

Notice of Meeting



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Special Western Area Planning Committee

**Wednesday 10 September 2025 at
5.00 pm**

**in the Council Chamber Council Offices
Market Street Newbury**

This meeting will be streamed live here: [Link to Western Area Planning Committee broadcasts](#)

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If members of the public wish to make representations to the Committee on any of the planning applications being considered at this meeting, they can do so either remotely or in person. Members of the public who wish to make representations must notify the Planning Team by no later than 4.00pm on 9 September 2025 by emailing planningcommittee@westberks.gov.uk.

Members Interests

Note: If you consider you may have an interest in any Planning Application included on this agenda then please seek early advice from the appropriate officers.

Date of despatch of Agenda: Tuesday 2 September 2025

Further information for members of the public

Plans and photographs relating to the Planning Applications to be considered at the meeting can be viewed by clicking on the link on the front page of the relevant report.

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact the Planning Team on (01635) 519148 or email planningcommittee@westberks.gov.uk.

Further information, Planning Applications and Minutes are also available on the Council's website at www.westberks.gov.uk

Any queries relating to the Committee should be directed to the Democratic Services Team by emailing executivecycle@westberks.gov.uk.



WestBerkshire
C O U N C I L

**Agenda – Special Western Area Planning Committee to be held on Wednesday 10
September 2025 (continued)**

To: Councillors Phil Barnett (Chairman), Clive Hooker (Vice-Chairman),
Adrian Abbs, Antony Amirtharaj, Paul Dick, Nigel Foot, Denise Gaines,
Tony Vickers and Howard Woollaston

Substitutes: Councillors Dennis Benneyworth, Martin Colston, Carolyn Culver,
Billy Drummond and Stuart Gourley

Agenda

Part I

Page No.

1. **Apologies for absence**

To receive apologies for inability to attend the meeting (if any).

2. **Declarations of Interest**

To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' [Code of Conduct](#).

3. **Schedule of Planning Applications**

(Note: The Chairman, with the consent of the Committee, reserves the right to alter the order of business on this agenda based on public interest and participation in individual applications).

(1) **25/00391/FULMAJ Newbury Town Council**

5 - 164

Proposal:

Full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and resident's ancillary facilities; commercial floorspace (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema block and additional floor to multi storey car park.

Location:

The Mall, The Kennet Centre, Newbury RG14 5EN

Applicant:

Lochailort Newbury Ltd

Recommendation:

PROVIDED THAT a Section 106 Agreement has been completed within 6 months (or such longer period that may be authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee), to delegate to the Development

**Agenda – Special Western Area Planning Committee to be held on Wednesday 10
September 2025 (continued)**

Manager to GRANT PLANNING PERMISSION subject to the conditions listed in section 8 of this report (or minor and inconsequential amendments to those conditions authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee).

Or, if the Section 106 legal agreement is not completed, to delegate to the Development Manager to REFUSE PLANNING PERMISSION for the reasons listed in this report.

Background Papers

- (a) The West Berkshire Core Strategy 2006-2026.
- (b) The West Berkshire District Local Plan (Saved Policies September 2007), the Replacement Minerals Local Plan for Berkshire, the Waste Local Plan for Berkshire and relevant Supplementary Planning Guidance and Documents.
- (c) Any previous planning applications for the site, together with correspondence and report(s) on those applications.
- (d) The case file for the current application comprising plans, application forms, correspondence and case officer's notes.
- (e) The Human Rights Act.

Sarah Clarke.

Sarah Clarke
Interim Executive Director - Resources
West Berkshire District Council

If you require this information in a different format or translation, please contact
Stephen Chard on (01635) 519462.

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Agenda Item 3.(1)

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(1)	25/00391/FULMAJ Newbury Town Council	06.03.2025 ¹	Full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and resident's ancillary facilities; commercial floorspace (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema block and additional floor to multi storey car park. The Mall, The Kennet Centre, Newbury RG14 5EN Lochailort Newbury Ltd
¹ Extension of time agreed with applicant until 11.09.2025			

The application can be viewed on the Council's website at the following link:

<https://publicaccess.westberks.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Recommendation Summary: PROVIDED THAT a Section 106 Agreement has been completed within 6 months (or such longer period that may be authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee), to delegate to the Development Manager to GRANT PLANNING PERMISSION subject to the conditions listed in section 8 of this report (or minor and inconsequential amendments to those conditions authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee).

Or, if the Section 106 legal agreement is not completed, to delegate to the Development Manager to REFUSE PLANNING PERMISSION for the reasons listed in this report.

Ward Member(s): Councillor Louise Sturgess
Councillor Martin Colston

Reason for Committee Determination: Referred to Planning Committee by the Development Manager due to Public Interest.

Committee Site Visit: N/A

Contact Officer Details

Name: Mr. Matthew Shepherd
Job Title: Principal Planning Officer
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Name: Debra Inston
Job Title: Team Manager (Development Management)
Tel No: 01635 519111
Email: debra.inston@westberks.gov.uk

1. Introduction

- 1.1 The purpose of this report is for the Committee to consider the proposed development against the policies of the development plan and the relevant material considerations, and to make a decision as to whether to approve or refuse the application.

Proposal Summary

- 1.2 This application seeks full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and resident's ancillary facilities; commercial floorspace (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema block and additional floor to multi storey car park.
- 1.3 The scheme has been submitted following the refusal of application 23/02094/FULMAJ, which has recently been dismissed at appeal (see Appendix 1). This proposal seeks to address the primary concerns raised, particularly the height, bulk and massing of the previous 427 unit scheme. This has involved a wholesale review of the site alongside a detailed assessment of what can viably be achieved on site with a reduction in overall height/ quantum of development.
- 1.4 The proposal includes delivery of 317 dwellings with a density of approximately 144 dwellings per hectare. In addition, the proposals incorporate areas of public realm, communal and private amenity space. The residential units are proposed to be a mixture of private sale and Build to Rent (BtR).
- 1.5 In terms of non-residential uses, the application proposes the provision of 5 new flexible Class E commercial units (342.6 sqm) fronting Bartholomew Street and Market Place. This will be in addition to 2 reconfigured units (739.85 sqm inclusive of an uplift in Class E floorspace of 175.35sqm) in the Vue Cinema (which are currently vacant) and 2 existing units which will be in continued use. This amounts to 1,252.2sqm of new and refurbished commercial floorspace which will sit alongside the existing 4,135.6sqm of floorspace on site comprising Nando's, Kung Fu and the Vue cinema. In total, there will be 5,218.3sqm of commercial floorspace on site. Additionally, 169.5 sqm is provided as ancillary residential floorspace in the form of a community hub comprising a concierge, gym/meeting room, and meeting room with kitchen, and parcel storage room.
- 1.6 The overall proposed floor areas by use class are set out in the below table below:

Residential Floorspace	Proposed Floorspace Provided (sqm)
Residential (Class C3)	22,694 sqm
Concierge	169.5 sqm
Ancillary floorspace	2813.65
Commercial Floorspace	Proposed Floorspace Provided (sqm)
5 New Commercial Units + additional floorspace from reconfigured units V1 and V2	517.95 sqm
Total Proposed	26,020.7

- 1.7 The proposed development involves an additional storey on the existing Kennet Multi Storey car park.
- 1.8 The scheme proposes the provision of a total of 557 parking spaces.

Existing site

- 1.9 The site extends to approximately 2.2 hectares in size. The centre comprises the main shopping mall which is accessed from both Bartholomew Street and Market Place/ Cheap Street and consists of a number of retail units within a covered walkway. North of the shopping centre are a number of commercial and office units with associated parking and delivery facilities on the roof, accessed from a ramp via Market Street. This part of the site is to be demolished in its entirety.
- 1.10 The south-eastern part of the shopping centre comprises a later addition to the shopping centre which incorporates the Vue cinema at first and second floor with restaurant uses at ground level. This part of the Kennet Centre is accessed via Market Street and Cheap Street and includes a link to the main shopping mall. This part of the building is to be refurbished in part, and retained in full.
- 1.11 A multi-storey car park (MSCP) is located on the southwest corner of the Site. This is currently operated by WBC and is to be retained.
- 1.12 The Kennet shopping centre was built in the late 1970's/early 1980s and is in a state of decline according to the applicants and is considered to be failing as a shopping centre and in need of significant investment and repurposing.

2. Planning History

- 2.1 The table below outlines the relevant planning history of the application site.

Application	Proposal	Decision Date /
23/02094/FULMAJ	Full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema and multi storey car park.	Refused 30.01.2025 Dismissed at Appeal 21.08.2025
21/00379/FULMAJ	Full: Phased redevelopment of the Kennet Centre comprising (1) partial demolition of existing building, and development of (ii) flexible-use commercial space including business, service and office in Use Class E a, b, c, d, e, f and g (iii) 367 dwellings plus residents ancillary facilities (iv) access, car parking and cycle parking (v) landscaping and	Refused 04/11/2022

	open space (vi) sustainable energy installations (vii) associated works.	
21/00380/FULMAJ	Full: 91 retirement living apartments with ancillary residents amenities and associated works	Refused 04/11/2022
06/01674/COMIND	Approval of new 7 screen cinema, class A3/A4 retail floor space, new foyer/circulation, replacement public conveniences and sub-station.	Approved 19/10/2006
83/19101/ADD	Final phase of Kennet Centre comprising new department store, enlarged supermarket, shops, car park and bus station alterations to existing multi storey car park.	Approved 06/09/1985
80/13824/ADD	, 1982, Approval of phase two of town centre development comprising new department store and shops with ancillary accommodation, service road and operational car parking.	Approved 31/03/1982
79/10612/ADD	1979, Approval of renewal of details consent for 26 shops and two storey department store.	Approved 19/06/1979
301/67	1968, Approval of outline for 26 shops and two storey department store.	Approved

3. Legal and Procedural Matters

- 3.1 **Environmental Impact Assessments (EIA):** A previous EIA screening was undertaken under 20/02647/SCREEN for a different proposal in November 2020. The screening decision was that the proposal would not be EIA development, and an Environmental Statement would not be required.
- 3.2 This new proposal has been considered but given the nature, scale and location of this development it is maintained that the proposed would not be EIA development and an Environmental Statement would not be required.
- 3.3 **Publicity:** Publicity has been undertaken in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, and the Council's Statement of Community Involvement. Site notices were displayed on 11.03.2025 at various locations around the site on Market Place, Market Street and Bartholomew Street, with a deadline for representations of 01.04.2025. A public notice was displayed in the Newbury Weekly News on 13.03.2025; with a deadline for representations of 27.03.2025. Notification letters were sent to 324 neighbouring dwellings.
- 3.4 **Local Financial Considerations:** Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help

to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. The table below identified the relevant local financial considerations for this proposal.

Consideration	Applicable to proposal	Material to decision	Refer to paragraph(s)
Community Infrastructure Levy (CIL)	Yes	No	3.5
New Homes Bonus	Yes	No	3.6
Affordable Housing	No	Yes	
Public Open Space or Play Areas	No	Yes	
Developer Contributions (S106)	Yes	Yes	
Job Creation	Yes	Yes	

- 3.5 Community Infrastructure Levy (CIL):** Community Infrastructure Levy (CIL) is a levy charged on most new development within an authority area. The money is used to pay for new infrastructure, supporting the development of an area by funding the provision, replacement, operation or maintenance of infrastructure. CIL will be used to fund roads and other transport facilities, schools and other educational facilities, flood defences, medical facilities, open spaces, and sports and recreational areas. Subject to the application of any applicable exemptions, CIL will be charged on residential (Use Classes C3 and C4) and retail (former Use Classes A1 – A5) development at a rate per square metre (based on Gross Internal Area) on new development of more than 100 square metres of gross internal area (including extensions) or when a new dwelling is created (even if it is less than 100 square metres). CIL liability, and the application of any exemptions, will be formally confirmed by the CIL Charging Authority under separate cover following any grant of planning permission. More information is available at <https://www.westberks.gov.uk/community-infrastructure-levy>
- 3.6 New Homes Bonus (NHB):** New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. NHB money will be material to the planning application when it is reinvested in the local areas in which the developments generating the money are to be located, or when it is used for specific projects or infrastructure items which are likely to affect the operation or impacts of those developments. NHB is not considered to be a relevant material consideration in this instance, but can be noted for information.
- 3.7 Public Sector Equality Duty (PSED):** In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The Council must have due regard to the need to achieve the following objectives:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 3.8 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.9 The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have regard to and remove or minimise disadvantage. In considering the merits of this planning application, due regard has been given to these objectives.
- 3.10 There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.
- 3.11 All new buildings within the development will be required to comply with Building Regulations which have their own criteria to apply for the design of buildings which also has due regard to the Act. The final design of this scheme would need to meet the Highways Authority's safety and access audit. CIL contributions are also taken towards healthcare and education & training facilities as part of the development.
- 3.12 **Human Rights Act:** The development has been assessed against the provisions of the Human Rights Act, including Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial) and Article 8 (Right to respect for private and family life and home) of the Act itself. The consideration of the application in accordance with the Council procedures will ensure that views of all those interested are taken into account. All comments from interested parties have been considered and reported in summary in this report, with full text available via the Council's website. No interference with Human Rights has been identified.
- 3.13 **Listed building setting:** Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 16(2) has the same requirement for proposals for listed building consent. This application is considered through its impact on nearby nationally designated heritage assets detailed below.
- The Newbury (Bricklayers Arms) Grade II
 - The Parish Church of St Nicolas (Grade I) along with its north and south gateways, each listed at Grade II*
 - Town Hall and Municipal Buildings (Grade II)
 - The Catherine Wheel Inn – Grade II
 - 33 and 34 Cheap Street – Grade II
 - 21-25 Market Place – Grade II
 - 154 Bartholomew Street – Grade II
 - 152 and 153 Bartholomew Street – Grade II

- 150-151 Bartholomew Street – Grade II
- 149 Bartholomew Street Grade II
- 1 Northbrook Street – Grade II
- 2 Bridge Street – Grade II
- 4 Bridge Street – Grade I
- 1 Bridge Street - Grade II
- Bridge over the River Kennet – Grade II*
- 16 Bartholomew Street – Grade II
- 17 Bartholomew Street - Grade II
- 28 Bartholomew Street – Grade II
- 28A Bartholomew Street - Grade II
- 29A and 29 Bartholomew Street- Grade II
- 118 and 119 Bartholomew Street – Grade II
- 114 and 115 Bartholomew Street – Grade II
- The Dolphin Inn – Grade II
- Coopers Arms – Grade II
- 40-45 Bartholomew Street – Grade II
- 104-106 Bartholomew Street – Grade II
- 102-103 Bartholomew Street – Grade II
- Newbury Post Office – Grade II
- 41 Cheap Street – Grade II
- 48 Cheap Street – Grade II
- 49 and 50 Cheap Street - Grade II
- 24 Market Place – Grade II
- 27 Market Place - Grade II
- The Elephant at the Market (Formerly listed as the Queen’s Hotel) – Grade II
- The Corn Exchange - Grade II
- The Hatchet – Grade II
- 102-103 Northbrook Street and the Stables to No. 104 Grade II
- The Museum on Wharf Street - Grade I
- The Corn Stores – Grade II*

3.14 **Conservation areas:** Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. This application is considered through its impact on the Newbury Town Centre Conservation Area (and its setting).

4. Consultation

Statutory and non-statutory consultation

4.1 The table below summarises the consultation responses received during the consideration of the application. The full responses may be viewed with the application documents on the Council’s website, using the link at the start of this report.

Newbury Town Council:	Support / comment: Members support this new application but were disappointed by the lack of affordable housing and wish to see an independent assessment of viability conducted.
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Highways Authority:	Partial objection/comment: Traffic Generation • No concerns raised; traffic expected to be less than historic levels from Kennet Shopping Centre. • A Framework Travel Plan promotes sustainable transport alternatives. Measures proposed can be secured by S106. Access • Concerns about gated community limiting pedestrian/cyclist access. • For the Cheap Street out only, this access would require the existing bus stop and shelter to be relocated on Cheap Street. It is proposed that the bus stop is located to the south (between the new egress and the Market Street traffic signal-controlled junction. This would be considered in more detail at detailed design stage. • The proposed two-way access to “Falkland Place” is near the Cheap Street / Market Place / Bear Lane signal junction. Initially, removing the junction was considered, but rejected due to its importance for traffic flow and pedestrian safety. Instead, a new fourth arm with a green signal on demand is proposed. This requires relocating pedestrian crossings, widening the footway near the Catherine Wheel pub, and realigning the junction. A 10-metre section of road must be adopted under Section 38 of the Highways Act for signal infrastructure, with a minimum width of 4.5 metres. Gates cannot be placed within this adoptable section. These changes would be secured via conditions and a Section 278 Agreement. • The Market Street entry point raises concerns about vehicles potentially reversing onto the street if denied access by a barrier. Revised plans allow cars to turn and exit forward, but larger vehicles may still need to reverse. The LHA prefers barriers placed deeper into the site near “Iron Yard” to enable safe turning, but this has not been adopted by the applicant. • As with the previous application, Bartholomew Street must remain open 24/7 and operate two-way, requiring changes to the Bartholomew/Market Street signal junction. Bollards at the pedestrianised area will be moved north. The section from Market Street to Mansion House Street will allow two-way cycling, with necessary surfacing and markings. Resurfacing along Bartholomew Street fronting the site will also be included. All works will be secured via a Section 278 Agreement. • Visibility splays acceptable. • Additional pedestrian access points supported.
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	Car Parking • The scheme provides 557 parking spaces (80 within the residential area and 477 in the Multi Storey Car Park (MSCP)), which will be expanded to five floors. • The development meets the required 407 parking spaces under Policy DM44, with surveys confirming sufficient availability. Highway officers raise no objections. • EV charging provision needs improvement and will be secured by condition. • Cycle parking meets the required 495 spaces, including 197 in the Kennet Centre. • Parking will operate on a first-come, first-served basis and be managed via a Car Parking Management Plan. • New delivery/loading bays on Market Street are proposed to support commercial servicing for the Vue Cinema and nearby retail units. They may also benefit visitors to local shops and takeaways. Usage will be regulated by a traffic regulation order with time restrictions. Access by emergency vehicles • Swept path diagrams confirm fire appliances can access residential areas via “Plenty’s Place,” meeting Manual for Streets standards. However, access to “Smith’s Yard” is uncertain due to building constraints, though “Alma Court” may offer an alternative route. The Local Highway Authority has reviewed emergency access within its remit, but final assessment lies with Royal Berkshire Fire & Rescue Service at Building Control stage. Emergency vehicles can access pedestrianised town centre areas if needed. Access by refuse vehicles • Swept path diagrams confirm that a 10.8m refuse vehicle can access houses via “Plenty’s Place,” meeting Manual for Streets (MfS) standards. However, bin store distances for flats exceed MfS limits, prompting objections from waste officers, supported by highway officers. Suggested relocation of stores closer to “Plenty’s Place” has not been adopted by the applicant. • Highways support waste officer’s concerns regarding private waste collection • Concern that much of the refuse would be collected from Bartholomew Street, with the proposed extended pedestrianisation from 10:00 to 23:00 hours this could create additional difficulty for traffic flow. Refuse vehicles and delivery vehicle would not be permitted to enter pedestrianised areas during those hours. From this, the LHA would be concerned if refuse is collected for significant
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	numbers of flats with excessive wheel distances on the public highway during for instance the morning peak. It is therefore considered that as much refuse is collected as possible internally within the site. • As Council refuse vehicles would potentially pass over “Plenty’s Place”, this route would need to be designed and built to an adoptable highway standard. This can be secured by an appropriate condition. Conclusion While there are still concerns regarding, for instance the access onto Market Street, all highway concerns have been addressed in some way, but highway officers do support waste officers in their objection to this proposal. Recommend conditions, a S106 Agreement to secure the funding of traffic regulation orders, and a Travel Plan, contribution towards Market St MSCP and a S278 to provide necessary highways works.
Active Travel England:	Object/comment: Comment - Permeability acceptable subject to condition – The applicant has identified areas within the scheme that offer ‘anytime permeability’ through the site. These routes will primarily support east-west connections, with limited north-south benefit. It should also be noted that the northern route lies outside the development site boundary, meaning only one route can be directly attributed to this new proposal. Whilst it is felt missed opportunities exist, taking these routes into account as well as existing, it is considered that a satisfactory level of permeability will be provided, offering some wider public benefit in this town centre location. This matter is therefore accepted, and suggested wording for a planning condition will be put forward at an appropriate time. Object - Bartholomew Street / Market Street Junction Improvement Works – • The proposals at this junction make no provision for cyclists. • Footway widths at this junction are slightly under 2 metres and are significantly reduced by the presence of traffic signal equipment.
Royal Berkshire Fire and Rescue:	No objections: Any structural fire precautions and all means of escape provision will have to satisfy Building Regulation requirement. These matters are administered by the local authority Building Control or approved inspectors.

WBC Archaeology Officer:	No objections/comments: Disappointed that the previous 2021 archaeological desk-based assessment (DBA) by Oxford Archaeology has not been updated. Issues with DBA include: • not customary to use Heritage Gateway links in a DBA • section on Previous Archaeological Investigations has not emphasised the low percentage of the area of The Mall that was subject to any fieldwork • would have liked more analysis of geo-technical data in terms of palaeoenvironmental evidence that might survive • did not use an image of our Upper Palaeolithic/Mesolithic deposit model of archaeological potential, or other evidence which might help target any future groundworks. • DBA does not show the layout of the proposed Old Town development but that of the previous Eagle Quarter, so does not give an assessment of the impact of the current scheme. • Archaeological deposits and potential in a development as complex as this cannot be dealt with under a watching brief condition Recommend a condition requiring a Written Scheme of Investigation (WSI) for a programme of archaeological work.
NHS Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board:	No response
WBC Ecology Officer:	No objections: Recommend conditions securing ecological avoidance and mitigation measures and the implementation of ecological enhancements are attached.
WBC Economic Development Officer:	No objections/comments: The proposed redevelopment of the Kennet Centre offers an economic rationale and represents a major opportunity to unlock town centre regeneration. In particular it offers the following benefits: 1. Strong economic impact during construction and operation. 2. Adds 317 homes and ~950 residents, boosting town centre footfall.

	3. Aligns with strategic regeneration goals. However, Economic Development Officer raised following concerns: • Major reduction in retail/commercial space (from ~14,900 sqm to ~5,200 sqm). • Risk to long-term flexibility and town centre vibrancy. • Insufficient active street frontage near Market Place. To maximise the economic benefits and mitigate the risks from reduced commercial space, we recommend: • Ensuring that ground floor commercial units are of a flexible use class, with lease terms attractive to independent, local or service-based occupiers. • Monitoring displacement effects, particularly whether existing small businesses currently operating in the Kennet Centre are able to relocate locally. • Considering the request for additional units (see figure 2) should be provided along frontages to support town centre footfall distribution and to ensure Market Place maintains it's clustering of commercial uses. • Maintaining public realm improvements and pedestrian permeability as key delivery priorities to enhance the town's attractiveness and accessibility. This includes are request for the applicant to engage with the Town Centres team to provide way-finding to support pedestrian flow through the new development. Subject to the above appropriate controls on ground floor activation and commercial strategy, the Economic Development team does not oppose the scheme and recognises it as a catalyst for meaningful regeneration and pedestrian improvements to the Town Centre.
Historic England:	Support: This revised scheme allows the shopping centre to be redeveloped on a scale that is much more sympathetic to the surrounding townscape and the tight urban grain that once characterised this part of the town would be restored. Higher buildings are restricted to the southern edge of the site, which can better absorb them. The design of individual buildings has been inspired by local precedents and, if executed well, would reflect the variety and visual interest of the historic town. The proposals would involve the demolition of 17-19 Market Place, which we have raised concerns about in the past. However, this is a relatively modern (later 20th century) structure, and our concerns related primarily to the quality of the design of the replacement building. We are content that the design has been improved sufficiently to allay our concerns.

