, the typical demand from students per annum falls significantly below the 10% mark. This is evidenced by Unite's experience in London which highlights that less than 0.5% of their London portfolio is occupied by wheelchair users. This is a steady and consistent trend as evidenced by Unite's longer term experience.

We would stress that Unite are committed to providing wheelchair accessible units and ensuring their student accommodation schemes are inclusive to all. Unite operate a policy of meeting the needs of an individual user and not applying a one size fits all policy. Indeed, should individual bedrooms need to be adapted; this can be done quickly and relatively easily to meet requirements. Unite have undertaken such additional alterations in discussion with the end user and provided a bespoke solution to a student's needs. Adjoining carers' rooms have also been provided also before the student took their place at university. Given the nature of student accommodation where 'sign up' is carried out in well in advance of the term starting (at least 3 weeks even during Clearing), it is therefore not considered necessary to over provide on wheelchair accessible units which will not be used. Student accommodation is not like a hotel where any one can come off the street and request a room.

Whilst we acknowledge this is an important requirement, Unite have over 117 PBSA properties across the UK with 27 buildings in the London portfolio. Of these c.9,500 bedrooms, they have provision for 528 students that may need a wheelchair room. This is over 5.5% of the total London rooms. Over the last 5 years, Unite have provided 41 students with these rooms. For this current year, Unite have 7 students in need of wheelchair sized rooms out of an approximate total of c.9500 bedrooms. This equates to a 0.07% take up and thus demonstrating an exceptionally low need for accessible bedrooms. Also, it should be noted that the majority of wheelchair students are housed by the universities close to campus for ease of travel.

In addition, we understand the 10% requirement was introduced in order to help meet a shortfall in wheelchair accessible housing within conventional housing. Generally, those who live in conventional dwellings are of an older demographic thus the percentage of those who have a disability and require wheelchair accessibility is far greater than the demographic affiliated with student accommodation. The normal age range of students is between 18 and 25, explaining why there has never been a shortfall in wheelchair provision within student housing, highlighting that the 10% requirement is wholly unreasonable and unnecessary.

**Recommendation:** This policy requirement should not be applicable to PBSA and the requirement should be relaxed to 5% or less or have consideration to a site by site basis to ensure that the quantum of PBSA is not compromised.

**(viii)** *'provides high-quality cycle parking facilities in accordance with Local Plan policies T3 and Q13. Pool bikes are particularly appropriate for student housing';*

As set out in the previous representations, this policy requirement is objected to and is addressed through the relevant policy in later paragraphs of this representation. Furthermore, it is noted that this version of the draft Local Plan adds in a recommendation on the provision of pool bikes. We argue that this is an unnecessary addition and should be removed.



Recommendation: the reference to pool bikes in policy H7 A (viii) and T3 E should be removed.

### **Draft Policy H13 Large Scale Purpose-built Shared Living**

**Part A** of the draft policy sets out that *'development proposals for large-scale purpose-built shared living will be supported in Waterloo and Vauxhall only where they meet both the requirements of London Plan policy H18 (H17 in the intend to publish London Plan) and the following additional Lambeth-specific requirements'*:

It is noted that policy requirement A (i) *'a justification is made for the local need the accommodation will meet'* has been removed. This is supported by Unite as in our previous representations, we argued that there is no planning justification for this requirement and could in fact deter this type of development coming forward.

**(ii)** *'each private unit includes at least 15 sq m functional living space separate from the communal facilities'*;

We wish to highlight that there has been no change to this policy requirement following the previous round of consultation. Whilst it is supported that functional living space should be provided with this type of tenure, setting a floorspace requirement could have the effect of compromising housing being delivered as land is not optimally being used and compromised by this requirement. In addition, there are various forms in which the layout can be delivered and should not be restricted to this floorspace parameter. This therefore contradicts the policy stance of draft London Plan policy GG2 which requires that new developments should be high-density, mixed use and make the best use of land. This draft policy also fails to acknowledge and have consideration to amenity and community provisions that exist in the locality of sites which further enhances their amenity offer.

Recommendation: We wish to reiterate our objection to the floorspace imposed by this draft policy and recommend it is removed as it has the ability to compromise the quantum of housing delivered. In addition, it hinders any flexibility in developing different formats of this type of development.

**(iii)** *'rents per room are set no higher than the mean rental level for a studio in the private rented sector in that postcode area (based on London Rent Map data)'*;

As there have been no changes to this policy following our previous representations made, we would like to stress that this requirement should be removed as there is no planning basis to control rental levels through policy and is unjustified.

Recommendation: This policy requirement should be removed as planning policy cannot dictate rental levels.

**Part B** of the draft policy sets out that *'a development proposal for large-scale purpose-built shared living will not be supported on public-sector land or where'*:

**(i)** *'it would result in the loss of existing self-contained residential accommodation (C3)'*;

There has been no change to the policy requirement following the previous consultation, we wish to reiterate our previous objection to this part of the policy. It is widely acknowledged that other housing tenures can count towards the delivery of conventional housing. This includes the acknowledgement of student housing, and this stance should be considered here given this has weighting at both a national and strategic policy position.

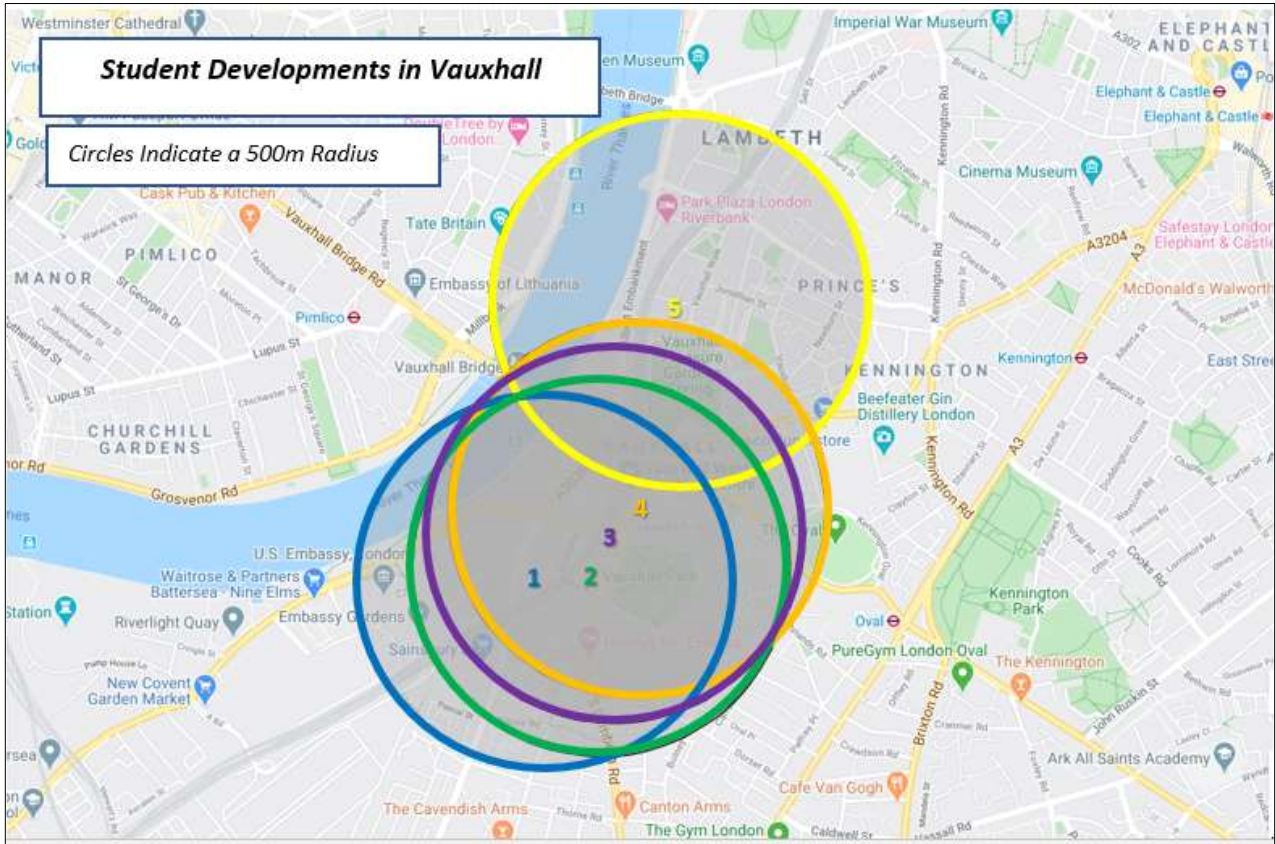
Recommendation: This draft policy requirement should be removed as this tenure of housing can in fact contribute to the delivery of housing. This is further contradictory to the national and strategic policy position.

**(iv)** *'it would result in an over-concentration of similar uses, including purpose-built student accommodation, which may be detrimental to residential amenity or the balance and mix of uses in the area or place undue pressure on local infrastructure';.*

As per the previous representations, this requirement should be removed as there is no reference to a numerical threshold, and this has been made on the basis of a wider assessment which could vary by location and on the basis of various officers' assessments. The Council have not put any justification forward on how this housing tenure could place pressure on the surrounding infrastructure, transport, and open space and how there will be an adverse impact upon residential occupiers in the area. This is in conjunction with similar uses including PBSA. They are all different types of housing, designed for different parts of society and the policy should not deter them being located in similar/certain areas. This policy requirement could in fact deter this type of development coming forward which would in fact broaden housing delivery in certain areas and cater for various needs, therefore it should be removed.

Furthermore, the supporting policy text at paragraph 5.126 imposes further restrictions on shared living developments, setting out that *'generally two uses of this nature, including purpose-built student accommodation will not be permitted on adjacent sites; and there should be no more than two such uses within any given 500m radius'*.

Unite wish to strongly object to this requirement, as this will impose a strong deterrent on shared living developments coming forward. As section A of policy H13 sets out that this type of development will be supported in Vauxhall and Waterloo, adding in the requirement that no more than two such uses, including student accommodation within any 500m radius will be supported, would mean that no such further development would be able to come forward, as there are already numerous student developments in both areas. The supporting policy text in fact contradicts the policy wording and on this basis is completely unsound. To demonstrate this, the below map and corresponding table show the existing, committed purpose-built student accommodation schemes within a 500m radius of one another in the Vauxhall area. Considering that there are currently five purpose-built student developments within a 500m radius of one another, this policy would effectively eliminate any further large-scale purpose-built shared living developments coming forward in this area. This would furthermore defeat the purpose of Section A of policy H13 supporting this type of accommodation in the Waterloo and Vauxhall areas.



Map Reference	Name of Student Accommodation	Address	PBSA Provider/Developer	Status
1	Urbanest Vauxhall	5 Miles Street, Vauxhall, SW8 1RZ	Urbanest	Completed
2	Rudolf Place	Units 1 To 18 Rudolf Place, Vauxhall, SW8 1RP	Downing	Permission granted 28 <sup>th</sup> June 2018 under reference 16/03954/FUL.
3	Atlas	52 South Lambeth Road, Vauxhall, SW8 1DN	Downing	Completed
4	The Hub	21-25 South Lambeth Road, Vauxhall, SW8 1SU	Host Students	Completed
5	Spring Mews	10 Tinworth St, Vauxhall, London SE11 5AL	Fresh Student Living	Completed

**Recommendation:** Unite strongly object to this part of the draft policy requirement and it should be removed as there is no threshold set and justification as to how large-scale purpose shared living can have a detrimental impact on local communities. Additionally, the draft policy text and supporting policy wording are completely unsound. Therefore, the supporting text at paragraph 5.126 should also be removed as it will directly prevent further purpose-built student accommodation from coming forward in the areas of Waterloo and Vauxhall and renders section A of Policy H13 ineffective.

## **Draft Policy ED7 Town Centres**

Part D of the draft policy states that *'proposals for town centre uses in edge of centre and out-of-centre locations will be assessed against the sequential test and impact assessment set out in the NPPF. Applications that fail the sequential test and/or where the impact assessment (where required) demonstrates significant adverse impact will not be permitted'*;

Whilst the policy is supported as it is a requirement set out in the NPPF, it is proposed that this policy requirement is widened to allow more flexibility. The section that has been added since the previous round of consultation, setting out that applications will not be permitted if they fail the sequential test or their impact assessment demonstrates significant adverse impact, should be removed as it adds a further level of complexity. This is recommended on the basis to exclude consented schemes where precedent for these uses has already been established at edge of centre or out of centre locations and established by an extant planning permission. This will ensure that where an extant permission has not been implemented that a subsequent scheme can be brought forward with these uses where it is demonstrated that there has not been a sequential preference.

Recommendation: This policy should be relaxed and have an allowance to permitted town centre uses at edge of centre and out of centre locations.

## **Draft Policy Q13 Cycle Storage**

Part C of the draft policy requires that cycle storage in all development should *'be fully compliant with the minimum standards set out in the London Plan and exceed these where a high demand for cycling is expected'*;

The proposed minimum cycle parking requirement for student accommodation is provided within Table 10.2 (Minimum Cycle Parking Standards) of draft London Plan Policy T5 (Cycling) and sets the standard at 0.75 cycle spaces per bedroom unit for student accommodation and 1 cycle space per bedroom unit for co-living accommodation. It is noted that the proposed requirement for student accommodation in the London Plan has decreased from 1 cycle space per bedroom unit, since the previous consultation on the Lambeth Local Plan in October 2018.

Although Unite Students are supportive of the provision of cycle spaces to encourage sustainable travel, the proposed rates for 1 space and 0.75 spaces per bedroom unit are still considered to be unnecessary and unsound for several reasons set out in the following paragraphs.

Student housing and co-living accommodation is developed at higher densities than conventional housing and as a consequence and in order to provide these levels of cycle parking, large areas of floorspace typically at ground floor level, are required which could otherwise be used more efficiently and effectively for living or town centre uses thus reducing the viability of the scheme.

Unite's experience has shown that cycle parking provision within consented student schemes where this has been provided at policy compliant levels is severely underused. Enclosed within **Appendix H** (Representations to Draft New London Plan - WSP) is supporting evidence which refers to a survey (February 2018) undertaken by Unite to understand the present uptake of cycle utilisation across their student accommodation sites. The study demonstrates that the maximum average demand for cycle parking storage is 5% of bed places, which has been found across the 26 of Unite' sites which equates to a demand of one cycle space per 20 students.

By way of an example, Unite were required to provide a minimum of 423 cycle spaces for a student scheme in the London Borough of Islington which translates to a floor area of approximately 465 sqm or 385 sqm based on the typical requirements of 1.1sq.m for a Sheffield stand or 0.91sq.m for a dual-stacking system respectively. Based on an average student cluster bedroom size of approximately 11sq.m, this would result in the unnecessary loss of approximately 35-42 bedroom units.

Additionally, it has been demonstrated that an increase in the provision of cycle parking for student accommodation would not directly result in an increase in cycling patterns amongst students. Firstly, student housing schemes are generally in close proximity of places of study allowing majority of journeys to be undertaken on foot and are in areas with high levels of public transport accessibility providing an alternative means of transport. Secondly, the influence and take up of Cycle hire schemes provide an affordable means of transport, precluding the requirement for private cycle ownership and storage which eliminates the need for students to invest in safety, security and maintenance associated with private ownership.

Recommendation: It is considered that the proposed levels of cycle parking for student housing and co-living should be considered on a case by case basis as supported by the evidence referred to above. It is also recommended that the cycle parking requirements for co-living accommodation should not be the same as the draft London Plan requirements for C3 dwellings.

**Draft Policy ED2 Affordable Workspace**

Part A of the draft policy sets out that ‘*in accordance with London Plan policy E3, the council will apply the following requirements for affordable workspace in the following locations:*

- i) In Waterloo/Southbank and Vauxhall developments proposing at least 1000sqm (GIA) gross B1a office floorspace should provide 10 per cent of that floorspace at 50 per cent of market rents for a period of 15 years;*
- ii) In Oval, Kennington and Clapham developments proposing at least 1000sqm (GIA) gross B1a office floorspace should provide 10 per cent of that floorspace at 80 per cent of market rents for a period of 15 years;*
- iii) In the Brixton Creative Enterprise Zone (CEZ) developments proposing at least 1000sqm (GIA) gross B1a office floorspace should provide 10 per cent of that floorspace as affordable workspace for a period of 25 years with the following discounts on market rents’;*

	<u>CEZ within town centre boundary</u>	<u>CEZ outside town centre boundary</u>
<u>Between 1000sqm and 5000sqm GIA</u>	<u>No discount</u>	<u>50 per cent of market rents</u>
<u>Between 5,001sqm and 10,000sqm GIA</u>	<u>65 per cent of market rents</u>	<u>65 per cent of market rents</u>
<u>Greater than 10,000sqm GIA</u>	<u>50 per cent of market rents</u>	<u>80 per cent of market rents</u>

We have observed that following the previous round of consultation to the Lambeth Local Plan, the policy has been amended to only apply to developments proposing at least 1,000sqm (GIA) floorspace, which is supported. Part B of the policy has also been amended to eliminate the requirement for the affordable workspace to be managed by a council-approved workspace provider. This amendment is also supported as it removes an onerous requirement.

Despite the amendments and whilst Unite support the provision of affordable workspace in their developments and recognise the importance of this for London's ecosystem for creative and technology innovation, there is no evidence nor planning basis to support these proposed rental levels in these locations. Whilst the provision of affordable workspace in mixed use developments is strongly supported and in accordance with London Plan policy E3, the additional requirements as set out in the draft policy should be deleted, as planning policy cannot dictate rental levels.

Recommendation: the prescribed rental levels should be removed from this policy as these cannot be dictated by planning policy and there is a lack of evidence to support the proposed policy.

### **Conclusions and Summary of Recommendations**

In conclusion, Unite consider the policies relevant to student accommodation and co-living developments to impose unnecessary requirements which are likely to restrict this type of development across the Borough. To summarise the representations made above, Unite therefore propose the following recommendations to the draft policy:

- The requirement in Policy H7 A (i) of student housing not compromising the capacity to meet the need for conventional dwellings should be removed as it has been demonstrated that PBSA does not compromise the delivery of conventional housing. This assumption is contrary to both the national and strategic policy position. In addition, the supporting text to this requirement should also be subsequently removed as this is also contrary;
- We wish to reiterate that Policy H7 A (iii), requiring a nominations agreement for occupation by students of one or more HEP for the lifetime of a PBSA development should be removed, as it is not possible to have a nominations agreement in place and secured for the lifetime of the accommodation prior to the grant of planning permission;
- The policy reference and requirement as Policy H7 A (iv) to overconcentration should be removed as there is no threshold set or justification as to how PBSA causes harm to residential communities. In addition, the presumption against PBSA in Vauxhall at supporting paragraph 5.69 should be removed;
- The policy requirement of H7 A (vii) with specific regard to paragraph 5.72 should not be applicable to PBSA and the requirement should be relaxed to 5% or less or have consideration to a site by site basis to ensure that the quantum of PBSA is not compromised;
- The reference to pool bikes in Policies H7 A (viii) and T3 E should be removed, as it is an unnecessary and superfluous addition;
- We wish to reiterate our objection to the floorspace requirements imposed by Policy H13 (ii) and recommend it is removed as it has the ability to compromise the quantum of housing delivered. In addition, it hinders any flexibility in developing different formats of this type of development;
- The requirement in Policy H7 A (iii) should be removed as planning policy cannot dictate rental levels.

- Draft Policy H13 B (i) should be removed as this co-living accommodation can in fact contribute to the delivery of housing. This is further, contradictory to the national and strategic policy position;
- Unite strongly object to policy requirement of Policy H13 B (iv) and argue that it should be removed as there is no threshold set and justification as to how large-scale purpose shared living can have a detrimental impact on local communities. Additionally, the draft policy text and supporting policy wording are completely unsound. Therefore, the supporting text at paragraph 5.126 should also be removed as it will directly prevent further purpose-built student accommodation from coming forward in the areas of Waterloo and Vauxhall and renders section A of Policy H13 ineffective;
- Policy ED7 should be relaxed and have an allowance to permitted town centre uses at edge of centre and out of centre locations;
- It is considered that the proposed levels of cycle parking for student housing and co-living outlined in Policy Q13 should be considered on a case by case basis as supported by the evidence referred to our representations above. It is also recommended that the cycle parking requirements for co-living accommodation should not be the same as the draft London Plan requirements for C3 dwellings; and
- The prescribed rental levels set out in Policy ED2 should be removed from this policy as these cannot be dictated by planning policy and there is a lack of evidence to support the proposed policy.

I trust this is in order and look forward to confirmation of safe receipt of these formal representations. I reserve the position to participate in the Examination in Public as necessary.

Yours faithfully,



**Matthew Roe**  
Director  
ROK Planning

**T:** 0773 0064234

**E:** [matthew.roe@rokplanning.co.uk](mailto:matthew.roe@rokplanning.co.uk)

(Encl. – Appendices A to H)

**List of Appendices**

- **Appendix A** - 315-349 Mill Road, Cambridge (APP/Q0505/W/15/3035861)
- **Appendix B** - Land at Fish Strand Hill, Falmouth, Cornwall (APP/D0840/W/17/3177902)
- **Appendix C** - Land at Ocean Bowl, Falmouth, Cornwall (APP/D0840/W/17/3182360)
- **Appendix D** - Lower Albert Street, Exeter (APP/Y1110/W/17/3178667)
- **Appendix E** - Oakbase House, Chester (APP/A0665/W/16/3166180)
- **Appendix F** - The Old Printworks, Bernard Terrace, Edinburgh (PPA-230-2122)
- **Appendix G** - Salisbury Court, St Leonard Street, Edinburgh (PPA-230-2146)
- **Appendix H** - Representations to Draft New London Plan - WSP



---

## Appeal Decision

Inquiry held on 1 to 3 December 2015

Site visit made on 3 December 2015

**by John Chase MCD DipArch RIBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 January 2016**

---

**Appeal Ref: APP/Q0505/W/15/3035861**  
**315-349 Mill Road, Cambridge, CB1 3NN**

- 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 McLaren (Mill Road) Ltd and The Co-operative Group Ltd against the decision of Cambridge City Council.
  - The application Ref 14/1496/FUL, dated 24 September 2014, was refused by notice dated 10 March 2015.
  - The development proposed is student housing consisting of 270 rooms, communal areas, bicycle parking, refuse store, plant room, office, new substation, infrastructure and access.
- 

### Decision

1. The appeal is allowed and planning permission is granted for student housing consisting of 270 rooms, communal areas, bicycle parking, refuse store, plant room, office, new substation, infrastructure and access at 315-349 Mill Road, Cambridge, CB1 3NN in accordance with the terms of the application, Ref 14/1496/FUL, dated 24 September 2014, subject to the conditions in the schedule at the end of this decision.

### Procedural Matter

2. The parties have submitted an Agreement in accordance with Section 106 of the Town and Country Planning Act 1990, containing a range of obligations, including contributions to infrastructure, and restrictions on the occupation of the units and use of cars by the residents.

### Main Issues

3. The planning application was refused on 7 grounds, but 5 may be resolved by the use of conditions or the obligations set out in the Agreement. Taking account of the outstanding reasons, and the representations from interested parties, the main issues suggested at the start of the Inquiry were the effect of the development on i) the supply of housing, and ii) the emerging local plan. There was no objection to these issues from the main parties, and they form the basis of the determination of the appeal. However, the Council founded their closing submissions on an assessment of the proposal against the development plan, and then in relation to each of the following material considerations: i) the National Planning Policy Framework, ii) the supply of housing, iii) the supply of student accommodation, iv) the emerging local plan,
-

and v) precedent and prematurity. This provides a convenient means of covering the range of topics which have been raised and which have a bearing on the main issues, and the same structure is adopted in this decision.

## **Reasons**

4. The site occupies 0.6ha alongside Mill Road, being part of a larger property which was formerly vehicle and furniture showrooms. It has been vacant for an extended period, with the buildings demolished, and the land screened by a hoarding. The surroundings have an inner suburban character, predominantly residential, but with Brookfield Hospital on two sides of the site. The Central Conservation Area abuts the south and east boundaries. It is the appellants' intention to develop the site with 270 rooms for students, in a range of accommodation types, within four blocks around a central courtyard.

### *The Development Plan*

5. The land is identified in the Proposals Schedule of the Local Plan, adopted 2006, as part of Site 7.12, allocated for housing and community<sup>1</sup> use, with the prospect of some student accommodation for Anglia Ruskin University (ARU) in lieu of affordable housing. Local Plan Policy 5/1 safeguards identified residential sites over 0.5ha in order to meet the target of 12,500 dwellings between 1999 and 2016, and Policy 7/9 safeguards land identified for student hostels for ARU.
6. The entry for Site 7.12 in the Proposals Schedule refers only to Policy 7/9. However, it is clear from the accompanying description that the land is intended for housing development, and, by exceeding 0.5ha, would fall within the scope of Policy 5/1. The proposal to develop the site wholly for student accommodation would not accord with the terms of this policy.

### *The National Planning Policy Framework (NPPF)*

7. The application for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. One such material consideration is the NPPF, and, in particular, whether assessment against its provisions would lead to Local Plan policies being considered out of date. In this respect, NPPF para 47 sets the objective for the Local Planning Authority to identify a five year supply of deliverable housing land to meet the full, objectively assessed need. The increase of 12,500 dwellings set out in the 2006 plan was based on historic data and no longer represents the objectively assessed need. The current estimate, established by research for the emerging Local Plan, is 14,000 dwellings up to 2031. There is no dispute that the Council is able to demonstrate a five year supply against this requirement without the need to include the appeal site in the figures. It is argued that Policy 5/1 is out of date by relating to an obsolete requirement, and that there is no obligation created by the NPPF to safeguard land for housing beyond the five year timeframe.
8. On the first point, whilst the figure of 12,500 dwellings may no longer be current, there is an ongoing need for housing in the City, and the updated assessment results in a similar annual requirement to the earlier figure. There is no doubt that there is a continuing need to identify and secure housing land

---

<sup>1</sup> The community requirement has subsequently been met by the grant of planning permission for a Mosque on the balance of Site 7.12

in the City, and Policy 5/1 helps to meet this objective, remaining relevant to the current situation.

9. On the second point, the NPPF makes provision for the identification of specific housing sites beyond the five year timescale, with no explicit injunction against safeguarding for this purpose. It is the case that a need for flexibility in plan making is a recurring theme throughout the NPPF, whereas the wording of Policy 5/1 provides little room for adjustment to meet changed circumstances. However, whilst this might diminish the weight attributable to this policy in respect of NPPF para 215, it is not so fundamental as to render it out of date in terms of the decision process set out in para 14. Policy 5/1 remains relevant, and the basis against which the proposal should be assessed.