	Taken as a whole, the proposals would represent an improvement in terms of design and impact on nearby listed buildings and the conservation area than the status quo. It would also preserve the special character of the conservation area and the setting of the listed buildings within it (which your Council has a duty to pay “special attention to” and “special regard to the desirability of” under sections 72(1) and 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990). The proposals would align with a number of policies relating to conservation in the National Planning Policy Framework. In particular policies 208, which promotes avoiding or minimising the conflict between a proposal and the conservation of a heritage asset, 210, which stresses the desirability of new development making a positive contribution to local character and distinctiveness and 219, which requires local planning authorities to look for opportunities for new development within Conservation Areas, and within the setting of heritage assets, to enhance or better reveal their significance. The success of the current proposed scheme would be dependent on the materials and detailing used being of high quality, so what is built is as beguiling as the illustrations provided. Consideration needs to be given as to the conditions to secure this should the authority be minded to grant permission.
Natural England:	No objections: The proposal; will not have significant adverse impacts on statutory designated sites.
Environment Agency:	No objections: Flood risk standing advice applies • There is a medium risk of contamination that could be mobilised during construction to pollute controlled waters. This is of concern as controlled waters are particularly sensitive and vulnerable in this location because the proposed development site is: • within source protection zone 3. • located on a Secondary aquifer A, with a Principal Aquifer present beneath at depth. • where groundwater has been observed at shallow depths • within 100m of groundwater dependent watercourse. Table 6.3 SuDS Hierarchy presented in Flood Risk Assessment-4508-RBG-ZZ-XX-PR-CV-00003 states that "Whilst ground is considered to be permeable, the shallow groundwater table will preclude the use of infiltration techniques". We accept this justification for not utilising infiltration SuDS on site. In addition, we believe infiltration SuDS would also be inappropriate on this site for the following reasons:

	• The previous use of the proposed development site as a garage and iron works presents a medium risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS). This could pollute controlled waters. • Controlled waters are particularly sensitive in this location because the proposed development site is: ○ within source protection zone 3 ○ located on a Secondary aquifer A, with a Principal Aquifer present beneath at depth. ○ where groundwater has been observed at shallow depths In light of the above, we do not believe that the use of infiltration SuDS is appropriate in this location. We acknowledge that the submitted ground investigation report currently indicates that widespread contamination is not present on site. This report, however, is currently limited in scope due to the building still being in operation at the time of investigation. The application demonstrates that it will be possible to manage the risks posed to controlled waters by this development. However, further detailed information will be required by condition before development is undertaken. We therefore recommend conditions relating to contamination and remediation, infiltrations drainage, piling, and boreholes.
WBC Environment Team:	Initial response: Object: Further information is required with regards to BREEAM and community hub; energy summary tables are missing; no BREEAM pre-assessment has been provided; insufficient information on building types to be able to calculate carbon offsetting contribution; further information required with regards to ground source heat pumps; a net zero offsetting calculator has not been provided. N.B. the applicant has submitted additional information which is currently being reviewed by the Environment Team. Full details will be provided in the update report.
Berkshire Newt Officer:	No response
WBC Housing Officer:	Object: We are disappointed to see that affordable housing still remains unviable as the need for affordable housing in the District remains high and is increasing. The Council's Housing Register grew from 660 Active applicants in August 2021 when this process began to 1084 in March 2024. A recent Housing Needs Assessment indicated that over 40% of the 985 newly forming households per annum cannot afford to rent privately. A prominent scheme such as this in an accessible location should in Housing's view contribute to the affordable housing supply. We

	do appreciate the effect on viability that improving materials, carbon reduction measures and refining the visual impact of the scheme has, however we would hope a balance can be struck to enable a proportion of affordable housing. We note that the viability assessment mentions the costs for the Build-to-Sell (-£16,409m) and Build-to-Rent (-£29,056m) show that the site is not viable to include Affordable Housing. I note that the cost of the cost to include Affordable Housing is not included in this calculation; as such it does not show how much Affordable Housing would impact these numbers. We note that the developers have not offered to provide a monetary Affordable Housing contribution either. Neither have they negotiated a lower spec of properties in certain areas for the Affordable Housing contribution which would lower the build cost. Other sites in the area are already offering what is essentially luxury housing in central Newbury. These sites are struggling to let their properties, as there is a far greater need in the area for low cost housing. Based on the above mentioned points I would ask the Council appointed consultants to test the viability based on Build to Rent at 20% discount from market rent, and advise whether the viability could or should be tested over a longer return on investment period, which it currently is not.
WBC Conservation Officer:	Support: The proposal delivers several townscape and heritage benefits: • Lower building heights, especially in the centre (max 3 storeys). • High quality architectural design reflecting historic styles. • Improved street layout with pedestrian-friendly routes. • Enhanced public realm and landscaping. Overall, the proposal will not cause any harm to the setting of nearby listed buildings nor will it harm the significance of the conservation area in the main. The introduction of taller buildings at the south of the site will result in a change to the character of this area. These buildings are of an attractive design, and will introduce a more dynamic streetscape elevation. These buildings will be in an area that is very different from the rest of the conservation area and includes several modern buildings, some of which can be deemed to not contribute positively to the character of the area. Change is not a bad thing, nor should it be discouraged. The design of these buildings will be a positive contribution to the area and the character and significance of the conservation area is preserved overall by the proposal.

	Historic England have stated that they are supportive of this scheme (20 March 2025). It is recommended that this proposal is granted permission. Given the scale of the scheme, it is recommended that conditions be imposed in order to ensure the highest final standard of finishing.
Newbury Society:	Overall support but have concerns with some elements: Support: • We support the change in character of these proposals, and the designs of the internal parts of this “Old Town” scheme, which we think will be an asset to Newbury and to the town centre conservation area. Much thought has clearly gone into the preparation, the resulting internal views, and into the building facades. • Welcome the new elevation for the Bartholomew Street street-frontage as a whole Concerns: • We consider that the thin six-storey building proposed in Cheap Street (between the former ‘Save the Children’ and the cinema) is too high in relation to its surroundings (NB This has increased in height from the previous “Eagle Quarter” scheme) • Market Street facades, now shown as rising in places to seven storeys, double the height of the facing three- and four-storeys of the Weavers Yard street-frontage opposite. Reducing these even by one storey would make a real difference; alternatively, setting back the top storey(s) would reduce the impact at street level. The inspector wrote that the Eagle Quarter proposals for Market Street would “...result in an institutional appearance on buildings of significant height” [para. 51 p. 8]; adding that the development would “replace inappropriate design with just a different and more modern version of inappropriate design.” [para. 52]. Similar criticisms apply to the present proposals. The larger of the facades proposed for Market Street, in spite of improved detailing, would have more than a passing resemblance to a northern textile mill, and (as street-frontage) is still out of keeping with the character of the town centre. Reducing its height even by one storey would be an improvement. • Lack of affordable housing we would like to see an element of affordable housing, even if it fails to meet West Berkshire Council’s policy target Comment:

	• While parking numbers is a very significant improvement on the previous scheme, only 150 spaces are provided for public-access, this is short of our assessment of the minimum required public-access spaces in the multi-storey car park (c.200 spaces); and would still require additional capacity elsewhere, such as in the railway station multi-storey; particularly throughout Saturdays and at other times of high demand from both residents and other town centre users, such as late afternoon/early evening and in the long run-up to Christmas. If this application is to be approved, we would therefore ask for a financial contribution towards the necessary work to the railway station multi-storey and signage, as previously outlined by WBC. • We welcome the integration of trees and shrubs in this scheme, and think it should be possible, at certain key points within the development, for the trees/ landscaping to be established in the ground, rather than for the landscaping to be entirely planter- and pot-based.
Thames Valley Police Designing out Crime Officer (TVP):	Initial response 02.04.2025 Object: • Ginnels: Too many, poorly designed, create hiding spots and escape routes. • Lighting & Visibility: Inadequate around ginnels and public areas. • Access Control: Unclear gate and building access management. • Defensible Space: Poor separation between public and private areas. • Cycle/Bin Stores: Oversized and insecure. • Blank Walls & Recessed Doors: Encourage loitering and reduce safety. Recommendations: • Gating: Needs clearer access control and management plans. • Townscape Review: Remove concealment opportunities and improve visibility. • Lighting: Ensure adequate lighting without disturbing nearby dwellings. • Reduction in Ginnels: Many proposed routes are unnecessary and should be removed or redesigned. • Defensible Space: Clear separation between public and private areas with planting buffers. • Cycle Stores: Reduce size to improve security. • Blank Frontages: Minimise and ensure they are overlooked or protected with planting. • Recessed Doorways: Should not exceed 1000mm unless in public view.

**2nd Response following submission of further information
18.06.2025**

Comments:

Thames Valley Police (TVP) is generally satisfied that the applicant has addressed most concerns raised in the initial response. However, TVP recommends:

- Planning conditions to secure safety measures.
- Clarifications on specific points before determination.

Key Areas of Focus:

1. Ginnels

Disappointment that the number of ginnels hasn't been reduced. Gating and compartmentation are now proposed and supported. Security Plan and Statement should be secured via condition.

Clarifications needed:

Access from Multi-Storey Car Park: Is it public or resident-only?

Second gate into Eagle Yard: May be unnecessary and problematic for emergency access.

2. Defensible Space & Planting

Landscaping conditions should include defensive planting to protect ground floor windows and mitigate hidden corners.

3. Cycle Stores

Concerns remain about the large community cycle store:

Unclear access control.

Potential vulnerability due to lack of surveillance.

Further security details needed.

4. Blank Frontages

Some improvement noted (e.g. added windows).

Defensive planting can help mitigate remaining issues.

Access & Security Strategy

TVP recommends a condition requiring an updated strategy covering:

- Commercial space security.
- Development management (e.g. concierge hours, emergency access).
- Multi-storey car park access control.
- Gate access systems (audio/visual, delivery access, emergency egress).
- Apartment building access (no trade buttons, secure delivery).
- Bin and cycle store security.
- CCTV details (type, monitoring).
- Communal area access (e.g. Victoria Court terrace).

Specific Area Comments

- Iron Yard: Issue resolved via gating.
- Victoria Court: Issue resolved via gating.
- Artist Mews (South): Unclear if public benches near dwellings have been addressed.

	• Falkland Place: Issue resolved through amendments. Final response following submission of further information 01.08.2025 No objections: All matters raised in original comments have been addressed. Whilst the size of 'Old Town community cycle storage' is not in accordance with Secured by Design, the security measures are noted, which will improve physical security of the store. The proposed keypad (code) entry access control proposed for the cycle store and all entry gates within the scheme should be changed to an appropriate key fob access – this can be confirmed by condition. Security strategy should be revised to reference key fob access controls.
WBC Environmental Health Officer:	No objections: With regard the Anderson Acoustic Planning noise assessment I am satisfied to see that good acoustic design process has been implemented demonstrating that with acoustic design measures such as sensitive rooms being located away from entertainment noise sources, enhanced glazing and whole dwelling mechanical ventilation system, appropriate internal noise levels can be achieved. Most private balconies and terraces will comply with the upper limits specified in BS8233 with only slight exceedances occurring in the balconies outlooking Marketplace. A more solid design of these balconies rather than the open railings proposed should lower the levels. Although a representation has been submitted regarding an underestimation of the noise monitored from the courtyard of the Catherine Wheel has been submitted, I am satisfied that the report has made the necessary adjustments and extrapolations to provide an accurate noise level. Given the previous acoustic design measures detailed above I am confident that internal noise levels in nearby properties in this area will be achieved. I believe the proposed acoustic design measures strike a good balance between allowing the nighttime economy to continue while still allowing the proposed residents the necessary internal noise levels to enjoy their property and the surrounding amenities. With regard to Contaminated land – further investigations are required due to the limited areas that could be investigated. Once certain areas have been demolished and cleared this should then allow access to further areas for investigation. Recommend conditions regarding noise, delivery times, cooking odours from commercial kitchen, plant noise, construction hours, CMS (EH), and contamination.

Ramblers Association:	No response
River Thames Society:	No response
WBC Adult Social Care:	No comments to make
West Berkshire Spokes:	No response
WBC Lead Local Flood Authority:	Initial response 08.07.2025 Object: • insufficient and unclear information • Contravention of policy in terms of discharge rates • Lack of SuDs features • Require additional further information: ○ A revised detailed drainage strategy should be submitted with: ○ Updated discharge rates or justifications for the rate selected. ○ A well thought out SuDS strategy incorporating multiple measures within the built environment offering different benefits. ○ Sufficient attenuation storage. ○ Updated maintenance and operation information. Response following submission of further information 29.08.2025 Object: • Insufficient information • Non-compliance with national and local SuDS standards Key Issues Identified 1. Discharge Rates • Proposed rates are too high and not compliant with national/local standards. • Justification based on previous applications and site constraints is not accepted. • A reduction to 131.5 l/s is required to meet standards. 2. Design Constraints • Site is overdeveloped, limiting space for SuDS. • Applicant has prioritized architectural and landscape design over drainage needs. • Use of RIBA methodology to defer drainage design is not acceptable. 3. Drainage Strategy Quality • Strategy appears retrospective and lacks fixed levels and asset positions. • Crate systems are complex and may be difficult to construct and maintain.

	• SuDS features (e.g., blue/green roofs, rain gardens) added but still lack detail. 4. Calculation and Drawing Errors • Numerous minor errors in drawings and calculations. • Exceedance routes are unclear and poorly presented. • Maintenance strategy updated but still lacks clarity in some areas. 5. Policy Non-Compliance Fails to meet requirements of: National Standards for SuDS (2025) West Berkshire Council SuDS SPD CIRIA SuDS Manual (C753) DEFRA and LASOO non-statutory standards Acknowledged Improvements: • Revised hydraulic modelling using updated rainfall data. • Inclusion of additional SuDS features (e.g., green/blue roofs). • Updated maintenance and exceedance strategies. • Clarified discharge rate tables and added catchment plans. Conditions (If Approved Against Advice) A comprehensive list of pre-development conditions is provided, covering: • SuDS design and implementation • Flood risk and exceedance management • Maintenance and adoption plans • Pollution control and water quality • Avoidance of pumping unless fully justified Conclusion While the revised strategy shows some improvement, it remains non-compliant and lacks sufficient detail. The LLFA recommends refusal unless the applicant significantly revises the design to: • Reduce discharge rates • Provide fixed levels and detailed layouts • Prioritize drainage in the site design
WBC Transport Policy:	No objections / comments: • The site is a highly sustainable location, with many services and facilities within walking and cycling distance, including access to bus and rail services. • A 3-vehicle expansion of the existing West Berkshire Car Club operated by Enterprise is proposed. The applicant will need to work with the Council and Enterprise to develop an effective proposal to introduce the new Car Club vehicles and to provide memberships to residents.

	• It would be desirable that new Car Club vehicles would be electric vehicles in line with the Councils Environment Strategy. • The new proposals would no longer provide a direct walking route to the town centre from the Station, which is disappointing. A contribution would need to be sought that allow changes to the existing wayfinding scheme for Newbury town centre to be made. • Improvements to the Market Street / Bartholomew Street junction will need to consider pedestrian and cycle movements through the junction as this forms part of strategic walking routes outlined in the West Berkshire LCWIP. • Further details are required regarding the provision of 14 new EV charging spaces in the MSCP and how these relate to wider requirements under the English Building Regulations. • The submitted Framework Travel Plan is welcomed, although it requires some clarifications and amendments before it can be considered to be acceptable. Further information is sought required relating to the proposed cycle or public transport vouchers for new residents and the proposed targets. • Due to the size of the application, a contribution is sought for the Councils monitoring requirements for the Framework Travel Plan.
WBC Tree Officer:	No objections: The submitted Landscape strategy highlights the importance landscaping will play in the redevelopment of the site, a landscaping condition is therefore recommended.
Thames Water Utilities:	No response
WBC Waste Management Officer:	Object (most recent comments at top): 09.07.2025 As a consultee on this planning application, our response reflects the core requirements of West Berkshire Council as the Waste Collection and Disposal Authority. While we acknowledge that private waste collections have been approved in certain circumstances elsewhere, this is not our preferred approach, nor something we would simply accept if proposed. One of our key objectives is to ensure the delivery of consistent, equitable, and publicly accessible waste services to all residents across the district. With respect to the previous application, 23/02094/FULMAJ, there was an oversight in our review of the revised Framework Servicing and Management Plan. We regret that the sentence “A private refuse company will be responsible for collecting the waste” was missed. As a result, our comments were made under

	the assumption that bins would be presented by a management service for collection by Council vehicles, which although not ideal, would have allowed us to service the site. We appreciate that Planning will assess this latest application holistically, considering all consultee feedback. We understand that our objections alone may not constitute a determinative matter, but when considered alongside other concerns, waste collection could become a contributing factor. The Waste team is not in the position to be able to determine, or formally comment on, what overall stance should be taken on this planning application. Should Planning determine that refusal is not warranted, we would request that the Waste team is consulted during the drafting of the Section 106 legal agreement regarding private waste collection arrangements. In our comments below, I've noted that several bin stores are located around the perimeter of the site, which subject to review of the collection route plans, appear accessible to our crews without vehicle entry. A decision will therefore be required on whether the Council will service those accessible stores or whether all waste collections for the development will be privately managed. 03.07.2025 The current proposal does not comply with Building Regulations 2010 Part H6 – Solid Waste Storage, which requires that solid waste storage must be: a. designed and sited so as not to be prejudicial to health or local amenity; b. of sufficient area having regard to the requirements of the waste collection authority for the number and size of receptacles under Sections 46 and 47 of the Environmental Protection Act 1990; c. sited so as to be accessible for use by people in the building and of ready access for removal to the collection point specified by the waste collection authority under Sections 46 and 47 of the Environmental Protection Act 1990. Non-Compliance with Issued Guidance West Berkshire Council (WBC) provided the applicant with detailed requirements on 14 March 2025, referencing the relevant sections of the Manual for Streets, which must be adhered to in the design and layout of the development. In addition, on 18 March 2025, WBC issued both the collection vehicle specifications and the Council's waste collection related New Development Advice (Version dated 20 March 2025), which outlines the waste and recycling container requirements per dwelling type, mandates calculations for shared bin capacity and bin store design and sets out operational and accessibility standards to ensure safe and compliant waste collection.
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	Despite these clear directives, the current submission does not demonstrate compliance with any of the above. The design fails to meet the necessary criteria for our collection vehicles access, bin provision and waste handling procedures. This needs to be addressed. Review of Drawing 19401/1011A The updated drawing includes a table quantifying communal refuse and recycling storage (Glass, Paper, Plastic, and Food). Following a detailed review, the following clarifications and concerns are noted: Plot Count Clarifications Required Please confirm the number of properties in each of the following groupings, as the current table appears to contain inconsistencies: Plots 1–5, 15–18: table states 13 properties Plots 87–94, 104–109: table states 13 properties Plots 95–103, 116–120: table states 13 properties Plots 133–142: table states 9 properties Plots 156–178, 299–301: table states 27 properties Plot 215 is duplicated; should this instead read 216–255? Once property numbers are confirmed, I will submit a revised table detailing the required number and size of bins per bin store. This updated table will address the points listed below: Food Waste Allocation: Each property must be assigned 23L of food waste capacity per week. The current figures only provide 11.5L, which is not acceptable. Bin Store Configuration: Use of shelving above bins for 55L boxes is impractical from a manual handling perspective. These boxes are inadequate for recycling needs and should be replaced with standard recycling bins. Bulk Bin Use: Bulk containers should not be used for recycling due to challenges with handling and collection logistics. WBC's New Development Advice clearly outlines permitted bin types for refuse and recycling and must be adhered to. Outstanding Waste Management Plan Our Waste Management consultation response dated 16 April 2025 clearly outlined West Berkshire Council's statutory responsibilities and requested submission of a comprehensive Waste Management Plan. This plan must demonstrate that adequate waste storage space is provided for the 317 proposed dwellings, and include the following:
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	Evidence of sufficient provision for household waste and recycling, and Clear, scaled diagrams showing the route from each bin store to the collection vehicle. To date, this information has not been supplied. I reiterate the request and will provide the required bin quantity/size table once the plot data has been clarified, to enable the submission of this. To clarify our request, all bin stores must be illustrated with scaled drawings, showing the specified bins accurately laid out within the space. These drawings should verify that each store is capable of housing the required number and size of bins, while maintaining sufficient clearance for user movement and safe manual handling. Additionally, collection route plans submitted should detail: • The distance (in meters) from each bin store to the rear of the refuse vehicle, • Safe and annotated vehicle stopping points, and • Consideration of physical obstacles, including dropped kerbs where required to manoeuvre bins from pavement to road, and avoidance of gaps between parallel parked vehicles that would impede collection. A number of bin stores are situated around the perimeter of the development site which, subject to review of the collection route plans, appear to be accessible to our collection crews even without the need for vehicle entry. Provision of the requested Waste Management Plan will enable a more detailed assessment of this arrangement, alongside further evaluation of access and distances to the remaining bin stores within the development. Additional Requests and Clarifications Please provide vehicle tracking showing that our collection vehicles can access and stop along Plenty's Place without obstructing traffic flow. If Plenty's Place is not designed for access by our standard waste collection vehicles, please confirm what type and size of vehicle is proposed to be used by the appointed private waste contractor as your proposal indicates that this vehicle may be stationed on Plenty's Place for collections. The specified vehicle would need to be equipped with a bin lift mechanism to mitigate manual handling risks during bin emptying. Confirm if Plenty's Place will be built to adoptable standards. Address allocation concerns by explaining how residents will be directed to use their assigned bin store, especially where a closer store exists. Poor allocation may lead to misuse, overflow, and missed collections due to bins not being accessible. Waste left
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	on the bin store floor is the responsibility of the site's management company—not WBC. Confirm whether bin stores will be lockable, and if so, that number code locks will be used instead of keys or fobs. 16.04.2025 The Local Authority, West Berkshire Council, has a Statutory Duty to collect the household waste produced by domestic council tax paying dwellings. Private waste collections are unacceptable and cannot be offered as a way of avoiding satisfying the LAs requirements at the Planning stage. Please can a waste management plan be provided that demonstrates that there is enough refuse storage space provided for the 317 planned dwellings. The plan should also demonstrate the path from the bin stores to the collection vehicles and the separate storage of commercial waste from the planned commercial premises and ancillary facilities.
WBC Planning Policy:	Comments: • The Primary Shopping Frontage designation runs through the Kennet Centre • The site is within the Town Centre Commercial Area

Public representations

- 4.2 Representations have been received from 14 contributors, 12 of which support, and 2 of which object to the proposal.
- 4.3 The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report. In summary, the following issues/points have been raised:

Support

- The proposal is supported due to its contribution to housing in a housing crisis.
- The proposed development fits the character of the area and does not impact heritage assets of Newbury. The layout of small roads and areas reflects the historic nature of Newbury.
- The proposed lack of affordable housing is justified through the viability assessment.
- Consideration should be given to retention of trees around the site and improvements to retain features such as the car park.
- The mixture of tenures and sizes of dwellings is a positive.
- Consideration should be given to construction traffic and access routes.
- Comparatively less harmful than the previous scheme.

- Support concerns of TVP and safety.

Object:

- A letter of objection has been received from the Catherine Wheel Public House owners who are concerned that the introduction of additional noise sensitive residential uses immediately adjacent to the existing longstanding, lawful noise-generating, late-night leisure venue will increase the potential for complaints by the new residents in respect of this established late-night use. It highlights the need for appropriate conditions to be secured and the onus is on the development to ensure the proposed development does not trigger the 'agent of change' principle and have a negative impact on the existing night time economy.
- Scale and nature of this proposal would cause significant long-term harm to both the community and the historic character of the town.
- Noise and Construction Disruption: Demolition and redevelopment of the Kennet Centre would inevitably result in extended periods of noise, dust, and vibration. This will deeply affect nearby residents and businesses, causing stress, sleep disruption, and overall health concerns.
- Loss of Community Assets: Independent businesses within the Kennet Centre-including The Market Place Café-are essential for local life and social cohesion. Removing them without clear, affordable alternatives would break apart a part of the town's living fabric.
- Visual and Heritage Impact: The proposed design risks clashing with Newbury's historic town centre. Large-scale modern structures adjacent to Grade II listed buildings and Market Place's traditional facades would significantly diminish the visual harmony and historical identity of the area.
- Decline in Quality of Life: The density and scale of the proposed buildings could lead to overcrowding, increased pressure on local resources, and the loss of calm, open public space. The daily lived experience for residents in and around Market Place would be permanently changed for the worse.
- Insufficient Local Engagement: As a nearby resident, I only became aware of this proposal recently. The consultation process appears to have overlooked informing the people most affected. Such a significant development should require broader, deeper public discussion.

5. Planning Policy

- 5.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following policies of the statutory development plan are relevant to the consideration of this application.

Development Plan Document	Relevant Policies
West Berkshire Local Plan Review 2023-2041	Policy SP1 The Spatial Strategy Policy SP3 Settlement Hierarchy Policy SP5 Responding to Climate Change Policy SP6 Flood Risk Policy SP7 Design Quality Policy SP8 Landscape Character Policy SP9 Historic Environment Policy SP10 Green Infrastructure Policy SP11 Biodiversity & Geodiversity Policy SP12 Approach to Housing Delivery Policy SP15 Housing Type & Mix

	Policy SP16 Affordable Housing Policy SP18 Town & District Centres Policy SP19 Transport Policy SP20 Infrastructure Requirements & Delivery Policy DM2 Separation of Settlements Around Newbury & Thatcham Policy DM3 Health & Wellbeing Policy DM4 Building Sustainable Homes & Businesses Policy DM5 Environmental Nuisance & Pollution Control Policy DM6 Water Quality Policy DM7 Water Resources & Waste Water Policy DM8 Air Quality Policy DM9 Conservation Areas Policy DM10 Listed Buildings Policy DM11 Non-Designated Heritage Assets Policy DM14 Assets of Archaeological Importance Policy DM15 Trees, Woodland & Hedgerows Policy DM40 Public Open Space Policy DM41 Digital Infrastructure Policy DM42 Transport Infrastructure Policy DM44 Parking Policy DM45 Travel Planning
Minerals and Waste Local Plan (2022-2037)	Policies 1 and 2

5.2 The following material considerations are relevant to the consideration of this application:

- The National Planning Policy Framework (NPPF)
- The Planning Practice Guidance (PPG)
- National Design Guidance (2021)
- Quality Design SPD (2006)
- Planning Obligations SPD (2014)
- Sustainable Drainage Systems SPD (2018)
- Newbury Conservation Area Appraisal and Management Plan (CAAMP) (2024)

6. Appraisal

6.1 The following constraints and designations are relevant to this site:

- Within the settlement boundary of Newbury
- In proximity to listed buildings
- Within a conservation area
- Within an area of archaeological interest
- Within a town centre commercial area
- Part of primary shopping frontage
- In proximity to a Site of Special Scientific Interest and the Kennet and Avon canal
- In proximity to public rights of way
- Within flood zone 2

6.2 The main issues for consideration in this application are:

- Principle of development
 - Vitality of town centre
 - Conclusions
- Flooding Sequential Test
- Economic Development
 - Economic benefits
 - Long-term loss of retail and commercial floorspace
 - Conclusion
- Affordable Housing and viability
 - Traditional Build-to-Sell Model Development Appraisal
 - Build-to-Rent Model Development Appraisal
 - Build-to-Rent Model Development Appraisal
- Housing Mix
- Design quality
- Historic Environment (Conservation)
 - Heritage Significance
 - Existing Site
 - Proposed Development
 - Previous Application & New proposal
 - Heritage and Townscape Enhancements
 - Historic England Response
 - Conclusion
- Historic Environment (Archaeology)
- Secured by Design
- Residential Amenity
- Public open space
- Highways
 - Traffic Generation
 - Access
 - Car Parking
 - Access by emergency vehicles
 - Access by refuse vehicles
 - Conclusion
- Waste Collection
- Contamination
- Flood risk and Sustainable Drainage
- Sustainable Construction and Climate Change
- Trees and Landscaping
- Ecology
- Health Impacts
- Digital Infrastructure
- Contamination
- Other Matters
- Planning Balance
 - Benefits
 - Neutral or Limited Weight Considerations
 - Disbenefits and Negative Weight
 - Overall Planning Balance
- Conclusion

7. Principle of development

- 7.1 At the heart of the National Planning Policy Framework (NPPF) remains a presumption in favour of sustainable development, which should be approved without delay unless material considerations dictate otherwise. Planning policies and decisions should

promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. It encourages mixed use development schemes in urban areas, particularly where there is a net environmental gain. In relation to retail uses and commercial development the NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

- 7.2 Planning Policy SP1 (Spatial Strategy) of the West Berkshire Local Plan Review (LPR) states that development will meet the social and economic needs of the District while conserving and enhancing the environmental assets of the District and meet the objective to mitigate and adapt to the effects of climate change and minimise demand for energy and other resources. Development and redevelopment within the settlement boundaries of those settlements, including Newbury, will be supported.
- 7.3 Policy SP1 states that in making optimum use of land and achieving high quality design density on individual sites will vary according to their location and context, size of developable area and site-specific issues such as shape and access. Within Newbury, developments are expected to secure a net density of at least 35 dwellings per hectare with densities of at least 70 dwellings per hectare in town centres. The proposal secures a net density of 144dph which is compliant with policy SP1 and makes good use of a highly sustainable town centre site.
- 7.4 Policy SP1 notes that within town centres, schemes will be of an appropriate scale and character to respond to the role and function of the centre and to support sustainable communities. Policy SP1 seeks to ensure that Newbury retains its traditional market town heritage and continues to fulfil its key role as the administrative centre and major town centre for the District. Opportunities will continue to be taken to regenerate and enhance the townscape of the town centre and its periphery.
- 7.5 Policy SP3 amplifies Policy SP1 and expects urban areas such as Newbury to be the prime focus for housing and economic development, offering development potential through:
- a. Regeneration and change in the existing built-up area including the redevelopment of suitable previously developed sites for both housing and employment purposes;
 - b. Strategic and non-strategic sites allocated for housing and economic development through other policies in the LPR and/or neighbourhood plans;
 - c. The retention of the individual identity of adjacent settlements; and
 - d. The necessary supporting infrastructure.

Vitality of Town Centre

- 7.6 Policy SP18 states that The Council will seek to maintain and enhance the vitality and viability of West Berkshire's town and district centres. The scale, character and role of each centre defines its position within the district's hierarchy of centres with Newbury being identified as a major town centre.
- 7.7 Changes of use within the primary shopping area from Class E to other uses will be permitted where they do not result in a disproportionate concentration of non-Class E units that would be harmful to the vitality of that centre.
- 7.8 To contribute to the diversity and vitality of the district's centres, the Council will seek to retain and enhance existing town centre markets, where appropriate.

- 7.9 The floor space of the Kennet Centre is currently Class E and comprises approx.22,300sqm of lettable commercial space. The Kennet Centre is designated as primary shopping frontage. SP18 seeks for development to not result in a disproportionate concentration of non-class E units that would be harmful to the vitality of the Town Centre. The near total loss of Class E units in Kennet Shopping Centre clearly conflicts with SP18. The development proposes 5 units of Class E measuring approx. 517.35sqm around the site.
- 7.10 Whilst there is a conflict with SP18, there are a number of planning benefits that need to be taken into account. These are set out in section 20 below.

Conclusions

- 7.11 The proposed redevelopment of the Kennet Centre is broadly consistent with the strategic aims of the National Planning Policy Framework and the West Berkshire Local Plan Review, particularly Policies SP1 and SP3, which support sustainable, high-density development within town centres. The scheme makes effective use of previously developed land and contributes to the regeneration of Newbury, reinforcing its role as the District's principal town centre.
- 7.12 While the proposal does result in a significant reduction of Class E floorspace within the primary shopping frontage, raising a conflict with Policy SP18, this policy does allow for flexibility. Specifically, it permits changes of use within primary shopping areas where proposals do not lead to a disproportionate concentration of non-Class E units that would harm the vitality of the town centre
- 7.13 In this case, the development retains a number of retail and commercial units around the site, and the introduction of a substantial residential population within the town centre is expected to generate increased footfall. This, in turn, is likely to boost demand for shops, services, and amenities, supporting the viability of existing businesses and enhancing the vibrancy of the town centre.
- 7.14 On balance, while there is a degree of policy conflict, the wider planning benefits, particularly in terms of regeneration, housing delivery, and town centre vitality, are considered to weigh in favour of the proposal. These benefits are explored further in Section 20 of this report.

8. Flooding Sequential Test

- 8.1 Also, a matter of principle is that the site is located in Flood Zones 1 and 2 and is therefore considered to be part in low and part in medium risk of flooding. The proposed retail, commercial and business uses are less vulnerable to flooding under the NPPF Annex 3: Flood risk vulnerability classification.
- 8.2 The proposed residential development is more vulnerable to flooding. The development plan policies were subject to a strategic flood risk assessment. Where the policies direct main town centre uses to an identified town centre area and these uses are less vulnerable to flooding, it is considered that the flooding sequential test does not need to be applied to the main town centre uses proposed as part of the development.
- 8.3 Where the proposed residential development is a more vulnerable use, would be located within flood zone 2 on site, is not allocated for housing and has not been subject to a flooding sequential test for residential development, the proposed residential element of the development requires a flooding sequential test in accordance with Policy SP6 and the NPPF. The sequential test seeks to direct development away from areas at highest

risk of flooding, and make a development safe without increasing flood risk elsewhere is the basis for the exception test.

- 8.4 The sequential test is conducted over an agreed search area, in which alternative sites at a lesser vulnerability of flooding are considered and whether these could deliver the development. Furthermore, it should be considered whether the development can be delivered on alternative sites in a disaggregated manner.
- 8.5 The NPPF allows for a reduced area of search for development sites where there is a demonstrable need for the proposal to be located in a specific sub-area. This may be due to the nature or function of the development, its intended catchment area, or wider policy objectives such as affordable housing provision or targeted regeneration.
- 8.6 The Sequential Test submitted by the applicant reviewed 358 major and 293 minor sites across West Berkshire using the HELAA, Five-Year Housing Land Supply, and Local Plan allocations. Sites were filtered based on flood risk, availability, deliverability, and suitability. After applying criteria such as flood risk, development status, planning constraints, and policy alignment, only 59 sites (20 major, 39 minor) remained for detailed analysis.
- 8.7 Of these sites none had capacity for 250+ residential units (which is considered by the Global Commercial Real Estate (CBRE) to be the minimum necessary in order to provide the services and communal facilities which are integral to the Built to Rent schemes).
- 8.8 The scheme currently proposes a mix of private market sale (either managed by a concierge and management system) and Build To Rent. It is therefore noted that the private residential use could be disaggregated across multiple sites for private sale. However, in order not to not prejudice the ability to provide fully build to rent as an option, it has therefore been agreed that disaggregation of the residential units across multiple sites would not be possible.
- 8.9 Notwithstanding the above, an alternative (reduced) area of search could also be considered to be acceptable where it can be demonstrated that there is a specific need for the proposed development to be in a particular sub-area (i.e. it could not be replicated elsewhere within the town centre, let alone outside of the town centre). The area of search may be influenced by the purpose or nature of the development itself (e.g. a particular catchment area it intends to serve, its functional or locational requirements etc), but also wider policy objectives (e.g. a local need for affordable housing, town centre regeneration of a specific site, etc).
- 8.10 The recently adopted Newbury Town Centre Masterplan (2022) and the recently adopted Newbury Conservation Area Appraisal and Management Plan (2024) identify the whole Kennet Centre site as being in need of regeneration.
- 8.11 The proposed mixed-use development is essential to revitalising the town centre and unlocking its economic potential. The residential component is critical to the viability of the overall scheme and, while housing could theoretically be delivered elsewhere, its inclusion on this site is necessary to enable the redevelopment and public realm improvements. The search area could therefore be drawn around the application site.
- 8.12 The Sequential Test is therefore considered to be passed as no suitable alternative site is available for the proposed development.
- 8.13 As the proposed development is located in Flood zone 2 and is classified as 'More Vulnerable' (rather than Highly Vulnerable) the exception test is not required.

9. Economic Development

- 9.1 The Economic Development Team has reviewed the planning application and accompanying documents, including the applicant's Economic Benefits Report (Rapleys LLP, November 2024) and the Council's Economic Impact Assessment (Avison Young, April 2025). The Economic Development team is aware that the redevelopment of the Kennet Centre, which is a prominent but declining asset in Newbury town centre, presents a significant opportunity to deliver positive economic outcomes and contribute to Newbury's long-term vitality.

Economic benefits

- 9.2 As outlined by the applicant's economic impact assessment and Avison Youngs report there are a wide range of positive economic impacts. Below are some of the key economic benefits picked out from both consultant's documentation.
- 9.3 The redevelopment is forecast to bring substantial economic value both during construction and in the operational phase. During the build period, estimates suggest between 190–211 direct construction jobs could be supported, rising to approximately 266 total jobs when indirect and induced employment is included. The construction phase is projected to generate up to £18.6 million in regional GVA, which represents a notable investment in the local economy.
- 9.4 Once operational, the scheme is anticipated to support 144–191 net additional full-time equivalent (FTE) jobs, across commercial units, site management roles, and wider town centre spending. These roles will contribute up to £9 million in GVA annually, with around £2 million in wages entering the local economy. This job creation is particularly important in light of recent employment losses in the town centre, especially in the retail and administrative sectors, where Newbury has seen a contraction in jobs over the past five years.
- 9.5 The Economic Development team identify that the proposal is seeking to rebalance the use class of the town centre by transforming the currently retail focused Kennet Centre into a primarily residential scheme with the maintenance of a few current commercial offerings and the addition of a few small retail units at the north of the site.
- 9.6 Instead of retaining a large quantity of retail floorspace, much of which has been persistently vacant or leased at low floor rents, the scheme introduces 317 new homes, projected to accommodate around 950 new residents.
- 9.7 This increase in local population will make a strong case for increased demand for shops, services and amenities within the town centre, helping existing businesses to remain viable and increasing the vibrancy of the town centre via increased footfall. The design and location of the new commercial units, at the north end of the site nearer to Northbrook Street and the market square is also a benefit as this side of the kennet centre has a larger footfall and thus provides amenities to higher traffic areas.
- 9.8 The scheme, in the Economic Development team's view supports several strategic objectives contained in the West Berkshire Economic Development Strategy (2021), the West Berkshire Local Plan Review (2023-2041), and the Newbury Town Centre Masterplan (2022). These documents collectively call for more integrated, resilient and liveable town centres and acknowledge the need for regeneration and diversification in Newbury Town Centre.
- 9.9 By removing a dated, internal mall and opening new pedestrian routes, primarily from Market Street to Cheap Street, the scheme will enhance connectivity and permeability between key parts of the town centre, including the station (via Market Street), bus stops,

and surrounding retail clusters. However, officers do comment that the proposed pedestrian routes no longer provide a direct main street for pedestrian flow from Market Street to Market Place or the north side of Bartholomew Street, which was prevalent in the previous version of the scheme and is suggested within the Newbury Master Plan.

- 9.10 Whilst this is a draw back to the proposal it is important to note that the Inspector for the recent appeal gave the proposed north/south and east west connections through the site limited weight in the planning balance.
- 9.11 The open-air streets that will replace the Kennet Centre will likely provide a greater pedestrian flow and experience than the current Kennet Centre. The Economic Development officer requests that the applicant works with the Town Centres team to produce wayfinding for pedestrians visiting the town centre.
- 9.12 The proposal also makes a substantial contribution to the district's housing need in a sustainable location, while retaining key leisure anchors such as the Vue cinema.

Long-term loss of retail and commercial floorspace

- 9.13 It is important to recognise that the redevelopment entails a significant net reduction in commercial floorspace, from approximately 14,907 sqm GIA to around 5,218 sqm GIA (see table below).

Type of Commercial Floorspace			
Existing Commercial Floorspace		New Commercial Floorspace	
	Sqm GIA		Sqm GIA
The existing ground floor area of shopping centre	15,743.00	Retail 1	69.50
Existing ground floor area without internal street	13,401.80	Retail 2	104.35
Of which, occupied retail floorspace	10,771.80	Retail 3	75.00
Of which vacant retail floorspace	2,630.00	Retail 4	47.00
		Retail 5	47.00
Subtotal (Occupied)	10,771.80	Subtotal	342.85
Subtotal (All Floorspace)	13,401.80		
Additional Floorspace (All Floorspace)			- 13,058.95
Additional Floorspace (Occupied Floorspace)			- 10,428.95
Refurbished & Reconfigured Commercial Floorspace			
	Sqm GIA		Sqm GIA
Existing		Proposed	
Unit V1 (vacant)	335	Unit V1	251.50
Unit V2 (vacant)	269	Unit V2	488.35
Subtotal	604*	Subtotal	739.85
Additional Floorspace (All Floorspace)			135.85
Additional Floorspace (Occupied Floorspace)			739.85
Retained Commercial Floorspace			
	Sqm GIA		Sqm GIA
Existing		Proposed	
V3 & V4 (Nando's and Kung Fu)	783.82	V3 & V4 (Nando's and Kung Fu)	783.82
Vue cinema	3,351.78	Vue cinema	3,351.78
	4,135.60	Subtotal	4,135.60
Additional Floorspace			0
Summary			
Total (Occupied Floorspace)	14,907.40	Total	5,218.30
Total (All Floorspace)	18,141.40		
Loss of Commercial Space (All Floorspace)			-12,923.10
Loss of Commercial Space (Occupied Floorspace)			-9,689.10

Source: Lothailort (2024), 'Old Town Newbury Planning Statement', adapted by Avison Young

Figure 1: Net additional floor space (source Avison Young)

- 9.14 In terms of units, the Kennet Centre comprises a total of 50 units, of which:

- 16 are currently vacant
- 4 are being used as warehouse/ storage for house clearance type businesses
- 10 are occupied under temporary leases and are effectively there due to low costs
- 20 are occupied under standard lease agreements

- 9.15 All units are subject to short-term lease breaks. The applicant has indicated that, in practical terms, 30 units should be considered effectively vacant—this includes the 16 vacant units, 4 used for storage, and 10 on temporary leases.
- 9.16 While the loss of these units is to a degree justified by persistently high vacancy rates, market shifts and evidence of low rental rates, the permanent nature of this reduction means that future flexibility in the town centre may be constrained. This presents a risk if market demand for retail, leisure or office space rebounds over time. In this context, it is essential that the proposed commercial units are flexibly designed and actively marketed to a range of occupiers, including small businesses, service providers, and local independents.
- 9.17 While the scheme does improve the economic balance in favour of residential uses, there is a need to ensure that this does not come at the cost of street-level vibrancy, especially along key frontages such as Market Place and Bartholomew Street. A minimum level of active ground floor frontage should be maintained to preserve town centre character and engagement.
- 9.18 The applicant has attempted to address this by providing street level shopping frontages along Bartholomew Street, between The Globe and The Newbury, and on the other side facing Market Place between Sushi Maki and William Hill. However, the Economic Development team considers they could go further with more commercial offering on Market Place by the Catherine Wheel. This was put to the applicant, but they declined to add further Class E uses due to the impact this would have on the overall viability of the scheme.

Conclusions

- 9.19 The proposed redevelopment of the Kennet Centre presents a strong economic case and offers a significant opportunity to drive regeneration within the town centre.
- 9.20 Nevertheless, the scheme involves a substantial and irreversible reduction in commercial floorspace. It will be important to manage this transition carefully to avoid compromising the long-term resilience of the town centre. Provided that appropriate measures are in place to ensure active ground floor uses and a robust commercial strategy, the Economic Development team does not object to the proposal. They acknowledge its potential to act as a catalyst for meaningful regeneration and improvements to pedestrian connectivity in the area.
- 9.21 It is important to note that although the Economic Development team has requested additional Class E units to enhance active frontages, the applicant has not included these due to concerns about the impact on the scheme's overall viability. While the team's concerns regarding public realm quality and commercial activation are valid, they also acknowledge the significant benefits of the proposal. On balance, these benefits support the case for approval and are detailed in Section 28 of this report.

10. Affordable Housing and Viability

- 10.1 Policy SP16 states that affordable homes will be sought from residential development. The Councils priority and starting expectation will be for affordable housing to be provided on-site. Policy SP16 sets out that the following levels of affordable housing provision will be required:
- a) On development sites of 10 dwellings or more (or 0.5 hectares or more), 30% provision on previously developed land and 40% on greenfield land; or

- b) In areas designated as rural under Section 157(1) of the Housing Act 1985 (37) on development sites of between five and nine dwellings, 20% provision.
- 10.2 The levels set out above represent the default position and a lower provision of affordable housing should not be sought, other than in exceptional circumstances and where fully justified by the applicant through clear evidence set out in a publicly available viability assessment.
- 10.3 The applicant has set out in the financial viability assessment (FVA) submitted with this application that the residual land value of the site is negative which means the development cannot deliver affordable housing. The scheme was tested in different ways in the viability report to explore whether a 'traditional' build to sell model would generate different viability results compared to 'built to rent'. This also offers a wider assessment of the viability considerations.

Traditional Build-to-Sell Model Development Appraisal

- 10.4 A scheme delivering 100% private tenure on a Build-to-Sell model generates a Gross Development Value (GDV) of £144.570 million. The total costs for delivering the scheme are £128.288 million. THE FAV has assumed a developer return of £28.980 million which equates to 20.00% return on GDV. When delivering a 100% private tenure mix the scheme generates a residual land value of -£12.699 million (neg).

Build-to-Rent Model Development Appraisal

- 10.5 A scheme delivering 100% private tenure on a Build-to-Rent model generates a Gross Development Value (GDV) of £127.411 million. The total costs for delivering the scheme are £126.707 million. The applicant's FVA has assumed a developer return of £26.050 million which equates to 20.00% return on GDV. When delivering a 100% private tenure mix the scheme generates a residual land value of -£25.345 million (neg).

Benchmark Land Value

- 10.6 The applicant's FVA calculates that the Existing Use Valuation (EUV) of the site is £3.373 million. It has applied a premium of 10%. This generates a benchmark land value of £3.711 million.
- 10.7 When the residual land value of the proposed scheme delivering 100% private tenure on a Build-to-Sell model is compared to the Benchmark Land Value (BLV) of £3.711 million, this produces a deficit of -£16.409 million.
- 10.8 Therefore, the applicant's FVA concludes the scheme is unable to provide any affordable housing based on this delivery model. When the residual land value of the proposed scheme delivering 100% private tenure on a Build-to-Rent model is compared to the Benchmark Land Value (BLV) of £3.711 million, this produces a deficit of -£29.056 million.
- 10.9 It is important to note, that it is agreed it is not unusual for a brownfield redevelopment of this size to have viability constraints. The size of the existing building and planning constraints lead to high development costs in comparison to greenfield / less complex schemes which is the main viability constraint in this case. Whilst the 20% profit is at the high end of the scale provided by the NPPG which sits at 15-20%. A less level of profit would still produce a negative residual land value, only to a smaller figure. It would also present less of an opportunity for the developer/investors to deliver the scheme.

- 10.10 The Council has employed independent viability consultants Dixon Searle to review this scheme and the applicant's FVA. The conclusion of Dixon Searle is that the development is not viable and cannot provide affordable housing.
- 10.11 Dixon Searle confirm that having robustly tested different scenarios, their appraisal indicates that the scheme as designed is unlikely to be deliverable with a reasonable level of developer profit whilst also supporting an appropriate level of benchmark land value unless costs can be reduced via 'value engineering' processes, and/or values can increase due to improvements in the market.
- 10.12 For these reasons, a policy-compliant level of affordable housing provision cannot be provided on site or as a commuted sum.
- 10.13 Whilst the lack of affordable housing is disappointing on such a significant town centre site, the proposal does include an element of Build to Rent units. BtR schemes are purpose built large-scale private rented sector developments of flats and/or houses owned by institutional investors, property companies, housing associations and property management organisations over the long-term. They provide professionally managed, high quality private rented housing. BtR schemes offer increased housing choice for people priced out of the open market (referred to as the mobile intermediate market; people who are not eligible for social housing, yet cannot afford to own their own home). They also result in rapid and high volume delivery of quality new housing; boosting flexibility, choice and affordability.
- 10.14 Therefore, whilst it is possible that BtR housing may be unaffordable to most households whom the Council owe a statutory housing duty to, they do offer increased housing choice to many.
- 10.15 To ensure that the BtR homes remain available to rent for a minimum period, the Government guidance on 'Build to Rent' schemes advises that "consideration should also be given to a covenant period for the retention of private market rent homes in that tenure". It is therefore recommended that a covenant be included in the S106. A reasonable time period, as evidence by BtR schemes elsewhere, is considered to be 10 years.
- 10.16 The proposed development therefore does not strictly conflict with policy SP16 as the policy makes allowance for viability arguments to be made to support no provision of affordable housing. However, the lack of affordable housing obviously weighs against the proposed development in the planning balance as it does not deliver an important public benefit of development.