#### *The Supply of Housing*

10. There is currently an expectation that the site would provide 30 houses in 2022-2023, which would be lost if it was wholly developed for student accommodation. It is argued by the appellants that this is not a significant contribution. Whilst the scale of delivery is not the sole determining factor in assessing the importance of the contribution, there being a need for a variety of type and location of sites, it is accepted in this decision that the anticipated yield would remain a small proportion of the requirement for 14,000 dwellings by 2031, without strategic implications for the overall level of delivery and within the forecast surplus. It may be that the site has a greater capacity than 30 units, and the Council acknowledge that their estimates tend to be conservative. However, if this is the case then it follows that other identified sites would also be capable of a greater number of units, to take up any shortfall.
11. The Planning Practice Guidance enables student accommodation to be included towards the housing requirement, based on the amount of accommodation released to the housing market. Reference is made to data used by Cambridgeshire County Council, indicating a ratio of 3.5 student places to one house released, which, if applied to the 270 bed spaces proposed, would result in the release of about 77 houses. The Council point to a lack of research evidence to support this figure, and note that there would be no means for the developer to control the release of the housing, which could be used for alternative student accommodation.
12. These points are noted, and it is recognised that there is limited support for any specific figure. Nonetheless, a proportion of students presently live in the private rental sector, especially those at ARU, which has less dedicated accommodation than the University of Cambridge. It follows that increasing the availability of purpose built student housing in a location suitable for those students would either facilitate the return of private space to the general housing market, or help to meet an unsatisfied student demand, and thereby reduce the overall pressure. It is difficult to see that there would be no beneficial effect on the availability of housing in the City, and it is reasonable that some allowance should be made for this factor, even if it is not possible to exactly quantify it.

### *Student Accommodation*

13. The text surrounding Local Plan Policy 7/9 notes a critical shortage of residential accommodation for ARU, with only 9.8% of undergraduates being housed in University controlled hostels. By 2011, the Council indicate that the ratio was 2000 rooms for 8,900 undergraduate and post graduate students, but that there has subsequently been a strong growth in supply, amounting to about 63% of the total student growth anticipated up to 2031. However, this is against a relatively low rate of expected increase (0.5% per annum undergraduates, 2.0% post graduates), and does not necessarily address the backlog arising from the very low base reported in the Local Plan.
14. Whilst it may well be possible to meet the intention of supplying dedicated rooms to all ARU first year students who require them, this appears to be a minimum objective: the Local Plan notes that the University wishes to house as many students as possible in purpose built accommodation, and more recent correspondence from ARU indicates that it is generally not possible to accommodate later years in University sponsored rooms. Similarly, data provided by the appellants indicates that ARU lies above national averages in both the proportion of students in private rented accommodation, and those travelling from remote locations.
15. It is recognised that this is a fluid situation, and that there is likely to be a continuing strong supply of new student housing in the City, prompted by the financial attractiveness of this form of development. However, in part this attractiveness arises out of the level of unsatisfied demand for such accommodation. At this stage, the evidence falls short of proving that there does not remain a need for purpose built student housing, especially to improve the choice and opportunities for ARU students.
16. The Council note that the wording of the Section 106 Agreement does not specifically limit the use of the premises to ARU students, the University of Cambridge also being permitted. However, this seems to be in accordance with the Council's stated requirements, and there is a reasonable prospect that the location of the site, on the east side of the City, and the greater disparity between attendance numbers and the availability of accommodation at ARU, would make this more attractive to those students.

### *The Emerging Local Plan*

17. Policy 3 of the *Cambridge Local Plan 2014: Proposed Submission* sets the objective of supplying not less than the requirement of 14,000 dwellings by 2031. To this end, Policy 26 supports development set out in the Proposals Schedule, in which the appeal property is combined with the adjoining Brookfields Hospital land to provide an overall capacity of up to 1.0ha employment space and 128 dwellings (including the 30 on the appeal site). Policy 46 permits new student accommodation, subject, amongst other matters, to there being a proven need.
18. The Examination of the Local Plan is currently suspended whilst the Council provide further information. A number of relevant policies and the site allocation are subject to unresolved objections. In the circumstances, the Council suggest that limited weight may be applied to the policies of the emerging Local Plan and, having regard to the provisions of NPPF para 216, there is no reason to disagree with this conclusion.

### *Precedent and Prematurity*

19. The question arises whether the appeal proposal is premature to the emerging Local Plan and would prejudice the ability to meet the identified housing need. In terms of the relevant passage in the Planning Practice Guidance<sup>2</sup>, the development would not, in itself, be of such substance as to have a critical effect on the delivery of the Plan. As previously noted, the amount of housing anticipated from the site is relatively small in relation to the total supply. Rather, reference is made to the cumulative impact of similar decisions within the City, which could lead to a switch of allocated housing sites to student accommodation, and the consequent inability to meet the housing need. The evidence does not draw particular attention to a past trend in this respect, the main concern being that a successful appeal here would create a precedent for similar cases elsewhere. The Council refer to discussions with prospective applicants concerning the conversion of other housing sites to student accommodation, including at Mount Pleasant House, and the view that such proposals would become impossible to resist.
20. It is certainly the case that planning decisions should be consistent, for the benefit of all concerned, and that a decision in one case may be used to support a similar proposal elsewhere. However, the degree of weight that may be applied to that decision is dependent on a range of factors, including the extent to which the circumstances coincide, the nature of the evidence offered in each instance, and whether the overall planning context has changed in the period between decisions. In each case, there is considerable scope to distinguish the circumstances.
21. The Planning Practice Guidance places the onus on the Planning Authority to demonstrate that a development would prejudice the outcome of the plan making process. Of necessity, a high level of justification is needed to dismiss the appeal scheme on the basis of the possible outcome of other cases, when a judgement on the acceptability of those cases does not form part of the matters under consideration, and there is no certainty if, how and when they will arise. The evidence does not clearly indicate that any other group of proposals, of sufficient extent to have a determining effect on the supply of housing land, would be so similar to the present scheme as to demand identical decisions.
22. The Council draw attention to the role of the development plan in determining matters of principle, and it is certainly the case that the allocation of land between competing uses is most properly dealt with through the Local Plan process. However, this does not justify delaying decisions on individual proposals unless their scale or effect would significantly prejudice the preparation of the Plan. The evidence falls short of proving this to be the case.

### *Other Matters*

23. Interested parties have raised a range of other matters, including the impact on the appearance of the area. This is a topic which has been the subject of discussions between the main parties, resulting in amendments to the original design. Whilst the Officers' Report retains some concerns about the final appearance of Block A, these mainly relate to matters of detail which could be resolved by planning conditions, and there is no outstanding objection in

---

<sup>2</sup> 21b-014-20140306

principle concerning design. There is no reason for this decision to reach a different conclusion on this point, and the development would preserve the character and appearance of the adjoining Conservation Area.

24. It is recognised that the layout of the proposed Mosque places its residential element close to the common boundary, and the new buildings would have some impact on the living conditions of the future residents. However, there is the potential, by the use of conditions, to minimise any harm arising. There is also a concern about the possibility of noise and disturbance arising out of the use of the land, especially at the relatively high densities proposed. However, there is limited evidence to support this aspect, and there are means of ensuring that the premises and their occupants are properly managed so as to reduce the likelihood of problems arising, and to address them if they do. Similarly, the Planning Agreement makes provision for regulating the occupation of the units, and preventing the use of private vehicles, to limit the possibility of additional street parking. The development would result in more pedestrian and cycle movements in the area, but within the capacity of the road system which would be subject to specific improvements required by the Agreement. These, and the other matters raised, do not create grounds for dismissal of the appeal.

### **Conclusions**

25. The proposal does not accord with the development plan, and, for the reasons given, there are grounds to consider that the most relevant Local Plan policy, 5/1, should not be considered out of date in terms of the decision process set out in para 14 of the NPPF. The question arises whether other material considerations are of sufficient importance to outweigh the application of the policy.
26. There has been a rapid rise in the provision of student accommodation in the City since 2011. Whilst this represents a large proportion of the anticipated growth in student numbers to 2031, there is no clear indication that the critical shortage of rooms for ARU students reported in the Local Plan has been adequately addressed. Alongside this, student accommodation is a form of housing, and there is no reason to consider that its provision should not reduce demand for other types of dwellings, to relieve the overall pressure for housing in Cambridge. The high residential densities possible with student accommodation would maximise this effect by making the best use of the land. In addition, the site is not required to meet the current 5 year supply and, whilst the Council is under an obligation to identify residential land for later periods, the NPPF does not specifically require safeguarding for this purpose, and there is an expectation of some degree of flexibility in the application of policies.
27. Turning to the effect on the emerging Local Plan, the Planning Practice Guidance makes clear that refusal on the grounds of prematurity should only apply where the adverse impacts would substantially and demonstrably outweigh the benefits. In general, this would occur where the effect is so significant as to predetermine fundamental aspects of the emerging Plan, and where the Plan is at an advanced stage. In terms of the first criterion, there is no certainty that a decision in this case would so clearly apply to a substantial number of other instances as to have a decisive effect on the ability to meet housing demand in the City. In respect of the second, whilst the Plan has been

submitted for examination, the Council acknowledge that matters remain unresolved and only limited weight may be applied to the relevant policies.

28. In terms of the main issues, there is no substantial reason to consider that the appeal scheme would be unduly harmful either to the supply of housing or to the emerging Local Plan. The identified benefits, including an increased supply of student accommodation and the potential to release other housing, would render it a sustainable form of development, for which there is a presumption in favour, and would justify departure from the terms of Local Plan Policy 5/1.

### **Conditions and Obligations**

29. The conditions proposed in the Statement of Common Ground have been assessed in relation to the discussion at the Inquiry and the provisions of the Planning Practice Guidance. Conditions are necessary for the benefit of the appearance of the development and its surroundings, including the adjacent Conservation Area (Conditions 12, 17, 18, 19 and 26), and to minimise the loss of amenity and highway safety during the construction process (9, 10, 11 and 27). The land was formerly a garage with underground tanks, and it is necessary to ensure that any ground contamination is investigated and remedied before residential occupation (3, 4, 5, 6, 7, and 8).
30. The approved plans are identified for the avoidance of doubt and in the interests of proper planning (2). Measures are necessary to ensure a satisfactory acoustic environment for the residential uses (15, 16, and 28), whilst conditions are needed to secure the amenity of surrounding occupiers (23 and 24). A range of conditions relate to the sustainability of the development (13, 20, 22, and 25), to securing biodiversity (14), and to obtain effective access for waste collection from the site (21). To ensure satisfactory conduct of ground contamination treatment, construction practices, tree protection, and basement design for cycle storage, it is necessary for details to be agreed before the start of development.
31. The Section 106 Agreement makes provision for highway improvements in the vicinity of the site, to secure road safety and encourage sustainable forms of transport, along with restrictions on car use to diminish parking and traffic stress in the area. Contributions are made to the improvement of recreational facilities to reflect the additional demand arising out of the student occupation. Occupancy of the units is restricted to students at Anglia Ruskin and Cambridge Universities, to meet the specific demand from these institutions. Overall, the measures comply with the relevant development plan policies and supplementary guidance, and meet the tests in Regulation 122 of the Community Infrastructure Levy Regulations, 2010. There is no reason to dispute the Council's claim that the obligations relate to projects where fewer than five contributions have been provided, in compliance with Regulation 123.

*John Chase*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr R Taylor QC

He called

Ms J Gilbert-Wooldridge Cambridge City Council

MA, MTP, MRTPI

Mr T Williams BA, MA, Cambridge City Council

MRTPI

### FOR THE APPELLANTS:

Mr D Edwards QC

Mr A Byass, of Counsel

They called

Mr R Daniels MA, MPHIL, Pegasus Group

MRTPI

Mr R Barber BA, MRTPI Pegasus Group

### INTERESTED PERSONS:

Mr S Harif

On behalf of the Moslem Academic Trust

Mr C Wiles

On behalf of the East Mill Road Action Group

Mr F Gawthrop

Local Resident

Ms A Beamish

Local Resident

Mr S Linford

Local Resident

Mr L Freeman

On behalf of Cllr A Smith

Cllr D Baignet

City Councillor

Mr A Brigham

On behalf of the East Mill Road Action Group

## **DOCUMENTS**

- A1 Appellants' opening submissions
- A2 Extract from Planning Practice Guidance
- A3 Amended Housing Trajectory Figures
- A4 Appellants' closing submissions
- A5 Certified copy of the Section 106 Agreement
- B1 Documents in support of presentation by Mr F Gawthrop
- C1 Letter from Brandon Lewis MP to the Planning Inspectorate, 19/12/14
- C2 Extracts from Cambridge Local Plan, July 2006
- C3 Extracts from Cambridge Local Plan 2014, Proposed Submission, July 2013
- C4 Opening submissions on behalf of the Local Planning Authority
- C5 Extract from Local Plan Proposals Map
- C6 Estimate of Universities' accommodation needs
- C7 Drawing BRS.4815\_01-1A
- C8 Closing submissions on behalf of the Local Planning Authority
- C9 List of appearances for the Local Planning Authority
- C10 Email from Joanna Davies to Toby Williams, 10/12/14



## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: D0099 Rev P2, D2100 Rev P2, D2101 Rev P2, D2102 Rev P2, D2103 Rev P2, D2104 Rev P2, D2200 Rev P2, D0201 Rev P2, D0202 Rev P2, D0203 Rev P2, D0300 Rev P2, D0301 Rev P2, BRS.4815.01-1A, BMD.212.DR.005B, and BMD.212.DR.006B except as modified to comply with these conditions.
- 3) *Contaminated Ground: Submission of Preliminary Contamination Assessment.* Prior to the commencement of the development including investigations required to assess the contamination of the site, the following information shall be submitted to and approved in writing by the local planning authority: (a) desk study to include a detailed history of the site uses and surrounding area (including any use of radioactive materials); general environmental setting; site investigation strategy based on the information identified in the desk study, and (b) report setting out what works/clearance of the site (if any) is required in order to effectively carry out site investigations.
- 4) *Contaminated Ground: Submission of site investigation report and remediation strategy.* Prior to the commencement of the development with the exception of works agreed under condition 3 and in accordance with the approved investigation strategy agreed under clause (b) of condition 3, the following shall be submitted to and approved in writing by the local planning authority: (a) site investigation report detailing all works that have been undertaken to determine the nature and extent of any contamination, including the results of the soil, gas and/or water analysis and subsequent risk assessment to any receptors, and (b) a proposed remediation strategy detailing the works required in order to render harmless the identified contamination given the proposed end use of the site and surrounding environment including any controlled waters. The strategy shall include a schedule of the proposed remedial works setting out a timetable for all remedial measures that will be implemented.
- 5) *Contaminated Ground: Implementation of remediation.* Prior to the first occupation of the development the remediation strategy approved under clause (b) to condition 4 shall be fully implemented on site following the agreed schedule of works.
- 6) *Contaminated Ground: Completion Report.* Prior to the first occupation of the development hereby approved the following shall be submitted to, and approved in writing by the local planning authority: (a) a completion report demonstrating that the approved remediation scheme as required by condition 4 and implemented under condition 5 has been undertaken and that the land has been remediated to a standard appropriate for the end use, and (b) details of any post-remedial sampling and analysis (as defined in the approved material management plan) shall be included in the completion report along with all information concerning materials brought onto, used, and removed from the development. The information provided must demonstrate that the site has met the required clean-up criteria. Thereafter, no works

- shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.
- 7) *Contaminated Ground: Material Management Plan.* Prior to importation or reuse of ground fill material for the development a Materials Management Plan (MMP) shall be submitted to and approved in writing by the Local Planning Authority. The MMP shall include: details of the volumes and types of material proposed to be imported or reused on site; details of the proposed source(s) of the imported or reused material; details of the chemical testing for all ground fill material to be undertaken before placement onto the site; the results of the chemical testing which must show the material is suitable for use on the development; confirmation of the chain of evidence to be kept during the materials movement, including material importation, reuse placement and removal from and to the development. All works shall be undertaken in accordance with the approved document.
  - 8) *Contaminated Ground: Unexpected Contamination.* If unexpected contamination is encountered whilst undertaking the development which has not previously been identified, works shall immediately cease on site until the Local Planning Authority has been notified and/or the additional contamination has been fully assessed and remediation approved following steps (a) and (b) of condition 4 above. The approved remediation shall then be fully implemented under condition 5.
  - 9) No development shall take place until a construction noise and vibration report has been submitted to and approved in writing by the Local Planning Authority. The report shall be in accordance with the provisions of BS 5228:2009 *Code of Practice for noise and vibration control on construction and open sites*, or any successor document, and include full details of any piling, and mitigation measures to be taken to protect local residents from noise and or vibration. Development shall be carried out in accordance with the approved details.
  - 10) No development shall take place until a programme of measures to minimise the spread of airborne dust from the site during construction has been submitted to and approved in writing by the local planning authority. The development shall proceed in accordance with the approved scheme.
  - 11) No development shall take place until a construction traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall address contractor parking and all lorry movements, including deliveries, and removal of surplus/waste material, with all loading and unloading taking place within the site, along with the control of mud and debris. Development shall proceed in accordance with the approved details throughout the period of construction.
  - 12) No development shall take place until details of arboricultural work and tree protection, based on the scheme submitted with the planning application, and including a programme of implementation, have been submitted to and approved in writing by the Local Planning Authority. The arboricultural work and tree protection shall be carried out in accordance with the details and programme as approved.
  - 13) Prior to the commencement of development, details of secure bicycle storage shall be submitted to and approved in writing by the Local Planning Authority. The details shall include access to the basement storage in Block A, including ramp gradient, wheel channels on both sides of the ramp, door width with

- automatic opening mechanism, and security arrangements; along with details of all cycle parking racks. No building shall be occupied until the facilities for secure bicycle storage have been installed in accordance with the approved details, and the storage facilities shall be retained thereafter for their intended purpose.
- 14) The development shall be carried out in accordance with the recommendations of the Ecological and BREEAM assessment report of 11 September 2014. Prior to occupation of the development, ecological enhancement of the site, including bat and bird boxes on new buildings and trees, and provisions for hedgehogs and invertebrates, shall be carried out in accordance with details which have first been approved in writing by the Local Planning Authority.
  - 15) Blocks A and B shall not be occupied until a noise insulation scheme has been carried out in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall achieve internal noise levels in accordance with the recommendations of BS 8233:2014, *Guidance on sound insulation and noise reduction in buildings* (or any successor document), taking account of traffic and other ambient noise levels in the locality.
  - 16) Blocks C and D shall not be occupied until a report investigating noise arising from the use of the adjoining hospital site, and any measures necessary to reduce internal noise levels within the student units, has been submitted to and approved in writing by the Local Planning Authority, and any noise reduction measures have been carried out in accordance with the approved details. The noise report shall take account of the provisions of BS 4142:2014, *Methods of rating and assessing industrial and commercial sound*, or any successor document.
  - 17) No unit shall be occupied until amended versions of landscaping drawings BMD.212.DR.005B, and BMD.212.DR.006B to make provision for the public art installation referred to below have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing shall be carried out in accordance with the approved amended plans and specification in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation. All hard landscaping shall be completed in accordance with the approved amended plans prior to first occupation of any building.
  - 18) Prior to the commencement of any external landscaping works, a Public Art Delivery Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include: details of the Public Art and artist commission; details of how the Public Art will be delivered, including a timetable for delivery; details of the location of the proposed Public Art on the application site; the proposed consultation to be undertaken with the local community. The approved Public Art Delivery Plan shall be fully implemented in accordance with the approved details and timetable.

- 19) Prior to the occupation of the development, a Public Art Maintenance Plan shall be submitted to and approved in writing by the local planning authority and shall include the following: details of how the Public Art will be maintained; how the Public Art would be decommissioned if not permanent; how repairs would be carried out; how the Public Art would be replaced in the event that it is destroyed. The Public Art Maintenance Plan shall be fully implemented in accordance with the approved details. Once in place, the Public Art shall not be moved or removed otherwise than in accordance with the approved Public Art Maintenance Plan.
- 20) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the Planning Practice Guidance, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - (a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - (b) include a timetable for its implementation;
  - and (c) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 21) No unit shall be occupied until the access route for waste vehicles serving the development has been constructed in accordance with a specification and layout which has first been submitted to and approved in writing by the Local Planning Authority.
- 22) No unit shall be occupied until the combined heat and power system has been installed in accordance with the recommendations of the *Revised Mill Road Sustainability and Energy Report* of Feb 2015.
- 23) Prior to the occupation of the development, a student management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include provisions relating to travel advice; specific stipulations prohibiting the keeping of a car in Cambridge (excluding disabled students); check-in time slots in order to stage the impact of the check-in process; the organization of the move-in day; site security; the management of deliveries; responsibilities expected of students both inside and outside the site; the management of move-out times; maintenance cover; tenancy checks; waste management; rules on tenant behaviour; and the external display of contact information for on-site management and emergencies. The scheme shall be managed in accordance with the approved details.
- 24) Block B shall not be occupied until measures to restrict overlooking of the proposed Mosque residential unit from first and second floor west facing windows have been carried out in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The measures shall be retained thereafter.
- 25) No unit shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall

- comprise immediate, continuing and long term measures to promote arrangements to encourage the use of public transport, cycling and walking and in particular cycling by students, including cycle safety and safe cycle routes. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed travel Plan Targets.
- 26) Materials for the construction of the external surfaces of the buildings shall be in accordance with details and samples that have first been submitted to and approved in writing by the Local Planning Authority. The details shall include: a 1m x 1m sample panel of the brickwork proposed showing the bonding, coursing and colour and type of jointing and associated stonework surrounds; non-masonry walling systems, cladding panels or other external screens including structural members, infill panels, edge, colours, surface finishes/textures and relationships to glazing and roofing including recesses back from the brickwork; roofing materials and coping details; window frames, including details of the recess back from the outer edge of the brickwork; and rainwater goods. The approved sample panel(s) shall be retained on site until the completion of the construction.
- 27) Except with the prior written agreement of the local planning authority (a) no construction work shall be carried out or construction plant operated other than between the following hours: 08.00 hours to 18.00 hours Monday to Friday, 08.00 hours to 13.00 hours on Saturday and at no time on Sundays, Bank or Public Holidays, and (b) there shall be no collection or deliveries to the site during the construction period outside the hours of 07:00 hours and 19:00 hours on Monday to Saturday and at any time on Sundays, Bank or Public holidays.
- 28) The rating level of sound emitted from any permanent plant and/or machinery associated with the development hereby approved shall not exceed background levels between the hours of 07.00-23.00 (taken as a 1 hour LA90 at the site boundary) and shall be 5dBA or more below the background sound level between 23.00-07.00 (taken as a 15 minute LA90 at the site boundary). All measurements shall be made in accordance with the methodology of BS4142:2014, *Methods for rating and assessing industrial and commercial sound*, or any successor document.



## Appeal Decision

Hearing Held on 21 November 2017

Site visit made on 21 November 2017

**by Mike Fox BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13<sup>th</sup> December 2017**

---

**Appeal Ref: APP/D0840/W/17/3177902**

**Land at Fish Strand Hill, Fish Strand Hill, Falmouth, Cornwall, TR11 3BD**

- 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 Wilson and Sharp Investments against the decision of Cornwall Council.
  - The application Ref PA16/10836, dated 9 November 2016, was refused by notice dated 27 April 2017.
  - The development proposed is a purpose-built student hostel with a mixture of studio rooms/cluster rooms and town house rooms, associated amenities spaces and staff office.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a purpose-built student hostel with a mixture of studio rooms/cluster rooms and town house rooms, associated amenities spaces and staff office at land at Fish Strand Hill, Fish Strand Hill, Falmouth, Cornwall, TR11 3BD in accordance with the terms of the application Ref PA16/10836, dated 9 November 2016, and the plans submitted with it, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The appeal proposal is for 112 self-contained student studios and cluster rooms with shared communal rooms. This is a slight reduction from 116 student rooms in the original proposal. The total was reduced following detailed discussions between the Appellant and the local planning authority over a five month period prior to submitting the appeal application.
3. The appeal application was accompanied by a signed and dated Unilateral Undertaking under the provisions of section 106 of the above Act. The document makes provision for financial contributions towards the provision of and improvements to open space facilities and towards the mitigation of recreational impact on the Fal and Helford Special Area of Conservation. I return to this matter later.
4. The Hearing was closed in writing on 24 November 2017, following the receipt of details from the Council of a suggested additional condition relating to securing an archaeological recording/watching brief of the site, further observations by the Smithick Ward Residents' Association and a response to these observations by the Appellant.

5. In determining the appeal I have taken into account the Statement of Common Ground (SCG)<sup>1</sup> that has been agreed by the Appellant and the Local Planning Authority. This is a helpful document which states both the areas of agreement and also those aspects which are still at issue between the parties.
6. My attention was drawn to a recent appeal decision which has granted planning permission for a 190 bed student accommodation block on land at Ocean Bowl in Falmouth<sup>2</sup>. This decision, whilst not functioning as a precedent for subsequent appeals, and whilst it relates to a different site within the town, nevertheless has strong parallels with the appeal before me and I have therefore had regard to that decision, especially as the planning background and circumstances which influenced that appeal decision have not materially changed in the intervening few weeks.

### **Main Issue**

7. Having read all the submitted written statements and representations and listened to the discussion of the evidence at the Hearing, and from my observations on and around the appeal site, I consider that the main issue is whether the benefits of the proposed development would outweigh any harm, having regard to the adopted and emerging development plan policies relating to the Combined Universities in Cornwall and also to the backdrop of national planning policy.

### **Reasons**

8. The appeal site is a privately run, unsurfaced car park for about 40 cars. It is located one row back from and largely out of sight of, Market Street, which is the principal shopping area in Falmouth. It is also situated within the Falmouth Conservation Area. There is a high rock face which visually contains the site to the south-west, although there are views into the site from the footpath which connects Fish Strand Hill to the south-east and Smithick Hill to the south-west, at the top of the rock wall.

### *Planning Policy*

9. The development plan for Cornwall is in several parts. The Cornwall Local Plan Strategic Policies 2010-2030 (LP) was adopted in November 2016. LP policy 3, which is referred to in the Council's reason for refusal, states that the delivery of the growth in the main towns will be managed through site allocations in order to ensure that growth is genuinely plan-led.
10. There was considerable debate at the Hearing as to whether the development plan could be taken to support the provision of purpose-built student accommodation (PBSA) in Falmouth or whether it was silent on the matter.
11. The 'upper case' LP policy 3 wording is silent on the need to provide for PBSA. However, the explanatory text to this policy (paragraph 1.56) states that the Plan seeks to ensure additional PBSA for students in Falmouth and Penryn. The same paragraph gives two important reasons for this, which are to help alleviate the very specific pressure that is placed on the housing market in those towns, and to allow for the future expansion of the university in this

---

<sup>1</sup> Hearing Document 1.

<sup>2</sup> Appeal Ref APP/D0840/W/17/2182360; for purpose-built student accommodation block comprising 190 beds, communal facilities (reception, gym, study rooms), along with ancillary infrastructure and landscaping on land at Ocean Bowl, Pendennis Rise, Falmouth; appeal allowed 15 November 2017.

location. It is also true that the majority of this pressure, as evidenced in the number of houses in multi-occupation (HMOs) is concentrated in Falmouth, which has over half the stock of HMOs in Cornwall. A recent Article 4 Direction is in place to prevent the increase in the number of HMOs in the town. Falmouth is the larger of the two towns and the one with the most facilities which are used by students outside the university campuses.