11. Housing Mix

- 11.1 Policy SP15 states that residential development will contribute to the delivery of an appropriate mix of dwelling tenures, types and sizes to meet the existing and future housing needs of all sectors of the community, including those with specialist requirements.
- 11.2 Residential developments should provide a mix of unit sizes. All developments, including conversions, of 10 or more dwellings (gross) will provide a mix of dwelling sizes reflecting the requirements of Table 3 in the supporting text to this policy, or any more recent evidence published by the Council.
- 11.3 The table below outlines the mix that is prescribed by the policy for open market housing.

No. Bedrooms	Policy Requirement %	Proposed Development unit count	Proposed Development Mix %
1 Bedroom	5-10%	139	44%
2 Bedrooms	40-45%	96	30%
3 Bedrooms	35- 40%	69	22%
4 Bedrooms	10-15%	13	4%
Total		317	

- 11.4 The housing mix would be particularly low in terms of three/four bedroom units, and particularly high in one-bedroom apartments.
- 11.5 Whilst the proposed development's housing mix does not comply with the required mix of SP15, the supporting text of Policy SP15 notes that while developments will be expected to reflect this mix, rigid application of these requirements may not be appropriate in all cases.
- 11.6 The policy goes on to state that in determining any variation from this mix, the Council will have regard to:
- The most up to date evidence on local housing needs.
 - The appropriate mix for the sites size and location.
 - For conversions or redevelopment, any physical factors limiting a particular mix; and
 - Site specific viability.
- 11.7 The surrounding area predominantly comprises smaller housing units, suggesting that the proposed mix would be suitable given the site's size and location. Additionally, viability appears to be a key consideration, and smaller units are among the most effective ways to achieve a satisfactory density. This supports the argument that the proposed mix could represent an efficient use of a highly sustainable brownfield site within the town centre. However, the application does not provide sufficient justification for departing from policy — specifically, it lacks up-to-date evidence on local housing needs. As a result, the proposal is considered to conflict with Policy SP15, which carries negative weight in the overall planning balance.

12. Design Quality

- 12.1 Policy SP7 of the West Berkshire Local Plan Review sets a clear expectation for high-quality, locally distinctive design that strengthens a sense of place and supports healthy placemaking. It encourages development that enhances the character, appearance, and function of an area, and requires proposals to demonstrate how they have responded positively to both national and local design guidance. This includes the principles of the National Design Guide (2021), or as superseded, and at a local level, this includes neighbourhood plans, design guides and conservation area appraisals that identify the local character and distinctiveness of an area which is valued by local communities.
- 12.2 The NPPF emphasises that good design is essential for creating sustainable, attractive places, encouraging the use of local design codes shaped by community input, supporting developments that reflect local character and integrate well with surroundings, and requiring planning decisions to favour high-quality proposals while refusing poor design
- 12.3 The proposed scheme draws deeply from the historic urban grain and architectural character of Newbury. The scheme demonstrates exceptional design quality through:

- A fine-grained network of walkable streets, alleys, and courtyards inspired by Newbury's historic burgage plots.
- A layout that enhances legibility, safety, and vibrancy through new pedestrian routes and public spaces.
- Carefully framed views and improved connectivity that enhance the experience of the conservation area and nearby heritage assets.
- Individually detailed buildings using traditional materials such as brickwork, iron gates, and corbels, reinforcing local identity.
- A scale and massing strategy that responds sensitively to the surrounding context, with lower-rise buildings at the northern edge and a gradual increase in height to the south.
- Sustainable design features including ground source heat pumps, roof gardens, tree-lined streets, and green infrastructure that promote wellbeing and climate resilience.
- A strong emphasis on community through active frontages, individual entrances, and shared spaces that foster ownership and social interaction.
- Most buildings have individual front doors within the courtyards which will introduce a sense of community, ownership and ground floor activity on the site.
- Building around the perimeter of the site have been carefully designed to blend in and reflect the historic streetscene and character of surrounding listed buildings.

12.4 The exceptional design quality of the scheme has been recognised by Nicholas Boys Smith founder and chairman of Create Streets, a design practice and research group that advises community groups and councils on planning and developing urban housing.

12.5 Nicholas Boys Smith describes the proposal as “very probably the best example of truly regenerative town centre development taking place anywhere in Britain today.” He commends its alignment with sustainable urbanism, heritage sensitivity, and community revitalisation, calling it a “transformational opportunity” for Newbury. He comments that *“This beautiful ‘re-stitching’ of Newbury’s town centre will not just revitalise town centre shops and businesses. It will also permit your new residents to live more healthily and to tread more lightly upon the planet by supporting lives within readily walkable reach of shops, restaurants, neighbours and friends. This is the most efficient and the most effective path to ‘sustainable development.’*”

12.6 There has been public support for the scheme, with the majority of representations expressing enthusiasm for its design and contribution to the town. The Newbury Society has also praised the design quality of the proposal acknowledging its value to the town centre (albeit with the caveat regarding the height and design of the buildings fronting Market Street which they raise concerns with), while Historic England has offered its support for the heritage-led approach.

12.7 In conclusion, the proposal clearly complies with the aims of Policy SP7, the NPPF, and the National Design Guide (2018). It delivers a high-quality, locally distinctive, and sustainable development that enhances the character and function of Newbury town centre. The scheme exemplifies best practice in placemaking and urban regeneration, and represents a significant opportunity to secure long-term social, environmental, and economic benefits for the town.

13. Historic Environment (Conservation)

13.1 According to Policy SP9, development proposals will be required to conserve and, where appropriate, enhance those aspects of the historic environment which are recognised as being of archaeological, architectural, artistic or historic interest, or of landscape or townscape significance.

- 13.2 The special character of Newbury Conservation Area is clearly set out and appraised in the Newbury Town Centre Conservation Area Appraisal and Management Plan 2024 (CAAMP). The site lies within Character Area 6: Kennet Centre and partly within Area 3: Market Place.
- 13.3 Area 6 is the largest character area within Newbury and has undergone the most significant transformation throughout the 20th century. Located in the central-western and southern parts of the Newbury Town Centre Conservation Area (CA), it features a diverse mix of 20th-century developments, fine-grained historic buildings, and modern architecture. Most development in the town centre is fairly low scale, and typically around 2-3 storeys in height. There are several prominent heritage assets and townscape features that help to form the identity of the town, such as Newbury Bridge, The Parish Church of St Nicolas, The Town Hall, and various other prominent houses, churches and alms houses.
- 13.4 The Newbury Town Centre Conservation Area is primarily characterised by its historic settlement core, which developed around a crossing of the river Kennet, emerging as a market town in C16.

Heritage Significance

- 13.5 The significance of Newbury Town Centre Conservation Area is largely derived from the following:
- Its high concentration of high quality C18th and C19th buildings, many of which are listed;
 - Survival of C16th and C17th timber framed buildings (some of which are hidden behind newer frontages);
 - The surviving medieval inverted 'Y' shaped street pattern culminating at Market Place gives a clear focus to the town, provides a visual reminder of its origins, and makes a major contribution to the continuing market town character;
 - Survival of some medieval burgage plots;
 - Fine grain and varied frontages and roof lines, with modest two and three storey C18th and 19th century buildings on archaeologically significant narrow plots;
 - The buildings of the Corn Store and Cloth House, represent a period of industrial development relating to the woollen cloth industry integral to the development of the town during the C16th to C17th;
 - The visual, physical, and functional relationship between the town centre and the Kennet and Avon Canal;
 - The architectural detail, quality of craftsmanship and scale of Newbury's civic buildings and churches make them landmark buildings that define particular locations and form key landmarks within the area;
 - Its historical development as a market town whose prosperity grew in the 16th century due to the woollen cloth trade and developed further in the 17th-19th centuries as a result of its enviable mid-way position on the London to Bath road, the C18th development of the Kennet and Avon Canal, and the construction of the railway lines. Each of these principal phases of development has left a wealth of historic buildings and structures overlaying an historic settlement form.
- 13.6 Although no single architectural style dominates in Newbury town centre, the generally high-quality stock of C18th to C19th buildings (and survival of some C16th and C17th buildings), shared palette of traditional materials, narrow plots, fine urban grain, and generally low-level buildings create a strong coherent character. Many of these buildings are listed and a large concentration are found in close proximity to the application site.

- 13.7 Whilst building heights within the town centre vary due to the differing designs, the majority of buildings are of relatively small scale, comprising 2-3 storeys, with the occasional attic floor with dormers. The exceptions to this are the Corn Exchange, Town Hall and the towers of St Nicolas and St Joseph's churches which intentionally protrude above the roofline of the surrounding buildings and form key landmarks within the area.
- 13.8 The generally low-level traditional buildings within the town centre, the fine urban grain concentrated around the historic route network, and the survival of the medieval street pattern, combine to define Newbury's market town characteristics.
- 13.9 Indeed, the fact that Newbury has retained its market town characteristics, despite having been the focus for a number of industries, is noted in the Newbury Historic Character Study 2005 (para. 7.1.1), which concludes that "Newbury has remained primarily a market town since the medieval period, a role helped by its convenient location at a river crossing and at the intersection of two important roads. These features might also have provided a focus for industry, but, although businesses such as wool, malting and brewing and, later, boatbuilding and metal-working [Eagle Iron Works] have been established in the town, they have never developed sufficiently to change its primary character."
- 13.10 In terms of important views within the conservation area, the majority tend to be along the main historic thoroughfares. Due to the organic nature of the historic route network, these views are typically channelled or directed views which tend to unfold as the viewer moves along the street, continuing around curving corners of streets. The Newbury CAAMP notes that important views within the Newbury Town Centre Conservation Area are largely defined by the historic route network, which allows for numerous channelled views to unfold as the viewer moves along the street. It also notes that long views and wider vistas are limited within the conservation area itself.
- 13.11 Other than the Town Hall and the towers of St Nicolas and St Joseph's churches there are not many other buildings or structures that terminate views. Many of the key views are defined by the low-rise buildings that create an overall consistently declining roofline that descends towards a vanishing point.
- 13.12 These views are an important and defining characteristic of the Newbury Town Centre Conservation Area. The most notable of which can be found along Bartholomew Street in both directions, Northbrook Street in both directions, and from Bridge Street in both directions.
- 13.13 Due to the tight route network in the centre of Newbury, wide views and vistas are limited within the conservation area. The only ones within the conservation area are across the open spaces of Victoria Park and Market Place, the latter forming the historic core of the town centre.
- 13.14 The conservation area holds above 150 national listed buildings and structures, and a number of heritage assets of local significance. The submitted Heritage, Townscape and Visual Impact Assessment appropriately identifies heritage assets that are impacted by the proposed development which include:
- The Newbury Town Centre Conservation Area
 - Enveloped listed buildings (located on the 'island' site)
 - Adjacent/proximate listed buildings:
 - Parish Church of St Nicolas (grade I)
 - Group 2 (listed buildings along Bartholomew Street)
 - Group 3 (listed buildings along Cheap Street)
 - Group 5 (listed buildings/structures along Market Place, Wharf Street, Mansion House Street, Bridge Street and the northern end of Bartholomew Street)

- Mid-wider context heritage assets:
 - Kennet and Avon Canal East Conservation Area
 - Museum Wharf Street (grade I)
 - Corn Stores (grade II*)
 - Group 1 (listed buildings along West Mills)
 - Group 4 (listed buildings along Northbrook Street)

13.15 This document is considered to appropriately describe the significance of the impacted heritage assets (in line with the NPPF, para. 207).

Existing Site

13.16 The site, in its existing form, is considered to have a slight negative contribution to the conservation area and setting of nearby listed buildings/structures. While the Kennet Centre has some alignment with the scale of surrounding development, it forms a large urban block that does not reflect the fine urban grain of the historic town centre. The footprint of the existing development is at odds with the historic tightly knit burgage plots of Newbury, which were previously on site prior to demolition (alongside the former Eagle Works) in the 1970s to make way for the Kennet Centre. The perimeter façade is broken up and contains variation in some locations, which helps to better align with the surrounding building widths (along Bartholomew Street and Cheap Street). However, further to the south, there is little to no façade articulation and activation. The design and detailing of the existing Kennet Centre are not overly sympathetic to the traditional and vernacular character of the surrounding buildings in façade rhythm, proportions and materiality. Despite this, it does not dominate or compete against the surrounding building of historic and architectural interest, resulting in a fairly limited impact on the surround townscape.

13.17 The proposed redevelopment poses an opportunity to create a proposal that is more sympathetic to the historic character and appearance of Newbury's town centre, and that ties in, more successfully, to the surrounding historic development.

Proposed Development

13.18 The proposed development is for the demolition of the Kennet Centre (excluding the existing multi-storey car park and VUE cinema complex) and the building of a mixed-use development. The commercial premises will be focused along the perimeter of the site with new buildings along Bartholomew Street, Market Street and Cheap Street, as well as the creation of new streets/axes within this 'island' site. The centre of the site will be divided up into various housing units set around small pedestrian streets, yards, courtyards and squares. These buildings will be between 2-4 storeys in height, while the perimeter buildings will be primarily 2-3 storeys in height, with the exception of Craven House on Cheap Street which will be 5 storeys high and along Market Street where Edward House and Pellow House will be 6 storeys high (with a 5 storey middle section on Edward House). The proposed development will introduce considerably taller buildings within the south of the site, which could be perceived in a range of townscape views. The new perimeter buildings (alongside landscaping and associated works) would result in altered streetscapes and views through the conservation area. This application is considered through its impact on the character and appearance of the Newbury Town Centre and the setting of nearby listed buildings.

13.19 Section 12 of the Newbury CAAMP contains guidance and recommendations that new development should strive to achieve where applicable and possible. Of particular relevance is guidance note GUI6. The requirements of GUI6, along with an officer assessment against each of the requirement's is set out below.

GUI6: New development schemes are encouraged to follow the below criteria:

a) Height, mass and bulk should avoid an adverse impact on key views and loss of character. Assessment of views (not necessarily limited to the key views set out in this document) through CGIs and verified views may need to be provided as part of any application to the local planning authority in order to allow for the full assessment of impacts.

b) It is advised that building heights for each character area respect the established building heights in the immediate area, as set out for each character area in Chapter 11: Character Areas and Zones in this document. New development should not be excessively tall or dominant but should present a clear and logical continuation of the existing townscape. New development should not interrupt the overall roofline in the key views set out in Chapter 8: Setting and Views of this document. Existing negative contributors in the conservation area, and detracting development in the wider setting of the conservation area (such as the Telephone Exchange) are not usually considered to be appropriate precedents on which to base proposed building heights, scales or massing.

13.20 The height mass and bulk of the scheme has been carefully designed to reflect the scale, height and character of the CA. Views towards the site and through the site will enhance one's experience of the CA.

c) New development schemes are encouraged to enhance buildings identified as negative contributors in the Buildings Audit map in this document. Designated heritage assets and positive contributors should be preserved, and new developments should be carefully designed to respect their scale, height, character, setting and significance.

13.21 The Kennet Centre shopping centre has been identified as negative contributor. The proposed development would enhance the character of the CA and the setting of surrounding listed buildings.

d) Applicants coming forward with new schemes are encouraged to re-establish historic plot sizes, rhythm and scale in their applications, in favour of larger homogenous blocks that do not respect plots. The merging or subdivisions of surviving historic plots is likely to be resisted.

13.22 The proposed development replaces a large homogenous block with a development that re-establishes the historic plot sizes, rhythm and scale of the CA.

e) New developments are encouraged to use materiality, articulation and architectural forms/features that respond to local traditional forms, detailing, character and pattern of development.

13.23 The materiality articulation and architectural forms/features of the proposal have been carefully considered to respond to the traditional forms, detailing, character and pattern of development within the CA.

f) Consideration should be given to green space, street trees and vegetation in new developments, as an integral part of new development in a way that positively impacts the public realm and is appropriate. New trees would be best located where there is a precedent for a tree in that location, however, the introduction of new trees will be encouraged in any location where there would be an overall positive impact on character and no impact on existing heritage assets.

13.24 The existing site comprises a large, internalised block. The proposed development will create a new public realm comprising open streets, with opportunities for trees and landscaping.

g) It is advised that new developments attempt to avoid the creation of dead spaces for bins, parking and clutter, and instead, attempt to prioritise any leftover space as part of the public realm instead. Schemes that provide parking, cycle storage, bins, etc, as an integral part of their design will be likely to be welcomed, provided that they avoid any adverse impact on the character and appearance of the conservation area.

13.25 The provision of parking, cycle storage, bins, etc has been achieved in such a way as to avoid the creation of dead spaces.

h) Exemplary modern design is encouraged, where appropriate in scale and well-detailed using good quality appropriate materials and carefully considered to respond to the historic setting.

13.26 The proposal has been carefully designed and articulated to respond to the existing historic architectural styles, materiality and detailing within the CA.

i) It is advised that new developments avoid enclosing existing townscape voids, gaps and public spaces, where such voids/gaps/spaces make an important contribution to the conservation area in terms of spaciousness and breathing space between existing and new built form.

13.27 The proposal will create new streets and vistas.

Previous Application & New proposal

13.28 This application follows refused application 23/02094/FULMAJ which was recently dismissed at appeal. The proposal was considered to cause less than substantial harm to the significance of the Newbury Town Centre Conservation Area, and to the setting of several nearby listed buildings.

13.29 This proposal differs in a few areas namely:

- The buildings in the centre of the site will be no more than 3 storeys high. This is a considerable reduction in height from the previously proposed 7 storeys.
- The heights of several of the perimeter buildings have been reduced.
 - o Along Market Street, only two buildings will be 6 storeys high, with one of them having a 5 storey middle section. The mass of these buildings has also been reduced and moving eastwards towards the VUE cinema complex the heights incrementally decrease to provide a stepped roofline.
 - o Along Cheap Street at the southern end, there will be one 5 storey building. All others will be 2-3 storeys high. The new Craven House is lower in height than the Town Hall and it is evident that the design and proposed palette for Craven House has taken cues from the Town Hall and its imposing clock tower. As such, these two buildings will “bookend” Cheap Street.
 - o The proposed buildings along Bartholomew Street will be 2-3 storeys high.
- The previous application introduced a new street orientated along a north-south axis and two further pedestrian access routes off Cheap Street and the main one off Bartholomew Street down to Market Street. The new proposal introduces a series of new streets leading to yards, courts and places with the new dwellings centred around these. The result is more entrances for both vehicles and pedestrians along both Bartholomew Street and Cheap Street.

- The design of the perimeter buildings along Market Street have taken their cue from 19th and early 20th century industrial buildings instead of being modern-style blocks. This is evident in their window detailing such as large arched windows, limited architectural detailing, further small arched windows on the top floor and varying roof forms. Metal balconies and crittal-style windows further enhance the industrial feel.
- Some of the perimeter buildings along Cheap Street have been redesigned – the new Eagle House has different windows and Juliette balconies added to the second floor and further fenestration at second floor level. The new buildings either side of the Grade II listed Catherine Wheel Public House have been redesigned – Falkland House to the south is now only 4 bays wide instead of 7 and the next block is now one building providing covered pedestrian access to Falkland Place along with traditional shop fronts at ground floor level. The design of this building is very close to that of its southerly neighbour. To the south of the public house, a gap is maintained and a new 3 storey building is proposed with a further gap for pedestrian and vehicular access. The breaking up of the elevation through maintaining gaps is beneficial to the setting of the listed public house and the lack of any visible buildings behind it is of great benefit to maintaining the significance of the public house and the conservation area.
- Most of the proposed buildings along Bartholomew Street have changed, though those at the north end of the street will be of the same height. The proposal is for the north end buildings to have commercial units at ground level. The biggest change is that previously the south of the street included two large blocks, one of 3 storey height and the other of 4 storeys, with the 4 storey block being of modern design. The current proposal is for five different blocks of 2 and 3 storeys in height and two vehicular access routes through covered passages. This provides a new low level roof line and helps maintain the character of the area by the traditional design of the buildings.

13.30 The manner in which the centre of the site is laid out is reminiscent of the historic street pattern determined by the medieval burgrave plots. This street pattern is still visible around Market Place. The covered passageways and arches are a direct link with the remaining historic Market Place area, though a crucial difference is that the passages will lead to small courts and places which add a small modern element.

13.31 The biggest change is the reduction in height of the buildings within the centre of the site which means that there is no perceivable change in roofscape across the site. As such, the proposal fits in with the character of this area of town.

13.32 The tallest buildings will be at the south end of the site along Market Street and will primarily be visible from behind the existing multi-storey car park and VUE cinema complex. The building at the south end of Cheap Street will also be taller than its surroundings. While the height of these buildings is acknowledged, their impact is mitigated by their carefully considered design which will add a more dynamic element, especially to Market Street. Contrary to the previous design, the degree of visibility of these taller elements will be much less.

Heritage and Townscape Enhancements

13.33 The proposed development includes the following elements, which are considered to enhance the character and appearance of the conservation area and setting of nearby listed buildings:

- High quality façade and elevational design, especially to the perimeter buildings, which include:
 - o Façade articulation, fenestration patterns and varied roof forms that better reflect Newbury's historic fine urban grain
 - o Introduction of visual interest through the use of varied materials and detailing which take cues from the positive contributors to the existing streetscapes (high quality parapet, cornice and window details submitted).
- Increased permeability and legibility of a key site within the centre of Newbury:
 - o The introduction of new routes through the site which breaks up this large urban block, improving access and walkability. This includes the creation of new kinetic views through the centre of Newbury, which allows more opportunities for appreciation and experience of the conservation area and other nearby heritage assets.
- Activation of ground floor through commercial uses which will promote vitality in the streetscape.
- Landscaping and public realm:
 - o Improvement and increased provision of public and open space, with scope to facilitate increased activity and opportunities to appreciate surrounding heritage assets.

Historic England Response

13.34 Historic England is supportive of this application, which they feel represents a much more sympathetic approach to redeveloping this site when compared with previous submissions.

13.35 They feel that the revised scheme allows the shopping centre to be redeveloped on a scale that is much more sympathetic to the surrounding townscape and the tight urban grain that once characterised this part of the town would be restored. Higher buildings are restricted to the southern edge of the site, which can better absorb them. The design of individual buildings has been inspired by local precedents and, if executed well, would reflect the variety and visual interest of the historic town.

13.36 The proposals would involve the demolition of 17-19 Market Place, which they have raised concerns about in the past. However, they note that this is a relatively modern (later 20th century) structure, and their concerns related primarily to the quality of the design of the replacement building. They are content that the design has been improved sufficiently to allay their concerns.

13.37 Taken as a whole, they feel that the proposals would represent an improvement in terms of design and impact on nearby listed buildings and the conservation area than the status quo.

13.38 Historic England is therefore supportive of the scheme. It demonstrates that it is possible to redevelop this site and deliver economic benefits without harm to heritage, thus meeting an important aim of the National Planning Policy Framework. It would also preserve the special character of the conservation area and the setting of the listed buildings within it (which your Council has a duty to pay "special attention to" and "special regard to the desirability of" under sections 72(1) and 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990).

Conclusion

13.39 The proposed redevelopment of the Kennet Centre site presents a significant opportunity to enhance the character and appearance of the Newbury Town Centre Conservation Area. By reintroducing historic plot patterns, improving permeability, and adopting architectural forms and materials that reflect the town's heritage, the scheme demonstrates a sensitive and well-considered response to its historic context. The reduction in building heights, particularly within the site's core, and the thoughtful design of taller elements along Market and Cheap Streets, help to mitigate visual impact and reinforce the town's fine urban grain. Supported by Historic England, the proposal aligns with national and local heritage policy objectives, offering a well-considered heritage-led approach that respects Newbury's historic identity while enabling appropriate regeneration.

14. Historic Environment (Archaeology)

14.1 The Archaeological Officer has expressed disappointment that the previous 2021 archaeological desk-based assessment (DBA) by Oxford Archaeology has not been updated. They have raised various issues with the DBA, which can be summarised as follows:

- Not customary to use Heritage Gateway links in a DBA.
- The section on Previous Archaeological Investigations has not emphasised the low percentage of the area of The Mall that was subject to any fieldwork.
- Would have liked more analysis of geo-technical data in terms of palaeoenvironmental evidence that might survive
- Did not use an image of our Upper Palaeolithic/Mesolithic deposit model of archaeological potential, or other evidence which might help target any future groundworks.
- DBA does not show the layout of the proposed Old Town development but that of the previous Eagle Quarter, so does not give an assessment of the impact of the current scheme.
- Archaeological deposits and potential in a development as complex as this cannot be dealt with under a watching brief condition.

14.2 However, despite the issues that the Archaeological Officer has raised with the submitted DBA they have not raised any objections to the proposal and recommend that a condition requiring a Written Scheme of Investigation (WSI) for a programme of archaeological work is attached to any consent.

14.3 Close liaison will be required with the Council's archaeologist when the specification for this future programme of archaeological work is drawn up, and good collaboration will also be needed between any chosen archaeological contractors and the engineers working on ground investigations and demolition.

15. Secured by Design

15.1 Thames Valley Police (TVP) has been consulted throughout the design process to ensure the proposed development aligns with Secured by Design principles. Their initial response (dated 02.04.2025) raised several concerns, including the number and design of ginnels, inadequate lighting and visibility, unclear access control, poor defensible space, insecure cycle/bin stores, and the presence of blank walls and recessed doorways that could encourage anti-social behaviour.

15.2 Following the submission of revised plans, TVP issued a second response (18.06.2025) acknowledging that many of the initial concerns had been addressed. Improvements

included the introduction of gating and compartmentation, enhanced defensible space through landscaping, and revisions to blank frontages. However, TVP maintained concerns regarding the number of ginnels, the security of the large community cycle store, and the need for further clarification on access arrangements, particularly from the multi-storey car park and into Eagle Yard.

15.3 TVP recommended that a comprehensive Access and Security Strategy be secured by condition. This should cover:

- Security of commercial premises;
- Management of communal areas (e.g. concierge hours, emergency access);
- Access control for the multi-storey car park;
- Gate access systems (preferably key fob rather than keypad);
- Secure entry to apartment buildings (no trade buttons);
- Bin and cycle store security;
- CCTV provision and monitoring;
- Access to communal terraces such as Victoria Court.

15.4 The applicants submitted further additional information and revised plans to address the above.

15.5 In their final response (01.08.2025), TVP confirmed that all previously raised concerns had been satisfactorily addressed. While the size of the Old Town community cycle store remains larger than ideal under Secured by Design guidance, the proposed security measures, particularly the shift from keypad to key fob access, are considered acceptable. TVP supports the scheme subject to conditions securing the final Access and Security Strategy and confirming the use of key fob access controls across the development.

16. Residential Amenity

16.1 Policy DM30 requires all development to deliver and maintain a high standard of amenity for both existing and future users of land and buildings.

16.2 When considering the impact on the living conditions of existing and proposed residential dwellings, development proposals will be supported where there is no unacceptable harm in terms of the following criteria:

- a. Any significant loss of daylight and/or sunlight to land and buildings;
- b. Any significant overlooking of land and buildings that results in a harmful loss of privacy;
- c. Development resulting in an undue sense of enclosure, overbearing impact, or a harmful loss of outlook; and
- d. Noise, dust, fumes and odours.

16.3 The current proposal has been assessed against these criteria and is not considered to result in any unacceptable impacts on the living conditions of existing and proposed residential dwellings. There is no evidence of overshadowing, harmful overlooking, or overbearing effects, nor any concerns regarding noise or environmental nuisance. The Council's Environmental Health Officer has reviewed the application and raised no objections.

16.4 The second part of Policy DM30, reflects the aims of the NPPF by requiring all new residential development to deliver and maintain a high standard of amenity for both existing and future occupants. Specifically, proposals are expected to provide:

- i. Functional amenity space of a quality and size to meet the needs of the occupants;
 - ii. Internal accommodation of an adequate size and layout relative to the intensity of occupation envisaged;
 - iii. Natural light in all habitable rooms of the proposed development;
 - iv. A garden size which is at least a minimum of 10.5 metres in depth, where possible; and
 - v. A minimum distance of 21 metres between directly facing windows, serving habitable rooms.
- 16.5 Issues of potential overlooking between proposed units which are within 21 metres of each other have been considered and mitigated through use of obscure glazing, shutters, orientation of units, location of habitable rooms. This is not unusual in tightly constrained town centre sites.
- 16.6 The Councils Environmental Health Officers have considered this application and the impact of noise and odour from the development on existing and future occupants and have raised no objections.
- 16.7 In terms of private outdoor amenity space, the supporting text to Policy DM30 advises that one- and two-bedroom houses should provide at least 70 sqm, while houses with three or more bedrooms should offer a minimum of 100 sqm. These standards apply to new dwellings, extended or altered houses, and host dwellings in subdivision schemes.
- 16.8 For flatted developments, the approach to outdoor amenity space may vary depending on the site's location and character. As a guideline, 1-2 bedroom flats should provide at least 25 sqm of communal space per unit, and flats with three or more bedrooms should offer 40 sqm per unit. Balconies may contribute to overall provision if they offer high-quality usable space.
- 16.9 The proposed scheme delivers an averaged of approximately 19.5sqm of private amenity per unit, which falls short of the recommended guidelines, below the recommended guideline but representing a 51% improvement over the previously refused scheme, which offered around 12.9 sqm per unit. The appeal Inspector for the earlier scheme concluded that, despite falling short of the guidance, the amenity space was acceptable in terms of location, size, and quality, and did not conflict with Policy DM30.
- 16.10 It is noted that comparable developments with the town centre have been approved with amenity space falling short of the guidelines, due to their town centre location and access to nearby public open space, examples include:
 - Sterling Cables (Kings Road): 7 sqm per unit
 - Weavers Yard (Market Street): 12 sqm per unit
- 16.11 Recent appeal decisions in West Berkshire have acknowledged that amenity provision should be assessed in context, taking into account the location, character of the development, whether it provides family accommodation, and access to nearby public open space. In this case, the site benefits from close proximity to high-quality public spaces such as the Kennet and Avon Canal, Victoria Park, Northcroft Park, and Goldwell Park.
- 16.12 Therefore, while the proposed amenity provision does not meet the suggested standards in Policy DM30 and the Quality Design SPD, it is considered acceptable given the town centre location and access to nearby public open space.

17. Public Open space

- 17.1 Policy DM40 requires that proposals for residential development of 10 dwellings or more will be required to provide high quality public open space.
- 17.2 Wherever possible, on-site provision will be made to a standard of 3 – 4.3ha per thousand population. Where more appropriate to the circumstances of the site or the open space requirements, off-site provision or a financial contribution in lieu of provision will be considered.
- 17.3 It is acknowledged that the site is constrained and to ensure the efficient use of this brownfield site and the delivery of much needed housing it is considered, in this instance, that a contribution can be made to meet the necessary public open space requirements in accordance with Policy DM40. The amount of contribution necessary to make the development acceptable in planning terms and to ensure that it is fairly and reasonably related in scale and kind to the development has been estimated to be £52,738.56. This is based on the guidance set out in the Planning Obligations SPD December 2014.
- 17.4 The applicants have confirmed their agreement to providing a financial contribution towards the maintenance and/or improvement to existing public open space within the town centre.
- 17.5 Overall, the case officer finds the outdoor amenity space to be, on balance, acceptable and compliant with Policy DM40.

18. Highways

- 18.1 According to Policy SP19, development that generates a transport impact will be required to (amongst others) mitigate any adverse impact on local transport networks. Vehicular parking requires that following construction sufficient space is available for on-site vehicular parking in accordance with policy DM44 in a way that does not detract from the character and appearance of the area.

Traffic generation

- 18.2 With the previous proposal, especially after software traffic modelling, no concern was raised regarding traffic generation. It was generally considered that the Kennet shopping centre would have generated much higher traffic levels when it was in its heyday, and when town centre shopping trends were higher than what they are now. Therefore, the previous scheme was considered not to have increased traffic from what the Kennet shopping centre would have generated in years gone by. With this proposal, the traffic generation is even less, and therefore once again no concerns are raised regarding traffic generation. In support of the planning application a Framework Travel Plan report has been prepared. The report sets out the measures that would be put in place to promote sustainable alternatives to private car use. This will be secured by appropriate legal agreements.

Access

- 18.3 There is concern regarding the proposed private gated community in what is a prime town centre location. Highway officers would have liked the site to have been more accessible with for instance more through routes from pedestrians and cyclists, but on balance the highway officer acknowledges that a through route for vehicles would be a potential rat run, and that there are existing and improved routes for pedestrians and cyclists around the site that would make it difficult to sustain any objection on this issue.

18.4 There are five vehicular accesses proposed as follows:

- Bartholomew Street for in only
- Bartholomew Street for out only
- Market Street for in only
- Cheap Street for out only
- Cheap Street for two-way

18.5 For the Cheap Street out only, this access would require the existing bus stop and shelter to be relocated on Cheap Street. It is proposed that the bus stop is located to the south (between the new egress and the Market Street traffic signal-controlled junction. This would be considered in more detail at detailed design stage.

18.6 For the Cheap Street two way access serving “Falkland Place”, it is proposed to be located almost onto the Cheap Street / Market place / Bear Lane traffic signal controlled junction. It was originally proposed to remove the traffic signal junction completely, but this was considered by the LHA to adversely affect traffic flow around the town centre during peak travel periods, and this is also major crossing point for pedestrians. After much consideration, the LHA has suggested a replacement traffic signal junction to provide a fourth arm that would form the new access where there would be a green signal on demand. The pedestrian crossing facilities would need to be relocated either side of the proposed access along to support this, footway widening fronting the Catherine Wheel Public House, resulting is the junction needing to be realigned in the Bear Lane direction to ensure that larger vehicles can turn. To provide any traffic signals on the new access described as “Falkland Place”, a section of road some 10 metres would need to be adopted as public highway under Section 38 of the Highways Act 1980 to allow vehicle detector loops and signal heads to be provided and maintained by the LHA. The access would need to have clear width of 4.5 metres for the adopted section. The provision of any gates into the access would not be possible within any adoptable section. This would all need to be secured by appropriate conditions with works provided by a section 278 Agreement of the Highways Act 1980.

18.7 The Market Street in only access is also a point of concern, as there is the potential of vehicles being forced into reversing onto Market Street. Entry into the site here would be controlled by a barrier (type yet to be considered) and therefore should a vehicle attempt to enter the site and be denied entry by the adjacent concierge, it would need to reverse onto Market Street. However, with amended plans, it is at least possible for a car to turn in front of the barriers and leave in forward gear onto Market Street. However, any larger vehicles, such as delivery would not be able to turn fronting the barrier, and they would need to reverse onto Market Street, but on balance it is considered that any delivery vehicles would be expected there and would then be allowed to proceed into the site. The LHA would have preferred to have had barriers installed much further into the site where is already a turning area (“Iron Yard”) provided within the design that would then have provided an on-site turning area for all vehicles entering the site if required. However, this suggestion has not been provided by the applicants at this time.

18.8 As with the previous proposal, the Bartholomew Street accesses will require a section of Bartholomew Street to be open 24 hours and to be two ways for traffic. Again, this will result in the need for alterations at the Bartholomew Street / Market Street traffic signal junction to enable traffic to approach the junction from the north. The existing bollards at the start of the pedestrianised area will also need to be relocated northwards as per the previous proposal. This is alongside the section of Bartholomew Street from Market Street to Mansion House Street being made available for two way cycling via an appropriate traffic regulation order, surfacing and markings. Resurfacing of the section of Bartholomew Street fronting the site will also continue to be provided with the proposal. These works will be provided via a Section 278 Agreement.

18.9 Visibility splays for the accesses are acceptable considering the vehicle speeds expected around the site.

18.10 Additional pedestrian access points would be provided into the site from Bartholomew Street, Market Street and Market Place, which is supported.

Car Parking

18.11 557 car parking spaces have been provided throughout the scheme. This includes 80 in amongst the residential development with the remaining 447 to be provided within the Multi Storey Car Park as shown below:

18.12 As with the previous proposals, the external area on the second floor of the MSCP will be removed by the proposal, but the proposal includes an additional floor to provide a total of five floors within the car park.

18.13 Regarding the 80 car parking spaces have been provided within the site, no objection is raised by highway officers with car parking spaces being allocated amongst the residential units through any Car Park Management Plan.

	Existing	Proposed
MSCP		
Ground Floor	62	73
First Floor	85	101
Second Floor	164	101
Third Floor	104	101
Fourth Floor	N/A	101
Total in MSCP	415	477
Rest of site		80
TOTAL	415	557

18.14 The development requires 407 car parking standards according to the parking standards set out in Policy DM44 of the Local Plan Review 2023-2041 version for adoption June 2025. This includes 42 for visitors, for the flats. With 80 provided within the site, this requirement is reduced to 327 for what will need to be provided within the MSCP. As with the previous planning application, calculations have been made on how many car parking spaces will be potentially available within the MSCP. This is based on car park occupancy surveys undertaken by the applicants for the previous planning applications during November 2022. From these results at worst there will be 251 parking spaces available for residential use during early afternoon on a typical Saturday. This would be a time when many residents would likely to be working or out during the day. Highway officers therefore raise no objection is to be raised with regards to car parking provision within the site.

18.15 The layout including the dimensions of the car parking within the site would appear to be acceptable.

18.16 Throughout the while site including the MSCP, much more consideration needs to be given to the provision of EVCP's, but this can be secured by an appropriate condition.

18.17 The proposal seems to comply with the Council's residential cycle parking requirements that require 495 cycle parking spaces, which have been provided, of which 197 spaces would be provided within the Kennet Centre car park.

18.18 As with the previous proposal, any parking for residents and shoppers within the car park would be available on a first come first served basis. Again, as with the previous proposals, the management of the car park would be set out in a Car Parking Management Plan. As previously, this would be secured by an appropriate condition.

18.19 The provision of new delivery / loading bays on Market Street are proposed for commercial deliveries and servicing of the Vue Cinema and retail units in the southeast corner of the site. The LHA also consider that they may be useful for clientele wishing to visit nearby retail and hot food takeaway facilities. It is intended that the use of the laybys would be controlled by an appropriate traffic regulation order with times restricted as appropriate.

Access by emergency vehicles

18.20 The Royal Berkshire Fire and Rescue Service have provided a response that basically includes their standard response that they will provide further detailed comments at Building Control stage.

18.21 From the swept path diagrams now submitted, highway officers are now satisfied that a fire appliance can traverse along from market street to cheap street along "Plenty's Place". From the government's Manual for Streets, including a reverse distance of 20 metres and a reach from a fire appliance of 45 metres, the highway officer has checked that an appliance can reach residential dwellings within the site with those distances. Fire appliances used by the Royal Berkshire Fire and Rescue Service are up to 10.8 metres in length and 3.9 metres in height. From the swept path diagrams now submitted, highway officers are now satisfied that a fire appliance can traverse along "Plenty's Place", but there is concern regarding the building over the entrance to the "Smith's Yard" for access by fire appliances and ambulances. Although access via "Alma Court" through the pedestrian routes could be an option for access to "Smith's Yard".

18.22 Much of the recently submitted Fire Strategy Plan identifies the locations of dry risers and hydrants. Further assessment of these provisions will be undertaken by Royal Berkshire Fire and Rescue Service at the Building Control stage.

Access by refuse vehicles

18.23 With regards to refuse collection, highway officers have been liaising with waste officers. West Berkshire Council is the statutory body for waste collection, and therefore on behalf of waste officers, highway officers have checked to ensure that the refuse vehicles used by the waste authority can access the site and collect refuse within parameters set within the government's Manual for Streets, where distances for waste bins to be carried and wheeled is set out.

18.24 From the swept path diagrams, highway officers are satisfied that a full 10.8 metre long refuse vehicle can pass through the site from Market Street to Cheap Street via "Plenty's Place." From this and the carry / wheel distances set out within MfS, it is considered that at least for any of the houses, the refuse can be collected, but locations for wheeled bins from houses to be left on collection day would need to be considered. However unfortunately, regarding some of the areas for flats, the MfS dimensions have not been complied with to date. In many cases, the stores will contain the large four wheeled containers, with the distance to where a refuse vehicle can reach exceeding the 10 metre distance specified within the MfS. Highway officers have asked for such stores be

located closer to “Plenty’s Place” but so far this suggestion has not been taken by the applicants. On this basis, there would be continued objection from waste officers to the proposal, with this objection is supported by highway officers.

18.25 A further issue that the LHA does have is regarding waste collection is that much of the refuse would be collected from, for instance from Bartholomew Street, with this, along the proposed extended pedestrianisation from 10:00 to 23:00 hours could create additional difficulty for traffic flow. Refuse vehicles and delivery vehicle would not be permitted to enter pedestrianised areas during those hours. From this, the LHA would be concerned if refuse is collected for significant numbers of flats with excessive wheel distances on the public highway during for instance the morning peak. It is therefore considered that as much refuse is collected as possible internally within the site.

Conclusion

18.26 In conclusion, although concerns remain, particularly regarding the proposed access onto Market Street, all highway matters have been addressed to some extent. However, highway officers continue to support the Waste Management Team’s objection in relation to the reliance on private household waste collection.

19. Waste Collection

19.1 The Council’s Waste Management Team has raised a number of objections regarding the proposed development’s waste collection and storage arrangements. Specifically, concerns have been expressed about:

- Insufficient waste storage container capacity across many of the proposed bin stores.
- Concerns that glass recycling boxes are on a shelf which would be difficult to access.
- Failure to account for all recyclable materials required under the forthcoming Simpler Recycling regulations, which will require the separate collection of food and garden waste, paper and card, dry recyclables (glass, metal, plastic), and residual waste by March 2026, with plastic film and bags added by March 2027. This will necessitate additional receptacles in the future.
- Insufficient evidence that the proposed bin store layouts can accommodate the required receptacle capacity and allow for unimpeded movement by users and waste collectors. It is likely that some stores will need to be enlarged or relocated to ensure adequate provision.
- The Council’s inability to fulfil their statutory duty under Section 45(a)(i) of the Environmental Protection Act 1990 (EPA) as they would be unable to collect waste from the site due to excessive carry distances, which exceed the operational limits of Council refuse crews.
- Lack of scaled bin store layouts and collection route plans.
- Absence of a comprehensive Waste Management Plan.

19.2 Section 45(a)(i) of the Environmental Protection Act 1990 (EPA) places a statutory duty on the Council to collect household waste unless:

- The location is deemed so isolated or inaccessible that the cost of collection would be unreasonably high; or
- The Council is satisfied that adequate arrangements for waste disposal have been or can reasonably be expected to be made by the person who controls the waste.

19.3 These statutory exemptions permit the use of private waste collection services, provided that:

- Formal documentation (e.g. a Waste Management Strategy secured by S106) is in place.
- The arrangements are subject to ongoing monitoring to ensure compliance and continuity of service.

19.4 This approach has been endorsed by Planning Inspectors in several recent appeal decisions, where private waste collection was deemed acceptable subject to appropriate safeguards. Notable examples include:

- In the York Road, St Leonards-on-Sea appeal (APP/B1415/W/21/3272859), the Inspector concluded that private waste collection was feasible and acceptable, subject to the approval of a waste management strategy specifying how and by whom refuse would be collected (Appendix 2).
- In the New Street, Blaby appeal (APP/T2405/W/23/3318532), the Inspector accepted that a Unilateral Undertaking (UU) requiring private waste collection in perpetuity was sufficient to ensure suitable provision for household waste collection, even where the Council was unable to collect waste due to access constraints. The Inspector gave particular weight to the provisions of Section 45(a)(ii) of the Environmental Protection Act, stating: *“Even if I was to conclude that the WCA may refuse to collect waste under S.45(a)(i) of the EPA, then S.45(a)(ii) refers to adequate arrangements for waste disposal being made. In this respect the appellant has provided a UU as part of the appeal process which requires the signatory to have a private waste collection service. The use of a private waste collection service for a suburban development of this nature is unusual, but it is not inherently unfeasible or unacceptable in planning terms.”* (Appendix 3).

This reinforces the principle that private waste collection can be a valid and lawful alternative where Council collection is impractical.

- In the Bedford Road, Kempston appeal (APP/K0235/W/20/3257894), the Inspector found that private waste collection could be secured by condition and was acceptable in planning terms, even where Council collection was not feasible due to access limitations (Appendix 4).
- In the High Road, North Finchley appeal (APP/N5090/W/20/3260021), the Inspector concluded that a private waste collection strategy secured via a Unilateral Undertaking was robust and met planning policy requirements (Appendix 5).

19.5 The applicant has confirmed that all properties within the development will be required, whether leasehold or freehold, to become members of the Old Town Management Company, which will oversee communal services including waste collection.

19.6 Planning Officers consider that, given the presence of a Management Company, the implementation and enforcement of private waste collection arrangements will be straightforward to monitor and maintain.

- 19.7 The applicant has provided examples of successful private waste collection at other sites under their management, including Thames Quarter in Reading, where such arrangements were secured via planning condition.
- 19.8 Furthermore, it is noted that private waste collection is already in use within the district, including at Beansheaf Farm (planning ref: 16/02330/FULEXT), where five buildings were converted from offices to 27 residential units. In that case, adequate waste arrangements were secured and referenced in the Section 106 agreement.
- 19.9 It is acknowledged that the use of private waste collections for householder waste has implications for the Council in terms of:
- Fragment waste service delivery across the district.
 - Undermine economies of scale and operational efficiency for Council collections.
 - Increase administrative burden in assessing and monitoring private arrangements.
- 19.10 There are also implications for future residents of the development as they will be required to pay for private waste collection through service charges levied by the Management Company. These charges are not regulated by the Council and may increase over time depending on contractor pricing, inflation, or changes in service scope. They are also additional to Council Tax.
- 19.11 However, Planning Officers are of the view that on balance, and in light of the considerable planning benefits offered by the proposal (as summarised in the final section of this report), the recommendation is to approve the application subject to the completion of a Section 106 agreement, which will:
- Secure a Waste Management Strategy to be approved by the Local Planning Authority in consultation with the Waste Management Team prior to commencement of development.
 - Ensure that private waste collection arrangements are implemented and maintained in perpetuity, with clear responsibilities assigned to the site's management company.
 - Require that, where storage capacity for recycling containers is limited, the frequency of waste collections be increased to ensure that the available capacity is sufficient to meet the needs of residents and comply with Simpler Recycling regulations.
 - Confirmation that all properties will be members of the Old Town Management Company, which will oversee waste services.
 - Ensure that appropriate monitoring arrangements are in place
- 19.12 This approach is considered to provide a robust and enforceable mechanism to address the concerns raised, while aligning with established planning practice and appeal outcomes.
- 19.13 In terms of the Waste Officers concerns about glass recycling storage, the applicant has reviewed the submitted information and note an error in the Refuse Capacity Spreadsheet. This has now been corrected. The table now confirms that there is adequate capacity on site for glass recycling storage within each of the proposed stores except for the store accessed from Artists Mews North which needs to increase in depth by 0.5m. An amended plan has been submitted showing this minor change.

19.14 The Waste Officer also raised concerns regarding how the glass storage will function. The applicant has responded conforming that the glass recycling requirement requires additional capacity in 6 of the 21 bin stores. It is proposed to meet this additional capacity through the provision of a 55l box to be provided on a shelf. This will result in an over-provision of between 30l and 47l in 5 of the 6 stores. It is proposed that the shelf will be provided at a sensible height whereby glass can be easily inserted into the box however it should be noted that this box is an overflow and the capacity in the stores will be frequently managed so as to ensure adequate capacity via regular collections, and if necessary, redistribution amongst other stores. It is also noted that the boxes could be located on the floor, but a shelf is preferable as this makes cleaning the floor of the bin store easier.