12. The other key reason for supporting the growth of the universities in Falmouth and Penryn is their economic contribution to the area, which is also referred to in LP policy 2 (see section 3 (e)). In addition, LP policy 2a sets out, as one of five key targets for the whole of Cornwall, the provision of additional bed spaces within purpose-built accommodation commensurate with the scale of any agreed expansion of student numbers at the Penryn campus. The policy also refers to changes in student numbers at other campuses in both Falmouth and Penryn. It is therefore clear to me that the adopted part of the development plan supports the provision of additional PBSA in both Falmouth and Penryn.
13. The emerging Cornwall Site Allocations Plan<sup>3</sup> (eSAP) allocates sites for PBSA in Penryn, which is where the main university campus is located. The appeal site is not allocated in the eSAP for PBSA; in fact, no sites in Falmouth are allocated for PBSA in the eSAP. However, this Plan has yet to be tested at a public examination, and it can therefore be given little weight.
14. Finally, there is an emerging Falmouth Neighbourhood Plan (eNP). Policy HMO3 of the eNP was originally supportive of PBSA on sites close to the town centre (such as the appeal site), but this has been replaced, and the current aim is to hold a referendum in spring 2018. As the eNP has yet to be finalised and independently tested I can therefore give this plan little weight.
15. The adopted development plan strategy to provide student accommodation in both Falmouth and Penryn is not reflected in the emerging parts of the development plan. This is doubtless an issue for the forthcoming examinations on the eSAP and eNP to consider, but it does not form part of the remit of this appeal.
16. In terms of the overall development plan, I conclude, based on the above considerations, that the adopted development plan recognises the importance of both Falmouth and Penryn to the student community and the need to respond to the challenges of providing PBSA within these towns and to maximise the economic opportunities that might arise from the growth of the universities in these towns. This is therefore, in a plan-led system, an important material consideration in favour of the proposed development.
17. I have also had regard to national planning policy in determining this appeal. Paragraph 216 of *the Framework*<sup>4</sup> states that decision-makers may give weight to relevant policies in emerging local plans, but with the provisos that this is limited by the stage in preparation and the extent of unresolved objections. National policy therefore supports the increased weight given to the adopted local plan over the as yet untested emerging plans.

---

<sup>3</sup> Cornwall Site Allocations Development Plan Document; March 2017 (eSAP)

<sup>4</sup> DCLG: National Planning Policy Framework (the Framework); March 2012.



*Benefits of the proposed development*

18. The Appellant points to a number of benefits which would follow on from allowing the appeal. These can be summarised as: firstly, helping to meet a significant need for PBSA which the Combined Universities have; secondly, by providing PBSA in Falmouth, this will free up existing housing, especially HMOs, currently occupied by students, for use by the residential population of Falmouth; thirdly, the proposal would assist in the growth and success of the universities themselves; fourthly, it would help provide both short-term and long-term economic benefits for local people, including well paid professional jobs linked to the universities; and fifthly, the proposed development would deliver a high-quality development of a sustainably located brownfield site which would help to regenerate the town.
19. In addition to the above benefits, the Appellant also argues that the proposal accords with the adopted development plan, which aims to ensure additional purpose-built accommodation is provided for students in Falmouth and Penryn.
20. Finally, the Appellant argues that implementation would be swift, in contrast to other projects, particularly those in and around the main university campus at Penryn. To this end, the Appellant has agreed to reduce the standard time condition for commencement to 18 months from the conventional three years as evidence of its serious intent to achieve this aim.
21. Regarding the demand for student accommodation in Falmouth, my attention was drawn to a recent Cushman and Wakefield (CW) market demand report on PBSA<sup>5</sup>. This detailed report concludes that the demand for such purpose-built student accommodation in Falmouth is compelling in view of the current (April 2017) demand pool of 6,035 students, in which there are only 2,205 bed spaces to serve students, forcing large numbers of students to live HMOs. The report also argues that the current constraints on student accommodation in the Falmouth area risk harming the universities' reputation, which in turn would damage the significant economic benefits for the economy of both the local area and Cornwall as a whole, and the associated job opportunities, particularly for young people.
22. The Council argues that too much weight should not be attributed to the CW report, as 25% of the students are expected to come from Cornwall and that HMOs will always form part of the students' accommodation supply.
23. However, the growth in the stock of HMOs in Falmouth has now been halted, whilst the SCG states that there is a need for student accommodation, which does not form part of the 52,000 dwellings set out in the adopted Local Plan. The CW report is also comparatively recent, less than a year old at the time of the issuing of this decision. The fact that 25% of students are expected to come from Cornwall does not mean that it will be a practical proposition for them all to be day students; it is unreasonable to expect students from the extremities of Cornwall, or even from some of the main settlements such as Penzance, St Austell, Newquay or Bodmin, to be expected to travel to and from the universities as day students whenever they attend lectures, or be excluded from evening activities. I consider the CW report to be thorough and well-reasoned, and I therefore give this report considerable weight.

---

<sup>5</sup> Cushman and Wakefield Summary Market Demand Report – Falmouth Proposed Student Accommodation Development; April 2017.

24. Moreover, the conclusions in the CW report align with the recent representation from the Combined Universities to the eSAP consultation<sup>6</sup>, which expresses deep concern, stating (paragraph 1.3) that adoption of the current proposals (which contain a lack of PBSA allocations for Falmouth): *"would put the growth of the Cornish economy at immediate risk by impeding the universities' ability to grow and increase their significant economic contribution"*. Their representation goes on to state (paragraph 6.3): that *"Falmouth is acknowledged as a particularly desirable destination for second year, third year, post graduate and mature students to live, given its unique blend of culture, location and amenities"*.
25. Paragraph 6.4 of this representation underlines Falmouth's advantages. These include a diverse range of smaller scale brownfield development plots, not always suited for family housing, and which would suit the local developer/builder market better than the large scale sites identified in the current eSAP that require a significant rate of investment currently rare in Cornwall.
26. The officer report<sup>7</sup>, however, does not acknowledge the identified pressing need for such accommodation, and its value in reducing pressure on the existing housing stock in both Falmouth and Penryn, other than a brief reference at the top of page 25, and this consideration is silent in its treatment of the balance of considerations and conclusions in the report. This key point, however, was made quite forcibly in the officer's report in relation to the Ocean Bowl application for PBSA a few months beforehand. It is surprising, particularly considering the length of the officer report in relation to the proposal before me, that this important material consideration has been side-lined.
27. Nevertheless, the officer report in relation to the appeal before me acknowledges the sustainability of the appeal site. It also states that the proposal is considered acceptable in respect of *"the issues summarised above"*, which in effect is the sum total of relevant issues which are covered in the long and comprehensive report, with the sole exception of the conflict between the appeal proposal and the eSAP and eNP.
28. The SCG also states that *"There is a need for additional student accommodation over the plan period commensurate with the scale of any agreed expansion of student numbers at the Penryn campus, taking into consideration any changes in student numbers within other campuses at the universities in Falmouth and Penryn"*.
29. Much was made by objectors that the universities were not represented or present at the Hearing. It is clear, however, from their written representations, that the universities are concerned that a significant need for PBSA exists in Falmouth and that the type, size and location of the appeal site fits their description of a suitable site which is more realistic to pursue than some of the larger sites currently allocated in the eSAP. I also explained at the Hearing that I would give equal weight to both verbal and written representations.

---

<sup>6</sup> Letter from the Combined Universities regarding the Cornwall Site Allocation Development Plan Document; dated 7 September 2017.

<sup>7</sup> Cornwall Delegated Officer Report, received on 17 November 2017.

30. In response to the universities' representations, and in support of the changed policy stance in the eSAP and eN, the Council argues that three quarters of the demand for PBSA is generated in Penryn and that the proposed development would undermine its strategy to concentrate new PBSA in and around the Penryn campus. PSBA delivery of 1,049 units of accommodation at the southern end of the campus is planned and the Council expressed concern that its strategy for delivering this strategic amount of student accommodation, as set out in its emerging plans, would be jeopardised.
31. My colleague who conducted the Ocean Bowl appeal, in referring to the above-mentioned project, expressed concern at the length of time for it to come to fruition<sup>8</sup>, concluding that the delivery of PBSA at the Penryn campus that would be necessary to meet existing and projected demand is unlikely to be delivered in the next few years. At the Hearing, the Appellant argued that this large scheme, which was granted planning permission in 2009, still has not been started, and that one of the development partners was no longer in place.
32. From the discussion at the Hearing, I am not convinced by the Council that there is a likely prospect of the completion of sufficient PBSA spaces to meet anticipated demand, especially as I was informed that the universities are actively seeking to raise the student cap at the Penryn campus from 5,000 to 7,500, to which needs to be added a further 2,190 students at the University of Exeter Campus at Falmouth.
33. The proposal before me is for a very small proportion of the schemes proposed for the Penryn campus and nearby sites, which are allocated in the eSAP. Moreover, there is every indication that the development could be achieved quickly, and meet some of the urgent demand.
34. Taking into account the above considerations, it is my view that the proposed development would not undermine the implementation of the sites allocated in the eSAP, even taking into consideration the Ocean Bowl planning permission on appeal for 190 units of PBSA.
35. I therefore consider that the likely benefits of the appeal proposal would be considerable, and that they would not undermine the eSAP. They would primarily meet urgently required student accommodation needs, especially taking into account the likelihood that the continuing supply of HMOs should cease following the Article 4 Direction (assuming enforcement action is effective) and this would potentially free up some existing housing stock for the resident population.
36. The academic and economic benefits stemming from the proposed development would also be considerable. Helping to address the universities' student accommodation needs would contribute to enabling the universities to pursue their development aspirations. This would be likely to give rise to economic benefits to the local community, as well as to the rest of Cornwall, both in the short term though employment in jobs through construction, but more importantly though the provision of permanent jobs. A high proportion of these jobs are likely to be well paid, both directly in the universities and indirectly through the multiplier effect in industries linked to the universities, e.g. through research and development, as well as the creation of other employment in service industries and facilities in the area.

---

<sup>8</sup> Ocean Bowl decision Ref 3182360, paragraph 30.

37. On the basis of these considerations, I conclude that the benefits to the town of Falmouth and its wider area would be considerable, both in meeting PBSA requirements, in its economic benefits and because the proposals accord with the adopted LP. I regard these significant benefits to Falmouth and the wider area as a compelling consideration in support of the proposal.
38. Other benefits arising from the proposed development include the development of a sustainably located but unattractive brownfield site, which would also contribute towards the regeneration of Falmouth town centre. In this regard, the proposal would therefore accord with LP policies 1 (presumption in favour of sustainable development) and 21 (best use of land).

*Harmful impacts of the proposed development*

(i) *Impact on the development plan strategy to plan for student accommodation*

39. The SCG limits the matters which are not in agreement between the main parties to the relevance of the adopted and emerging Local Plans, including whether the adopted LP is silent on student accommodation; and whether the proposal would impact adversely on the deliverability of the eSAP allocated sites for PBSA to be delivered, with the Council arguing that the proposal would jeopardise the implementation of the eSAP. The SCG also states that it is common ground that the proposal is acceptable in all other respects, although this view is not accepted by many third parties who objected to the proposed development, which I will go on to address below.
40. The Council's single reason for refusal, although lengthy, is reflected in the SCG. In essence, the Council's view is that the proposal would prejudice the community-led eSAP and eNP process, which articulate the Council's strategy to provide a range of sites in and around the existing university campus at Penryn where students can both live and study in and around the same location, whilst allocating no sites for PBSA development in Falmouth.
41. Whilst it is clear that many local residents have written to object to the proposal and also turned up in significant numbers to voice their views at the Hearing, neither the eSAP nor the eNP have been tested publicly. It is not for me to predetermine the outcome of these two emerging plans, but at this stage they cannot be given the weight that the Council is asking me to give to them.
42. I also consider that the adopted LP, which addresses the strategic overview of Cornwall and its principal Community Network Areas, gives clear support towards more PBSA in both Falmouth and Penryn. The proposal is in conformity with this strategy.
43. On the basis of these considerations, I conclude that the proposal would not be contrary to the adopted LP strategy, whilst the eLP/eNP, which aim to prevent further allocated PSBA developments in Falmouth, have not been tested in a public examination and cannot therefore override the adopted LP. Moreover, the relatively small scale of the proposal in relation to the overall student accommodation requirements would not be sufficient to derail the emerging plans, but would provide much needed accommodation within a relatively short time scale.

(ii) *Impact on anti-social behaviour and a balanced community*

44. There is significant third party opposition to the proposed development based on concerns and fears of anti-social behaviour associated with the university students. The fear was expressed that the proposal would exacerbate the impact of this anti-social behaviour on their quality of life. Whilst I respect the integrity of the people at the Hearing who gave colourful examples of student behaviour that they had experienced, it is not clear from this anecdotal evidence whether this is a widespread problem, or whether it is more narrowly focused in geography and time. A few speakers at the Hearing, however, expressed the view that not all students lead antisocial lives; and that students are involved in community work and enrich the life of the town. It is also true that anti-social behaviour is not limited to students.
45. The view, however, was expressed in many representations and by several residents at the Hearing, that the proportion of students living in Falmouth is too high for a balanced community (a figure of 26% was cited, based on the ratio of students to total population, although this figure presumably includes a significant proportion of students who come from local families).
46. However, the central waterside area of Falmouth, with its concentration of shops, pubs, bars, cafes and other forms of entertainment, will continue to be the focus of student recreational activity (as well as for the population as a whole, including visitors), wherever the students reside. Many of the students who live in Penryn also choose to visit the attractions of Falmouth, facilitated by a convenient bus service. The contribution of the students to the town's night time economy is set to continue and grow in line with the development of the university and its projected increase in numbers, irrespective of the outcome of this appeal.
47. Whilst not wishing to downplay the seriousness and harmful impact of many of the examples of anti-social behaviour that were raised in the representations and at the Hearing, it is the case that much of this can be dealt with through civil and criminal legislation. It is also a fact that the police did not object to the proposal and neither was this included as part of the Council's reason for refusal.
48. The Appellant is also mindful of residents' concerns, and consequently, the proposal includes a permanent on-site manager (over a 24 hour period), which can be secured by condition. The area immediately around the appeal site, including the central shopping area, would lend itself to the installation of CCTV, which can be secured by condition. In fact, the introduction of CCTV and more lighting into this area would improve safety and the public perception of safety. A combination of these measures would in my view go a long way to deterring anti-social behaviour, and these would be brought about by the proposed development.
49. On the basis of these considerations, including the lack of objections to the proposal from the police and the fact that the Council has not registered this as a reason for refusal, I conclude that this is not a matter that justifies dismissing the appeal.

(iii) *Impact on the character and appearance of the Falmouth Conservation Area*

50. I am required by statute to consider whether the proposed development would either preserve or enhance the character or appearance of the Conservation Area<sup>9</sup>. I have also had regard to paragraph 138 of *the Framework*, which recognises that not all elements of a Conservation Area necessarily contribute to its significance, and this consideration is relevant in relation to the proposed development.
51. The appeal site, although located in the heart of the Falmouth Conservation Area within close proximity to a number of listed buildings, including the former Royal Hotel, is an unprepossessing, cleared site which does not contribute to the significance of the Conservation Area in any positive way. Moreover, the site is largely hidden from the public realm in Market Street. However, it is still important to consider whether the proposed development would comply with the statutory tests which I refer to above.
52. Third party opposition to the proposal focuses on alleged overdevelopment in relation to the size of the site, inappropriate design in the Conservation Area and its impact on public views, in particular from Smithick Hill which overlooks the site from the south-west.
53. The Council officer report acknowledges that the Appellant has responded to a number of the Council's and its Design Review Panel's concerns and states: "*the proposed development is a significantly superior design to that which was approved under the most recent (2009) planning permission for the erection of 20 flats with 20 on-site parking spaces...the permission remains highly relevant as an indication of the scale and massing of development that the local planning authority considered to be acceptable mas recently as 2012*"<sup>10</sup>.
54. I agree with the Council's officer report that the existence of a recent permission for a building on the appeal site, which is regarded as visually inferior to the proposal before me, is a significant material consideration in favour of allowing the appeal. Although the proposed 5 storey building is large in comparison to many of its neighbours, I consider that its contemporary design is distinct and it takes into account its setting and context, which is one of a high density urban grain. It would represent a significant improvement on the existing site, which amounts to an eyesore, which currently significantly detracts from the character and appearance of the Conservation Area. The massing of the proposed building has been broken down into distinct sections, giving a pleasant cadence, whilst the proposed landscape wedge at the rear, facing Smethick Hill, would introduce a welcome softer feature into an area with a predominantly hard texture.
55. At the accompanied site visit I observed that the proposed roof height would interrupt some long distance views from private properties on Smithick Hill. It would still be possible, however, for the public to gain views eastwards over the roofscape of the Conservation Area and across to the Carrick Roads, the countryside beyond and the open sea.
56. Taking account of the above considerations, I conclude that the effect of the proposed development on the character and appearance of the Falmouth

---

<sup>9</sup> The Planning (Listed Buildings and Conservation Areas) Act 1990, Section 72 (1).

<sup>10</sup> Page 31 of the Officer's Report, 4<sup>th</sup> paragraph.

Conservation Area would be at worst neutral; there would be less than substantial harm to the public view of the Conservation Area from Smithick Hill, whilst the development would improve the appearance of the existing poor quality site and its scale and design would not be out of place among its neighbouring buildings. The effect of the proposal on the character and appearance of the Conservation Area would therefore not justify dismissing the appeal.

(iv) *Other considerations*

57. Several other arguments were raised by the scheme's objectors. Whilst the construction stage would inevitably be disruptive, the suggested planning condition to require a Construction and Environmental Management Plan would address these concerns in a detailed and positive way with the aim of limiting the impact to acceptable levels. Regarding flood risk and other drainage issues, South West Water has not objected, and I see no reason to take a different view. The proposed transport plan would commit all parties to its implementation, and it is supported by the Council's highways officer. The minimal amount of on-site parking provision which is included in the scheme is required for servicing, deliveries and refuse collection.
58. The Council's officer report also makes a number of pertinent points. These include the fact that many students will be unlikely to bring a car to university faced with the possibility of punishment that could be as severe as expulsion from their course and/or fines by the operator (of the scheme) and the university, plus the fact that parking in the vicinity of the site is strictly controlled.
59. The Council has the opportunity, through the suggested condition, to ensure that parking is strictly controlled, whilst at the same time provide real incentives for students to use alternative and sustainable modes of transport. In addition, many of the facilities that students would use are located within a short walking distance from the proposed development. I am satisfied that the highways and parking issues have been realistically addressed by both the Appellant and the Council's highways officer, and I therefore do not consider that this consideration would weigh against allowing the appeal.
60. Finally, peaks in car usage, such as student arrivals and end of term collection, as well as being short-lived, are issues which have been satisfactorily addressed at many other universities, and it is in the universities' own interests to ensure that this is a well-regulated and smooth process.

### **Planning Obligation**

61. The Appellant submitted a Section 106 Unilateral Undertaking with the planning application. It makes provision for a financial contribution of £61,138.56 towards the provision of and improvements to open space facilities on Gyllying Street and Malborough Road, Falmouth, and another financial contribution of £7,465.92 towards the mitigation of recreational impact on the Fal and Helford Special Area of Conservation. Both of these financial contributions are included in the SCG and are supported by the LP policy 22 and in the eNP. I consider that the provisions in the Unilateral Undertaking are fairly and reasonably related in scale and kind to the appeal scheme, and comply with the criteria set out in paragraph 204 of *the Framework* and paragraphs 122 and 123 of the

Community Infrastructure Levy Regulations (2010). I have taken these contributions into account in determining the appeal.

### **Planning Conditions**

62. I have considered the list of conditions which has been agreed by the main parties and included in the SCG. It accords with paragraph 206 of *the Framework*, and I have therefore used it as the basis for my conditions. Condition (1) is a standard condition, although in view of the pressing need to secure the development and ensure its timely delivery, I agree with the main parties that a shorter period of 18 months instead of the standard 3 years should be specified for the commencement of the development. Condition (2) is also a standard condition which is required for the avoidance of doubt and in the interests of proper planning.
63. Condition (3) is to safeguard the living conditions of neighbouring residential occupiers and to reduce environmental impact. Conditions (4) and (6) are in the interests of sustainable transport, including limiting car parking and hence its impact in the immediate area. Conditions (5), (7) and (8) are to limit disturbance to the living conditions of neighbouring residents. Condition (9) is to safeguard public health and the living conditions of existing neighbouring occupiers and future occupiers of the proposed development. Condition (10) is to decrease the risk of flooding. Conditions (11), (12) and (13) are in the interests of enhancing the character and appearance of the area. Condition (14) is necessary to safeguard archaeological details.

### **Planning Balance/Overall Conclusion**

64. In considering all the impacts of the proposed development together, it is clear in my mind that the benefits of the proposed development to the town and the wider area are considerable. The scheme would directly benefit the universities in terms of their pressing need for PBSA, which indirectly assists their future prospects as educational institutions, given the importance of student accommodation in attracting new students to the universities in the first place. The scheme would also deliver public benefits, in stimulating the economy and local jobs, assisting the regeneration of Falmouth town centre and securing the satisfactory development of an unattractive brownfield site and providing increasing lighting and security in this area. I also consider that the effects of the proposal on the character and appearance of the Falmouth Conservation Area would be at worst neutral.
65. In the light of the above considerations there would be no conflict with the adopted LP or with national planning policy. I have already concluded that the proposal accords with the adopted development plan support for PBSA in Falmouth, as evidenced by LP policies 2a.4 and the supporting text to policy 3. The policy also accords with LP policy 21 (securing the best use of land and buildings) and is not contrary to LP policy 24 (which relates to the historic environment). Finally, the proposed development is sustainably located as well as comprising sustainable development, and hence accords with the provisions of LP policy 1.
66. I have to set these benefits and the fact that the proposal accords with the adopted development plan against the Council's primary concern that the proposed development would conflict with the emerging strategy for PBSA, as set out in the eSAP and eNP. I accept that there is conflict with these



emerging plans, as the Council outlines. However, I can only give little weight to these emerging plans, because at the time of writing this decision, neither of these plans has been independently examined. This is a critical consideration in leading me to the conclusion that I should allow the appeal.

67. I am aware that many local residents and organisations who care for the future of Falmouth objected to the proposed development, primarily on the grounds that they consider that increasing the number of students would exacerbate what they consider to be an imbalance in relation to the population of the town as a whole and that the impact of some of the students' anti-social activities are unacceptable.
68. Whilst I do not mean to downplay the concerns expressed by third parties, they are not shared by the Council or the police, at least in relation to the proposed development. Moreover, the Appellant has gone to some lengths to propose improving and encouraging the alternatives to car use through a detailed travel plan, by ensuring continuous, 24 hour, seven days a week on-site supervision as part of the scheme, and by improving security through the use of CCTV and lighting. In addition, the administrative and enforcement authorities have legal powers to control anti-social behaviour, including inconsiderate parking, whether this is caused by students or by other residents or visitors to the town. These considerations therefore do not outweigh the reasons that led me to allow the appeal.
69. For the reasons given above and having regard to all other matters raised, and subject to the conditions and unilateral undertaking discussed above, I conclude that the appeal should be allowed.

*Mike Fox*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Gareth Hooper	DPP Planning
Mr Sam Mayou	CAD Heritage
Mr Charles Potter	Westworks Architects
Mr Till Scherer	Westworks Architects

### FOR THE LOCAL PLANNING AUTHORITY:

Mr James Holman	Cornwall Council
Mr Matthew Brown	Cornwall Council

### INTERESTED PERSONS:

Cllr Alan Jewell	Cornwall Council
Cllr John Spargo	Falmouth Town Council
Stuart Martin	Chairman, Save Our Falmouth
Brendan Fitzgerald	Smithick Ward Residents' Association
Jim Forbes	Smithick Ward Residents' Association
Matthew Marris	Resident
Pam Cowan	Resident
Mike Fernihough	Resident
John Ellis	Resident
Marc Lawndon	Resident
Dr Michael Fleetwood	Resident
William Essex	Resident
Philip Haggard	Resident
Jessica Howey	Resident
Chris Sharpe	Resident
Tamsin Ward	Resident
Roland Tongue	Resident
Tracy Boulton	Resident
David Braeford	Resident
Perry Stacey	Resident
Diane Rayner	Resident
Judy Warren	Resident
Lauren Averly	Resident

## **DOCUMENTS**

1. Statement of Common Ground between Wilson and Sharp Investments and Cornwall Council; dated 13 November 2017.
2. Map of Falmouth Conservation Area.
3. Final Report of Falmouth Neighbourhood Plan Steering Group Environment and Open Spaces Working Group: Work Programme Final Report; dated 20/12/2016.
4. Photograph of delivery truck parked on Smithick Hill, Falmouth.
5. Suggested new condition, to secure an archaeological watching brief, submitted by Cornwall Council; dated 24 November 2017.

6. Additional information submitted by Smithick Ward Residents' Association, dated 24 November 2017.
7. Comments on Smithick Ward Residents' Association and Falmouth Neighbourhood Plan Stakeholder Group, submitted by Wilson Sharpe Investments; dated November 2017.
8. Attendance List.
9. Falmouth Neighbourhood Plan Position Statement – November 2017.
10. Letter from Dave Bragford; forwarded by PINS on 24 November 2017.
11. Penrose Student Village Information Leaflet.

#### SCHEDULE OF PLANNING CONDITIONS

1. The development hereby permitted shall begin not later than 18 months from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Ref 01 0100 A, dated 04/11/2016; Block Plan, Ref 01 0101, dated 19/02/2017; Elevation Plans, Refs 01 0300E, North Elevation; 020301D, East Elevation; 010303D, West Elevation; 01 0302D, South Elevation; Roof Plan, Ref 01 210D, dated 23/11/2016; Floor Plans, Refs 01 0200E, Ground Floor GA; Ref. 01 0201E, First Floor GA; 01 0202E, Second Floor GA; 0203E, Third Floor GA; 01 0204E, Fourth Floor GA, all dated 23/11/2015; Illustrative Plans, Refs 01 0500B, View 1; 01 0501B, View 2; 01 0502B, view 3; 01 0503B; 01 0503B, View 4; 01 0505B, all dated 08/08/2016; 01 0510B, 3D Views; 01 910C, Previous Massing, dated 15/02/2017; 01 0904, Shadow Study, dated 08/08/2016; 01 0905, Shadow Study Previously Consented, dated 16/02/2017; 01 910, Key Plan, dated 19/02/2017; and Existing Site Survey; Ref 2006-2190-01 A, dated May 2008.
3. No development shall commence (including works of demolition, site clearance or ground works) until a Construction and Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include:
  - Construction vehicle details (number, size and type);
  - Vehicular routes and delivery hours;
  - Means of access and parking of vehicles of site operatives and visitors;
  - Loading and unloading of plant and materials;
  - Storage of plant and materials;
  - Location of site compound and welfare facilities;
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - Wheel washing facilities;
  - Measures to control the emission of dust and dirt during demolition, site clearance and construction works;
  - Measures to control noise during demolition, site clearance and construction works;

- A scheme for recycling/disposing of waste resulting from demolition, site clearance and construction works;
- Hours of working;
- Management of surface water for the avoidance of pollution;
- Procedures to avoid pollution incidents, e.g. from fuel spills or site runoff, based on an understanding of the wildlife interest at risk (i.e. the designated sites);
- Contingency/emergency measures for accidents and unexpected events, including pollution incidents (e.g. use of spill kits with machinery);
- Risk assessments of potentially ecologically damaging construction activities;
- The location and timing of sensitive works to avoid harm to biodiversity features;
- If necessary, the times during construction when specialist ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication;
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- Use of protective fences, exclusion barriers and warning signs.

The development shall be carried out strictly in accordance with the approved CEMP, which shall be adhered to and implemented throughout the demolition, site clearance and construction periods.

4. No development shall take place until a detailed Travel Plan has been submitted to and approved in writing by the local planning authority in line with Cornwall Council guidance: 'Travel Plans - Advice for Developers in Cornwall'. No part of the new development shall be occupied prior to implementation of those parts identified in the Approved Travel Plan as capable of being implemented prior to occupation. Those parts of the Approved Travel Plan that are identified therein as capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented in accordance with the approved details as long as any part of the development is occupied.
5. The development hereby permitted shall remain in single ownership and the development shall be residentially occupied solely by persons who are registered students with Falmouth and Exeter Universities. The names of the occupiers of the development shall be kept on a register on site along with proof of their registration. Residential occupation shall be managed by a single management company fully in accordance with a detailed Management Plan to be submitted to and approved in writing by the local planning authority before the development is first occupied. The Management Plan shall include provision for a manager to be present on-site at all times over a 24 period while the student accommodation hereby approved is occupied.
6. Before the student accommodation hereby permitted is first occupied, the cycle parking shown on the approved plans shall be provided in accordance with the approved details. The cycle parking shall be maintained and made available for the use of residents of the development at all times thereafter.

7. The development hereby permitted shall not be occupied until details of Closed Circuit Television (CCTV) cameras to monitor the development have been submitted to and approved in writing by the local planning authority. The details shall include the type and number of cameras and their locations together with details of lighting to enable surveillance and details of signage appropriately located to indicate which areas are off limits to the public and that CCTV is in use. The CCTV cameras shall be installed in accordance with the approved details and brought into use before the development is first occupied.
8. Details of any floodlighting shall be submitted to and approved in writing by the local planning authority before the building(s) is/are occupied. Development shall be carried out in accordance with the approved details.
9. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until criteria 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until criterion 4 has been complied with in relation to that contamination.

*Criterion 1: Site Characterisation*

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval, in writing, of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwater and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

*Criterion 2: Submission of Remediation Scheme*

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and approved in writing, by the local planning authority, and the remediation work must be implemented in accordance with the approved

scheme. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

*Criterion 3: Implementation of Approved Remediation Scheme*

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (sometimes referred to as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

*Criterion 4: Reporting of Unexpected Contamination*

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of criterion 1, and where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of criterion 2, which is subject to the approval, in writing, of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with criterion 3.

10. The foul and surface water drainage schemes serving the development approved by this permission shall not be commenced until all areas of made ground identified in the Red Rock Geoscience Ltd Report Ref RP6556 have been removed and the land fully stabilised and remediated in accordance with a remediation scheme first approved in writing by the local planning authority. The details shall include:

- Details of the removal of made ground/remediation and stabilisation methods and extent of works.
- Results of percolation testing following the removal of made ground/remediation and stabilisation works.
- A description of the foul and surface water drainage systems operation.
- Details of the final drainage schemes including calculations and layout.
- A Construction Environmental Management Plan.
- A Construction Quality Control Procedure.
- A plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features.
- A timetable of construction including a plan indicating the phasing of development including the implementation of the drainage systems.

- Confirmation of who will maintain the drainage systems and a plan for the future maintenance and management, including responsibilities for the drainage systems and overland flow routes.

Thereafter, the approved scheme shall be implemented in accordance with the details and timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details. Details of the maintenance schedule shall be kept up to date and be made available to the Local Planning Authority within 28 days of the receipt of a written request.

- 11.No development shall commence until full details of hard landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out in accordance with the approved details prior to the occupation of any unit hereby permitted and notice shall be given to the local planning authority when the approved scheme has been completed.

The hard landscaping details shall include:

- proposed finished ground levels or contours;
- means of enclosure;
- car parking layout;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- proposed and existing functional services above and below ground (eg. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports, etc.

- 12.No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority.

The landscaping scheme shall provide planting plans with written specifications including:

- Details of all existing trees and hedgerows on the land, showing any to be retained and measures for their protection to be used in the course of development;
- Full schedule of plants;
- Details of the mix, size, distribution and density of all trees/shrubs/hedges;
- Cultivation proposals for the maintenance and management of the soft landscaping. The protection measures proposed shall be completed in accordance with the approved scheme before the development hereby permitted commences and shall thereafter be retained until it is completed. Notice shall be given to the local planning authority when the approved scheme has been completed.
- All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Notice shall be given to the local planning authority when the approved scheme has been completed.

- Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.
- 13.No development shall commence until details of the materials to be used in the construction of the external surfaces (doors/windows/lintels/sills/stonework/brickwork /roof covering and method of fixing) of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 14.No development shall take place until the applicant has secured the implementation of a programme of archaeological recording/watching brief based on a written scheme of investigation which shall have been submitted to and approved by the local planning authority. The recording/watching brief is to be undertaken throughout the course of works affecting the below ground deposits and historic fabric of any on-site structures. The recording/watching brief is to be carried out by a professional archaeological/building recording consultant or organisation in accordance with the approved details.





## Appeal Decision

Hearing Held on 8 November 2017

Site visits made on 7 and 8 November 2017

**by Neil Pope BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 15 November 2017**

**Appeal Ref: APP/D0840/W/17/3182360**

**Land at Ocean Bowl, Pendennis Rise, Falmouth, Cornwall, TR11 4LT.**

- 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 Mr I Lewis of Rengen Developments Ltd against the decision of Cornwall Council (the LPA).
- The application Ref. PA17/04077, dated 28/4/17, was refused by notice dated 11/8/17.
- The development proposed is redevelopment *to provide purpose-built student accommodation block comprising 190 beds, communal facilities (reception, gym, study rooms), along with ancillary infrastructure and landscaping.*

### Decision

1. The appeal is allowed and planning permission is granted for a purpose-built student accommodation block comprising 190 beds, communal facilities (reception, gym, study rooms), with ancillary infrastructure and landscaping at land at Ocean Bowl, Pendennis Rise, Falmouth, Cornwall, TR11 4LT. The permission is granted in accordance with the terms of the application ref. PA17/04077, dated 28/4/17 subject to the conditions in the attached Schedule.

### Preliminary Matters

2. Both main parties informed me that description of the development had changed from that set out in the application form dated 28 April 2017 and sent with the grounds of appeal. The above noted description relates to the proposal that was determined by the LPA and is agreed by both main parties.
3. At the Hearing, I was presented with a completed unilateral undertaking under the provisions of section 106 of the above Act. This includes financial contributions towards the cost of: mitigation measures in respect of the Fal and Helford Special Area of Conservation (SAC); highway works and; open space. I was also present with a Deed of Agreement under the provisions of sections 278 and 305 of the Highways Act 1980. The LPA informed me that this undertaking and agreement would address its second reason for refusal (RfR).
4. The Hearing was closed in writing on 13 November 2017, following the receipt of details from the LPA in respect of the above noted financial contributions and a completed version of the Agreement under the Highways Act 1980.
5. In determining the appeal I have taken into account the Statement of Common Ground (SoCG) that has been agreed by the appellant and the LPA. This is an important document. Amongst other things, it states that the proposals are satisfactory in respect of: layout, scale, design, appearance and impact on the

character of the area; impacts upon protected trees<sup>1</sup>; highway and parking issues; impacts upon residential amenity and; surface water and foul drainage.

6. There was considerable interested party presence at the Hearing. Whilst I permitted a number of these parties to speak and take part in the proceedings, I informed those present that it would not be helpful or entail an efficient use of time to have statements read out or hear a repetition of the arguments. I also drew attention to the contents of the SoCG and explained that whilst I was willing, subject to time constraints, to hear arguments in respect of matters that were not part of the RfR, the Hearing would primarily focus on the main issue below. I have taken into account the contents of all of the representations that were made at both application and appeal stages.
7. The main parties agree that the LPA is able to demonstrate five years worth of housing against the LP requirement and that the need for student accommodation does not form part of that requirement.

### **Main Issue**

8. The main issue is whether the benefits of the proposals outweigh any harm, having particular regard to established and emerging planning policies relating to the Combined Universities in Cornwall and any adverse effects upon the significance of designated heritage assets namely, the Pendennis peninsula fortifications Scheduled Monument (SM), the listed buildings at Pendennis Castle and Falmouth Hotel Mariners and the Falmouth Conservation Area.

### **Reasons**

#### *Planning Policy*

9. The development plan includes the Cornwall Local Plan Strategic Policies 2010-2030 (LP) which was adopted in November 2016. The most relevant policies to the determination of this appeal are: policy 1 (presumption in favour of sustainable development); policy 2 (spatial strategy); policy 2a (key targets); policy 3 (role and function of places); policy 12 (design); policy 13 (development standards); policy 21 (best use of land and buildings); policy 22 (European protected sites) and; policy 24 (historic environment).
10. The Cornwall Site Allocations Development Plan Document (eSAP) was submitted to the Secretary of State for Examination at the end of October 2017. The core principle of the Strategy for Falmouth and Penryn is to focus on their assets and to maximise the opportunities arising from the presence, amongst other things, of Falmouth and Exeter Universities.
11. The eSAP recognises the ambitions of the Universities to expand and the benefits of so doing. To ensure that the anticipated growth in student numbers<sup>2</sup>/accommodation does not adversely affect the existing housing stock the Strategy proposes the strategic delivery of new managed student accommodation on site and adjacent to the existing Penryn campus. Additional unmanaged growth is seen as having significant detrimental impacts upon the local housing market. Three sites are identified to facilitate the delivery/growth in student accommodation. As this Plan has yet to be independently examined

---

<sup>1</sup> At The Hearing, the appellant clarified that notwithstanding the Tree Constraints Plan in Appendix D of the Evolve Tree Consultancy report (April 2017), the proposals would not involve any new access works for Network Rail onto the public highway and within the root protection areas of the Monterey Pine trees growing within the site.

<sup>2</sup> The LPA has resolved to approve an application (ref.PA16/03323) to increase the number of students to 7,500.

and representations have been made regarding the soundness of the Strategy and the allocated sites it can only be given limited weight.

12. I have also taken into account the provisions of the emerging Falmouth Neighbourhood Plan (eNP). The latest version of this Plan is dated December 2016 and was published for community engagement. In April 2017, the Steering Group revised the Strategy in an attempt to bring it in line with the eSAP. Policy HMO3 that was originally supportive of purpose built student accommodation (PBSA) on sites close to the town centre was also replaced.
13. At the Hearing, a member of the eNP Stakeholder Group informed me that this Plan was undergoing a "*fair amount of reconsideration*" but the aim was to hold a referendum in the Spring of 2018. As this Plan has yet to be finalised and examined by an independent person it can only be given limited weight.
14. In determining the appeal I have also had regard to the National Planning Policy Framework (the Framework).

### *Benefits*

15. The appellant has argued that the proposal would meet a market need for PBSA in Falmouth and would increase choice and quality in the market for student accommodation. In support, it has drawn attention to the Market Demand Report<sup>3</sup> that was submitted with the application. This detailed Report includes an analysis of the recent growth<sup>4</sup> and projected growth in full-time students enrolled in Falmouth University's Woodlane Campus in Falmouth and the FX Plus Campus in Penryn, as well as details of student accommodation (including PBSA and Houses in Multiple Occupation [HMO]) in the area.
16. Amongst other things, the above noted Report found that the current supply of student bed spaces<sup>5</sup> is inadequate in terms of quality and choice, with the current student to bed ratio in Falmouth and Penryn considerably higher than the nationally-observed average. The Report also found that current constraints on supply is placing considerable pressure on the local housing market and has the potential to restrict the growth plans of the Universities.
17. The LPA informed me that this Report is the only evidence before me in respect of the demand for student accommodation. It provides compelling evidence of the need for additional PBSA in Falmouth now. Whilst the LPA's representatives informed me that only limited weight should be given the benefits that would be derived from providing PBSA on the appeal site, I note from the officer's delegated report that the proposal would "*help to meet an identified pressing need for such accommodation and in doing so would reduce pressure on the existing housing stock of both Falmouth and Penryn.*" The appellant informed me that if permission was granted the intention would be to commence development immediately and to complete works by 2019/20.
18. The proposal would provide much needed PBSA. It would help meet the current demand for student accommodation within Falmouth and support the Universities growth and development with convenient access to the Woodlane campus<sup>6</sup>. This weighs heavily in support of granting planning permission.

---

<sup>3</sup> Cushman & Wakefield (April 2017).

<sup>4</sup> The current demand pool is 6,035 students.

<sup>5</sup> 2,645, including short-term shared (double) occupancy study bedrooms.

<sup>6</sup> I note from the 2016 Terence O' Rourke report that was submitted in support of an application by the Universities that in April 2016 there were 1,477 full time equivalent (FTE) students based at this campus.

19. The development also has the potential to free-up some existing HMOs in the town<sup>7</sup> which could help relieve the pressure on the existing stock of housing. Whilst the LPA argued that HMOs are important to the supply of student accommodation, Falmouth, like much of Cornwall, is an area where there are considerable pressures on the existing housing stock. This is also an area where an Article 4 direction has been served to restrict further HMOs. Although the proposal would be unlikely to release many HMOs, it has the potential to free-up some housing for use by families. This would benefit the local housing market. I am surprised it is not perceived as such by the LPA.
20. The proposed development would also provide economic benefits. These include short-term benefits for the construction industry during the build-out period, as well as support for local services and facilities once the buildings are occupied. The proposals would also provide long term benefit, including support for the Universities growth aspirations<sup>8</sup> and high value job creation within this part of Cornwall. It is unlikely that this range/scale of benefits would be derived if a different scheme of redevelopment was forthcoming.
21. I afford very considerable weight to the public benefits that would arise from providing PBSA on the appeal site, including the re-use of this previously developed land and compliance with LP policy 21.

*Established and Emerging Planning Policies – Combined Universities in Cornwall*

22. One of the core principles of the Framework is that planning should be planned. In this regard, the Spatial Strategy of the development plan includes maximising the economic growth and benefits of education, skills development, research, and the colleges and Combined Universities in Cornwall. As I have already found above, the proposals would help achieve this objective.
23. Key targets of the development plan include the provision of additional bed spaces within purpose-built accommodation commensurate with the scale of any agreed expansion of student numbers at the Penryn campus, taking into account any changes in student numbers within other campuses in Falmouth and Penryn. Whilst the LPA has yet to formally grant planning permission to increase student numbers<sup>9</sup> the existing student cap has already been breached.
24. There is no suggestion of any enforcement action which is unsurprising given the Spatial Strategy. In addition, paragraph 1.45 of the supporting text to LP policy 2a states, amongst other things, that the Plan makes allowance for additional PBSA to mitigate any future student growth pressures on the existing housing stock.
25. The development plan is not silent on the provision of student accommodation. At this stage, the full extent of matters to be considered at the eSAP examination is unknown. It is not for me to speculate as to whether or not this would explore the appellant's argument that a "*policy vacuum*" exists in respect of brownfield redevelopment proposals in the main towns. In determining this appeal I find that the 'tilted balance' in paragraph 14 of the Framework is not engaged. The proposals accord with LP policies 2 and 2a.

---

<sup>7</sup> The appellant has calculated that about 40 HMOs could be released back into the housing market.

<sup>8</sup> I understand that by 2020/21 the Universities estimate that there would be 2,000 FTEs based at Woodlane.

<sup>9</sup> I was informed that the delay is due to completing a section 106 undertaking with the Universities expressing some concerns over suggested trigger points for increasing student numbers.

26. LP policy 3 includes a requirement for housing delivery in Falmouth and Penryn to be managed through the eSAP. Amongst other things, paragraph 1.56 of the supporting text to this policy states "*the Plan seeks to ensure additional purpose built accommodation is provided for students in Falmouth and Penryn.*" (My underlining). At this stage, the eSAP does not form part of the development plan and the proposals, which would provide PBSA in Falmouth, are consistent with the aims of LP policy 3.
27. I understand that earlier versions of the eSAP indicated that the appeal site would be suitable in principle for PBSA. I have also noted above that the eNP is no longer supportive of such developments close to Falmouth town centre. The appeal scheme would now be at odds with the emerging Strategy for PBSA in Falmouth and Penryn. This weighs against granting planning permission.
28. However, in responding to the opportunities presented by the presence of the Universities in Falmouth, the proposal is not inconsistent with the core principle of the emerging Strategy. Furthermore, the proposed development would not adversely affect the existing housing stock. Instead and as already noted above, the proposals could reduce pressure on the existing stock of housing within Falmouth. There is also nothing to demonstrate that the development would harm the LPA's supply of deliverable housing sites or its ability to meet its adopted housing requirement.
29. There is no cogent evidence to support the LPA's argument that the proposals would prejudice the delivery of PBSA at the Penryn campus. There are no applications in respect of the allocated sites and at least one of these is, in the context of footnote 11 of the Framework, not available now. The LPA informed me that a masterplan had yet to be prepared for the largest site and a development framework had yet to be completed. Much infrastructure would also be required before PBSA could be delivered on some of the allocated sites.
30. I note that development for 1,049 student bedspaces at the southern end of Penryn campus is under construction. However, it has taken many years<sup>10</sup> for that scheme to be delivered. From everything that I have seen and heard, the delivery of PBSA at the Penryn campus that would be necessary to meet existing and projected demand is unlikely to be achieved in the next few years.
31. Additional PBSA is needed now and the appeal site is deliverable. If there was any significant risk that the appeal scheme would prejudice the viability of PBSA at the Penryn campus then it is not unreasonable to have expected the Universities to object and set out a reasoned argument. At the Hearing, the LPA confirmed that the Universities had not objected to the appeal scheme. I note from the 2016 Terence O'Rourke report that in addition to new University-owned units at the Penryn campus the Universities expect a "*significant amount*" of PBSA to be to be delivered elsewhere by the private sector.
32. Although the LPA's aim of providing new PBSA at the Penryn campus would have some benefits, the appeal scheme would not prejudice the objectives of the eSAP. Withholding permission would be likely to increase the pressure on the existing stock of housing and/or prolong double-occupancy bed spaces and frustrate the objectives of the adopted Spatial Strategy for maximising the benefits of growth at the Combined Universities in Cornwall.

---

<sup>10</sup> I note that the outline planning permission was granted in March 2009 (ref. PA08/01579/OM).

33. I note the concerns that if this proposal was approved it would set a precedent in respect of other outstanding appeals<sup>11</sup> for PBSA in Falmouth which, collectively<sup>12</sup>, could undermine the emerging Strategy. However, I do not know the full details of these other proposals and each case must be determined on its own merits. It is also by no means certain that if permission was granted for these other schemes they would all be built. On its own, the appeal scheme would not prevent the Universities or their intended service partners (if they exist) from providing additional PBSA at the Penryn campus. My decision would not bind others in their determination of the outstanding appeals.

#### *Heritage Assets*

34. The appeal site forms part of the surroundings in which numerous heritage assets are experienced. These include the SM, Pendennis Castle, Falmouth Hotel Mariners and the FCA. As the proposal affects the settings of listed buildings the provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

35. During my unaccompanied site visits I noted the relationship between the appeal site and various heritage assets. This involved viewing the site and the heritage assets from in and around Falmouth, including the area alongside St. Mawes Castle on the opposite side of Carrick Roads, the top of Pendennis Castle and from Upton's Mount.

#### *Pendennis peninsula fortifications SM*

36. The significance of this designated heritage asset is derived primarily from its interest as a post-medieval defensive promontory fort at the entrance to Carrick Roads. This includes its Henrician and Elizabethan fortifications, as well as Civil War defences, including Upton's Mount battery. The setting has changed over time and includes the polite seaside villas along Melville and Cliff Rod and the more recent Maritime Studios to the north west of the main body of the SM, as well as the Ships and Castles Leisure Centre which occupies an elevated position to the south east of the appeal site and above Upton's Mount.

37. The appeal site forms part of the lower foreground setting to this SM when viewed from the town. It lies at the foot of the hill and is seen in association with other development in and around the docks with the leisure centre above. I concur with the appellant that the appeal site makes a neutral contribution to the significance of this SM.

38. The proposed buildings would be seen in some views of the SM, including views to and from Upton's Mount. However, seeing a development does not equate to a harmful impact. The height of the proposed buildings would ensure that they did not obstruct or intrude into any important views to or from the SM, including Upton's Mount. In this regard, I concur with the appellant's Heritage Impact Assessment (HIS) that the clear separation with Maritime Studios would reduce the cumulative impact of the development in long-distance views.

39. Whilst the HIS found that in some views the proposal could impinge slightly on the ability to view the twentieth century network of zig-zag trenches within the SM, the proposals would not harm an understanding of the significance of this SM. Historic England was satisfied that the proposals addressed its concerns

---

<sup>11</sup> APP/D0840/W/17/3177902, 3178389 and 3175637.

<sup>12</sup> The LPA amended paragraph 5.84 of its Statement to 23.92% of a need for 2,316 additional bed spaces.

regarding the previous scheme for PBSA on the site and the LPA did not identify any harm to this or any other heritage asset within its RfR.

#### Pendennis Castle

40. The significance of this grade I listed sixteenth century building is derived primarily from its architectural qualities, including its two storey-over-basement granite ashlar keep with state rooms, gatehouses, portcullis, curtain wall and staggered splayed gun ports, as well as its historic interest as part of the coastal defences for Henry VIII. It sits on top of the headland with commanding views across Carrick Roads, out to sea and over Falmouth.
41. The appeal site forms part of the lower foreground setting to this listed building when viewed from the town. It lies at the foot of the hill and is seen in association with other development in and around the docks with the leisure centre above. I concur with the appellant that the appeal site makes a neutral contribution to the significance of this building which is of exceptional interest.
42. The proposed buildings would be seen in some views of the castle, including those from the look-out tower in the National Maritime Museum. However, the height of the proposed buildings would ensure that they did not obstruct or intrude into any important views to or from this listed building. From the look-out tower and elsewhere within Falmouth, the proposal would be absorbed within the townscape and would not diminish the ability to appreciate the significance of this heritage asset. The clear separation with Maritime Studios would reduce the cumulative impact of the development in long-distance views.

#### Falmouth Hotel Mariners

43. The significance of this grade II listed, four and five storey nineteenth century building is derived primarily from its architectural qualities, which include its stucco walls, slate roof with gabled dormers, symmetrical bay entrance and panelled entrance hall, as well as its historic interest which the list description notes *"is an exceptionally fine example of its building type in Cornwall, the palatial style recalling the contemporary "station hotels" at the great termini and the hotels of other resorts such as Scarborough. In a very bold way it marks the beginning of tourism in Falmouth and the exploitation of the town's excellent seaside location for leisure activities."*
44. The appeal site lies to the north east of the hotel and opposite the entrance driveway. The mature Monterey pine trees growing within the appeal site form a pleasing approach to/from the train station to this designated heritage asset and assist in affording an appreciation of the seaside grandeur of the hotel and the elegance of arrival that would have greeted Victorian visitors. The site makes a small but positive contribution to the significance of this listed hotel.
45. The proposed development would be evident when travelling between the station and the hotel. It would also be visible in views of the hotel from the look-out tower in the museum and possibly in views from the upper parts of the listed building. The new buildings would be set down below the height of the hotel and the intervening space would ensure they do not vie with or detract from the special architectural qualities of the listed building. Although the Monterey pine trees would be retained, the proposals would be prominent on the approach to/from the listed building and, to a limited extent, would

erode the ability to appreciate the sense of arrival that nineteenth century visitors would have experienced in making their way to this hotel.

46. In the context of the Framework, the proposals would result in less than substantial harm to the significance of this grade II listed building. If there is a sliding scale of harm within this category, the proposals would be at the lower end. Nevertheless, this harm weighs against granting permission.

#### The Falmouth Conservation Area (FCA)

47. The appeal site lies outside but is adjacent to the FCA. This designated heritage asset covers a sizeable part of the town. It includes a mix of uses and buildings of various sizes and styles. The significance of the FCA is derived primarily from its special architectural qualities, including the numerous listed buildings, as well as its special historic interest which includes the fortifications at Pendennis and the development of the town and port. The landscape setting contributes to an understanding of the significance of the FCA as a fortified coastal area.
48. The appeal site is visible in some views into and out of the FCA. The trees on the site contribute to the pleasing landscape setting of this heritage asset and make a small, but positive contribution to the historic significance of the FCA. The proposed development would be visible in these views, including the above noted views to/from other designated heritage assets.
49. The new buildings by virtue of their height, massing and intervening distance would not disrupt or be unduly prominent in important views into and out of the FCA. Nevertheless, the change to the sense of arrival that I have noted above in respect of the Falmouth Hotel Mariners, which lies within the FCA, would result in some limited harm (less than substantial) to the historic interest of the FCA. This also weighs against granting planning permission.
50. As set out within the Framework, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Any harm or loss should require clear and convincing justification. Where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of a proposal.

#### *Other Matters*

51. The proposed development in combination with Maritime Studios would result in a sizeable student presence within this part of Falmouth. However, many students take an active part in local activities and events, including fundraising, and there is nothing of substance to support the fears that the proposal would unbalance the existing population or harm the social well-being of the area.
52. A number of residents have expressed concerns regarding the anti-social behaviour associated with some students living within Falmouth. I note the fears that the proposal could exacerbate the situation for neighbouring residents. However, not all students behave in this way and anti-social behaviour is not limited to the student population.
53. Separate legislation exists to deal with such behaviour and the main parties have agreed that a planning condition could be attached to a permission



requiring an on-site manager (in addition to any student ambassadors) to be present throughout the day (24 hour period), including weekends. In addition, the Police Architectural Liaison Officer has recommended the installation of CCTV. Whilst such measures would not guarantee that all students occupying the proposed accommodation would behave appropriately, in all likelihood, this would be a deterrent to anti-social behaviour.

54. The local constabulary did not object to the proposals and this was not a matter of concern to the LPA. Whilst I am not unsympathetic to the fears of some residents, especially the more vulnerable members of the local community, this is not a matter that justifies withholding planning permission.
55. The proposal would alter the outlook for some neighbouring residents. The loss or disruption of views from some houses across the site towards the docks and the estuary would be an adverse impact. However, it is a long established planning principle that there is no entitlement to a private view. The proposed buildings would not be so close or tall as to have an overbearing or oppressive impact for those living alongside, including the occupiers of Railway Cottages. I note that the LPA did not withhold permission on the basis of any adverse impacts upon the living conditions of neighbouring residents or identify any conflict with LP policy 13.
56. I note that some neighbouring residents are elderly and some others have medical conditions, such as ME/CFS. Whilst the construction phase would undoubtedly be disruptive to them this would be for a temporary period only. Restrictions on the working hours and the submission and approval of a Construction and Environmental Management Plan as part of any permission would limit the impact of building works. It could also reduce the risk of aggravating residents' health issues. Any redevelopment of this site would result in disturbance to those already living alongside. Given the proximity to the docks and railway, this is not a tranquil area of the town.
57. Careful management of the appeal scheme by the site operator, including the implementation of a Student Travel Plan would deter students from bringing cars to the site<sup>13</sup> and parking in the surrounding streets. The site is also conveniently located with regard to Falmouth University's Woodlane Campus, the train station, bus services and town centre amenities and facilities. This has the potential to limit the need to travel by car.
58. Notwithstanding the above, some students would bring cars to the site and the surrounding streets. The drivers of vehicles who currently park on part of the appeal site would also be displaced, although this would occur if the lawful use of the site was 'reactivated'. The proposals would increase the demand for on-street parking in this part of Falmouth and in a town that is popular with tourists throughout the year. I recognise that for some neighbouring residents it would be inconvenient if they had to park further away from their homes.
59. However, the proposals were accompanied by a detailed Transport Statement and have been carefully considered by the LPA's highways officers. The potential impact on traffic flows and on-street parking did not form part of the RfR. In my experience, those managing student accommodation are also adept at successfully organising changeover days so as to avoid congestion and limit inconvenience to those living and working around such sites. There is no

---

<sup>13</sup> The proposals include provision for about 30 parking spaces and cycle parking.