20. Flood Risk and Sustainable Drainage

20.1 According to Policy SP6, in order to restrict or reduce runoff, surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS) in accordance with the SuDS Supplementary Planning Document, best practice, and the Non-statutory Technical Standards for Sustainable Drainage. The surface water strategy has been reviewed and considered by the LLFA. This policy is amplified by Policy DM7 which seeks to ensure a comprehensive and integrated approach to the conservation and management of water resources, and ensure that development do not overload available facilities and create or exacerbate problems of flooding or pollution.

20.2 Following an initial objection from the LLFA due to insufficient and invalid technical information, the applicant met with the SuDS officer to discuss the concerns raised. In response to this meeting, the applicant submitted a revised drainage strategy. This updated strategy included several amendments aimed at addressing the LLFA's feedback, including:

- Revised hydraulic modelling using updated FEH rainfall data.
- Reduction in proposed discharge rates, achieving a 79.1% reduction in the 1 in 100 year storm event compared to existing brownfield runoff.
- Incorporation of additional SuDS features, such as blue roofs, green roofs, rain gardens, and rainwater harvesting tanks.
- Clarified catchment analysis and exceedance flow routes.
- Updated maintenance schedules for all SuDS components.

20.3 The SuDS officer acknowledges that the applicant has made genuine efforts to improve the drainage design and that the proposal offers a net improvement compared to the existing situation, specifically in terms of:

- Reduced surface water discharge
- Increased surface water storage
- Enhanced SuDS provision, including amenity and biodiversity benefits
- Improved water quality
- Reduced pressure on existing Thames Water surface water sewers

20.4 However, despite these improvements, the SuDS officer maintains their objection. The revised strategy still fails to meet the required standards. Specifically:

- The proposed discharge rates remain above the thresholds set out in the National Standards for SuDS (2025), which require brownfield sites to aim for no more than five times the greenfield runoff rate unless robust justification is provided.

- The design remains high-level and lacks fixed site levels, confirmed asset layouts, and sufficient detail to validate the long-term viability of the drainage approach.
 - The applicant's justification—citing architectural and landscape constraints—was not accepted by the LLFA, who emphasised that drainage must be integrated into the design from the outset.
- 20.5 Planning officers note that the proposal is heritage-led, with its layout and design guided by the historic environment. They also recognise that the proposed drainage strategy, while not achieving the recommended surface water discharge rates, would result in a reduction in flood risk compared to the existing situation, which currently discharges surface water at an unrestricted rate into the public sewer. If fully implemented, the strategy would provide a betterment over the current baseline.
- 20.6 Planning officers also express serious concerns that any major changes to the development, such as reducing the footprint to allow for additional SuDS features, could have significant implications for the overall design and viability of the scheme. In particular, reducing the number of residential units may necessitate an increase in building height to maintain viability. This would likely result in an unacceptable impact on the character and appearance of the conservation area and the setting of nearby listed buildings.
- 20.7 The preservation of the historic environment was considered of paramount importance by the Inspector in the recent appeal decision for the Kennet Centre site. Any design changes that would result in harm to significance of any heritage assets would be contrary to the Inspector's findings and the overarching objectives of the heritage-led approach.
- 20.8 It is noted that despite their concerns, the LLFA has provided a comprehensive condition to secure the delivery of a robust and sustainable drainage strategy.
- 20.9 In light of the considerable planning benefits offered by the proposal (as summarised in the final section of this report), and the fact that the scheme provides a significant improvement over the existing drainage situation, planning officers consider that, subject to a condition to secure the delivery of a robust and sustainable drainage strategy, the scheme is, on balance, acceptable.
- 20.10 It is noted that no objections have been raised by the Environment Agency or the LLFA with regards to the applicant's Flood Risk Assessment.

21. Sustainable Construction & Climate Change

- 21.1 Policy SP5 requires that principles of climate change mitigation and adaptation will be required to be embedded into new development, improving the resilience of land, buildings and existing and future communities to the opportunities and impacts arising from climate change. All development should contribute to West Berkshire becoming and staying carbon neutral by 2030. Policy SP5 requires that proposals are accompanied by a Sustainability Statement which demonstrates how these principles have been embedded into the development. The application was accompanied by such a statement.
- 21.2 Policy DM4 of the Local Plan Review requires new dwellings to achieve net zero operational carbon emissions (regulated and unregulated energy) by implementing the energy hierarchy. This should be demonstrated within an Energy Statement. There is a further requirement to achieve a 63% reduction in carbon emissions during construction as compared to the baseline emission rate set by Building Regulations Part L and to demonstrate a Fabric Energy Efficiency metric of 51.0 kWh/m²/year FEE. These

requirements have been introduced as a requirement of the West Berkshire Local Plan Review 2023 - 2025.

- 21.3 Policy DM4 requires that where a development proposal of one or more new dwellings (C3 or C4 use class) and/or 100sqm or more of new non-residential floorspace, including hotels (C1 use class), residential institutions (C2 use class) and or secure residential institutions (C2A use class) cannot demonstrate that it is net zero carbon in relation to operational energy (regulated and unregulated), it will be required to address any residual carbon emissions by a cash in lieu contribution.
- 21.4 The Energy Statement submitted for the application has been reviewed by the Council's Environments Team and found to be lacking in several key areas. Notably, there is no information provided regarding the proposed community hub, which is intended to include amenities such as a concierge, gym, meeting room, kitchen, and postal room. The application also omits essential energy summary tables for both domestic and non-domestic elements, failing to demonstrate cumulative carbon savings across the energy hierarchy as required by DM4. This omission makes it unclear whether the residential development achieves the necessary 63% carbon reduction prior to incorporating on-site renewables. Furthermore, SAP calculation printouts are incomplete and do not cover all building orientations, making it difficult to verify compliance with Fabric Energy Efficiency (FEE) targets. The application also lacks a BREEAM pre-assessment for the community hub, and while one is provided for retail units, it is insufficient to confirm achievement of BREEAM Excellent. Additional missing elements include the total number and floor area of non-residential units, a cross-check table for on-site renewables, feasibility studies for heating systems, and a Net Zero Carbon Offsetting calculator.
- 21.5 These gaps collectively hinder a full assessment of the development's energy performance and sustainability credentials. The Environments Team therefore requested further information. In response the applicant submitted the following additional information on the 23rd August:
- Updated Energy Report
 - BREEAM pre-assessment for the Concierge and Shared Residents Area
 - Carbon offsetting calculator Residential – Contribution calculated to be £124,539.27
 - Carbon offsetting calculator Non-residential - Contribution calculated to be £12,687.90
- 21.6 At the time of writing this report the Environments Team are in the process of reviewing the additional submissions. Their full response will be reported in the Update Report.

22. Trees and Landscaping

- 22.1 According to Policy DM15, development which conserves and enhances trees, woodland and hedgerows will be supported. Development proposals should be accompanied by an appropriate Arboricultural Survey, Arboricultural Impact Assessment and/or an Arboricultural Method Statement. Proposals will be expected to clearly demonstrate that wherever possible existing trees, woodland and hedgerows have been incorporated into the design and layout of a scheme from the outset.
- 22.2 The Tree Officer has confirmed that given the development looks to increase landscaping and urban planting throughout the development the tree officer has no objections. The increase in urban planting over the existing hard surface development seen currently throughout the Kennet Centre is considered positive. Subject to suitably worded conditions the Tree Officer raises no objections.

23. Ecology

- 23.1 According to Policy SP11, development proposals will be required to demonstrate how they conserve and enhance biodiversity and/or geodiversity including their long-term future management and, where required, deliver Biodiversity Net Gains.
- 23.2 The Council's Ecology Officer was consulted and noted that they have reviewed the ecological information submitted in support of this planning application and advise that sufficient information has been provided. If planning permission is granted, they advise that conditions securing ecological avoidance and mitigation measures, and the implementation of ecological enhancements are attached. This view considers the previous ecology officers view on the previous application. Conditions included CEMP, LEMP, compliance with the existing method statements submitted, ecological enhancements and a sensitive lighting scheme.

24. Health Impacts

- 24.1 Development proposals in accordance with DM3 will be required to promote, support and enhance positive mental and physical health and wellbeing and thus contribute to reducing health inequalities. Where any potential adverse impacts are identified, they will need to be addressed and mitigated in an appropriate manner.
- 24.2 The proposed development would constitute a high-quality design, creating an attractive place to live. The quality of the development and how it integrates with and responds to the character of Newbury contributes to a pleasant environment that supports positive health outcomes. The dwellings are well-designed, benefiting from space and natural light, and will meet modern building regulations, ensuring efficient heating.
- 24.3 The location of the proposed development is central to Newbury, with facilities that support a healthy lifestyle within walking distance. Newbury offers easy access to wider sustainable modes of travel, opening up opportunities for employment and travel to other cities and regions. It is well-positioned near the A34 and M4, providing convenient access to work opportunities outside the district.
- 24.4 Newbury also benefits from open spaces such as the canal and Victoria Park and is well-served in terms of leisure amenities that encourage physical activity. Healthcare provision will be enhanced through a planning obligation contribution, and Newbury is already well-provided for in terms of pharmacies and accessible healthcare services.
- 24.5 It is therefore concluded that the Health Impacts of this development have been adequately considered and the high-quality design and sustainable located contribute to positive health outcomes.

25. Digital Infrastructure

- 25.1 According to DM41, the Council will expect all new residential and employment generating premises commercial premises to be served by high-speed reliable gigabit-capable broadband, wherever possible in the form of fibre to the premises (FTTP), or any new or alternative technologies that may come forward during the lifetime of the Local Plan. Where it is not currently viable to deliver FTTP broadband, the fastest viable alternative connection should be provided, together with adequate ducting to allow FTTP connections to be made easily at a later date, without the additional costs of retrofitting. This can be secured by planning condition.

26. Contamination

- 26.1 Policy DM5 of the West Berkshire Local Plan Review requires that development proposals demonstrate that they will not result in unacceptable risks to human health, the environment, or property due to contamination. The policy seeks to ensure that land affected by contamination is appropriately remediated prior to development, and that risks are managed throughout the construction and operational phases.
- 26.2 The application site has a history of industrial use, including a garage and iron works, which presents a medium risk of contamination. The Environment Agency (EA) has reviewed the submitted ground investigation report and acknowledges that it currently indicates no widespread contamination. However, the EA notes that the scope of the investigation was limited due to the building still being in operation at the time of assessment. As such, further investigation will be required once demolition and site clearance have been completed.
- 26.3 The site is located within Source Protection Zone 3, on a Secondary Aquifer A, with a Principal Aquifer present beneath at depth. Groundwater has been observed at shallow depths, and the site lies within 100 metres of a groundwater-dependent watercourse, making the location particularly sensitive to pollution. In light of this, the EA has advised that infiltration SuDS are not appropriate due to the risk of mobilising contaminants into controlled waters.
- 26.4 The Council's Environmental Health Officer has also reviewed the application and concurs that further site characterisation is required post-demolition. Conditions are recommended to secure:
- A remediation strategy based on expanded site investigation.
 - A verification plan to confirm the effectiveness of remediation.
 - Measures to address unexpected contamination.
 - Restrictions on piling and borehole installation to prevent pollution pathways.
 - Prohibition of infiltration drainage systems unless specifically approved.
- 26.5 These conditions are considered necessary to ensure that the development does not contribute to, or is adversely affected by, unacceptable levels of contamination. Subject to the implementation of these conditions, the proposal is considered to comply with Policy DM5 and the relevant provisions of the National Planning Policy Framework.

27. Other Matters

- 27.1 A letter of objection has been received from the Catherine Wheel Public House expressing concern that the introduction of additional noise sensitive residential uses immediately adjacent to the existing leisure venue will increase the potential for complaints by the new residents in respect of this established late-night use. The Council's Environmental Health officer has assessed the scheme and considered existing uses surrounding the site and their impact on any future residential properties and have not raised any objections in terms of any harm arising from the noise generated by existing late night businesses.

28. Planning Balance

- 28.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. This section sets out the overall planning balance, weighing the benefits and disbenefits of the proposal in the context of relevant policies and material considerations.

28.2 In consideration the planning balance the following hierarchy of weight is used.

- Great
- Significant
- Moderate
- Limited
- Neutral

Benefits

28.3 The proposed redevelopment of the Kennet Centre offers a wide range of public benefits, many of which attract great or significant positive weight:

28.4 **Townscape and Heritage Enhancements:** The scheme delivers a transformational improvement to the character and appearance of the Newbury Town Centre Conservation Area. It reinstates historic street patterns, improves permeability, and introduces high-quality architecture that reflects local vernacular. These enhancements are supported by Historic England and the Council's Conservation Officer and attract **great positive weight**.

28.5 **Housing Delivery:** The proposal provides 317 new dwellings in a highly sustainable town centre location, contributing meaningfully to the district's housing supply. In addition, a mixed-scheme development with both build-to-rent (BtR) and private sale properties offers significant benefits to residents, and the wider community as it creates cohesive, mixed-income communities, by catering to different housing needs and income levels. BtR properties also provide options for long-term, professionally managed rentals, which is attractive to many who are priced out of the homeownership market. Given the district's increasing housing requirement and the national housing crisis, this benefit attracts **great positive weight**.

28.6 **Economic Regeneration:** The scheme supports town centre regeneration, job creation, and increased footfall. These benefits attract **significant positive weight**.

28.7 **Design Quality:** The proposal exemplifies best practice in urban design and placemaking, with strong support from design experts and the public. It enhances the built environment and supports healthy living, attracting **significant positive weight**.

28.8 **Public Realm Improvements:** The scheme introduces new pedestrian routes, open spaces, and landscaping, improving connectivity and the quality of the public realm. This attracts moderate to **significant positive weight**.

28.9 **Environmental Enhancements:** The proposal includes ecological mitigation and biodiversity net gain measures, attracting **moderate positive weight**.

Neutral or Limited Weight Considerations

28.10 Some aspects of the proposal are considered to carry neutral or limited weight in the planning balance:

28.11 **Developer Contributions and CIL:** While necessary to mitigate impacts, these are policy requirements and do not constitute additional benefits. They attract **neutral weight**.

28.12 **Renewable Energy and Carbon Offsetting:** The scheme does not achieve net zero carbon but includes offsetting contributions. This attracts **neutral weight**, acknowledging both the limitations and mitigation.

28.13 **Parking Provision:** The scheme meets parking standards and includes mitigation for displaced parking. This attracts neutral negative weight, as it addresses policy requirements without delivering additional benefits.

Disbenefits and Negative Weight

28.14 The proposal also gives rise to several disbenefits, which attract negative weight:

28.15 **Lack of Affordable Housing:** No affordable housing is provided due to viability constraints. While this is justified by independent assessment, it remains a significant missed opportunity. This attracts significant negative weight.

28.16 **Private Amenity Provision:** The scheme falls short of recommended private amenity space standards. However, this is mitigated by the town centre location and access to public open space. This attracts moderate negative weight.

28.17 **Private Waste Collection:** The reliance on private waste collection introduces long-term management and equity concerns. This attracts moderate negative weight, though it is mitigated by enforceable planning obligations.

28.18 **Drainage Strategy:** The scheme does not fully comply with SuDS standards, though it offers a betterment over the existing situation. Subject to conditions, this attracts limited negative weight.

Overall Planning Balance

28.19 When considered in the round, the public benefits of the proposal clearly outweigh the identified harms. The scheme represents a rare opportunity to deliver comprehensive town centre regeneration, with substantial enhancements to heritage, housing, design, and economic vitality. The disbenefits, while material, are either mitigated or justified by viability, site constraints, or planning obligations.

28.20 The proposal is broadly consistent with the development plan, and where conflict arises (e.g. Policy SP18 and SP15), material considerations justify a departure. The application therefore meets the requirements of paragraph 11 of the NPPF and should be approved.

29. Conclusion

29.1 The proposed redevelopment of the Kennet Centre represents a rare and significant opportunity to deliver transformational change in the heart of Newbury. The scheme has evolved considerably from previous iterations, responding positively to the concerns raised by the Council and the Planning Inspectorate. It now presents a high-quality, heritage-led regeneration proposal that aligns with the strategic objectives of the West Berkshire Local Plan and the Newbury Town Centre Masterplan.

29.2 The development will deliver substantial public benefits, including the creation of 317 new homes, the revitalisation of a declining shopping centre, enhancements to the townscape and conservation area, and a meaningful contribution to the economic vitality of the town centre. These benefits are supported by a strong design rationale, widespread stakeholder engagement, and the backing of key consultees such as Historic England.

29.3 While the scheme does not deliver affordable housing and relies on private waste collection, these disbenefits are justified by robust viability evidence and mitigated through enforceable planning obligations. The proposal also falls short of some technical

standards, such as amenity space and drainage, but these are considered acceptable in the context of the site's constraints and the wider planning benefits.

- 29.4 On balance, the proposal is considered to comply with the development plan when read as a whole, and the material considerations clearly indicate that planning permission should be granted. The application is therefore recommended for approval, subject to conditions and the completion of a Section 106 legal agreement.

30. Full Recommendation

- 30.1 PROVIDED THAT a Section 106 Agreement has been completed within 6 months (or such longer period that may be authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee), to delegate to the Development Manager to GRANT PLANNING PERMISSION subject to the conditions listed in section 8 of this report (or minor and inconsequential amendments to those conditions authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee).
- 30.2 Or, if the Section 106 legal agreement is not completed, to delegate to the Development Manager to REFUSE PLANNING PERMISSION for the reasons listed in this report.

Conditions

1.	Commencement of development The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2.	Approved plans The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below: Drawings and plans listed on Drawing List received on the 01.09.2025 Reason: For the avoidance of doubt and in the interest of proper planning.
3.	Schedule of materials (prior approval) No above ground construction works shall take place until a schedule of all materials and finishes visible external to the building have been submitted to and approved in writing by the Local Planning Authority. Samples shall be made available to be viewed at the site or by arrangement with the Planning Officer. The development shall be carried out in accordance with the approved details/ samples. Reason: To ensure that the materials are appropriate to the character of the Conservation Area and adjacent listed buildings. This condition is imposed in accordance with the National Planning Policy Framework and Policies SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041.
4.	Sample Brickwork/Stonework/Roofing and Surfacing Materials Schedule No above ground construction shall take place until a sample panel of the materials to be used in the construction of the external surfaces/roofing/brickwork/stonework shall have been prepared on site for inspection and approved in writing by the local planning authority. All sample panels shall be at least 1 metre x 1 metre and show

	the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development. Reason: To ensure that the materials are appropriate to the character of the Conservation Area and adjacent listed buildings. This condition is imposed in accordance with the National Planning Policy Framework and Policies SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041.
5.	Window/door details No new external doors and windows shall be fitted until working drawings (scale 1:20, 1:10, 1:5, half or full size etc.) fully detailing the new / or replacement windows and/or external doors (cross sections for full glazing bars, sills, heads etc.) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved specification and retained thereafter. Reason: To ensure that the materials are appropriate to the character of the Conservation Area and adjacent listed buildings. This condition is imposed in accordance with the National Planning Policy Framework and Policies SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041.
6.	Architectural details No above ground construction development shall take place until full details of the following have been submitted to and approved in writing by the Local Planning Authority: - window/door arches, lintels, reveals and surrounds - eaves and fascia - parapets, cornices and pediments - brick detailing and decorative features - metalwork (railings and/or balconies) - external services (drainage pipework (including soil vent pipe terminations) and accessories, rainwater goods, boiler flues, extract vent grilles, meter cupboards, external lighting. Thereafter the development shall incorporate and be undertaken in accordance with the approved details. Reason: To ensure that the materials are appropriate to the character of the Conservation Area and adjacent listed buildings. This condition is imposed in accordance with the National Planning Policy Framework and Policies SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041.
7.	Method Statement and Schedule of Works No development (including preparatory or demolition work), shall take place until a detailed method statement and schedule of works relating to any demolition and buildings works occurring beside the adjacent listed buildings has been submitted to and approved in writing by the Local Planning Authority. This shall include details of adequate protection and support to the adjacent listed buildings during demolition and construction as required including scaffolding to ensure no damage is incurred to the historic fabric. Thereafter the development shall incorporate and be undertaken in accordance with the approved details. Reason: To protect the special architectural or historic interest of the heritage assets. This condition is imposed in accordance with the National Planning Policy Framework and Policies SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041

	A pre-commencement condition is necessary because insufficient detailed information accompanies the application, so it is necessary to approve these details before any development takes place.
8.	Archaeology No development including site clearance shall take place within the application area until a Stage 1 written scheme of investigation (WSI) for a programme of archaeological work has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works. If heritage assets of archaeological interest are identified by Stage 1, then for those parts of the site which have archaeological interest a Stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the WSI no site clearance work or development shall take place other than in accordance with the agreed WSI, which shall include: A. The Statement of significance and research objectives, the programme and methodology of archaeological site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works. B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting archaeological material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the Stage 2 WSI. Reason: To ensure that any significant archaeological remains that are found are adequately recorded. Such an approach follows the guidance set out in paragraph 212 of the 2024 National Planning Policy Framework and is accordant with the requirements of Policy DM14 of the West Berkshire Local Plan Review 2023-2041. A pre-commencement condition is necessary because insufficient detailed information accompanies the application, so it is necessary to approve these details before any development takes place. The measures required for this condition will need to be in place for when the development begins.
9.	Landscape (Soft and Hard) – (Major applications) Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include: 1) a scaled plan showing all and trees and plants to be planted; 2) location, type and materials to be used for hard landscaping including specifications, where applicable for: a. permeable paving b. tree pit design c. underground modular systems d. Sustainable urban drainage integration e. use within tree Root Protection Areas (RPAs);

	3) a schedule detailing sizes and numbers/densities of all proposed trees/plants; 4) specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and 5) types and dimensions of all boundary treatments There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Unless required by a separate landscape management condition, all soft landscaping shall have a written five-year maintenance programme following planting. Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details. Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with the NPPF and Policies SP7, SP9, DM9 and DM15 of the West Berkshire Local Plan Review 2023-2041
10.	Compliance with existing detailed biodiversity method statements, strategies, plans and schemes All ecological measures and/or works shall be carried out in accordance with the details contained in Ecological impact assessment (November 2024, EPR) and Landscape strategy (November 2024, Lochailort) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. Reason: To ensure the adequate safeguarding of protected species in accordance with the National Planning Policy Framework, and Policy SP11 of the West Berkshire Local Plan Review 2023-2041.
11.	Construction Environmental Management Plan No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following: • Risk assessment of potentially damaging construction activities. • Identification of “biodiversity protection zones”. • Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements). • The location and timing of sensitive works to avoid harm to biodiversity features. • 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 approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority. Reason: To ensure the adequate safeguarding of protected species. This condition is imposed in accordance with the National Planning Policy Framework and Policy SP11 of the West Berkshire Local Plan Review 2023-2041 A pre-commencement condition is necessary because insufficient detailed information accompanies the application, so it is necessary to approve these details before any development takes place. The measures required for this condition will need to be in place for when the development begins.
12.	Landscape and Ecological Management Plan (LEMP) No above ground construction development shall take place until a Landscape and Ecological Management Plan (LEMP) (also referred to as a Habitat or Biodiversity Management Plan) has been submitted to and be approved in writing by the Local Planning Authority. The content of the LEMP shall include the following: A. Description and evaluation of features to be managed. B. Ecological trends and constraints on site that might influence management. C. Aims and objectives of management. D. Appropriate management options for achieving aims and objectives. E. Prescriptions for management actions. F. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period) and 30 year management plan for meeting biodiversity net gain requirements. G. Details of the body or organization responsible for implementation of the plan. H. Ongoing monitoring and remedial measures. I. Habitat enhancement measures and location plan including all bird and bat boxes integrated into the new structures. The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. Reason: To ensure the adequate safeguarding of protected species in accordance with the National Planning Policy Framework, and Policy SP11 of the West Berkshire Local Plan Review 2023-2041.
13.	Submission of a copy of the EPS licence The following works 'demolition of the existing building on site' shall not in any circumstances commence unless the Local Planning Authority has been provided with either: (a) A licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or