- technical or other cogent evidence to justify reaching a different conclusion to the appellant's transport consultant and the LPA's highways officers.
60. Some interested parties have expressed concerns that the proposals could result in drainage problems in this part of the town. I note that the site is within Flood Zone 1 (low risk of flooding) on maps prepared on behalf of the Environment Agency and within a Critical Drainage Area. In preparing the Flood Risk Assessment and Drainage Drainage Strategy (FRA), consultants acting on behalf of the appellant have agreed a strategy with South West Water that includes foul water drainage arrangements.
  61. I note from the FRA that it is proposed to remove unattenuated surface water from the combined sewer. This would bring betterment to the capacity of the adopted foul sewer and provide adequate capacity for the increase in foul flow from the site. The Lead Local Flood Authority has considered the drainage arrangements and has not objected to the proposals. There is no convincing evidence to support the concerns of some interested parties on this matter.
  62. The proposed design has been formulated having regard, amongst other things, to the height and massing of neighbouring buildings, including the six storey Maritime Studios, as well as the terraced and detached properties of different sizes and styles. The appeal scheme was submitted in response to concerns that were expressed in respect of a previous application to accommodate 249 students on this site (ref. PA16/05447). Further revisions to the design were also undertaken before the LPA determined the application.
  63. The different sized blocks of the proposed student accommodation, with spaces around, including the set-back from the dwellings to the south, the fenestration and balconies, and the retained mature Monterey pine trees would break up the mass of the buildings. The variation in the height of the proposed buildings to reflect the gradient of the land would avoid any sense of monotony and the tallest block would be considerably lower than the top of the Maritime Studios building. The proposed building heights would not be uncharacteristic of the area and the use of natural slate, brick and render in the finish of the buildings would respect traditional qualities in the local environment.
  64. The new buildings would add interest to this part of the town, especially for those arriving at the adjacent train station and docks. The proposal would secure the removal of the existing utilitarian building and its car park. It would deliver replacement buildings and a thoughtful piece of architecture. I agree with the appellant's architect and the LPA's officers that the proposal would comprise good design. The RfR do not identify any concerns in respect of the impact upon the character and appearance of the area and the LPA's representatives informed me that the proposals comply with LP policy 12.
  65. I note the concerns of A&P Falmouth that the proposals could prejudice the efficient operation of the docks. During my accompanied site visit, I also noted the existing railway sidings on the opposite side of the passenger train station and I note the aspirations of the operators of the docks to re-use these sidings for transporting aggregate. I also understand that part of the docks has been designated as a Marine Enterprise Zone.
  66. A noise survey has been undertaken on behalf of the appellant and the ensuing Noise Report found that no specific acoustic mitigation measures would be required to control noise to external amenity areas. This Report also found

that the use of suitable glazing would secure adequate internal noise levels for future occupiers of the buildings.

67. The concerns of A&P and the Noise Report were considered by the LPA's Environmental Health Officer. The likelihood of future occupiers raising concerns regarding noise and disturbance was not a RfR. The representative from A&P informed me that students may be more tolerant of activities at the docks than other residential occupiers. I also note that there have been no complaints about "*noisy activities at the docks*" from the residents of Maritime Studios. The proposed development would be unlikely to prejudice the efficient operation of Falmouth Docks. I also note that Pendennis Shipyard (Holdings) Ltd consider the site surplus to its requirements.
68. Some interested parties have argued that the appeal site should be used for B2 general industrial use. However, the site is not allocated for this type of use and there is nothing of substance to indicate it is required for such purposes. It would be very surprising if any application for B2 use, which could include heavy engineering and other activities that are unsuitable in close proximity to residential properties, was submitted.
69. Parts of the proposed development would be seen in some views to and from the Fal river area of the Cornwall Area of Outstanding Natural Beauty (AONB) and the Lizard area of AONB. However, the proposals would be seen alongside existing development, including the taller Maritime Studios and the buildings and machinery at the docks. There would be no disruption to important views and the proposal would not harm the scenic qualities or natural beauty of these nationally important landscapes.
70. I am mindful of the Government's localism agenda and the considerable local opposition to the proposals. However, public support or objection to an application is insufficient by itself to justify granting or refusing planning permission. Proposals must be objectively assessed and the arguments supported by cogent evidence. If permission was withheld on the basis of local opinion alone much development that is necessary to deliver the housing and business that the country needs would not be achieved. Providing the PBSA that is envisaged within the emerging Strategy would require the submission of planning applications in due course. Even if the Strategy is found to be sound such future applications could attract other local objections.

### *Planning Obligations*

71. The appeal site lies approximately 200m from the SAC and the Falmouth Bay to St. Austell Bay proposed Special Protection Area (pSPA). It is also within an Impact Risk Zone for the Swanpool Site of Special Scientific Interest (SSSI). The SAC is important for habitat types (including subtidal sandbanks and large shallow inlets) and species (shore dock) and the pSPA for species of birds, including black throated diver.
72. LP policy 22 recognises that residential development, including student accommodation, within close proximity to such SACs, SPAs and SSSIs has the potential to adversely affect their nature conservation interests. In this regard, occupiers of the proposed development would be likely to increase the recreational pressures on the SAC, pSPA and SSSI. This could, in combination with other developments and proposals elsewhere, adversely affect the nature conservation interests of these protected areas.

73. In accordance with LP policy 22, the proposal includes mitigation in the form of a financial contribution<sup>14</sup> towards the cost of funding an estuary officer to manage and co-ordinate the delivery of mitigation within the SAC. This is consistent with the Strategic Access Management and Monitoring for this SAC.
74. The contribution is necessary for the development to proceed, is directly related to it and fairly and reasonably related in scale and kind to the proposals. The main parties also informed me that none of the obligations would not exceed the five obligation limit to which Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended) applies. I have taken this obligation into account in determining this appeal.
75. The proposed highway works contribution<sup>15</sup> is required to widen the footway from the Dell Lane train station car park to the rear of the Woodlane campus so as to allow shared use by pedestrians and cyclists. Some occupiers of the proposed development would increase the potential for conflict along this footway and/or increase the risk of an accident. This contribution would be necessary in the interests of highway safety and to encourage more sustainable modes of transport. The Note provided by the LPA before the Hearing was closed indicates that this contribution is necessary and fairly and reasonably related in scale and kind to the appeal scheme. I have taken it into account.
76. Occupiers of the proposed development would be likely to increase the pressure on existing sports facilities and open spaces. The proposed open space contribution<sup>16</sup> would include contributions towards improving outdoor sports pitches at Dracaena Playing Field, Trescobeas Playing Field or "*another suitable location*" and a separate contribution towards improving open space at Pendennis Headland and the Hornworks.
77. Whilst the use of a contribution for an unspecified other "*suitable location*" is vague, the LPA's Note and the Falmouth Neighbourhood Plan Steering Group's Work Programme – Final Report demonstrates that overall this contribution would be necessary to avoid a deterioration in the quality of facilities/open spaces. This contribution is also fairly and reasonably related in scale and kind to the appeal scheme. I have taken it into account.

#### *Planning Conditions*

78. As there is a pressing need for this PBSA and to ensure its timely delivery, I agree with the main parties that a shorter period (18 months) should be specified for the commencement of development. In the interests of certainty a condition would be necessary specifying the approved plans. A condition would also be necessary to safeguard archaeological interests.
79. In the interests of public health, a condition would be necessary to address any land contamination. To limit disturbance to neighbouring residents, avoid congestion on the local road network and limit the risk of pollution during the construction phase, conditions would be necessary restricting the hours of construction and requiring the works to proceed in accordance with an approved Construction and Environmental Management Plan.

---

<sup>14</sup> £12,665.40.

<sup>15</sup> £36,000.

<sup>16</sup> £103,718.

80. Conditions would be necessary to safeguard important trees growing in and around the site during the construction phase. To safeguard the character and appearance of the area other conditions would be necessary requiring approval of the materials to be used in the external walls and roofs of the buildings.
81. A condition would be necessary to secure adequate drainage arrangements. To limit car use and encourage more sustainable modes of transport conditions would be necessary requiring the travel plan to be implemented and provision made within the site for the parking/storage of bikes. In the interests of highway safety a condition would be necessary requiring the provision of a pedestrian crossing island<sup>17</sup>.
82. To safeguard the living conditions of neighbouring residents and to deter crime and anti-social behaviour, conditions would be necessary requiring a 24 hour on-site management presence and the retention of the site in single ownership with the buildings only occupied by students registered with Falmouth and Exeter Universities, as well as the installation of CCTV cameras.
83. To safeguard the living conditions of occupiers of the new buildings separate conditions would be necessary regarding the use of appropriate glazing and control over the mechanical services plant that would be installed to serve the development. A condition controlling external lighting would also be necessary to safeguard the living conditions of neighbouring residents.
84. To safeguard ecological interests, a condition would be necessary requiring the development to be undertaken in accordance with the details contained within the appellant's ecological appraisal.
85. Conditions to the above effect would accord with the provisions of paragraph 206 of the Framework. In the interests of concision, I have modified some of the suggested planning conditions.

#### *Planning Balance / Overall Conclusion*

86. When all of the above are weighed together, the public benefits of the proposals outweigh the conflict with the emerging Strategy for PBSA (as set out within the eSAP and eNP) and the less than substantial harm to the significance of the Falmouth Hotel Mariners and the FCA. The appeal scheme complies with LP policy 24. The proposals comprise sustainable development and accord with the provisions of LP policy 1 and the Framework as a whole. There would be no conflict with the development plan.
87. The appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. The conflict with the eSAP and eNP, which have yet to be independently examined, carries insufficient weight to indicate taking a decision that is not in accordance with the development plan. Planning permission should therefore be granted.
88. I recognise that many interested parties will be disappointed by my decision. I do not set aside lightly these concerns and fears but having objectively assessed all of the evidence before me there is greater strength in the argument for granting permission. Many of these concerns and fears were not shared by the LPA.

---

<sup>17</sup> I have not been provided with a copy of drawing REDW-3222-403, which is referred to in the suggested condition, and it does not form part of the plans listed within the LPA's decision notice.

89. Given all of the above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*Neil Pope*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Mrs H Nicholls MSc, MRTPI	Planning Manager, Laurence Associates
Miss S Jones	Empiric Student Properties
Mr T Atlee	Empiric Student Properties
Mr M Stott	Tristram Stott Architects
Ms Newton	Accommodation Manager, Maritime Studios

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Holman MRICS, MRTPI, FAAV	Principal Planning Officer
Mr M Williams MRTPI	Principal Planning Officer

### INTERESTED PERSONS:

Cllr J Spargo	Vice Chairman Planning, Falmouth Town Council
Mr S Martin	Chairman, Save Our Falmouth Action Group
Ms K Saunders	Secretary, Save Our Falmouth Action Group
Mrs J Holt	Falmouth Bay Residents' Association
Mr G Hall	Residents of Imperial Court
Mr Ellis	Resident
Prof. M Jenks	Falmouth Civic Society and member of eNP Stakeholder Group
Mrs S Lewis	Resident
Mrs P Cowan	Resident
Mr Trewin	Resident
Mr and Mrs Keating	Residents
Mr Laundon	Resident
Mrs A Cattermole	Resident
Mrs T Boulton	Resident
Mrs C Mitchel	Resident
Mr D Jones	A&P Falmouth

### Documents Submitted at the Hearing:

Document 1	Completed S106 Unilateral Undertaking
Document 2	Copy of incomplete S278 Highways Agreement
Document 3	Late representations by interested parties
Document 4	Note - LPA response to Inspector's questions
Document 5	eNP S106 compliance statement
Document 6	Work Programme Final Report – open spaces
Document 7	Completed S278 Highways Agreement

## SCHEDULE OF PLANNING CONDITIONS

1. The development hereby permitted shall commence before the expiration of 18 months from the date of this decision.
2. The development hereby permitted shall be undertaken in accordance with the following approved plans: site location plan (ref. P00A); ground floor plan (ref. P10X); ground floor A (ref. P11X); ground floor B (ref. P12X); first and second floors (ref. P20X); block plan (ref. P021X); third floor and roof plan (ref. P30X); south east sectional elevation and south east elevation (ref. P41X); north west elevation and north west gap (ref. P47X); south west elevation and south east street elevation (ref. P51X); north east elevation and north west sectional elevation (P61X); north west elevations (ref. P71X); ground floor landscape (ref. P101X); south east street elevation (ref. P411X); south east elevation, south east gap, south west elevation (P471X) and; south east elevation with heights relative to studios (ref. P472X).
3. Demolition/development shall take place in accordance with the programme of archaeological work set out within the Written Scheme of Investigation for Archaeological Works prepared by CGMS Consulting dated October 2016 (ref: SJ/22521). The development shall not be occupied until the site investigation and post investigation assessment have been completed in accordance with the programme set out in the Written Scheme of Investigation for Archaeological Works and with provision made for analysis, publication and dissemination of results and archive deposition has been secured.
4. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until criteria 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority (LPA) in writing until criterion 4 has been complied with in relation to that contamination.

### *Criterion 1: Site Characterisation*

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the LPA. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval, in writing, of the LPA. The report of the findings shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health;
  - pets, woodland and service lines and pipes;
  - adjoining land;
  - property (existing or proposed) including buildings, crops, livestock;
  - groundwaters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).



This shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

*Criterion 2: Submission of Remediation Scheme*

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and approved in writing, by the LPA. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site would not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

*Criterion 3: Implementation of Approved Remediation Scheme*

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the LPA. The LPA shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification or validation report that demonstrates the effectiveness of the remediation carried out must be produced, and be subject to approval in writing by the LPA.

*Criterion 4: Reporting of Unexpected Contamination*

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the LPA. An investigation and risk assessment must be undertaken in accordance with the requirements of criterion 1, and where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of criterion 2, which is subject to the approval, in writing, of the LPA. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the LPA in accordance with criterion 3.

5. No development shall commence (including any works of demolition, site clearance or ground works) until a Construction and Environmental Management Plan (CEMP) has been submitted to, and approved in writing by the Local Planning Authority. The CEMP shall include:
  - Construction vehicle details (number, size and type);
  - Vehicular routes and delivery hours;
  - Means of access and parking of vehicles of site operatives and visitors;
  - Loading and unloading of plant and materials;
  - Storage of plant and materials;
  - Location of site compound and welfare facilities;
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - Wheel washing facilities;
  - Measures to control the emission of dust and dirt during demolition, site clearance and construction works;
  - Measures to control noise during demolition, site clearance and construction works;

- A scheme for recycling/disposing of waste resulting from demolition, site clearance and construction works;
- Management of surface water for the avoidance of pollution;
- Procedures to avoid pollution incidents, e.g. from fuel spills or site run-off, based on an understanding of the wildlife interest at risk (i.e. the designated sites);
- Contingency/emergency measures for accidents and unexpected events, including pollution incidents (e.g. use of spill kits with machinery);
- Risk assessments of potentially ecologically damaging construction activities;
- The location and timing of sensitive works to avoid harm to biodiversity features;
- If necessary, the times during construction when specialist ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication;
- The role and responsibilities on site of an ecological clerk of works or similarly competent person;
- Use of protective fences, exclusion barriers and warning signs.

The works of demolition, site clearance and the construction phase shall be undertaken in accordance with the approved CEMP.

6. Demolition and/or development works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays. No works shall be undertaken on Sundays or Public Holidays.
7. Before any site clearance works, demolition or development works commence, details of the position of fencing for the protection of trees on and adjacent to the site and the method for constructing the permeable resin bound aggregate road within the Root Protection Area of the Monterey Pine trees shown on the Tree Constraints Plan in Appendix E of the Evolve Tree Consultancy report dated May 2016 shall be submitted to and approved in writing by the Local Planning Authority (LPA). The fencing shall be erected in accordance with figure 2 and paragraph 9.2.2 of BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations' in the positions approved before any works commence and shall thereafter be retained until completion of the development. The parts of the trees contained by the fencing shall not be harmed and nothing shall be stored or placed in any fenced area, nor shall the ground levels within those areas be altered, without the prior written approval of the LPA. The road shall be constructed in accordance with the approved details.
8. Prior to the commencement of any work in respect of the approved pedestrian link in the south west corner of the site shown on the approved plans a detailed scheme for the foundation design of the pedestrian link, which shall include a 'no dig' construction, 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.
9. No development shall commence until details of a scheme for the provision of surface water management and foul water treatment has been submitted to and approved in writing by the Local Planning Authority (LPA). The details shall include: a description of the foul and surface water drainage systems operation; detail of the final drainage schemes, including calculations and layout; a construction quality control procedure; a plan indicating the

provisions for exceedance pathways, overland flow routes and proposed detention features; a timetable of construction, including a plan indicating the phasing of the development and the implementation of the drainage systems; confirmation of who will maintain the drainage systems and a plan for future maintenance and management, including responsibilities for the drainage and overland flow routes. The development shall be undertaken in accordance with the approved drainage details and a maintenance schedule shall be kept up to date and made available to the LPA within 28 days of the receipt of a written request.

10. The development shall be undertaken/operated in accordance with the measures set out within the approved Student Travel Plan by Redwood Partnership dated April 2017.
11. No development above damp proof course level shall commence until details of the materials (including natural slates) to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
12. The development shall be constructed using the glazing and vent types identified within section 6 of the Planning Noise Report by Acoustics Central dated 13 June 2016. The approved glazing shall be retained thereafter.
13. No building shall be occupied until details of existing background sound levels (given in terms of LA90.15min) at the nearest noise-sensitive premises have been submitted to and approved in writing by the Local Planning Authority. The measurements shall be prepared by a suitably qualified acoustician. Noise arising from mechanical services plant installed as part of the development shall not give rise to a rating level higher than the approved existing background sound levels.
14. The development shall not be brought into use until details of all external lighting have been submitted to and approved in writing by the Local Planning Authority (LPA). The lighting shall be designed to minimise sky glow and light overspill onto the surrounding residential properties and shall be designed in order to minimise nuisance to nearby residential occupiers. The development shall be carried out in accordance with the approved details and shall thereafter be retained without alteration. No other external lights shall be installed without the further written approval of the LPA.
15. The development shall be carried out in accordance with the recommendations and mitigation measures identified within the Preliminary Ecological Appraisal Report dated 13 June 2016 and the Reptile Survey Report dated 20 June 2016 prepared by Cornwall Environmental Consultants Ltd. This shall include the provision of a new Cornish hedge within the site, the details of which (including a timetable for construction/planting) shall be submitted to and approved in writing by the Local Planning Authority before any of the buildings proceed above slab level.
16. The buildings shall not be occupied until a pedestrian crossing island has been provided in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority.

17. The development hereby permitted shall remain in single ownership and shall be occupied solely by persons who are registered students with Falmouth and Exeter Universities. The names of the occupiers of the development shall be kept on a register on site along with proof of their registration. Residential occupation shall be managed by a single management company in accordance with a detailed Management Plan to be submitted to and approved in writing by the Local Planning Authority before the development is first occupied. The Management Plan shall include provision for a manager (in addition to any student ambassadors) to be present on-site at all times over a 24 hour period while the student accommodation is occupied.
18. Before the development is first occupied, details of cycle parking provision shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with the approved details before the development is first occupied. The cycle parking shall be retained thereafter.
19. No building shall be occupied until details for the installation of CCTV equipment has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and the CCTV equipment shall be retained thereafter.



---

# Appeal Decision

Site visit made on 19 September 2017

**by Mike Robins MSc BSc(Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 12 October 2017**

---

**Appeal Ref: APP/Y1110/W/17/3178667**

**Lower Albert Street, Exeter EX1 2BL**

- 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 Mr Jenner of Blockyard Ltd against the decision of Exeter City Council.
  - The application Ref 16/1562/03, dated 2 December 2016, was refused by notice dated 22 March 2017.
  - The development was originally described as the demolition of existing buildings. Development of 3-storey student residential accommodation and associated landscape works.
- 

## Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and redevelopment with student residential accommodation and associated landscape works (Revised Plans reducing from 3 storeys to 2 storeys) at Lower Albert Street, Exeter EX1 2BL in accordance with the terms of the application, Ref 16/1562/03, dated 2 December 2016, subject to the conditions set out in the attached Schedule.

## Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, with the agreement of both parties this was revised and new plans submitted which altered the scheme from a three-storey to a two-storey proposal. This is confirmed in Part E of the appeal form and in the description used on the Council's Decision Notice. Accordingly, I have considered the proposal on that basis and used the revised description in my formal decision.

## Main Issues

3. The main issues are the effect of the development:
  - on the maintenance of balanced communities having regard to the level of student housing; and
  - on the living conditions of local residents having particular regard to privacy, noise and disturbance.

## Reasons

4. The appeal site is currently a small builders yard with a number of simple, single-storey storage buildings set to the rear of terraced housing along Portland Street. The relatively short rear gardens of these properties have

- access onto Lower Albert Street, which itself provides access to predominantly garage and car parking in addition to the appeal site yard.
5. This is a residential area with, in addition to the terraced housing, some small flatted blocks to the southwest of the site, Newton Close, one of which lies immediately adjacent to the site. The presence of this builders yard is not uncharacteristic of such service areas behind residential frontages, but its hardsurfacing and utilitarian buildings are not a positive element of the character of the area, nor, were its use to be an intensive one, would it provide a particularly neighbourly activity in relatively close proximity to occupants of the nearby flats and houses.
  6. The area is located within walking distance of the St Luke's campus, part of the University of Exeter, and has relatively good accessibility to the city centre and to transport links, as well as a small convenience store and pub close by on Clifton Road. Although housing is predominantly of traditional brick or rendered terracing, more modern styles, such as the housing at the entrance to Lower Albert Street and the Newton Close flats to the rear of the site, establish a mixed style and appearance to the area.
  7. The proposal would introduce a two-storey building narrowed at the rear to match the existing block in the adjacent Newton Close and with a higher mono-pitched roof to the front. Overall height would remain similar to the ridge of Newton Close and below the roofline of the terraces along Portland Street. Following the amendments to the scheme, it would offer 15 self-contained student flats or studios, and is reported to provide no communal areas or communal outside space other than a yard area for bicycle and bin storage.
  8. The evidence before me supports that there is increasing student numbers associated with the University. In response, the Council have sought purpose built student accommodation, as proposed here, to meet that need. Supporting text to Policy CP5 of the Exeter City Council Core Strategy (the Core Strategy) seeks that 75% or more of additional student numbers should be accommodated in such housing. However, while there is policy support for the provision of this accommodation, both Policy CP5 and Policy H5 of the Exeter Local Plan First Review (the Local Plan), set out that such accommodation should meet the needs of all members of the community and be located where it would not harm the character of the area, through over-concentration of use, or cause harm to the amenity, or living conditions, of neighbouring occupiers.
  9. In terms of considering whether such accommodation would lead to a detrimental over-concentration of student numbers, the Council has considered existing impacts across the City when developing an approach to limit the conversion of existing properties. Although not directly relevant to the provision of new accommodation, this nonetheless gives an indication of levels at which a concentration of student housing may lead to impacts on the character and on the environment for permanent residents.
  10. It is not contested that there are a large number of student lets along Portland Street; in figures supplied by the Council based on Council Tax returns, 32% of the houses are assessed to be in student use, some 165 students. This was found to represent an imbalance along this street. The site lies within Newtown Ward, where figures suggest that the percentage in the local area was approximately 12.9% and across the entire Ward, just over 20%.

11. The Council accept that taken across a wider area there is not a major imbalance, but that the close relationship to Portland Street, with its existing community imbalance, would indicate that the situation there would be worsened. That there is a well-established permanent community within the area was clear from my visit, as was the fact that there were a high number of student lets within Portland Street, alongside existing permanent residents and families. The issue is whether the introduction of 15 student flats on this site would compound the existing situation so as to result in unacceptable impact on the community and specifically on neighbouring occupiers.
12. I give limited weight to any benefit implied in the transfer of students from converted housing and subsequent release of that housing to the open market stock, as the focus for purpose built accommodation is to address the increased student numbers. However, I do consider that the type of accommodation to be provided differs notably from that of student house conversions, such as those on Portland Street, with no communal cooking or living space provided. As purpose built accommodation, some form of supervision can also be applied to address the action of residents. Although the Council have indicated an undertaking should be forthcoming to provide a Student Management Plan (SMP), I am satisfied that the appellant has accepted the principle of submission of such a plan under a condition. A SMP can address matters of noise, disturbance and antisocial behaviour as well as providing contract points for neighbouring occupiers.
13. As a result, I accept that the characteristics, including noise and disturbance typically associated with some forms of student housing is likely to be considerably reduced here. Furthermore, I assessed the probable routes for students to access the University or the City Centre, which would logically be via Clifton Road or Clifton Street, and therefore away from the current high concentration of student accommodation in Portland Street.
14. Consequently, in this case, I consider that the addition of 15 studios would not lead to a further imbalance or intensification of use so as to harm the character of the area or the local community. Furthermore, I consider that the scale and type of accommodation to be provided would not lead to significant levels of noise or disturbance.
15. Turning then to the matter of privacy, I am satisfied that the narrowed design and positioning in relation to the Newton Close flats would preserve the privacy of occupants of those units. The proposed building would be set just back from the road, which here is a single lane separating the site from the rear gardens of Portland Street. The relationship is splayed so that the nearest point would be to the eastern end, where the building would be set down into the site due to the sloping ground. Furthermore, the windows proposed to serve the first floor studios would project from the façade and would allow only a narrow and very oblique field of view. These views would not be readily accessible from within the room because of their projection.
16. I do not doubt that the introduction of a building here would be a noticeable change for the nearest occupants, and can understand that the relative proximity would be concerning as regards its impact. However, the window design, the set down and relatively low rise form would, in my view, mean that actual impacts would be acceptable, albeit a change from the slightly more open aspect previously available. Accordingly, I consider that the proposal

would comply with Local Plan Policy H5 and Core Strategy Policy CP5, which are permissive of such accommodation and seek to ensure that purpose built student housing meets the needs of the whole community and does not cause unacceptable reduction to the amenity of neighbouring occupiers.

17. I am conscious that local residents had further concerns regarding the proposed development including the design, loss of light, traffic, parking and potential harm to the trees in the communal gardens of Newton Close. I concur with the Council that the design, while more contemporary than the surrounding terraces, would, subject to the use of suitable materials, assimilate into this transitional area between the housing and the more utilitarian flats along Clifton Street. The building proposed is of a height and orientation such that there would be minimal loss of light to the rear gardens of Portland Street and, when accounting for the existing flats and local trees, very limited change to the existing situation.
18. The proposal includes only a single drop off parking space and I am conscious that there are parking restrictions in surrounding streets. As a result, traffic associated with the site should be very limited and students are unlikely to choose this accommodation if they are car owners, but even were they to do so there are other controls to ensure that the parking should not be a nuisance. The existing trees are already within areas partly bounded by walls and foundations. The proposal would introduce no further foundations in close proximity and I am satisfied that no additional pressure would be placed on the root systems of these trees.

#### *Conditions*

19. I have considered the conditions put forward by the Council in the light of the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition (1), I have imposed a condition specifying the relevant drawings and plans as this provides certainty (2). In light of its current and former use, a condition to address the potential for contaminated land (3) is both necessary and relevant in the interests of public safety, as is one relating to unexploded ordnance (4).
20. To protect the living conditions of neighbouring occupiers, a Construction Method Statement is necessary to control activities during construction (5) as is a Student Management Plan (11). Conditions regarding the provision of bird boxes (6) and the submission and approval of material samples (7) are required in relation to ecology and the character and appearance of the area respectively. It is essential that the requirements of conditions 3 – 7 are agreed/ prior to development commencing to ensure an acceptable form of development in respect of impacts on the public, ecology and the appearance of the scheme.
21. To address the management of surface water from the site I have imposed a condition which seeks a sustainable approach (8) and to encourage sustainable transport I have imposed conditions relating to the provision of parking and bicycle spaces (9) and a Travel Plan (10). The Council have sought a condition requiring achievement of BREEAM<sup>1</sup> 'Excellent' standard from the building, but this is disputed by the appellant who suggests that this is not now relevant for

---

<sup>1</sup> Building Research Establishment Environmental Assessment Method



a building of this scale and type, and that the policy supporting this is now out of date.

22. On the evidence before me it would appear that this requirement arises from Core Strategy Policy CP15, but that since that time there have been some revisions to national policy and guidance in relation to zero-carbon approaches and the technical standards to be applied to housing. Furthermore, it is not clear to me that this specific type of accommodation falls to be assessed against BREEAM multi-residential scheme classification or Code for Sustainable Homes. Accordingly, I consider that in this particular case, the Council have failed to justify their proposed condition is precise or relevant to the development to be permitted.
23. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

### **Conclusion**

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

*Mike Robins*

INSPECTOR

## CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 174/P/0.01; 174/P/0.02; 174/P/2.01/B; 174/P/2.02/A; 174/P/2.03/A; 174/P/2.05/A; 174/P/1.01/B; 174/P/1.02/A and 174/P/1.04/A.
- 3) No development shall take place on site until a full investigation has taken place to determine the extent of, and risk posed by, any contamination of the land, and the results, together with any remedial works necessary, have been agreed in writing by the local planning authority. The buildings shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the local planning authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.
- 4) No development shall commence until an investigation has taken place to determine the risk posed by Unexploded Ordnance, and the results, together with any further works necessary, have been agreed in writing by the local planning authority. The approved works shall be implemented in full and a completion report shall be submitted to the local planning authority for approval in writing prior to the commencement of the development.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding if appropriate, which shall be kept clear of graffiti and fly posting;
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable;
  - viii) no burning on site during construction or site preparation works;
  - ix) measures to minimise noise to neighbours from plant and machinery;
  - x) delivery, demolition and construction working hours shall be from 0800 to 1800 Monday to Friday, 0800 to 1300 Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development shall take place until details of provision for six nesting swift boxes have been submitted to and approved in writing by the Local Planning Authority. Upon written approval of the details, the scheme shall be fully implemented as part of the development and retained thereafter.
- 7) No development shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved sample details.
- 8) No studio hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 9) No studio hereby permitted shall be occupied until the car drop off point and secure cycle facilities, as indicated on drawing no. 174/P/101 B, have been provided and maintained in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those areas shall thereafter be kept available at all times for the parking of vehicles and bicycles.
- 10) No studio hereby permitted shall be occupied until details of the Travel Plan measures, including the provision of sustainable transport welcome packs and details of the arrangements of how student pick up/drop off will be managed, have been submitted to and agreed in writing with the Local Planning Authority. Thereafter, measures contained within the approved Travel Plan shall be implemented and retained for the lifetime of the development.
- 11) No studio hereby permitted shall be occupied until a Student Management Plan has been submitted to and agreed in writing with the Local Planning Authority. Thereafter, measures contained within the approved Student Management Plan shall be implemented and retained for the lifetime of the development.

---

## Appeal Decision

Site visit made on 4 April 2017

**by Paul Singleton BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 April 2017**

---

**Appeal Ref: APP/A0665/W/16/3166180**

**Oakbase House, Trafford Street, Chester CH1 3HP**

- 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 Primus Alliance Chester 2 Ltd against the decision of Cheshire West & Chester Council.
  - The application Ref 16/03363/FUL, dated 1 August 2016, was refused by notice dated 6 December 2016.
  - The development proposed is demolition of existing building and erection of a 150 bedroom student accommodation development with communal and ancillary facilities, landscaping, access and other associated works.
- 

### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building and erection of a 150 bedroom student accommodation development with communal and ancillary facilities, landscaping, access and other associated works at Oakbase House, Trafford Street, Chester CH1 3HP in accordance with the terms of the application, Ref 16/03363/FUL, dated 1 August 2016, subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs was made by Primus Alliance Chester 2 Ltd against Cheshire West & Chester Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are: (a) the effect on the character and appearance of the area; and (b) whether the proposal would compound an existing imbalance in the local community.

### Reasons

#### *Character and appearance*

4. Newton is an area of mixed use, including residential, commercial/industrial and community and leisure uses, and a wide range of building types and forms. There is a concentration of traditional, high density terraced housing in its north east corner. However, that part of the area within which the appeal site is located is of much coarser grain and is a transitional zone both in terms of land use and the scale and massing of the buildings. At its western end the
-

- substantial scale and height of the Northgate Arena Leisure Centre marks the area as a City Centre fringe location and its southern zone is characterised by residential towers of more than 10 storeys in height.
5. At its highest point the proposed building would sit below the roof of the leisure centre and would be significantly less bulky than that building. Its maximum height would be slightly below that of the fire station training tower on the opposite site of the street. The site section drawing shows that the building would be no higher than the Abbots Wood residential development to the south and that there would be a substantial separation distance between the new building and that development.
  6. The Council asserts that the decision to approve the Northgate Point student accommodation development was finely balanced but it has been approved and now forms part of the context in which the current proposal must be assessed. The proposed building would step up in height from Northgate Point but would not be out of place given its closer proximity to the taller leisure centre complex. The commercial buildings fronting Trafford Street provide a buffer between the site and the terraced housing to the east and the proposed building would not be read in the context of that traditional, 2 storey building form. In my judgment, its scale and massing would be appropriate in the context of the immediately adjacent buildings and the site's location within this transitional zone.
  7. The proposal would be of contemporary design and the Design and Access Statement demonstrates that careful attention has been paid to understanding and responding to the context of the site and its surroundings. The appeal statement, the officer report and the Conservation and Design Team's consultation response provide clear evidence of extensive collaboration between the architects and the Council in the evolution and refinement of the detailed design. Based on my own assessment of the site context, I agree with the Council's Conservation and Design Officer that the building would represent a contemporary addition that is of its time but which appropriately responds to the character of Chester.
  8. Views from Trafford Street and St Anne Street would largely be screened by intervening buildings. Views would be possible from the southern and south eastern side of Abbots Wood but these would be at some distance across the railway cutting and the adjacent parking areas. In those views the scale and massing would not be out of context against the background of the leisure centre, fire station and the residential towers to the south of St Anne Street. The separation distances would be more than adequate to ensure that there would be no material effect on the outlook of the residents of Abbots Wood.
  9. The most open views would be from the access and parking area to the leisure centre, much of which stands at a higher level than the appeal site. In these views the building would be seen in the context of the Abbots Wood development, Northgate Point and the fire station tower and would appear neither out of scale nor out of keeping in terms of its contemporary design.
  10. By not including openings on the building's northern elevation the design responds to the site's proximity to the railway and its massing would be broken up by the use of a stepped footprint and building height. The layout would make efficient use of the site and allow the parking provision to be largely hidden from public view. The cantilever at the south west corner would

facilitate ease of access to the parking and servicing area and provide visual interest to this principal elevation. The double height of the ground floor at this corner would serve to clearly define the main entrance to the building. These design features would combine to produce a functional and attractive development which would create a clear sense of place.

11. The new building would occupy a larger proportion of the site than the existing building but would be of a superior design quality and of more attractive appearance. The proposal would also introduce soft landscaping where none currently exists. I do not agree that the building would constitute an overdevelopment of the site or that it would dominate the surrounding buildings. I therefore find that the proposal would be of a high quality design that would be appropriate in the context of the site and its surroundings and which would enhance the character and appearance of the area.
12. Accordingly, the proposal would comply with paragraph 3.4 C of the 'Houses in Multiple Occupation and Student Accommodation' Supplementary Planning Document (SPD) which requires that the layout, appearance, scale, height and massing of new purpose built student accommodation must respect its setting and not unacceptably harm the character of the surrounding area. It would also comply with Policy ENV 6 of the Cheshire West and Chester Local Plan: Part One (Local Plan) which promotes high quality design that respects local character and achieves a sense of place.

*Balanced community*

13. The Council's appeal statement lists various student accommodation schemes that have been approved in Chester but this list includes a number which are outside of Newton as the Council itself defines that area. In practice the proposal would increase the total number of purpose built student bedspaces in the area to 271. However, the statement includes no information as the overall number of dwellings within the Newton area or its total population. Newton is substantially enclosed by the railway and ring road and there is very limited potential for student accommodation located outside of these boundaries to affect the balance of the community within the area.
14. The total of 271 student bedrooms is a not a significant number given the overall number of dwellings in the high density terraced housing, residential towers and other accommodation in the area. I saw letting boards within the terraced housing area that appear to be aimed at student lettings but there are also properties for sale. The mix of traditional terraced houses, low and high rise public housing, and new build townhouses in the area appears to offer a good choice of housing suitable for an equally wide range of households.
15. The vast majority of the housing is well maintained and the streets and rear alleys are largely clean and clear of refuse and litter. The area also retains a good number of church and community/leisure facilities and services. I saw nothing to suggest that Newton is dominated by houses in multiple occupation (HMOs) or that it is suffering the adverse effects of a transient population. Neither is there anything in the Council's evidence that demonstrates an existing imbalance within the local community.
16. The majority of those objecting to the proposal are mainly concerned about parking issues and very few of those representations refer to student numbers or an imbalance in the local community. Those representations do not reflect a

strong local feeling that the area is being overwhelmed or transformed by its student population. The Council has not found it necessary to introduce additional controls over the conversion of family homes into HMOs as it has in other parts of Chester.

17. Concerns about noise or other anti-social behaviour associated with students either living or moving through the area are raised in only one or two of the many representations submitted in respect of the proposal. Neither the Council's environmental health officer nor the Police have raised any concerns in relation to such matters. Again, therefore, there is no evidence of a significant level of noise or other disturbance resulting from the current level of the student population in the area.
18. Due to the location of the appeal site the proposed development would have no direct effects in terms of noise and disturbance to other local residents. The obvious routes to the University facilities and to the shopping and leisure attractions in the City Centre would not require students to pass through any of the streets to the east of the site. Hence, there would be limited potential for increased noise or disturbance in these streets as a result of the increase in the number of students living in the area. A number of residential properties front onto St Anne Street but, as this is a busy through route, the background noise environment for the occupiers of those dwellings is likely to be greater than in the various side streets leading off of it.
19. For these reasons the effect of the proposal in terms of noise and disturbance is likely to be very limited. In addition, the proposed accommodation would be operated and managed in accordance with the Student Management Approach document submitted with the application. As part of their tenancy agreement all residents would be subject to a Student Behaviour Policy setting out conditions with regard to the making of noise and disturbance on the premises. The Management Approach also includes a Good Neighbour Charter requiring the building managers to enter into proactive and regular meetings with local residents, the Police and other interested parties to address best practice management of the development and to resolve issues or conflicts caused by student behaviour both within and outside of the building.
20. In summary I find no evidence of an existing imbalance in the local community within the Newton Area or that the construction of a further 150 student bedrooms in purposed built and managed accommodation would result in such an imbalance. The proposal would, therefore, comply with paragraph 3.4 D of the SPD which states that development must not unacceptably harm the amenity of surrounding residents taking into account any cumulative impacts with existing or planned student housing provision.
21. Accordingly, the proposal would not give rise to any conflict with Local Plan Policy SOC 3. Indeed, the policy states that the Council will support the provision of specialised student accommodation in appropriate, accessible locations, convenient for the facilities at the University of Chester. The proposal meets all of those criteria and is consistent with the policy and its underlying objective of using such developments to help redress the imbalance in other parts of the city, such as the Garden Quarter, where there is substantial pressure on the use of family homes as student HMOs.

## **Other Matters**

22. The issue of need has been raised in some of the third party representations but there is no policy requirement to demonstrate a need for the proposed accommodation. The Council has accepted that the continued use of the site for employment purposes is not a viable option and that its loss would not limit the quantity and range of buildings available for such use. I have seen no evidence that contradicts that conclusion.
23. There is considerable local concern about the pressure for parking spaces in the area. The evidence from the appellant's and the highways officer's surveys suggest that much of the daytime parking in the immediate vicinity of the site comprises commercial/ commuter parking related to the site's proximity to Chester's commercial core and railway station. The evidence that the residential streets to the east have higher levels of parking during the evenings and weekends suggests that this peak demand is mainly from local residents. Some of this peak demand may be from students living in HMOs but there is no evidence that the opening of Northgate Point has resulted in increased parking demand in those streets.
24. On-site parking provision would be very limited but would be in line with the level of parking approved in respect of other student accommodation in the City Centre. A Travel Plan would be prepared to encourage tenants to use public transport and other non-car modes and the terms of their tenancy agreement would discourage them from bringing cars to university and prevent them from applying for any parking permits on nearby streets.
25. Accordingly I have no evidence to demonstrate that the proposal would cause undue pressure on the availability of parking spaces on nearby streets. However, if problems were to occur, the appellant has already made a significant financial contribution, via the S106 Agreement attached to the planning permission for Northgate Point, that would fund the introduction of a Residents Only Parking Zone. No additional mitigation is, therefore, required in respect of the current proposal.

## **Conditions**

26. Permission is granted in accordance with the terms of the application but, in the interests of certainty, a condition has been attached to tie the permission to the approved plans. In view of the likely below ground archaeological interest a condition is needed requiring a programme of archaeological work to be agreed and carried out as part of the development. The Council has suggested a condition requiring a photographic survey of the existing building because of its likely past association with the railway. However, this was not identified as being necessary in the Conservation and Design Team's consultation response and I do not consider that a need for such a condition has been demonstrated.
27. In view of the site's past use and to protect human health and other receptors a condition is needed that requires investigation of the risks of contamination and the preparation of a remediation scheme to deal with any issues identified. In the interests of the safety of those constructing the development it is necessary that the initial investigation be carried out prior to the commencement of the development. For the safety of future occupiers and users of the building a condition is also needed that requires that all agreed



- remediation works be completed and verified prior to the first occupation of the accommodation.
28. As full details were not submitted with the application a condition is needed that requires the submission and approval of a drainage scheme. This also needs to be approved prior to commencement to ensure a satisfactory development and avoid potentially abortive works. Also in the interests of ensuring the satisfactory drainage of the site, and avoiding the overloading of the public sewerage system, a condition has been attached to ensure that the development should not be occupied until the planned upgrading of the Chester Waste Water Treatment works has been completed.
29. In order to secure the high quality of design indicated in the Design and Access Statement, and that the building is appropriate in its context, a condition is needed requiring the submission and approval of samples of all external materials to be used before the development is commenced. A condition is also needed requiring the submission and approval, prior to commencement, of a scheme of works required in the highway to ensure satisfactory access to the site and the safe use of the highway following completion of the development, and that these works are completed prior to the occupation of the building.
30. In the interest of minimising the risks of nuisance to neighbouring occupiers a condition requiring the submission of a scheme to control dust during the construction programme is needed. This also needs to be a pre-commencement condition because of the risk of dust from the demolition and site clearance works. In the interest of protecting the amenity of the occupiers of nearby buildings and of minimising disruption to the highway a condition requiring the submission and approval of a Construction Method Statement and Management Scheme prior to commencement of development has also been attached. Also in the interest of protecting the amenity of nearby residents I have attached conditions which control the hours during which works can be carried out and deliveries to and from the site can be made during the construction programme. To ensure the safe operation of the railway a condition has been attached that provides controls over any piling or subsurface vibration ground works that might be needed during the construction programme.
31. A condition is needed that requires approval of the proposed finished floor slab and site levels to ensure that the relationship of the new building to adjacent buildings is as set out in the scheme drawings. A condition requiring the submission of a scheme of noise insulation works within the building is needed in the interests of ensuring an appropriate noise environment for the future occupiers. These details need to be approved prior to the construction of the building to avoid potentially abortive works. A condition that requires approval of the details of all plant and machinery for the building before this is installed is needed to protect the amenity of residents living close to the development.
32. As full details were not submitted with the application a condition is needed requiring the submission and approval of a full landscaping scheme and a programme for its implementation in order to ensure a high quality of development. In order to minimise the effects on residential amenities and to avoid light pollution a condition is needed that requires that details of all external lighting be approved prior to the occupation of the development. In the interest of protecting the integrity of public sewers and to ensure the free

- flow of drainage I have attached a condition requiring that a grease trap be installed to the surface drainage system before the development is brought into occupation.
33. The appellant has submitted information about the proposed management of the accommodation but the details need to be agreed. I have, therefore, attached a condition that requires the submission and approval of a Student Management Plan for the proposed accommodation before it is first occupied.
34. A condition requiring that the proposed on-site car and cycle parking provision be completed prior to the occupation of the accommodation is needed to ensure a satisfactory form of development and that future residents have a genuine choice of travel modes. For this same reason I have attached a condition requiring the submission and approval of a travel plan for the development. In the interests of avoiding external clutter which would detract from the appearance of the completed development a condition is needed to withdraw the normal permitted development rights for the installation of external aerials, satellite dishes or other communications equipment. Finally, in view of the specific design and nature of the proposal and to allow proper consideration of any proposed changes, a condition is needed that restricts the use of the building to student accommodation over the long term.

### **Conclusion**

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

*Paul Singleton*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Drawing no. 0304\_02\_002 - Site Location Plan
  - Drawing no. 0304\_02\_003 Rev A - Site Parking and Access
  - Drawing no. 0304\_02\_004 Rev B - Site Management Plan
  - Drawing no. 0304\_03\_00G Rev A - Floor Plan GA Level 00
  - Drawing no. 0304\_03\_001 Rev A - Floor Plan GA Level 01
  - Drawing no. 0304\_03\_002 Rev B - Floor Plan GA Level 02
  - Drawing no. 0304\_03\_003 Rev B - Floor Plan GA Level 03
  - Drawing no. 0304\_03\_004 Rev C - Floor Plan GA Level 04
  - Drawing no. 0304\_03\_005 Rev C - Floor Plan GA Level
  - Drawing no. 0304\_04\_001 Rev A - Site Section AA
  - Drawing no. 0304\_05\_001 Rev D - South Elevation
  - Drawing no. 0304\_05\_002 Rev D - West Elevation,
  - Drawing no. 0304\_05\_003 Rev D - East Elevation
  - Drawing no. 0304\_05\_004 Rev E - North Elevation
  - Drawing no. 0304\_90\_001 - Landscape Plan
- 3) No development shall take place until a programme of archaeological work has been carried out in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.
- 4) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed.
- 5) The development site approved by this permission shall not be occupied until all components of the pre-approved or revised remediation measures to deal with the risks associated with actual or potential contamination have been completed and written evidence of satisfactory

remediation and of the suitability of the site for occupation has been submitted to and approved in writing by the local planning authority.

- 6) No development shall take place until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Surface water shall be directed away from the direction of the railway.

The drainage scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.

- 7) The development hereby permitted shall not be brought into use earlier than March 2018, unless the upgrading of the Chester Waste Water Treatment Works has already been completed.
- 8) No development shall take place until full details and samples of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the local planning authority. For the avoidance of doubt this condition applies to the following details:
- i) Mortar mixes, brickwork, brickwork/mortar sample panel and colour schemes;
  - ii) Aluminium profile cap;
  - iii) Sections and elevations of windows, doors and ground floor glazed frontages, including their reveals/setbacks and materials;
  - iv) Curtain walling/cladding materials and louvres;
  - v) Rain water/foul water goods and details of soffits,
  - vi) Fixings including ventilation/extraction/air conditioning/meters.

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

- 9) No development shall take place until detailed plans have been submitted to and approved in writing by the local planning authority in respect of the works required within the highway to form the new vehicle access points, any lighting works within the highway and the resurfacing of the footways surrounding the site. The works shall be carried out in strict conformity with the agreed details and completed prior to first occupation of the development
- 10) No development, including any demolition or construction activity, shall take place until a Dust Control Scheme (in accordance with the mitigation techniques described in "Construction Phase Dust Assessment" Ref. LE13502, dated August 2016) has been submitted to and approved in writing by the local planning authority. No demolition or construction shall take place except in complete accordance with the approved Scheme unless otherwise submitted to and agreed in writing with the local planning authority.
- 11) Prior to the commencement of construction activities (including demolition), a Construction Method Statement and Management Scheme shall be submitted to and approved in writing by the local planning authority. Development shall take place in complete accordance with the

approved Statement and Management Scheme, unless otherwise approved in writing by the local planning authority. For the avoidance of doubt the scheme shall include the following:

- i) Measures to control noise, vibration, light and odour and appropriate mitigation techniques that prevent unnecessary disturbance to neighbouring properties;
  - ii) Construction management/operation details (including details of the location and elevations of the site compound/site offices, details of the delivery area/storage of materials, details of the loading and unloading of plant and materials used in demolition/construction works, the erection and maintenance of security fencing);
  - iii) HGV movement numbers and routeing (including signage) to and from the site;
  - iv) temporary highway vehicle and pedestrian routings;
  - v) times and days of large vehicle movements to/from the site;
  - vi) off-highway parking for all construction related vehicles (including site contractors/operatives and visitors); and
  - vii) vehicle wheel cleaning facilities.
- 12) No development, including demolition and/or construction works, shall take place outside of 08.00 to 18.00 hours Mondays to Fridays, 08.00 hours to 13.00 hours on Saturdays or at any time on Sundays or Bank Holidays. Any variation to the hours of operation shall be submitted to and agreed in writing by the local planning authority prior to any change being implemented.
- 13) No demolition or construction deliveries shall be taken at or dispatched from the site outside of 08.00 hours to 18.00 hours Mondays to Fridays, 08.00 hours to 13.00 hours on Saturdays or at any time on Sundays or Bank Holidays. Any variation to the hours of operation shall be submitted to and agreed in writing by the local planning authority prior to any change being implemented.
- 14) No operations requiring piling or subsurface vibration ground improvement techniques shall be carried out unless details of the work, monitoring and environmental controls have been submitted to and approved in writing by the local planning authority. These details shall include a method statement pertaining to the impacts of the use of any vibro-compaction machinery/piling machinery or piling and ground treatment works, on the railway track and any railway structures. The developer shall demonstrate that the vibration does not exceed a peak particle velocity of 5mm/s at any railway structure/track.
- 15) Prior to the commencement of construction (but excluding site clearance/demolition works), or within such a time as approved in writing by the local planning authority, full details of existing levels and proposed finished floor (slab) and site levels of the site shall be submitted to and approved in writing by the local planning authority. All submitted details must relate to adjoining land. The development shall be carried out in accordance with the approved details.
- 16) Prior to the commencement of the construction of the building hereby approved a scheme of works, designed to ensure compliance with the detail provided in the Noise Impact Assessment, (*AEC Report*:

*P3101/R2a/DB*, dated 5th August 2016) and to achieve internal noise levels of 35dB(A)LAeq 16hrs(0700-2300hrs) for habitable rooms during the day and 30dB(A)LAeq 8hrs and 45dB(A)LAm<sub>ax</sub> (2300-0700hrs) for bedrooms during the night, shall be submitted to and approved in writing by the local planning authority. The internal noise levels shall be achieved with windows open or with other adequate means of ventilation provided, in accordance with current requirements. The scheme shall be implemented in full prior to occupation of the building.

- 17) Prior to the installation of any plant/ machinery / mechanical extraction for the proposed development a scheme to control noise from the premises shall be submitted to and approved in writing by the local planning authority.
- i) The scheme shall ensure that the rating level of noise emitted from any plant associated with the proposed development shall be 5dB(A) below the background noise level (as measured as an LA90) at any time as measured at the nearest noise sensitive residential receptor.
  - ii) The scheme shall also ensure that the rating level of noise emitted from any plant associated with the proposed development shall be no louder than the background noise level (as measured as an LA90) at any time as measured at the façade of the nearest offices.
  - iii) All measurements shall be made in accordance with BS 4142:2014 'Methods for rating and assessing industrial and commercial sound'.
  - iv) The scheme shall be implemented in full prior to operation and retained thereafter; any variation to the approved scheme shall be agreed in writing with the local planning authority prior to any works being undertaken.
- 18) Prior to the first occupation or use of the development hereby approved a scheme of soft and hard landscaping works shall be submitted to and approved in writing by the local planning authority. The scheme shall include the following elements as appropriate to the site: planting plans; planting specification (species, plant sizes, and proposed numbers/density); hard surfacing materials; boundary treatments; implementation programme; and a 5 year management plan.
- The landscaping details shall be implemented as approved in accordance with the implementation programme.
- Any trees or shrubs planted in accordance with the approved details that fail, die, are removed or become seriously damaged or diseased within a period of 5 years of initial planting shall be replaced with others of similar species in the next available planting season.
- 19) Details of all external lighting (including any floodlighting) and CCTV equipment (including siting) shall be submitted to and approved in writing by the local planning authority before the development is first occupied or brought into use. Such details shall include:
- i) The equipment and supporting structures, together with isolux drawings to demonstrate the levels of illumination within the site and the amount of any overspill of lighting beyond the site boundaries; and
  - ii) The hours at which the lighting is to be operated.

The lighting scheme shall be designed to ensure no light spillage (zero lux) at the nearest elevations of any nearby sensitive properties. Any lighting scheme shall be designed in accordance with the Institution of Lighting Professionals document "*Guidance Notes for the Reduction of Obtrusive Light*".

- 20) The development hereby permitted shall not be occupied until a grease trap has been fitted in accordance with details to be submitted to and approved in writing by the local planning authority. The grease trap shall be retained thereafter.
- 21) Prior to the first occupation or use of the development hereby approved, a Student Management Plan shall be submitted to and approved in writing by the local planning authority. The Student Management Plan shall include details of the following:
  - i) Night time supervision;
  - ii) The proposed management of servicing and deliveries including arrangements for drop off/pick up at the start and end of term;
  - iii) Waste disposal and waste management measures;
  - iv) The lease/rent agreement arrangements of on-site car parking spaces and the measures to be taken to deter cars being brought to the site;
  - v) A noise management plan detailing measures to ensure that the potential noise disturbance to neighbouring residential properties is minimised.

The student accommodation hereby approved shall be occupied in strict accordance with the approved scheme.

- 22) Prior to the first occupation or use of the development hereby approved car and cycle parking shall be provided in according with the approved drawings reference 0304\_03\_00G Rev A and 0304\_02\_003 Rev A. Full details of any external cycle parking shall be submitted to and approved in writing the local planning authority prior to the installation of those facilities and the works shall be carried out in accordance with the approved details.
- 23) The development hereby permitted shall not be occupied or brought into use until a Travel Plan has been submitted to and agreed in writing by the local planning authority. The Travel Plan shall include objectives, targets, measures to achieve targets, monitoring, monitoring reporting to the local planning authority, implementation timescales for delivery of the plan, the appointment of a Travel Plan Co-ordinator, and measures to review and update the Travel Plan delivery measures to achieve the targets (where not met). The Travel Plan shall be implemented and monitored in accordance with the approved details.
- 24) Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no external television or satellite antenna equipment or electronic communications apparatus falling within Part 16, to Schedule 2 thereof, shall be erected or installed within the development hereby approved.