	(b) A statement in writing from a suitably qualified ecologist to the effect that they do not consider that the specified activity/development will require a licence. Reason: To ensure the adequate safeguarding of protected species in accordance with the National Planning Policy Framework, and Policy SP11 of the West Berkshire Local Plan Review 2023-2041. This “strict protection” condition helps to ensure that a developer will apply for an EPS licence and, if they do not, can be prevented in advance from undertaking the activities that might jeopardize the protected species, before the species is harmed. The use of planning conditions for this purpose has been established through case law and is also recommended in government.
14.	Lighting design strategy for light sensitive biodiversity Prior to occupation, a “lighting design strategy for biodiversity” for the new dwellings and associated works shall be submitted to and approved in writing by the local planning authority. The strategy shall: A. identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and B. show how and where external lighting will be installed (through the provision of appropriate Isolux lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority. Reason: Bats are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation. This condition is applied in accordance with the National Planning Policy Framework, and Policy SP11 of the West Berkshire Local Plan Review 2023-2041
15.	Biodiversity measures The development hereby permitted shall not be occupied until integrated bird and bat boxes have been installed in accordance with a minimum ratio of 1-4 dwellings and details shown on a submitted plan. Reason: To ensure the adequate safeguarding of protected species in accordance with the National Planning Policy Framework, and Policy SP11 of the West Berkshire Local Plan Review 2023-2041.
16.	Infiltration Drainage No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details. Reason: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 187 of the

	National Planning Policy Framework and Policy DM6 and DM7 of the West Berkshire Local Plan Review 2023-2041.
17.	Piling Piling or other intrusive foundations using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details. Reason: To ensure that the proposed development does not harm groundwater resources in line with paragraph 187 of the National Planning Policy Framework. Piling or other intrusive foundations using penetrative methods can result in risks to potable supplies from, for example, pollution/turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Groundwater is particularly sensitive in this location because the proposed development site: • within source protection zone 3 • located on a Secondary aquifer A, with a Principal Aquifer present beneath at depth. • where groundwater has been observed at shallow depths A piling plan and risk assessment to be submitted and agreed to, prior to the commencement of works is therefore necessary.
18.	Boreholes A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the local planning authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development. Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 187 of the National Planning Policy Framework. The submitted planning application indicates that boreholes are currently on the development site to investigate groundwater resources and or carry out soakage tests. If these boreholes are not decommissioned correctly, they can provide preferential pathways for contaminant movement which poses a risk to groundwater quality.
19.	Noise protection for future occupiers A scheme for protecting the proposed dwellings of the approved development from road and entertainment noise from the town centre night-time economy shall be submitted, for written approval, to the Local Planning Authority. The development shall not be occupied until the noise mitigation measure identified in the approved scheme, have been fully implemented. The noise mitigation measures shall be retained and maintained thereafter. Reason: To protect future residents from noise from road noise and commercial noise from the town centre. To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policies DM5 and DM30 of the West Berkshire Local Plan Review 2023-2041.
20.	Noise Management Plan for Use Class E Premises

	A Noise Management Plan shall be produced for Use Class E premises and submitted to Environmental Health for approval prior to Class E uses commencing or any subsequent change of use/user. The Noise Management Plan shall include: A. An assessment of how the business use could impact neighbouring noise sensitive receptors, including structural and airborne transfer of noise B. Details of the noise control measures employed to mitigate the impact of noise as far as reasonably possible, including structural design, operational hours, and noise management procedures C. Contact details of the person responsible for noise management The noise management plan shall be reviewed periodically and whenever there are changes which could result in a change to the impact on surrounding neighbours. Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policies DM5 and DM30 of the West Berkshire Local Plan Review 2023-2041.
21.	Condition – Deliveries No deliveries including collection of waste shall be dispatched or accepted outside the following times. - Monday to Saturday – 7:00 am and 10:00 pm - Sundays and Public Holidays – 9:00 am and 6:00 pm Vehicle engines and refrigeration units shall be switched off during deliveries and no engine idling shall be permitted. Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, and Policies SP19, DM5 and DM30 of the West Berkshire Local Plan Review 2023-2041. A pre-commencement condition is required because the CMS must be adhered to during all demolition and construction operations.
22.	Cooking Odours from Commercial Kitchens The applicant shall submit to the Local Planning Authority, for written approval, a scheme of works to minimise the emission of cooking odours. The permitted use shall not commence until the odour mitigation measures, as set out in the approved scheme, have been implemented. The odour mitigation measures shall be maintained and retained for the duration of the development. Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policies DM5 and DM30 of the West Berkshire Local Plan Review 2023-2041.
23.	Plant noise Prior to any works above foundation level development apart from demolition work the following shall be submitted to the Local Planning Authority a) written details concerning any proposed air handling plant associated with the development including: - the proposed number and location of such plant as well as the manufacturer's information and specifications; - the acoustic specification of the plant including general sound levels and frequency analysis under conditions likely to be experienced in practice - and the intended operating days and times.

	b) calculations showing the likely impact of noise from the development; c) a scheme of works or such other steps as may be necessary to minimize the effects of noise from the development; no construction above foundation level apart from demolition work shall commence until written approval of a scheme under (c) above has been given by the Local Planning Authority. All works forming part of the scheme shall be completed before any of the dwellings is first occupied. Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policies DM5 and DM30 of the West Berkshire Local Plan Review 2023-2041. A pre-commencement condition is necessary because insufficient detailed information accompanies the application, so it is necessary to approve these details before any development takes place.
24.	Hours of Construction Works No construction works shall take place outside the following hours: 0730 hours to 1800 hours Mondays to Fridays. 0830 hours to 1300 hours Saturdays; and No work shall be carried out at any time on Sundays or Bank Holidays Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policies DM5 and DM30 of the West Berkshire Local Plan Review 2023-2041.
25.	Construction Management Statement (Environmental Health) No development shall take place until details of a scheme (Construction Method Statement) to control the environmental effects of the demolition and/or construction work has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:- (i) the control of noise (ii) the control of dust, smell and other effluvia (iii) the control of rats and other vermin (iii) the control of surface water run-off (iv) the proposed method of piling for foundations (if any) (v) proposed construction and demolition working hours (vi) hours during the construction and demolition phase when delivery vehicles, or vehicles taking materials, are permitted to enter or leave the site. The development shall be carried out in accordance with the approved scheme. Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policies DM5 and DM30 of the West Berkshire Local Plan Review 2023-2041.
26.	Contaminated land (investigation and remediation) No development* shall take place until a scheme to deal with contamination at the site has been submitted to and approved in writing by the LPA. The above scheme shall:

	(a) Include an investigation and risk assessment. A report of the findings shall: identify the nature and extent of any contamination on the site (irrespective of its origin); include an assessment of the potential risks to human health, property, and the environment; and include an appraisal of remedial options, and proposal of preferred option(s). (b) Include a remediation scheme* which ensures that, after remediation, as a minimum, the land shall not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. (c) Include a monitoring and maintenance scheme* to ensure the long-term effectiveness of the proposed remediation, and the provision of reports on the same that shall be submitted to and approved in writing by the LPA. (d) Be prepared by a competent person (a person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation), and conducted in accordance with current best practice. Thereafter, any approved remediation scheme and/or monitoring and maintenance measures shall be carried out in accordance with the approved details. Two weeks written notice shall be given to the LPA prior to the commencement of any remediation scheme. If any previously unidentified land contamination is found during the carrying out of the development, it shall be reported immediately in writing to the LPA. Appropriate investigation and risk assessment shall be undertaken, and any necessary remediation measures shall be submitted and approved in writing by the LPA. Thereafter, any remediation measures shall be carried out in accordance with the approved details. The development shall not be occupied* until all approved remediation measures have been completed and a verification report to demonstrate the effectiveness of the remediation has been submitted to and approved in writing by the LPA. (* Unless otherwise agreed in writing by the LPA) Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This condition is applied in accordance with paragraphs 170, 178, 179 and 180 the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007). A pre-commencement condition is required to ensure that adequate investigation and a suitable remediation and/or monitoring is agreed before it may be implemented throughout the demolition and/or construction phase.
27.	Unexpected contamination If any previously unidentified contaminated land is found during demolition and/or construction activities, it shall be reported immediately in writing to the Local Planning Authority (LPA). Appropriate investigation and risk assessment shall be undertaken, and any necessary remediation measures shall be submitted and approved in writing by the LPA. These submissions shall be prepared by a competent person (a person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation) and conducted in accordance

	with current best practice. The remediation scheme shall ensure that, after remediation, as a minimum, the land shall not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Thereafter, any remediation measures shall be carried out in accordance with the approved details. Unless otherwise agreed in writing by the LPA, the development shall not be occupied until any approved remediation measures have been completed and a verification report to demonstrate the effectiveness of the remediation has been submitted to and approved in writing by the LPA. Reason: To ensure that any unexpected contamination encountered during the development is suitably assessed and dealt with, such that it does not pose an unacceptable risk to human health or the environment. This condition is applied in accordance with paragraphs 170, 178, 179 and 180 the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).
28.	Electric Charging Point (details to be submitted) No development shall take place until details of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the electric vehicle charging points have been provided in accordance with the approved drawings. The charging points shall thereafter be retained and kept available for the potential use electric cars. Reason: To promote the use of electric vehicles. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP5, SP19, DM42 and DM44 of the West Berkshire Local Plan Review 2023 – 2041.
29.	Construction method statement (Highways) No development shall take place until a Construction Method Statement and plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The statement shall provide for: A. The parking of vehicles of site operatives and visitors B. Loading and unloading of plant and materials C. Storage of plant and materials used in constructing the development D. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing E. Wheel washing facilities F. Measures to control the emission of dust and dirt during construction G. A scheme for recycling/disposing of waste resulting from demolition and construction works H. A site set-up plan during the works. I. The control of noise during construction and demolition J. The control of dust, smell, and other effluvia, K. The control of rats and other vermin L. The control of surface water run-off M. The proposed method of piling for foundations (if any) N. Show where any spoil arising from the development to remain on the site will be deposited. O. Show the resultant ground levels for spoil deposited on the site (compared to existing ground levels). P. Include measures to remove all spoil from the site (that is not to be deposited). Q. Include timescales for the depositing/removal of spoil. All spoil arising from the development shall be used and/or disposed of in accordance with the approved details.

	No demolition or construction works or delivery of materials shall take place outside the following hours: 0730 hours to 1800 hours Mondays to Fridays. 0830 hours to 1300 hours Saturdays; and No work shall be carried out at any time on Sundays or Bank Holidays Reason: To safeguard the amenity of adjoining land uses and occupiers and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies SP7, SP9, SP19, DM5, of the West Berkshire Local Plan Review 2023-2041 A pre-commencement condition is necessary because insufficient detailed information accompanies the application, so it is necessary to approve these details before any development takes place. The measures required for this condition will need to be in place for when the development begins.
30.	Framework Servicing & Management Plan – details to be submitted No development shall take place until a Framework Servicing & Management Plan has been submitted to and approved in writing by the Local Planning Authority. Reason: To safeguard the amenity of adjoining land uses and occupiers and in the interests of highway safety. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP19 and DM42 of the West Berkshire Local Plan Review 2023 – 2041.
31.	Road construction No development shall take place until details of road construction have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until associated road construction has been constructed in accordance with the approved drawings. The road construction shall comply to the Local Highway Authority standards and shall thereafter be maintained by appropriate legal agreements when required. Reason: In the interest of road safety and flow of traffic and to ensure waste collection. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP19 and DM42 of the West Berkshire Local Plan Review 2023 – 2041.
32.	Parking and turning No dwelling shall be occupied until the associated vehicle parking and/or turning space have been surfaced, marked out and provided in accordance with the approved plan(s). The parking and/or turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times. Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policy DM44 of the West Berkshire Local Plan Review 2023 – 2041.
33.	Car Parking Management Plan No part of the development shall be taken into use until a Car Parking Management Plan for the proposed car parks has been submitted to and approved in writing by

	the Local Planning Authority. Thereafter the development shall incorporate and be undertaken in accordance with the approved plan. Reason: To ensure the development is provided with adequate parking facilities for all users within the scheme, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP19 and DM42 of the West Berkshire Local Plan Review 2023 – 2041.
34.	Cycle and motorcycle parking No development shall take place until details of the cycle and motorcycle parking and storage space have been submitted to and approved in writing by the Local Planning Authority. The use shall not commence until the associated cycle and motorcycle parking, and storage space has been provided in accordance with the approved details and retained for this purpose at all times. Reason: To ensure that there is adequate and safe cycle and motorcycle storage space within the site. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP19 and DM42 of the West Berkshire Local Plan Review 2023 – 2041.
35.	Lighting No development shall take place until details of a system of lighting which shall include a scheme of illuminating pedestrian, cycle and car parking areas have been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme of lighting shall be implemented prior to the development being brought into use and maintained in accordance with the approved scheme. Reason: In the interest of security and safety. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP19 and DM42 of the West Berkshire Local Plan Review 2023 – 2041.
36.	Set back of gates Any gates to be provided at access(es) where vehicles will enter or leave the site, shall open away from the adjoining highway and be set back at the distances shown from the edge of the highway. Reason: In the interest of road safety and to ensure that vehicles can be driven off the highway before the gates are opened. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP19 and DM42 of the West Berkshire Local Plan Review 2023 – 2041.
37.	Access construction prior to occupation/use (plans required) No development shall take place until details of all access(es) into the site have been submitted to and approved in writing by the Local Planning Authority. The use shall not commence until the associated accesses have been constructed in accordance with the approved details. Reason: In the interest of road safety. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP19 and DM42 of the West Berkshire Local Plan Review 2023 – 2041.
38.	Proposed access onto Bear Lane / Cheap Street / Market Square traffic signal junction (details required) No development shall take place until details of the proposed access into the site have been submitted to and approved in writing by the Local Planning Authority. In

	addition to the details submitted on drawing 18916100-WAT-HGN-ZZ-DR-C-950122 submitted on August 20th 2025, the following details are also required: • From the existing building frontage, the provision of a clear width of 4.5 metres for a distance into the site of 10.0 metres. • Adequate stop line detection to be agreed within the above 10.0 metre distance with the same section of road being provided to adoptable standard and adopted using Section 38 of the Highways Act 1980. • Move stop line back at least to 3.0 metres from existing building frontage and install signal head at rear of footway. • Remove controlled pedestrian crossing on the proposed fourth arm and replace with uncontrolled crossing. • Shared space to be at the same level as the footway and raised table on Cheap Street. The access shall then be constructed in accordance with the approved drawing(s). Reason: To ensure that the access(es) into the site are constructed before the approved buildings in the interest of highway safety. This condition is imposed in accordance with the National Planning Policy Framework 2024 and Policies SP19 and DM42 of the West Berkshire Local Plan Review 2023 – 2041.
39.	Submission of a further Access and Security Strategy No works above foundation level shall commence on site until an Access and Security Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall be informed by the principles and guidance set out in <i>Secured by Design</i>, and shall include details of: • Site access controls including to external gates, buildings, bin and cycle stores • Measures to design out crime and anti-social behaviour such as defensive planting and planting on blank facades. • Lighting and surveillance (including CCTV where relevant) • Other relevant considerations of secured by design. The approved Access and Security Strategy shall be implemented in full prior to first occupation of the development and shall be retained and maintained thereafter for the lifetime of the development. Reason: To ensure a safe and secure environment for future occupiers and visitors to the site, and to reduce opportunities for crime. This condition is imposed in accordance with the National Planning Policy Framework and Policies SP7 of the West Berkshire Local Plan Review 2023-2041.
40.	Sustainable Drainage No development shall take place until details of sustainable drainage measures to manage surface water within the site have been submitted to and approved in writing by the Local Planning Authority. These details shall: a) Incorporate the implementation of Sustainable Drainage methods (SuDS) in accordance with the submitted drainage strategy 4508-RBG-ZZ-XX-RP-CV-00004, paragraph 182 of the NPPF and associated planning practice guidance, the National Standards for SuDS (2025), the SuDS Manual C753 (2015) and the WBC SuDS Supplementary Planning Document (2018). No reduction in the volume of surface water storage, and no increase to the permissible discharge

	rate will be permitted. No reduction in the quantity of SuDS provided will be permitted. b) Include a Flood Response Plan identifying safe access and egress routes to the site and, where appropriate, areas of safe refuge for the occupants. Residents must be able to safely access and egress the site during design storm events and evacuate before an extreme flood event. The vulnerability of site users must be taken into consideration. Evidence must be provided demonstrating that the development does not increase the scale of rescue required by emergency services should the site become inundated. Details of procedures to be followed and provisions to be available should be included within the pack for use during a flood event. The relevant emergency contact details should also be provided. c) Include flood water exceedance routes (low flow, overflow and exceedance routes), both on and off site. Exceedance routes must be provided irrespective of the standard of design of surface water drainage on site and must consider the impact of drainage infrastructure failing, and events in excess of the 1%AEP event. The routes should follow the natural drainage routes through the site where possible and evidence should demonstrate that exceedance routes have no adverse effects the development or elsewhere. Exceedance routes should be provided on plans with level information showing the path of water noting any potential issues and mitigation measures used to control overland flow. d) Include full information of catchments and flows discharging into the site from neighbouring land and across the site. Evidence must be provided showing how these flows will be managed and routed through the development. Where the flows exit the site, both pre-development and post-development information must be provided. e) Demonstrate that proposed finished floor levels are set in accordance with Environment Agency Standing Advice on flooding. Current advice recommends floor levels are set 600mm above the estimated flood levels and flood resistant materials are used up this depth. Relaxation of this recommendation will only be permitted with additional certainty regarding flood levels. Evidence will need to be provided that you have considered estimated flood depths of river, surface water and groundwater flooding as applicable to the site. f) Include a detailed sustainable drainage strategy for surface water run-off within the site in accordance with submitted information. The drainage strategy must include a report and associated plans detailing all relevant flood risk and drainage matters as outlined in the planning practice guidance, national standards for SuDS and WBC SuDS SPD. g) Demonstrate that the discharge hierarchy has been followed. Any deviation from the submitted information must be accompanied by sufficient evidence justifying the approach taken. Discharge into highway drainage systems, or foul sewers is not permitted.
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	h) Include attenuation measures to retain rainfall run-off within the site and allow discharge from the site to an existing watercourse or piped surface water system at no greater than 1 in 1 year greenfield run-off rates. Relaxation of this requirement will only be permitted in agreement with the LLFA for previously developed sites. Include supporting calculations and modelling information for any elements of flood risk and surface water drainage design in accordance with best practice. Surface water drainage design must utilise appropriate data for the site and be based on current rainfall data models, greenfield/agreed discharge rates, and, if applicable infiltration rates and groundwater levels. Contributing footprint of impermeable and pervious surfaces should both be considered in calculations. Appropriate safety factors must be selected as part of the calculations as applicable. Calculations must demonstrate that flooding does not occur on any part of the development for rainfall events up to the 3.3% AEP event. The surface water drainage system shall be designed so that flooding does not occur during rainfall events up to a 1% AEP event in any areas critical infrastructure or prevent safe access/egress from the site. i) Exclude pumping stations unless agreed due to the associated carbon, energy and maintenance implications, and the risks associated with failure and exceedance. Attempts to implement pumping stations to account for a lack of fixed design and levels design at this stage will not be considered a valid justification. Where proposed pumping stations shall be design to industry recognised guidance and evidence must be provided demonstrating why a gravity-based solution is not viable. Evidence must consider the consequences of failure and demonstrate how this will be managed from and operational and flood risk perspective. j) Include with any design calculations an allowance for an additional 10% increase of paved areas (Urban Creep) over the lifetime of the development. k) Include evidence that the first 5mm of rainfall is to be managed on site via SuDS interceptional and will not enter surface waters, or piped system. l) Demonstrate that SuDS used on site have been considered as part of the landscape design and offer multifunctional uses. Provide evidence that the design has considered visual amenity, matters relating to trees, plants and vegetation, health and wellbeing, and education and safety where relevant. m) Demonstrate that SuDS provide biodiversity value throughout the development lifecycle. Evidence should show value has been created by creating diverse, self-sustaining, resilient local ecosystems which contribute to net gains in biodiversity supporting and promoting natural local habitat and species, for example, through local nature recovery strategies (LNRS), contributing to the delivery of local biodiversity strategies, and/or contributing to habitat connectivity. n) Include construction drawings, cross-sections and specifications of all proposed SuDS and flood alleviation measures within the site o) Provide evidence that an analysis of pollution risk has been considered in the surface drainage design with specific reference to sources of pollution and their
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	impacts on water quality. This includes on site risks and risks to surface water bodies, sewers and groundwater. The process used to analyse pollution risk should be appropriate to the pollution hazard and sensitivity of the site, or receiving waters – taking into account any special environmental or ecological designations. On standard residential sites the simple index approach should be used. On sites where there are significant risks of contamination (such as oil storage, refuelling, etc.) a detailed assessment of potential contaminants and mitigation measures should be provided. p) Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil, groundwater, watercourse or drain. Ensure that adequate SuDS measures have been applied to address water quality risks from the development where possible. q) Include written confirmation from Thames Water of their acceptance of the discharge from the site into the surface water sewer and confirmation that the downstream sewer network has the capacity to take this flow via enquiry. r) Include a management and maintenance plan showing how the SuDS measures will be maintained and managed after completion for the lifetime of the development in accordance with Standard 7 of the National Standards for SuDS. This plan shall incorporate arrangements for adoption by the Council, Water and Sewage Undertaker, Maintenance or Management Company (private company or Trust) or individual property owners, or any other arrangements, including maintenance responsibilities resting with individual property owners, to secure the operation of the sustainable drainage scheme throughout its lifetime. These details shall be provided as part of a handover pack for subsequent purchasers and owners of the property/premises. If any element of the SuDS design is to be adopted by the local authority whole life costing information relevant to all SuDS must be provided. s) For phased developments the designer shall provide a phased management plan to demonstrate how the surface water drainage design will operate during each phase of construction. t) Include details of how surface water will be managed and contained within the site during construction works to prevent silt migration and pollution of watercourses, highway drainage and land either on or adjacent to the site. The designer shall provide information on how drainage features should be managed, protected and commissioned during construction to ensure the functionality of the completed surface water drainage system is not compromised. This information will help inform the contractor's SuDS construction method statement (CMS). Guidance on the production of a SuDS CMS is provided in industry recognised guidance The above sustainable drainage measures shall be implemented in accordance with the approved details before the use hereby permitted is commenced/before the building(s) hereby permitted is/are occupied/before the dwelling(s) hereby permitted is/are occupied/in accordance with a timetable to be submitted and agreed in writing with the Local Planning Authority as part of the details submitted for this condition. The sustainable drainage measures shall be maintained in the approved condition
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	thereafter/The sustainable drainage measures shall be maintained and managed in accordance with the approved details thereafter. Reason: To ensure that surface water will be managed in a sustainable manner; to prevent the increased risk of flooding; to improve and protect water quality, habitat and amenity and ensure future maintenance of the surface water drainage system can be and is carried out in an appropriate and efficient manner. This condition is applied in accordance with the National Planning Policy Framework and associated Planning Practice Guidance, National Standards for SuDS, Policy SP6 of the Adopted Local Plan (2023-2041)
41.	Skills and Employment Plan No development shall take place until an Employment and Skills Plan (ESP), in relation to the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. The ESP will set out the measures that the developer will take to enhance the training and employment opportunities that are offered to the local workforce in West Berkshire in the construction process. The measures set out in the ESP should be appropriate and proportional to the scale and value of the development. The ESP should set out, through a method statement, how the following priorities will be addressed: A. Promotion of employment opportunities generated on site to the West Berkshire workforce (but not excluding those outside of West Berkshire), with a focus on those who are not currently employed. B. Creation of new apprenticeship starts specific to the development site. This should include how the developer will work directly with local employment and training agencies. C. Identification of training and work placement opportunities on site with discussion on how these may be promoted to local people, working directly with local employment and training agencies. The Employment and Skills Plan should also: D. Identify a lead contact who is responsible for managing the plan. E. Set out a timetable for the implementation of the ESP which, for the avoidance of doubt, shall include a start date no later than the date of commencement of development. F. Set out the process for how implementation of the ESP will be monitored and reported back to West Berkshire Council. Thereafter approved ESP shall be implemented in full concurrent with the development of the site. Reason: To promote local job opportunities in the district in accordance with the National Planning Policy Framework. A pre-commencement condition is necessary because the ESP will need to be in place before any construction activities take place. A pre-commencement condition is necessary because insufficient detailed information accompanies the application, so it is necessary to approve these details before any development takes place. The measures required for this condition will need to be in place for when the development begins as they relate to construction workforce.
42.	BREEAM Excellent All the non-residential areas of the development shall achieve an Excellent rating under BREEAM (or any such equivalent national measure of sustainable building