- 25) The premises shall be used for student accommodation and for no other purpose (including any other purpose in Class C2 or C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

**End of Schedule of Conditions**



Directorate for Planning and Environmental Appeals

## Appeal Decision Notice

T: 01324 696 400  
F: 01324 696 444  
E: dpea@scotland.gsi.gov.uk



---

Decision by David Buylla, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-230-2122
- Site address: 20, 22, 24, 26, Bernard Terrace and 19B, 19C, 19D, 19E Luton Place, Edinburgh, EH8 9NX
- Appeal by Buile Developments Ltd against the decision by the City of Edinburgh Council
- Application for planning permission 13/4278/FUL dated 11 October 2013 refused by notice dated 13 March 2014
- The development proposed: student residential accommodation (incorporating demolition of existing business units) with associated ancillary uses and amenity space
- Application drawings: listed in schedule at the end of the notice
- Date of site visit by Reporter: 25 July 2014

Date of appeal decision: 13 August 2014

---

### Decision

I allow the appeal and grant planning permission subject to the seven conditions listed at the end of the decision notice. Attention is drawn to the four advisory notes at the end of the notice.

### Preliminary matter

An appeal (reference CAC-230-2000) against the refusal of conservation area consent to demolish existing buildings on the appeal site has been considered in a separate decision notice.

### Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. I am also required to pay special attention to the desirability of preserving the character or appearance of the conservation area and to have special regard to the desirability of preserving nearby listed buildings, their setting and any features of special architectural or historic interest they possess.

2. Having regard to the provisions of the development plan, the main issues in this appeal are whether the principle of the proposed student accommodation is acceptable in

this location and whether, having regard to a range of considerations, the design of the proposal is appropriate.

3. Since the appeal was submitted, national planning policy has been updated by the publication of the third National Planning Framework (NPF3) and a revised Scottish Planning Policy (SPP). As neither document materially alters national policy in respect of the issues which are relevant to this appeal it has not been necessary to seek any further submissions from the parties.

#### *The principle of development*

4. The proposed development would provide 237 units of student accommodation within three purpose-built blocks. The accommodation would be managed by a specialist management company and would be occupied on tenancies of either 44 or 51 weeks per annum, depending on whether the tenant wished to remain in residence over the summer.

5. The question of whether the principle of this type of development should be supported is addressed in Policy Hou 10 of the City of Edinburgh Local Plan (the local plan). This supports the provision of purpose-built student accommodation provided that two criteria are satisfied.

6. Criterion a) requires that the location is appropriate in terms of access to public transport and university and college facilities. The planning authority is satisfied that the proposal satisfies this requirement and I agree with that assessment, as the site is within a short walk of the main Edinburgh University campus at George Square and is well served by public transport links to other higher education establishments.

7. Criterion b) requires that the proposal would not result in an excessive concentration of student accommodation in any one locality. It is this requirement of the policy that the planning authority considers is not satisfied.

8. The authority points out that, based on 2001 census data, students make up approximately 42% of the local population and that if this development were built, this would increase to approximately 48%. The planning authority considers this to be excessive. The authority has referred me to updated calculations it has carried out using 2011 census data. It recognises that, due to boundary changes for the output areas in the latest census having changed, direct comparisons cannot be made, but notes that in the form that the data are now provided, the proportion of students in the local population is approximately 60%.

9. It is impossible to determine whether the apparent increase in the proportion of students in the local population is genuinely due to there being more students in the locality than before or whether it is an issue of non-comparable data. However, for the reasons set out below, I do not regard the numerical figure for the proportion of students in the local population to be the determining factor in assessing whether the principle of development should be supported.

10. The local plan itself does not define a percentage figure above which one might conclude that there is an excessive concentration of student accommodation in any one locality. There is also disagreement between the parties as to what is meant in the policy by the phrase "an excessive concentration of student accommodation." The appellant contends that, because the phrase refers to "student accommodation" rather than to the number of students more generally, it requires an assessment only of the level of purpose-built student accommodation in a particular area (which is the subject matter of the policy) and should not take account of those students who are living in HMO accommodation. The planning authority's approach has been to assess the overall concentration of students, occupying all types of property. As the majority of students do not live in purpose-built accommodation, this point has potentially significant implications for my assessment of whether the proposal complies with this policy.

11. Paragraphs 6.36 and 6.37 of the plan, which provide the reasoned justification for Policy Hou 10, provide confirmation of the harm that the policy was intended to address.

12. Paragraph 6.36 notes that relatively few students in the city live in purpose-built student accommodation. Most occupy private rented accommodation, usually in shared tenancies, and consequently account for a large proportion of the houses in multiple occupation (HMO) market. It notes that students tend to concentrate in particular parts of the city, notably some more central tenement areas. It then identifies the problems that can be caused by an excessive concentration of students in a particular area. These are: the loss of family housing in these areas through their conversion to HMOs; less stable communities; a rapid turnover of population; and properties left vacant for extended periods in summer.

13. The first of these is clearly a problem that does not apply to purpose-built student accommodation, as this does not result in the loss of family housing. Indeed, there is logic in the appellant's argument that providing more purpose-built accommodation for students should reduce pressure on the family housing stock. It is unclear from the wording used in paragraph 6.36 whether the other issues identified in the paragraph are intended to be attributed to an excessive student concentration in general or as a continuation of the first identified problem, which relates solely to HMO student accommodation. Assistance in understanding paragraph 6.36 is provided in the subsequent paragraph of the local plan.

14. Paragraph 6.37 confirms that there is a need for more purpose-built student housing and that it is preferable in principle that student needs are met as far as possible in purpose-built and managed schemes rather than the widespread conversion and use of the family housing stock. This is clearly supportive of the principle of the appellant's proposal.

15. Paragraph 6.37 goes on to identify the particular benefits of purpose-built student accommodation before dealing with the two criteria of Policy Hou 10. With regard to criterion a) it confirms that developments should be close to the universities and colleges and accessible by public transport. It recognises that it is the more central housing areas that are attractive to developers and occupiers. These are important objectives of the policy, to which I have referred later in this notice. With regard to criterion b) it confirms that in assessing the degree of concentration of student accommodation the Council will take

into account the nature of the locality in terms of the mix of land use and housing types, the existing and proposed number of students in the locality and evidence of problems in rapid population turnover and less stable communities referred to in paragraph 6.36. I conclude from this sentence that, although the aim of Policy Hou 10 is to support the principle of purpose-built student accommodation, it does not, as the appellant suggests, confine itself only to an assessment of the concentration of such accommodation. Instead, it requires attention to be paid to all forms of student accommodation in a locality and the associated problems these may cause. On that basis, I disagree with the appellant that it is unnecessary to have regard to overall levels of student accommodation rather than just that provided in purpose-built accommodation.

16. However, it is essential, if the policy is to operate in a logical manner and to deliver the support it is clearly intended to give to purpose-built student accommodation, that the positive and negative aspects of each development proposal are taken into account when considering the excessive concentration point, rather than arbitrarily applying a pre-conceived definition of the term.

17. The planning authority's supplementary guidance entitled "Student Housing" (the guidance) provides helpful background detail to Policy Hou 10. It is not part of the development plan but is a material consideration of some importance to this appeal.

18. The guidance emphasises the important contribution that higher education makes to the city and refers to one of the Core Aims of the local plan being to support the growth of the city as a centre of learning and higher education. It confirms that the provision of purpose-built student accommodation has not kept pace with recent significant increases in student numbers. As a result, there has been a tendency for students to concentrate in HMOs in central tenement areas. Four problematic consequences are identified: increased HMOs; less stable communities; a rapid turnover of population; and properties left vacant for extended periods in the summer. These reflect the wording of local plan paragraph 6.36. It is significant to note that these are specifically attributed to the loss of family housing from an area and are not stated to be consequences of student housing *per se*. It is reasonable to conclude from this document therefore that the planning authority's principal concern in regard to student housing concentration is with the loss of family housing.

19. The guidance recognises the need for more purpose-built student accommodation in order to reduce the conversion of family stock and to decrease the need for travel by locating students in or adjacent to main campuses. Interpreting the phrase "in or adjacent to main campuses" has considerable importance to the operation of the guidance because it determines whether the support it offers to student housing proposals is conditional upon a numerical assessment of existing student population levels.

20. If a location can be regarded as "in or adjacent to" a main campus, the guidance offers in principle support to the provision of purpose-built student accommodation. If it is not in such a location, but has good access to university and college facilities by public transport, walking or cycling then such support is only offered where local student population levels would not exceed 30%.

21. Map 1 in the guidance identifies the main university and college campuses. The appeal site is an 800 metre walk from the centre of the main University of Edinburgh campus at George Square. The Oxford English Dictionary defines “adjacent” as “lying near” or “adjoining”. I am satisfied that the site can reasonably be regarded as lying near to this main campus. Even if one regarded “adjacent” as synonymous with “adjoining”, which suggests two objects lying next to each other, I am satisfied that, having regard to the aim of the policy and guidance to decrease the need to travel, and the scarcity of suitable development sites in city centre locations, it would be inappropriate to regard this site as not lying adjacent to this main campus. Indeed, it is extremely difficult to imagine a suitable development site becoming available which was any closer to a main campus than the appeal site is to George Square.

22. The appellant has not suggested that the residents of its development would be drawn solely from the University of Edinburgh. However, neither the policy or the guidance requires a proposal to be affiliated to a particular institution and I do not accept the planning authority’s submission that the speculative nature of the proposal is relevant to the question of adjacency.

23. In light of the above, there is no requirement under the guidance to consider whether the proposal would result in the student population exceeding 30%. This does not of course mean that there is no requirement to consider whether the proposal would result in an excessive concentration of student accommodation in the locality. That remains an important requirement of Policy Hou 10. However, in carrying out that assessment, regard must be had to the particular circumstances of the case and to the objective of the policy as a whole, which is to support purpose-built student accommodation in locations which are close to higher education facilities.

24. I do not doubt that there is already a high proportion of students living in the locality. It would be surprising given the proximity of the main University of Edinburgh campus if that were not the case. The area is characterised by a range of land uses including high density residential, retail and office uses. The nearby South Clerk Street is identified in the conservation area character appraisal as the “high street” for the South Side in reflection of its bustling commercial character. Any assessment of the suitability of proposed new land uses must take account of the existing character and land use composition of this bustling and lively city centre environment.

25. Two key aims of Policy Hou 10 are to encourage the provision of purpose-built student accommodation and to direct it to locations which relate well to higher education establishments. It would be illogical if those locations which the policy accepts are most suited to student accommodation (those closest to main campuses) were ruled out solely on the basis that they were, unsurprisingly, already popular with students. In addition to the important policy aspiration to reduce the need for students to travel, there are basic market economic factors to consider. If purpose-built student accommodation is to be delivered it must be where students want to live and where prospective providers consider there will be strong enough demand to make the development viable. A location like the appeal site, which is adjacent to a main campus, is in such a location. If the objectives of the policy are

to be met, this factor must be borne in mind when considering whether the proposal would result in an excessive concentration of student accommodation.

26. Taking all factors into consideration, including the views of some local residents who fear that there could be an increase in noise and anti-social behaviour, and the fact that a degree of management of the accommodation would be exercised, which is not present in HMO student accommodation, I am satisfied the additional student residents that this proposal would introduce to the locality would have no material effect on its established character. I conclude that the proposal would not result in an excessive concentration of student accommodation in the locality and that the principle of development is therefore supported by Policy Hou 10.

27. The local plan is due to be replaced next year by the City of Edinburgh Local Development Plan (the proposed LDP). As unresolved representations to this proposed plan have yet to be examined, I can give it little weight in this appeal. In any event, the wording of Policy Hou 8 in the proposed LDP is identical to the extant policy.

#### *Matters of detail*

28. The planning authority is essentially content with the scale and form of development, which I agree would be appropriate to the site and in keeping with its surroundings. A condition is proposed to regulate the external finishing materials.

29. Some local residents consider that the proposal's height would be excessive but I conclude that it would (unlike the site's existing buildings) respect the townscape character of its surroundings. It is likely that some views out of the conservation area towards the Old Town and castle to the north and east towards Arthur's Seat would be blocked by the proposed building. The conservation area character appraisal indicates that such views should be retained. However, as the planning authority's committee report points out, such views are not of great public significance but are limited to glimpses from a few limited locations. Views from individual properties over land which that property does not control cannot be safeguarded in perpetuity. And I am satisfied that where there would be any diminution of a public view, the harm this would cause would be outweighed by the benefits of the scheme, both in terms of its contribution to the character and appearance of the conservation area and the wider benefits which I have discussed later in this notice.

30. In assessing the effect on the conservation area's character and appearance it is also necessary to consider the importance of the buildings which would be demolished to make way for the proposal. These are of varied age, scale and design. They have been assessed by Historic Scotland and found not to be worthy of listing. Nevertheless they form part of the established street-scene in Bernard Terrace and (to a much lesser degree) Lutton Place. Their value and contribution to the conservation area therefore needs to be quantified.

31. Architecturally, none of the existing buildings has any significant interest. The oldest building, which faces Bernard Terrace, incorporates some high quality stonework. However, the scale of the building, particularly its height is out of keeping with its

predominantly five story neighbours. This gives the building an incongruously squat appearance, which looks out of place in the street scene. The conservation area appraisal remarks that the uniformity of scale in this part of the conservation area is important to its character and appearance. The appearance of the site's Bernard Terrace frontage is at odds with this and, while the older buildings on the site undoubtedly have some historic interest, they do not contribute positively to the conservation area's character or appearance. The more recently constructed buildings, which lie behind those on the Bernard Terrace frontage are of a poor standard of appearance and detract from the conservation area, although the degree of harm is limited by their concealed location. I am satisfied therefore that the proposal complies with local plan Policy Env 5 and with the Scottish Historic Environment Policy.

32. Concern has been expressed that the proposal incorporates inadequate open space. Bearing in mind the type of accommodation proposed, I am satisfied that sufficient outdoor amenity space has been incorporated into the design, and the layout of the development is such that this space would be provided in a location that is clearly separated from public areas, as required by Policy Des 5.

33. I do not share local residents' concerns that the proposal would exacerbate existing traffic and parking problems. The development is designed to be essentially car-free and there is no reason, given the proximity of the site to the university and city centre and the easy availability of public transport, why the development would generate additional car movements. This is reinforced by the significant level of secure cycle parking which the scheme would incorporate. In comparison with either the site's authorised use or with a redevelopment scheme for conventional residential development, the proposed development would have minimal traffic and parking effects.

34. The potential for the proposed development to overshadow neighbouring properties has been investigated and there is no evidence to refute the findings of that investigation, which were that only minimal obstruction of sunlight or daylight would occur. There is no basis therefore for me to support the objections which have been raised in this regard.

35. Concern has been expressed that the development could put trees in adjacent gardens at risk. However, there is no reason why that would be the case given the separation distances between the proposed buildings and the nearest trees. I note that the planning authority does not share these concerns. A planning condition is proposed to finalise tree protection details.

36. Overall I am satisfied that the proposal would be of a high design quality, would enhance the character of the conservation area, would be consistent with the character appraisal, would have no adverse effect on trees or boundary features and would demonstrate high standards of design and appropriate external finishing materials. It therefore satisfies the requirements of local plan Policies, Des 1, Des 3, Des 4, Des 5 and Env 6.

37. A number of the buildings in Lutton Place are category B listed and St Peters Church is listed within category A. The proposed development would introduce a significant level of

built development into the immediate environs of these listed buildings. However, the layout of the proposed development is such that there would be very limited inter-visibility between the proposed development and the listed buildings. And by being of similar scale to the surrounding buildings, the proposed development would fit well within the existing built form of the locality and would not compete with the townscape significance of the listed buildings. The proposal would therefore satisfy the expectations of local plan Policy Env 3.

38. Policy Des 6 requires proposals to incorporate measures to maximise energy efficiency and incorporate low or zero carbon technology. A planning condition could secure delivery of the measures which the appellant proposes to address these requirements.

#### *Other matters*

39. The importance of higher education to the success of the city is recognised in the South East Scotland Strategic Development Plan and in the local plan. As the provision of purpose-built student accommodation would support the delivery of higher education services across the city this proposal can draw support from these development plan provisions.

40. The appellant has attempted to quantify the proposal's economic benefits in terms of job creation and local expenditure. There will always be great uncertainty in such predictions but I am satisfied that the proposal would bring genuine economic benefits to the city, and this is particularly significant when compared with the economic performance of the site in its current authorised use, which the planning authority recognises as poor. These economic benefits add weight to my conclusion that the proposal should be supported.

#### *Conclusions*

41. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan, would enhance the character and appearance of the conservation area and would preserve the setting of nearby listed buildings. I further conclude that there are no material considerations which would justify refusing to grant planning permission.

*David Buylla*

Reporter

#### **Conditions**

1. A detailed specification of all of the proposed external materials (including trade names where appropriate and samples where requested by the planning authority) shall be submitted to and approved in writing by the planning authority prior to their use on the building. No other external materials shall be used in the construction of the approved development.



Reason: to ensure that the external appearance of the approved development is appropriate to the conservation area.

2. No development shall take place until the developer has secured the implementation of a programme of archaeological work including historic building recording, excavation, analysis, reporting and publication, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the planning authority. The approved scheme shall be completed in full, in accordance with the approved details.

Reason: to ensure that the site's archaeological interest is properly recorded.

3. Prior to the commencement of development further details of the overflow drainage pathways shall be submitted to and approved in writing by the planning authority.

Development shall not be carried out other than in accordance with the approved details.

Reason: in order to ensure that drainage will be dealt with appropriately.

4. Prior to the commencement of development further details of tree protection measures shall be submitted to and approved in writing by the planning authority.

Development shall not be carried out other than in accordance with the approved details.

Reason: in order to ensure that existing trees are adequately protected.

5. Prior to the commencement of development a site survey for contamination including intrusive investigation were necessary shall be carried out to establish either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development. Where necessary, a detailed schedule of any required remedial and/or protective measures shall be submitted to and approved in writing by the planning authority and shall be implemented in full, in accordance with the approved details prior to occupation of the development. Documentary evidence shall be provided to the planning authority to certify that those works have been completed.

Reason: in order to ensure that the site is suitable for residential re-use given the history of past uses.

6. The secure cycle parking that is shown in the approved drawings shall be completed in full prior to first occupation of the development and shall not subsequently be used for any other purpose than cycle parking.

Reason: to ensure that the development makes adequate provision for cycling.

7. Prior to the commencement of development full details of the measures which are outlined in the approved scheme to satisfy the requirements of local plan Policy Des 6 "Sustainable Design and Construction" shall be submitted to and approved in writing by the planning authority. All of the measures shall be completed in accordance with the approved details prior to first occupation of the building and none shall be removed or modified subsequently without the prior written approval of the planning authority.

Reason: to ensure that the development minimises energy needs, carbon emissions and environmental resource use and impact.



INVESTOR IN PEOPLE



## Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)
4. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.)

## Schedule of drawings

PL(0) 001  
PL(0) 002  
PL(0) 003  
PL(0) 004  
PL(0) 005  
PL(0) 006  
PL(0) 007  
PL(0) 008  
PL(0) 009  
PL(0) 010  
PL(0) 011



Directorate for Planning and Environmental Appeals

## Appeal Decision Notice

T: 01324 696 400  
 F: 01324 696 444  
 E: dpea@scotland.gsi.gov.uk



Decision by David Buylla, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-230-2122
- Site address: 20, 22, 24, 26, Bernard Terrace and 19B, 19C, 19D, 19E Luton Place, Edinburgh, EH8 9NX
- Appeal by Buile Developments Ltd against the decision by the City of Edinburgh Council
- Application for planning permission 13/4278/FUL dated 11 October 2013 refused by notice dated 13 March 2014
- The development proposed: student residential accommodation (incorporating demolition of existing business units) with associated ancillary uses and amenity space
- Application drawings: listed in schedule at the end of the notice
- Date of site visit by Reporter: 25 July 2014

Date of appeal decision: 13 August 2014

### Decision

I allow the appeal and grant planning permission subject to the seven conditions listed at the end of the decision notice. Attention is drawn to the four advisory notes at the end of the notice.

### Preliminary matter

An appeal (reference CAC-230-2000) against the refusal of conservation area consent to demolish existing buildings on the appeal site has been considered in a separate decision notice.

### Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. I am also required to pay special attention to the desirability of preserving the character or appearance of the conservation area and to have special regard to the desirability of preserving nearby listed buildings, their setting and any features of special architectural or historic interest they possess.

2. Having regard to the provisions of the development plan, the main issues in this appeal are whether the principle of the proposed student accommodation is acceptable in



this location and whether, having regard to a range of considerations, the design of the proposal is appropriate.

3. Since the appeal was submitted, national planning policy has been updated by the publication of the third National Planning Framework (NPF3) and a revised Scottish Planning Policy (SPP). As neither document materially alters national policy in respect of the issues which are relevant to this appeal it has not been necessary to seek any further submissions from the parties.

#### *The principle of development*

4. The proposed development would provide 237 units of student accommodation within three purpose-built blocks. The accommodation would be managed by a specialist management company and would be occupied on tenancies of either 44 or 51 weeks per annum, depending on whether the tenant wished to remain in residence over the summer.

5. The question of whether the principle of this type of development should be supported is addressed in Policy Hou 10 of the City of Edinburgh Local Plan (the local plan). This supports the provision of purpose-built student accommodation provided that two criteria are satisfied.

6. Criterion a) requires that the location is appropriate in terms of access to public transport and university and college facilities. The planning authority is satisfied that the proposal satisfies this requirement and I agree with that assessment, as the site is within a short walk of the main Edinburgh University campus at George Square and is well served by public transport links to other higher education establishments.

7. Criterion b) requires that the proposal would not result in an excessive concentration of student accommodation in any one locality. It is this requirement of the policy that the planning authority considers is not satisfied.

8. The authority points out that, based on 2001 census data, students make up approximately 42% of the local population and that if this development were built, this would increase to approximately 48%. The planning authority considers this to be excessive. The authority has referred me to updated calculations it has carried out using 2011 census data. It recognises that, due to boundary changes for the output areas in the latest census having changed, direct comparisons cannot be made, but notes that in the form that the data are now provided, the proportion of students in the local population is approximately 60%.

9. It is impossible to determine whether the apparent increase in the proportion of students in the local population is genuinely due to there being more students in the locality than before or whether it is an issue of non-comparable data. However, for the reasons set out below, I do not regard the numerical figure for the proportion of students in the local population to be the determining factor in assessing whether the principle of development should be supported.



10. The local plan itself does not define a percentage figure above which one might conclude that there is an excessive concentration of student accommodation in any one locality. There is also disagreement between the parties as to what is meant in the policy by the phrase "an excessive concentration of student accommodation." The appellant contends that, because the phrase refers to "student accommodation" rather than to the number of students more generally, it requires an assessment only of the level of purpose-built student accommodation in a particular area (which is the subject matter of the policy) and should not take account of those students who are living in HMO accommodation. The planning authority's approach has been to assess the overall concentration of students, occupying all types of property. As the majority of students do not live in purpose-built accommodation, this point has potentially significant implications for my assessment of whether the proposal complies with this policy.

11. Paragraphs 6.36 and 6.37 of the plan, which provide the reasoned justification for Policy Hou 10, provide confirmation of the harm that the policy was intended to address.

12. Paragraph 6.36 notes that relatively few students in the city live in purpose-built student accommodation. Most occupy private rented accommodation, usually in shared tenancies, and consequently account for a large proportion of the houses in multiple occupation (HMO) market. It notes that students tend to concentrate in particular parts of the city, notably some more central tenement areas. It then identifies the problems that can be caused by an excessive concentration of students in a particular area. These are: the loss of family housing in these areas through their conversion to HMOs; less stable communities; a rapid turnover of population; and properties left vacant for extended periods in summer.

13. The first of these is clearly a problem that does not apply to purpose-built student accommodation, as this does not result in the loss of family housing. Indeed, there is logic in the appellant's argument that providing more purpose-built accommodation for students should reduce pressure on the family housing stock. It is unclear from the wording used in paragraph 6.36 whether the other issues identified in the paragraph are intended to be attributed to an excessive student concentration in general or as a continuation of the first identified problem, which relates solely to HMO student accommodation. Assistance in understanding paragraph 6.36 is provided in the subsequent paragraph of the local plan.

14. Paragraph 6.37 confirms that there is a need for more purpose-built student housing and that it is preferable in principle that student needs are met as far as possible in purpose-built and managed schemes rather than the widespread conversion and use of the family housing stock. This is clearly supportive of the principle of the appellant's proposal.

15. Paragraph 6.37 goes on to identify the particular benefits of purpose-built student accommodation before dealing with the two criteria of Policy Hou 10. With regard to criterion a) it confirms that developments should be close to the universities and colleges and accessible by public transport. It recognises that it is the more central housing areas that are attractive to developers and occupiers. These are important objectives of the policy, to which I have referred later in this notice. With regard to criterion b) it confirms that in assessing the degree of concentration of student accommodation the Council will take

into account the nature of the locality in terms of the mix of land use and housing types, the existing and proposed number of students in the locality and evidence of problems in rapid population turnover and less stable communities referred to in paragraph 6.36. I conclude from this sentence that, although the aim of Policy Hou 10 is to support the principle of purpose-built student accommodation, it does not, as the appellant suggests, confine itself only to an assessment of the concentration of such accommodation. Instead, it requires attention to be paid to all forms of student accommodation in a locality and the associated problems these may cause. On that basis, I disagree with the appellant that it is unnecessary to have regard to overall levels of student accommodation rather than just that provided in purpose-built accommodation.

16. However, it is essential, if the policy is to operate in a logical manner and to deliver the support it is clearly intended to give to purpose-built student accommodation, that the positive and negative aspects of each development proposal are taken into account when considering the excessive concentration point, rather than arbitrarily applying a pre-conceived definition of the term.

17. The planning authority's supplementary guidance entitled "Student Housing" (the guidance) provides helpful background detail to Policy Hou 10. It is not part of the development plan but is a material consideration of some importance to this appeal.

18. The guidance emphasises the important contribution that higher education makes to the city and refers to one of the Core Aims of the local plan being to support the growth of the city as a centre of learning and higher education. It confirms that the provision of purpose-built student accommodation has not kept pace with recent significant increases in student numbers. As a result, there has been a tendency for students to concentrate in HMOs in central tenement areas. Four problematic consequences are identified: increased HMOs; less stable communities; a rapid turnover of population; and properties left vacant for extended periods in the summer. These reflect the wording of local plan paragraph 6.36. It is significant to note that these are specifically attributed to the loss of family housing from an area and are not stated to be consequences of student housing *per se*. It is reasonable to conclude from this document therefore that the planning authority's principal concern in regard to student housing concentration is with the loss of family housing.

19. The guidance recognises the need for more purpose-built student accommodation in order to reduce the conversion of family stock and to decrease the need for travel by locating students in or adjacent to main campuses. Interpreting the phrase "in or adjacent to main campuses" has considerable importance to the operation of the guidance because it determines whether the support it offers to student housing proposals is conditional upon a numerical assessment of existing student population levels.

20. If a location can be regarded as "in or adjacent to" a main campus, the guidance offers in principle support to the provision of purpose-built student accommodation. If it is not in such a location, but has good access to university and college facilities by public transport, walking or cycling then such support is only offered where local student population levels would not exceed 30%.

21. Map 1 in the guidance identifies the main university and college campuses. The appeal site is an 800 metre walk from the centre of the main University of Edinburgh campus at George Square. The Oxford English Dictionary defines “adjacent” as “lying near” or “adjoining”. I am satisfied that the site can reasonably be regarded as lying near to this main campus. Even if one regarded “adjacent” as synonymous with “adjoining”, which suggests two objects lying next to each other, I am satisfied that, having regard to the aim of the policy and guidance to decrease the need to travel, and the scarcity of suitable development sites in city centre locations, it would be inappropriate to regard this site as not lying adjacent to this main campus. Indeed, it is extremely difficult to imagine a suitable development site becoming available which was any closer to a main campus than the appeal site is to George Square.

22. The appellant has not suggested that the residents of its development would be drawn solely from the University of Edinburgh. However, neither the policy or the guidance requires a proposal to be affiliated to a particular institution and I do not accept the planning authority’s submission that the speculative nature of the proposal is relevant to the question of adjacency.

23. In light of the above, there is no requirement under the guidance to consider whether the proposal would result in the student population exceeding 30%. This does not of course mean that there is no requirement to consider whether the proposal would result in an excessive concentration of student accommodation in the locality. That remains an important requirement of Policy Hou 10. However, in carrying out that assessment, regard must be had to the particular circumstances of the case and to the objective of the policy as a whole, which is to support purpose-built student accommodation in locations which are close to higher education facilities.

24. I do not doubt that there is already a high proportion of students living in the locality. It would be surprising given the proximity of the main University of Edinburgh campus if that were not the case. The area is characterised by a range of land uses including high density residential, retail and office uses. The nearby South Clerk Street is identified in the conservation area character appraisal as the “high street” for the South Side in reflection of its bustling commercial character. Any assessment of the suitability of proposed new land uses must take account of the existing character and land use composition of this bustling and lively city centre environment.

25. Two key aims of Policy Hou 10 are to encourage the provision of purpose-built student accommodation and to direct it to locations which relate well to higher education establishments. It would be illogical if those locations which the policy accepts are most suited to student accommodation (those closest to main campuses) were ruled out solely on the basis that they were, unsurprisingly, already popular with students. In addition to the important policy aspiration to reduce the need for students to travel, there are basic market economic factors to consider. If purpose-built student accommodation is to be delivered it must be where students want to live and where prospective providers consider there will be strong enough demand to make the development viable. A location like the appeal site, which is adjacent to a main campus, is in such a location. If the objectives of the policy are

to be met, this factor must be borne in mind when considering whether the proposal would result in an excessive concentration of student accommodation.

26. Taking all factors into consideration, including the views of some local residents who fear that there could be an increase in noise and anti-social behaviour, and the fact that a degree of management of the accommodation would be exercised, which is not present in HMO student accommodation, I am satisfied the additional student residents that this proposal would introduce to the locality would have no material effect on its established character. I conclude that the proposal would not result in an excessive concentration of student accommodation in the locality and that the principle of development is therefore supported by Policy Hou 10.

27. The local plan is due to be replaced next year by the City of Edinburgh Local Development Plan (the proposed LDP). As unresolved representations to this proposed plan have yet to be examined, I can give it little weight in this appeal. In any event, the wording of Policy Hou 8 in the proposed LDP is identical to the extant policy.

#### *Matters of detail*

28. The planning authority is essentially content with the scale and form of development, which I agree would be appropriate to the site and in keeping with its surroundings. A condition is proposed to regulate the external finishing materials.

29. Some local residents consider that the proposal's height would be excessive but I conclude that it would (unlike the site's existing buildings) respect the townscape character of its surroundings. It is likely that some views out of the conservation area towards the Old Town and castle to the north and east towards Arthur's Seat would be blocked by the proposed building. The conservation area character appraisal indicates that such views should be retained. However, as the planning authority's committee report points out, such views are not of great public significance but are limited to glimpses from a few limited locations. Views from individual properties over land which that property does not control cannot be safeguarded in perpetuity. And I am satisfied that where there would be any diminution of a public view, the harm this would cause would be outweighed by the benefits of the scheme, both in terms of its contribution to the character and appearance of the conservation area and the wider benefits which I have discussed later in this notice.

30. In assessing the effect on the conservation area's character and appearance it is also necessary to consider the importance of the buildings which would be demolished to make way for the proposal. These are of varied age, scale and design. They have been assessed by Historic Scotland and found not to be worthy of listing. Nevertheless they form part of the established street-scene in Bernard Terrace and (to a much lesser degree) Lutton Place. Their value and contribution to the conservation area therefore needs to be quantified.

31. Architecturally, none of the existing buildings has any significant interest. The oldest building, which faces Bernard Terrace, incorporates some high quality stonework. However, the scale of the building, particularly its height is out of keeping with its



predominantly five story neighbours. This gives the building an incongruously squat appearance, which looks out of place in the street scene. The conservation area appraisal remarks that the uniformity of scale in this part of the conservation area is important to its character and appearance. The appearance of the site's Bernard Terrace frontage is at odds with this and, while the older buildings on the site undoubtedly have some historic interest, they do not contribute positively to the conservation area's character or appearance. The more recently constructed buildings, which lie behind those on the Bernard Terrace frontage are of a poor standard of appearance and detract from the conservation area, although the degree of harm is limited by their concealed location. I am satisfied therefore that the proposal complies with local plan Policy Env 5 and with the Scottish Historic Environment Policy.

32. Concern has been expressed that the proposal incorporates inadequate open space. Bearing in mind the type of accommodation proposed, I am satisfied that sufficient outdoor amenity space has been incorporated into the design, and the layout of the development is such that this space would be provided in a location that is clearly separated from public areas, as required by Policy Des 5.

33. I do not share local residents' concerns that the proposal would exacerbate existing traffic and parking problems. The development is designed to be essentially car-free and there is no reason, given the proximity of the site to the university and city centre and the easy availability of public transport, why the development would generate additional car movements. This is reinforced by the significant level of secure cycle parking which the scheme would incorporate. In comparison with either the site's authorised use or with a redevelopment scheme for conventional residential development, the proposed development would have minimal traffic and parking effects.

34. The potential for the proposed development to overshadow neighbouring properties has been investigated and there is no evidence to refute the findings of that investigation, which were that only minimal obstruction of sunlight or daylight would occur. There is no basis therefore for me to support the objections which have been raised in this regard.

35. Concern has been expressed that the development could put trees in adjacent gardens at risk. However, there is no reason why that would be the case given the separation distances between the proposed buildings and the nearest trees. I note that the planning authority does not share these concerns. A planning condition is proposed to finalise tree protection details.

36. Overall I am satisfied that the proposal would be of a high design quality, would enhance the character of the conservation area, would be consistent with the character appraisal, would have no adverse effect on trees or boundary features and would demonstrate high standards of design and appropriate external finishing materials. It therefore satisfies the requirements of local plan Policies, Des 1, Des 3, Des 4, Des 5 and Env 6.

37. A number of the buildings in Lutton Place are category B listed and St Peters Church is listed within category A. The proposed development would introduce a significant level of

built development into the immediate environs of these listed buildings. However, the layout of the proposed development is such that there would be very limited inter-visibility between the proposed development and the listed buildings. And by being of similar scale to the surrounding buildings, the proposed development would fit well within the existing built form of the locality and would not compete with the townscape significance of the listed buildings. The proposal would therefore satisfy the expectations of local plan Policy Env 3.

38. Policy Des 6 requires proposals to incorporate measures to maximise energy efficiency and incorporate low or zero carbon technology. A planning condition could secure delivery of the measures which the appellant proposes to address these requirements.

#### *Other matters*

39. The importance of higher education to the success of the city is recognised in the South East Scotland Strategic Development Plan and in the local plan. As the provision of purpose-built student accommodation would support the delivery of higher education services across the city this proposal can draw support from these development plan provisions.

40. The appellant has attempted to quantify the proposal's economic benefits in terms of job creation and local expenditure. There will always be great uncertainty in such predictions but I am satisfied that the proposal would bring genuine economic benefits to the city, and this is particularly significant when compared with the economic performance of the site in its current authorised use, which the planning authority recognises as poor. These economic benefits add weight to my conclusion that the proposal should be supported.

#### *Conclusions*

41. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan, would enhance the character and appearance of the conservation area and would preserve the setting of nearby listed buildings. I further conclude that there are no material considerations which would justify refusing to grant planning permission.

*David Buylla*

Reporter

#### **Conditions**

1. A detailed specification of all of the proposed external materials (including trade names where appropriate and samples where requested by the planning authority) shall be submitted to and approved in writing by the planning authority prior to their use on the building. No other external materials shall be used in the construction of the approved development.

Reason: to ensure that the external appearance of the approved development is appropriate to the conservation area.

2. No development shall take place until the developer has secured the implementation of a programme of archaeological work including historic building recording, excavation, analysis, reporting and publication, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the planning authority. The approved scheme shall be completed in full, in accordance with the approved details.

Reason: to ensure that the site's archaeological interest is properly recorded.

3. Prior to the commencement of development further details of the overflow drainage pathways shall be submitted to and approved in writing by the planning authority.

Development shall not be carried out other than in accordance with the approved details.

Reason: in order to ensure that drainage will be dealt with appropriately.

4. Prior to the commencement of development further details of tree protection measures shall be submitted to and approved in writing by the planning authority.

Development shall not be carried out other than in accordance with the approved details.

Reason: in order to ensure that existing trees are adequately protected.

5. Prior to the commencement of development a site survey for contamination including intrusive investigation were necessary shall be carried out to establish either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development. Where necessary, a detailed schedule of any required remedial and/or protective measures shall be submitted to and approved in writing by the planning authority and shall be implemented in full, in accordance with the approved details prior to occupation of the development. Documentary evidence shall be provided to the planning authority to certify that those works have been completed.

Reason: in order to ensure that the site is suitable for residential re-use given the history of past uses.

6. The secure cycle parking that is shown in the approved drawings shall be completed in full prior to first occupation of the development and shall not subsequently be used for any other purpose than cycle parking.

Reason: to ensure that the development makes adequate provision for cycling.

7. Prior to the commencement of development full details of the measures which are outlined in the approved scheme to satisfy the requirements of local plan Policy Des 6 "Sustainable Design and Construction" shall be submitted to and approved in writing by the planning authority. All of the measures shall be completed in accordance with the approved details prior to first occupation of the building and none shall be removed or modified subsequently without the prior written approval of the planning authority.

Reason: to ensure that the development minimises energy needs, carbon emissions and environmental resource use and impact.



INVESTOR IN PEOPLE



## Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)
4. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.)

## Schedule of drawings

PL(0) 001  
PL(0) 002  
PL(0) 003  
PL(0) 004  
PL(0) 005  
PL(0) 006  
PL(0) 007  
PL(0) 008  
PL(0) 009  
PL(0) 010  
PL(0) 011





# Draft 2018 London Plan – Cycle Storage Standards Occupancy Research

<b>DATE</b>	<b>02 March 2018</b>	<b>PREPARED BY</b>	<b>OS</b>
<b>SUBJECT</b>	<b>Transport Technical Note</b>	<b>CHECKED BY:</b>	<b>AF</b>

## INTRODUCTION AND OVERVIEW

WSP has been commissioned by UNITE to undertake a cycle storage demand research note in light of the draft 2018 London Plan. Across their London Estate UNITE experience very low demand for cycle storage. UNITE is concerned that there is no justification for future increases in minimum standards within the draft London Plan and this will lead to further unnecessary unused space within their future redevelopment sites.

## BACKGROUND

The GLA has provided the document ‘Cycle Parking – Part of the London Plan evidence base’ December 2017. It notes that the 2013 Early Minor Alterations to the London Plan included minimum standards for cycling for the first time, as it considered that student accommodation is essentially residential in nature and as such should be consistent with residential standards. Subsequently, the evidence base recognises that further alterations did not include similar rises in cycle parking for student accommodation as it included for residential. This, the evidence paper notes, means that not every student living in student accommodation could own a bicycle. It also recognises that since student accommodation does not include car parking, students have a limited budget, live in inner London and that cycling could potentially bring benefits and suitable for distances that they are likely to travel.

The draft London Plan proposes an amendment to the minimum cycle parking standards, based on the findings of the evidence, from the adopted London Plan standard of 1 cycle space for every two bedroom units to effectively one cycle space for every bed space. This is based on the following extracts of Table 10.2 of the Draft London Plan, where every studio unit requires a cycle parking space.

Sui generis	As per most relevant other standard e.g. casino and theatre = D2, room in large-scale purpose-built shared living or student accommodation = studio C3.
-------------	---

C3- C4	Dwellings (all)	1 space per studio, 1.5 spaces per 1 bedroom unit, 2 spaces per all other dwellings
-----------	--------------------	---

## PREVIOUS REPRESENTATIONS

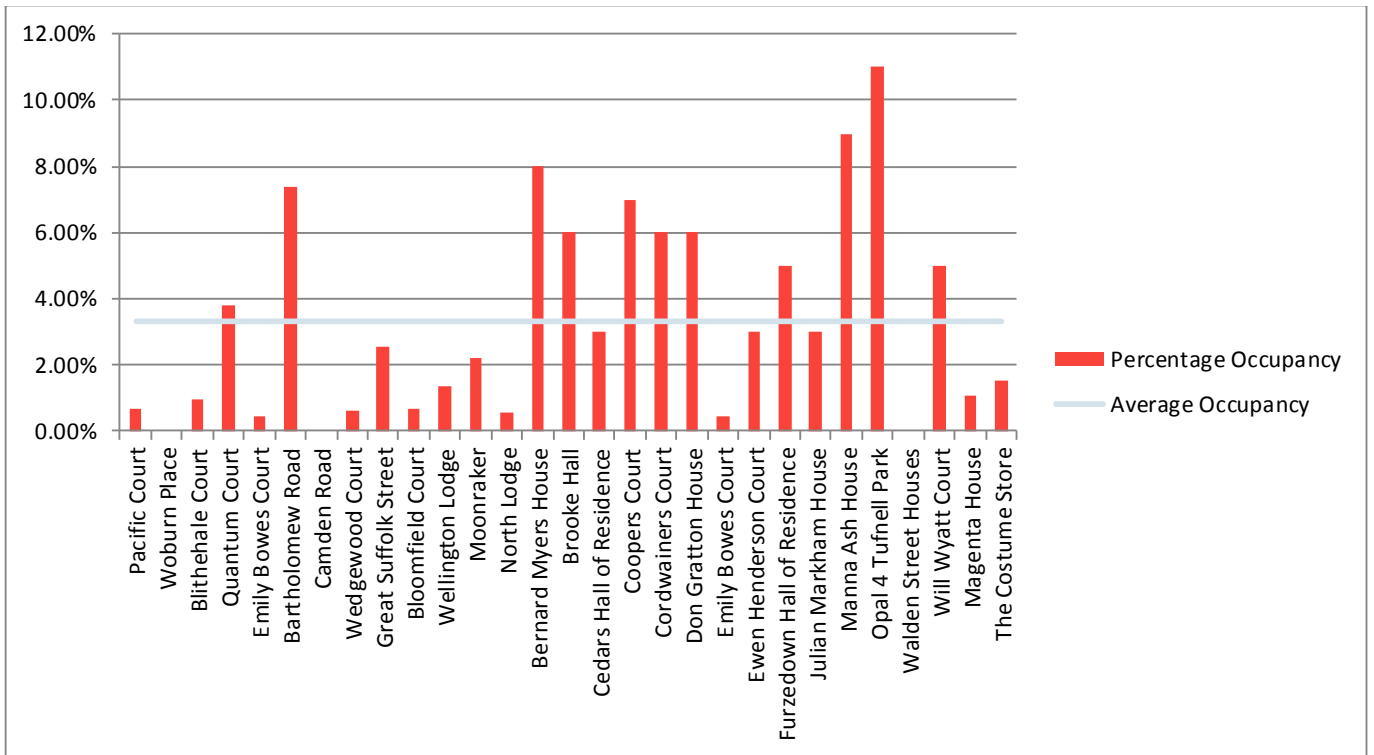
UNITE prepared written representations in 2012 in response to the GLA proposing an introduction of minimum cycle parking standards within the London Plan. The representations found that across the UNITE estate very little cycle parking was used, at around 3%.

An independent study was also undertaken in 2013 on behalf of Knightsbridge Student Housing Ltd and The Student Housing Company 2013 across England. The Note reflected the findings of UNITE’s 2012 study, finding low cycle storage usage of around 1 to 6% across five sites and 14 sites in London with occupation from zero to 11%.



Graph 1 demonstrates the cycle ownership across the 2012 and 2013 studies referred to above.

**Graph 1- Cycle Storage Demand by Bed Spaces (% Ratio)**



### STUDY PURPOSE AND RESEARCH FINDINGS

This Note provides an update to the 2012 cycle occupancy data to identify current cycle storage usage and to identify whether there has been a general increase in cycle parking utilisation across their estate.

The Note then discusses the appropriateness of aligning student accommodation (Sui Generis land-use class) with residential land-use class.

### UPDATED RESEARCH

UNITE has undertaken further surveys of their student accommodation sites to understand the present uptake of cycle utilisation across their estate. The surveys were undertaken between the 1<sup>st</sup> to 7<sup>th</sup> February 2018. The approach was to count the number of bicycles contained within their on-site cycle stores at 5am, timed to capture peak time for cycle storage requirements. This included 26 of their London sites, providing representative data across their London Estate.

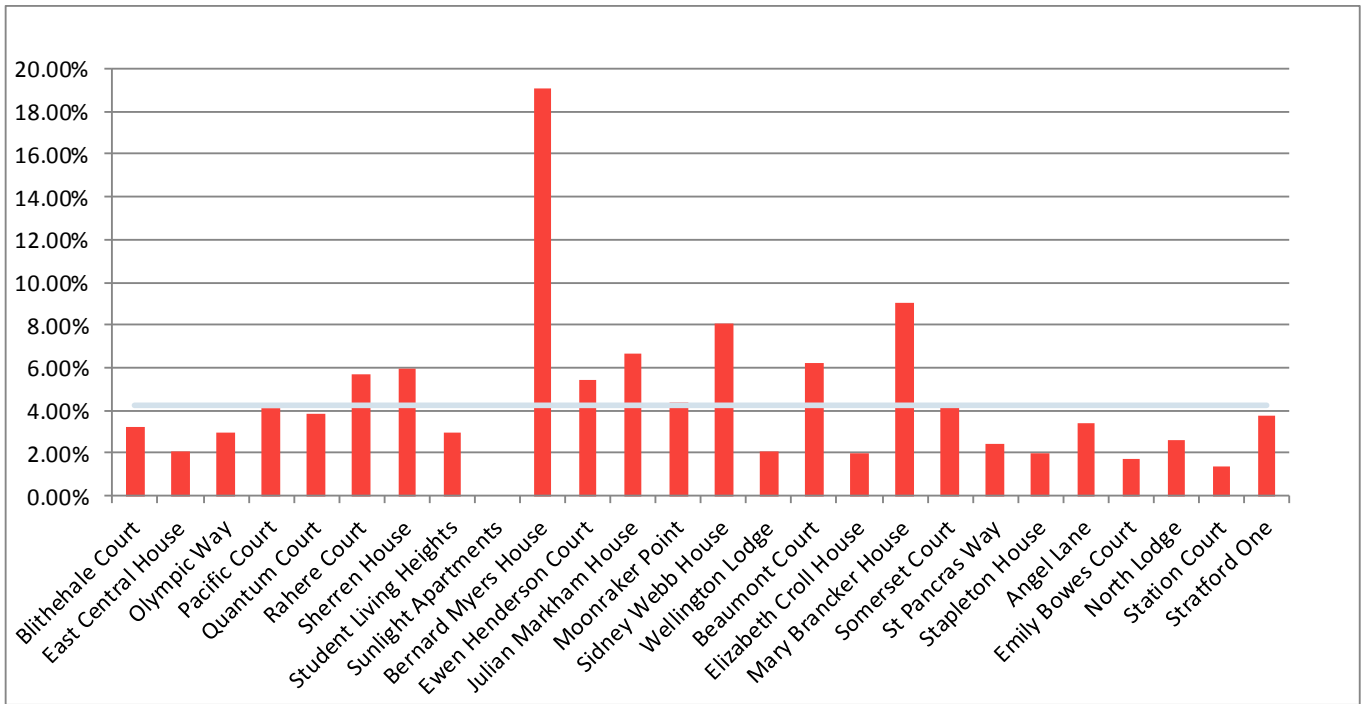


## SURVEY FINDINGS

The seven day maximum cycle storage demand across all 26 sites is illustrated by Graph 2 below.

A maximum average demand of 5% of cycle storage has been found across the 26 sites. This equates to a demand of one cycle space per 20 bedroom unit. There was a maximum demand of 20% or 1 per 5 bedroom unit however, as graph 2 illustrates below this was limited to a single site, with the vast majority (90<sup>th</sup> percentile) ranging from 1 to 8%, or 1 bicycle for every 11.5 bedroom unit.

**Graph 2 – Cycle Storage Demand by Bed Spaces (% ratio)**

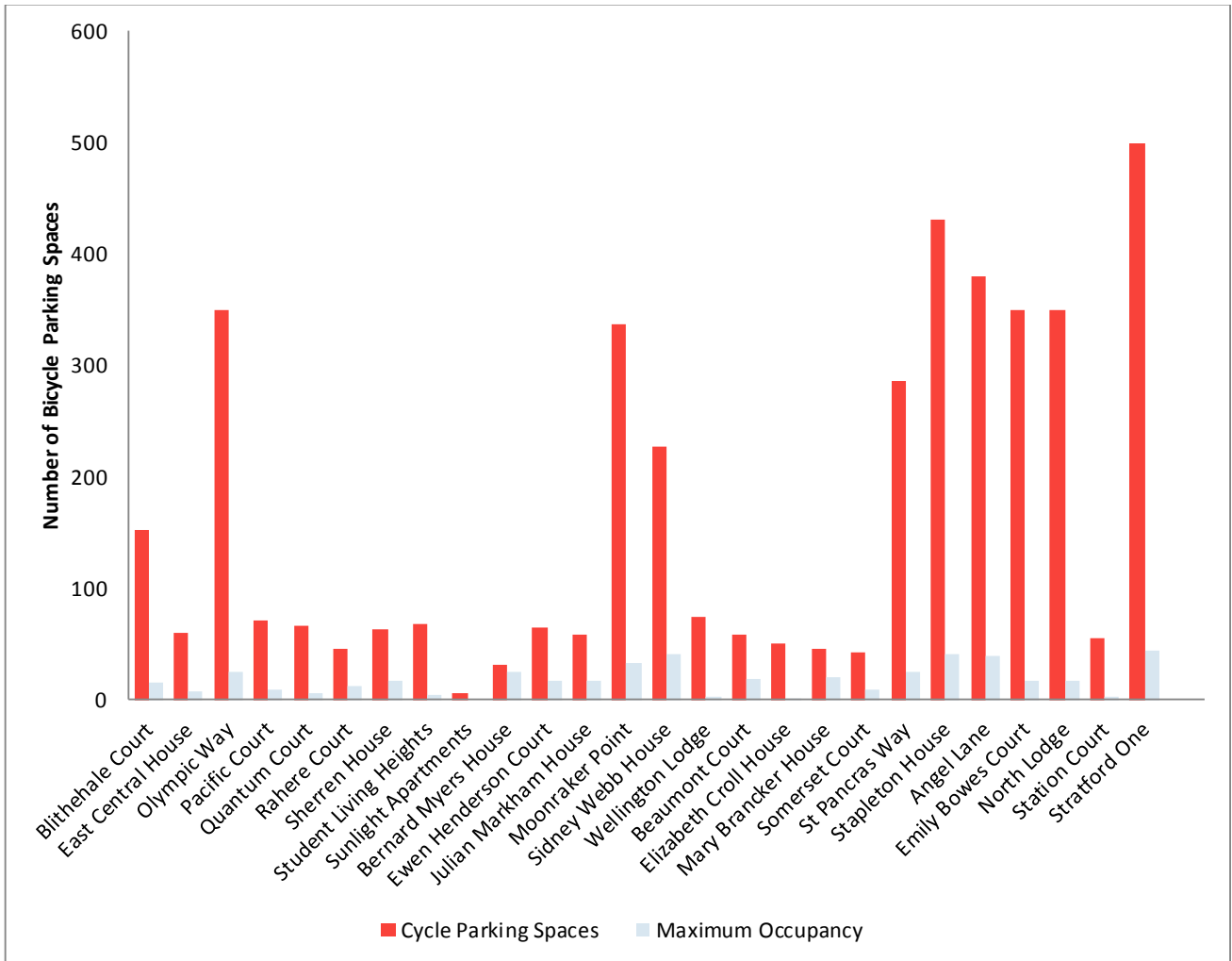


In the last 6 years there has been a negligible increase in cycle storage requirements from 3 to 5% of bicycles stored per bed spaces.

Graph 3, provides an indication of the utilisation of the level of cycle store usage across the UNITE estate. For example, one of the recently completed sites (Stapleton House) experienced a maximum demand of 43 cycles within the cycle store accommodating 430 cycle parking spaces. This store would therefore continually experience 390 empty cycle parking spaces.



**Graph 3: Number of Cycle Parking Spaces Compared With Number of Parked Bicycles.**



## DISCUSSION

Given the consistent low level of cycle parking from 2012 to 2018 and the very low level of cycle parking demand that exists, it strongly indicates that the current level of cycle storage guidance at 1 per 2 bedroom unit is significantly over providing cycle storage capacity.

A further increase in minimum cycle standards to 1 per 1 is unnecessary and would be ineffective at seeking to increase cycling use and would lead to even greater levels of poorly utilised space.





## LINKS TO RESIDENTIAL LAND-USE CLASS

The evidence provided by TfL in document referred to above states the rationale behind storage increase relies on bringing student accommodation (Sui Generis) more in line with residential land-use class (C3 land-use class). However, some of the differences in the two land-use classes have been identified which are likely to influence the potential uptake in cycling between the two land-use classes. These factors are summarised below:

- Student accommodation occupiers are more likely to be within a walking distance from their main journey destination and less likely to cycle. Whereas residents are more likely to live further away from their destinations increasing the likelihood of cycling being attractive;
- Student accommodation occupiers are more transient and there are barriers to transferring bicycles to place of study, particularly if studying abroad or reliant on public transport to travel to their student accommodation from their home; and
- Student accommodation sites have zero car parking and occupiers are travelling sustainably from the outset, i.e. there is less scope for modal shift compared to residential.

## SUGGESTED APPROACH

Given the above research it is evident that the level of cycle parking utilisation is consistently low. As such, further increase in provision will be ineffective at encouraging future cycle growth. All UNITE sites have ample cycle parking and there is not a lack of cycle parking creating a barrier to cycle ownership. Purpose built student accommodation is also typically built in areas of high public transport accessibility, providing an alternative to travelling by bicycle for destinations further afield.

If there is to be a policy change in relation to cycle parking, it should likely centre around: allowing developers to be able to off-set cycle parking provision with other initiatives to encourage cycle ownership, such as contributions towards cycle hire / share initiatives. These initiatives would be as an alternative to meeting current minimum London Plan cycle parking standards.

There may be other barriers to cycle uptake amongst students that should be explored, such as safety and security issues associated with travel by bicycle or secure storage within higher education campuses.

It may be that cycle storage provision is agreed with the local planning authority on a case by case basis, with the provision based on likely demand. This storage level would be based on factors such as, proximity to higher education, availability of public transport and experience of cycle parking demand at similar sites.

This more flexible approach would allow for alternative use for poorly utilised space, such as increase in student welfare and recreational facilities within the accommodation sites.