	which replaces that scheme). No later than 3 months after the building is operational, a final Certificate must be issued certifying that BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating of Excellent has been achieved for the development, and a copy provided to the Local Planning Authority. Reason: To ensure the development contributes to sustainable construction. This condition is applied in accordance with the National Planning Policy Framework, Policies SP5 and DM4 of the West Berkshire Local Plan Review 2023-2041.
43.	Water Network No dwelling shall be first occupied until confirmation has been submitted to and approved in writing by the Local Planning Authority that either: A. all water network upgrades required to accommodate the additional demand to serve the development have been completed; or B. a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan. Reason: The development may result in no / low water pressure and network reinforcement works are likely to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development and the provision of adequate and appropriate infrastructure for water supply, both on and off site. Reason: To ensure the development provides a carbon reduction. This condition is applied in accordance with the National Planning Policy Framework, and Policies DM6 and DM7 of the West Berkshire Local Plan Review 2023-2041.
44.	Details of shopfronts No commercial unit shall be occupied until full details of the design and external appearance of the shop front(s), including the fascias, joinery, stall risers, pilasters, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details. Reason: The application does not contain sufficient details of the shop fronts to enable the Local Planning Authority to give proper consideration to those matters. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041 and Supplementary Planning Guidance 'Shopfronts'.
45.	Rainwater Goods Notwithstanding what is shown on the approved drawings or other approved documents, unless otherwise agreed in writing by the Local Planning Authority, all new rainwater goods shall be metal painted black, and any existing metal rainwater goods and accessories (to adjacent heritage assets) shall not be removed or

	modified without the prior written approval of the Local Planning Authority on an application made for that purpose. Reason: To ensure that the materials are appropriate to the character of the Conservation Area and adjacent listed buildings. This condition is imposed in accordance with the National Planning Policy Framework and Policies SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041.
46.	Visible Services No above ground construction development shall take place until details of services visible external to the development, including the type and location of any services to include, drainage pipework (including soil vent pipe terminations) and accessories, rainwater goods, boiler flues, extract vent grilles, meter cupboards, external lighting, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the external services shall be installed in accordance with the approved details. Reason: To ensure that the materials are appropriate to the character of the Conservation Area and adjacent listed buildings. This condition is imposed in accordance with the National Planning Policy Framework and Policies SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041.
47.	Spoil No development hereby permitted shall take place until details of how all spoil arising from the development will be used and/or disposed have been submitted to and approved in writing by the Local Planning Authority. These details shall: • Show where any spoil to remain on the site will be deposited. • Show the resultant ground levels for spoil deposited on the site (compared to existing ground levels). • Include measures to remove all spoil from the site (that is not to be deposited). • Include timescales for the depositing/removal of spoil. All spoil arising from the development shall be used and/or disposed of in accordance with the approved details. Reason: To ensure appropriate disposal of spoil from the development and to ensure that ground levels are not raised in order to protect the character and amenity of the area. A pre-condition is required because insufficient information accompanies the application, and the agreed details will affect early construction activities. This condition is applied in accordance with the NPPF, Policies SP7, SP9, DM9 and DM10 West Berkshire Local Plan Review 2023-2041 and Quality Design SPD (June 2006). A pre-commencement condition is necessary because insufficient detailed information accompanies the application, so it is necessary to approve these details before any development takes place. The measures required for this condition will need to be in place for when the development begins.
48.	Ground levels and finished floor levels No above ground construction development shall take place until details of existing and proposed ground levels and finished floor levels of the development (phased as appropriate), have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details. Reason: To ensure a satisfactory relationship between the proposed development and the adjacent land. This condition is imposed in accordance with the National

	Planning Policy Framework and Policies SP7, SP9, DM9 and DM10 of the West Berkshire Local Plan Review 2023-2041.
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Heads of Terms for Section 106 Agreement

1	Public open space Financial contribution of £52,738.56 indexed linked payable prior to the commencement of development towards the provision of public open space or improved facilities nearby.
2	Private waste management strategy
3	Carbon offsetting financial contribution Residential – Contribution calculated to be £124,539.27 (tbc) Non-residential - Contribution calculated to be £12,687.90 (tbc) Total: £137,227.17 (tbc)
4	Contribution towards BID To be determined
5	Highways • The funding of traffic regulation orders to allow two way cycling north and south along Bartholomew Street from Market Street to Mansion House Street, and vehicles along Bartholomew Street from Market Street to the proposed vehicular accesses; • The provision of a traffic regulation order to cover the proposed layby along Market Street • A financial contribution of £70,000 towards improvements to the Market Street / Station MSCP and pedestrian links from the car park to Market Street as follows: ○ Improvements to doors to enable easier use and opening ○ Improvements to the surface markings of pedestrian routes through the car park to the lift area and to the car park vehicle entrance with coloured surfacing and markings ○ Improvements to the footway on the western side of Market Street fronting alongside the council office building with footway widening, a raised crossover across the grasscrete access area and a marked and coloured surface route to the car park vehicle entrance ○ Associated works.
6	Sustainable Travel Wayfinding Updates £15,000
7	Travel Plan Comprising Travel Pack (£10,000) plus £50 x 317 = £15,850 and a cycle/ public transport voucher (£600 x 317 = £190,200)

	Total: £216,050
8	Car Club Contribution £150,000
9	Affordable housing viability review
10	Build to Rent 10 yrs For a period of 10 years to retain the whole of the BtR land together as one parcel and in one ownership and not to alienate any part of the land or any building erected thereon (save for by way of a lease of an individual unit) without the prior consent of in writing of the Council.

Section 278 Agreement under the Town Country & Country Planning Act 1980 - Works to the public highway

i.	Closure and reinstatement of existing Market Street vehicle access
ii.	Provision of new vehicular accesses onto Market Street, Bartholomew Street and Cheap Street
iii.	Relocation of bus stop in Cheap Street
iv.	Footway resurfacing along the site frontages of Market Street and Cheap Street
v.	Resurfacing of Bartholomew Street from Market Street fronting the site including the provision of a two way traffic section from Market Street up to the proposed new site access, along with the provision of a dedicated surfaced and marked cycle route from Mansion House Street to Market Street
vi.	Relocation of rising bollards within Bartholomew Street
vii.	Reconfiguration and replacement of the Bartholomew Street / Market Street traffic signal junction
viii.	Reconfiguration and replacement of the Bear Lane / Cheap Street / Market Square traffic signal junction including the relocation of pedestrian crossings and the realignment of Cheap Street to ensure the required widening of the footway fronting the Catherine Wheel public house

Informatives

1.	This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. The local planning authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area.
2.	The development hereby approved results in a requirement to make payments to the Council as part of the Community Infrastructure Levy (CIL) procedure. A Liability Notice setting out further details, and including the amount of CIL payable will be sent out separately from this Decision Notice. You are advised to read the Liability Notice and ensure that a Commencement Notice is submitted to the authority prior to the commencement of the development. Failure to submit the Commencement Notice will result in the loss of any exemptions claimed, and the loss of any right to pay by instalments, and additional costs to you in the form of surcharges. For further details see the website at www.westberks.gov.uk/cil
3.	BIODIVERSITY NET GAIN

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless: (a) a Biodiversity Gain Plan has been submitted to the planning authority, and (b) the planning authority has approved the plan. The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be West Berkshire District Council. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below. Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply. EXEMPTIONS AND TRANSITIONAL ARRANGEMENTS The following are the statutory exemptions and transitional arrangements in respect of the biodiversity gain condition. 1. The application for planning permission was made before 12 February 2024. 2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies. 3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024. 4. The permission which has been granted is for development which is exempt being: 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where: i) the application for planning permission was made before 2 April 2024; ii) planning permission is granted which has effect before 2 April 2024; or iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii). 4.2 Development below the de minimis threshold, meaning development which: i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric). 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure)
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(England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

APPLICABLE EXEMPTION

The exemption that is considered to apply to this application is: Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

IRREPLACEABLE HABITAT

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

THE EFFECT OF SECTION 73D OF THE TOWN AND COUNTRY PLANNING ACT 1990

	If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted. Those circumstances are that the conditions subject to which the section 73 permission is granted: i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan. PHASED DEVELOPMENT If the permission which has been granted has the effect of requiring or permitting the development to proceed in phases, the modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 would apply if the permission were subject to the biodiversity gain condition. In summary: Biodiversity gain plans would be required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).
	Trees: The following British Standards should be referred to: a. BS: 3882:2015 Specification for topsoil b. BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs c. BS: 3998:2010 Tree work – Recommendations d. BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces) e. BS: 4043:1989 Recommendations for Transplanting root-balled trees f. BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations g. BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf). h. BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations i. BS: 8601:2013 Specification for subsoil and requirements for use
4.	Official Postal Address Please complete and online street naming and numbering application form at https://www.westberks.gov.uk/snn to obtain an official postal address(s) once development has started on site. Applying for an official address promptly at the beginning of development will be beneficial for obtaining services. Street naming and numbering is a statutory function of the local authority.

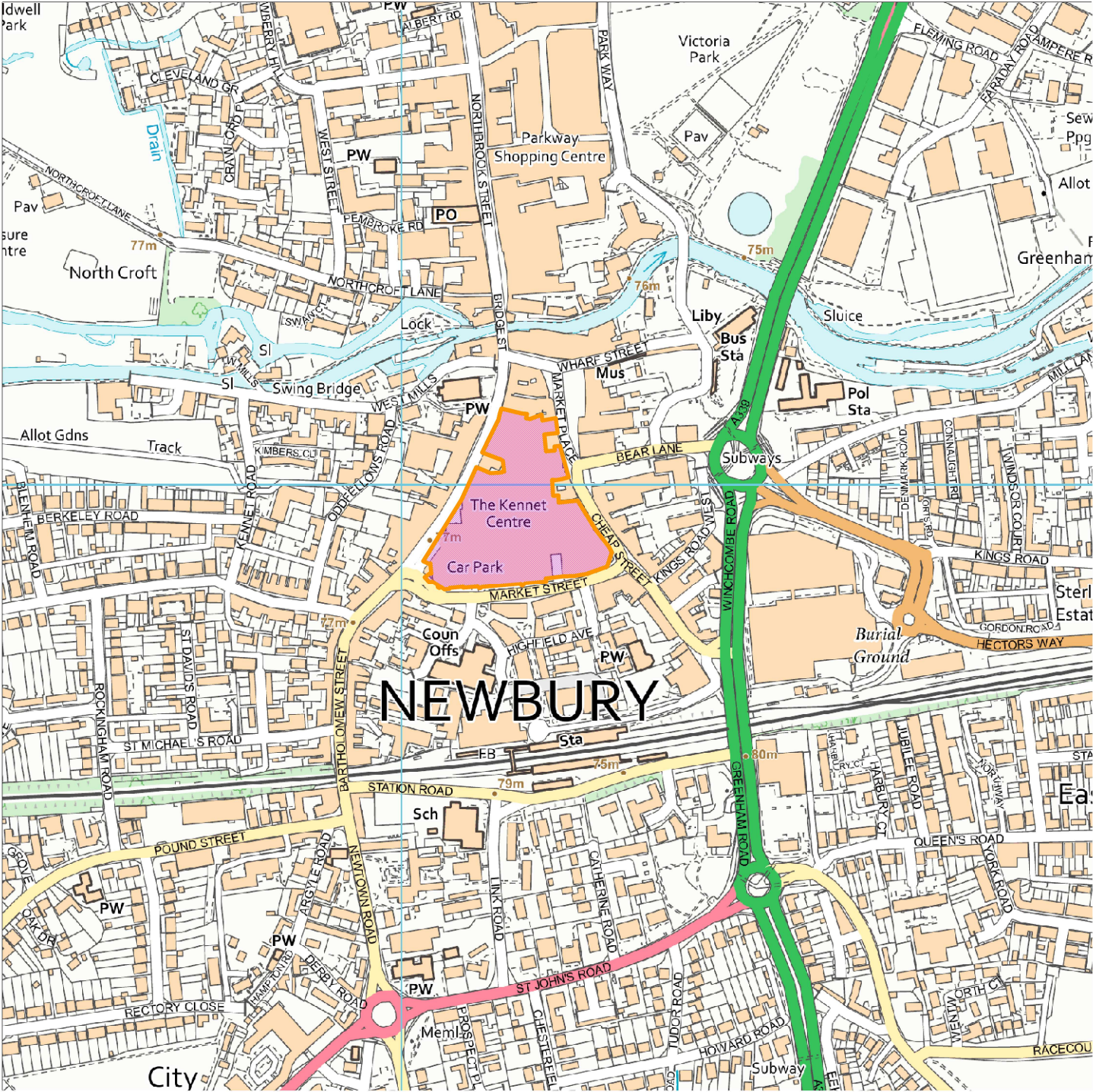
Refusal Reasons (in the event that the S106 Legal Agreement is not completed)

Affordable housing (S106)

The application fails to provide an appropriate planning obligation to deliver affordable housing. The district has a high affordable housing need and an affordability ratio above the national average. Compliance with Core Strategy Policy C6 through the provision of affordable housing is therefore necessary to make the development acceptable. In the absence of an appropriate planning obligation, the proposal is contrary to Policy SP16 of the West Berkshire Local Plan 2023 – 2041, the Planning Obligations Supplementary Planning Document, and the National Planning Policy Framework.

Infrastructure mitigation (S106)

The application fails to provide appropriate planning obligations to deliver the necessary off-site infrastructure, namely improvement to local highways network, travel plan, public open space, and carbon offsetting payment. In the absence of an appropriate planning obligation, the proposal is contrary to Policies SP16, SP19, SP20, DM4, and DM40 of the West Berkshire Local Plan 2023 – 2041, the Planning Obligations Supplementary Planning Document, and the National Planning Policy Framework.

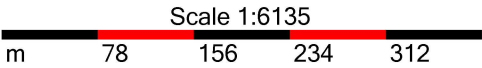


Map Centre Coordinates :

Scale : 1:6135

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Organisation	West Berkshire Council
Department	
Comments	Not Set
Date	02 September 2025
SLA Number	0100024151

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Appeal Decision

Inquiry held on 3 June to 6 June 2025 and 10 June to 12 June 2025

Site visit made on 11 June 2025

by R Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2025

Appeal Ref: APP/W0340/W/25/3359935

Kennet Centre, Newbury, RG14 5EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Lochailort Investments Ltd against the decision of West Berkshire Council.
 - The application Ref is 23/02094/FULMAJ.
 - The development proposed is described as the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents' ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema and multi storey car park.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. The Council's Decision Notice set out a total of six reasons for refusal (RfRs). A Case Management Conference (CMC) was held on 10 April 2025 at which representatives of all main parties were in attendance. At the CMC, the administrative and procedural arrangements for the inquiry were discussed and it was agreed how the evidence should be heard.
3. Following the CMC and as a result of ongoing discussion between the parties, the submission of further information, and subject to appropriate conditions and obligations, the Council did not pursue those reasons relating to parking (RfR2) and affordable housing provision and planning obligations (RfRs 3 and 4). The Newbury society (NS) and Newbury Town Council (NTC) were Rule 6 parties to the inquiry with the latter retaining objections relating to parking which were dealt with in writing and at the inquiry.
4. Discussions on a S106 legal agreement continued before and during the inquiry, including at a Round Table Discussion (RTD). There was agreement that the obligations would comply with the requirements of Regulation 122 of the Community Infrastructure Regulations 2010. The Council submitted a statement setting out the justification for the various obligations, including references to relevant planning policies and the rationale for calculating the financial contributions. This was revised following discussions at the RTD.
5. By the end of the inquiry some minor drafting amendments were still required and I therefore allowed a period for the agreement to be completed and it was duly

submitted within the deadline imposed. I deal with the agreement as necessary below but as a result of the above the inquiry was closed in writing on 25 June 2025.

6. A general planning Statement of Common/Uncommon Ground (SoCG) along with additional SoCG covering heritage, living conditions and noise were also submitted along with written evidence on parking from the appellant and rebuttal evidence from the appellant. At my request having heard the evidence and mindful of the number of relevant heritage assets to consider a 'Listed Building and Visual Impacts' summary table (LBVI) setting out the final positions of the parties was submitted after the inquiry. The NS also submitted an 'additional buildings table' at the same time which included their view on the effects on a number of unlisted buildings. However, I did not request this latter evidence and whilst I note the appellant's ultimate conclusion no harm would be caused it has not been determinative in my decision.
7. I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision and on Tuesday 10 June, the Council resolved to adopt the West Berkshire Local Plan Review 2023-2041 (LP). The LP had already helpfully been addressed in the evidence of the parties and as a consequence of its adoption it was common ground that the presumption in favour of development set out in paragraph 11 of the National Planning Policy Framework (the Framework) no longer applied by virtue of the Council's housing land supply position. The appellant did not advance any other arguments that the LP was otherwise out of date in any other Framework terms or that the presumption in favour of sustainable development applies but that the Framework remains a significant material consideration to which I return to below.
8. The inquiry was served by a series of Core Documents (CDs) and further inquiry Documents (IDs) were submitted during proceedings. The information for the inquiry was all made publicly accessible electronically during the course of the event and I sought to ensure that opportunities for views to be shared and, where appropriate, for any interested persons to ask relevant questions of the relevant witnesses.
9. I carried out a number of unaccompanied site visits, including a main visit on 11 June where I viewed the appeal site from a number of locations in accordance with an itinerary agreed by all parties.

Main Issues

10. In opening the inquiry, and following what was discussed at the CMC, the main issues in this appeal are:
 - Whether the proposal would preserve or enhance the character or appearance of the Newbury Town Conservation Area (NTCA) (including consideration of character and appearance, scale, height, massing, density and townscape effects) and the effect of the proposal on the setting of listed buildings.
 - The effect of the proposal on the living conditions of future occupiers, with particular regard to noise and the provision of acceptable private amenity space.

- If conflict with the development plan, when taken as a whole is identified, whether such conflict is outweighed by other material considerations.

Reasons

Heritage Assets and Design – Context

11. Sections 66 and 72 of the Planning (LBs and CAs) Act 1990 place duties on the decision maker with regard to listed buildings and their settings and conservation areas. The courts have found that considerable importance and weight should be given to the desirability of preserving the setting of listed buildings in any balancing exercise with material considerations which do not have this status.
12. The proposal would not cause any direct physical harm to any heritage asset, rather the disputes concern the character and appearance of the NTCA and the setting of 44 listed buildings including two Grade I and four Grade II* listed buildings. The disputes are relatively narrow because the Council and appellant agree that the taller blocks, A and B and part of Block S have the potential to cause harm. The NS also consider harm would arise from Blocks C, D and E. The Council and Rule 6 parties do agree on some neutral and net beneficial effects but disagree with the appellant on the majority of impacts to the relevant heritage assets as set out in the LVBI.
13. The appellant's case is that there are heritage benefits that offset what might otherwise cause harm and that there would be no harm in a number of instances. The appellant therefore contends a net or internal heritage balance should be undertaken to assess the overall level of heritage harm. I am mindful of court judgements referring to how the statutory duties should be discharged and highlighting the ability for such a net heritage balance to be undertaken. The PPG¹ also confirms that the category of harm should be explicitly recognised and in *Mead*² it was determined the PPG holds equivalent legal status to the Framework. Policy SP9 of the LP also requires opportunities to preserve, enhance or better reveal significance should be taken and it also follows the approach in the Framework.
14. Heritage assets (including conservation areas) can gain significance from their relationship with their setting. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
15. Further, HE guidance in 'The Setting of Heritage Assets', indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset.
16. The Framework does not protect the view of an old building for its own sake or because the view can be seen from part of the building's visual setting. What really matters is the extent to which that view contributes to the asset's significance.

¹ Planning Practice Guidance 018 Reference ID: 18a-018-20190723.

² Mead Realisations Ltd v SSLUHC [2024].

Being able to accurately assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is especially important to understanding the potential impact and acceptability of development proposals. Although no statutory protection for the setting of a CA is present in the Act, the Framework requires consideration of any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting.

17. The appellant produced a number of verified views (AVRs), including additional AVRs requested by members prior to their decision being made, a computer-generated kinetic video and 360-degree bubble walks. There is no dispute regarding the locations or methodology used and I am satisfied they give a helpful representation of the proposal, noting any limitations in their scope and use.
18. In this appeal there is clearly an overlap between the NTCA considerations given the listed buildings also contribute to its character and appearance and therefore its significance. I have structured this issue considering both the NTCA and listed buildings, including consideration of any heritage enhancements/benefits before coming to an overall finding on any harm, or otherwise and then returning to any necessary balance.
19. The Council's evidence to the inquiry identified the impacts of the appeal scheme but did not conclude on the impact of the ability to appreciate significance and did not place harm on any 'less than substantial' scale. The identification at a late stage within the LBVI table of where the harm sits on any scale was not therefore examined at the inquiry and whilst I have considered the final conclusions of the Council the weight to be given is reduced accordingly.
20. Despite this Council's views on impacts were clearly expressed at the inquiry and in closing submissions. I also visited the site and the surrounding streets on a number of separate occasions before and during the event. Further, as repeatedly highlighted by the parties I must form my own professional judgements and I have determined the proposal on this basis.
21. For the vast majority of people, heritage is something which is enjoyed kinetically as people move through and around places. It is often only the more committed heritage enthusiast or inquiry witness who will study heritage assets in much greater detail than this and I have very lengthy and detailed analysis before me, including from two Rule 6 parties. I have been mindful of this in coming to my findings but have not found it necessary to address every single academic or other point made in evidence and at the inquiry, focusing on those matters that remain in dispute between the parties and on which my considerations turn.

The Newbury Town Conservation Area

22. Designated in 1971 the NTCA was formed by three separate areas part of the historic settlement core that grew up around a crossing point of the River Kennet and the medieval marketplace. The main streets form an inverted 'Y', with the later addition of the east-west London to Bath Road in Speenhamland at the northern end. It was the subject of amendments and extensions in 1973, 1983 and 1990 and the boundary further reviewed in 2021 as part of the Newbury Town Centre - Conservation Area Appraisal and Management Plan (the CAAMP).

23. The town's success as a market town during the later medieval period derived from the cloth trade, bolstered by the town's location between intersecting transport routes. Newbury's location midway between London and Bath had importance in reviving the fortunes of the town centre in the Georgian period.
24. The burgage plots laid out on Mansion House Street, Market Place, Cheap Street and the adjacent part of Bartholomew Street date from earlier in the medieval period, likely 13th century. The burgage plots laid out on Northbrook Street date from slightly later, possibly the 15th century. The narrow footprint of the buildings in all of these areas means that the burgage plots are still legible today. Many of the buildings that sit on these plots were altered, re-faced or rebuilt in the 18th century, when the town experienced a period of revived prosperity when it became the primary overnight coaching stop on the route to Bath.
25. This also saw a proliferation of coaching inns, particularly north of the town in Speenhamland, then part of Speen parish. Many of these Georgian inns survive, offering a characterful and distinctive building typology. Northbrook Street and Bartholomew Street are intersected by narrow passageways between buildings, several of which have rear courtyards. However, many such courts and yards have been subject to extensions and infill development.
26. The town has retained its historic route network and many of the narrow burgage plots, resulting in a fine, dense urban grain, concentrated around historic routes. The organic nature of the route network means that there are numerous channelled views which unfold, with more of the townscape moving into view around the gently curving corners on Bartholomew Street and Cheap Street, for example.
27. The appeal site lies within Character Area 6: Kennet Centre and partly within Area 3: Market Place. Area 6 is the largest character area in Newbury and is the area that has experienced the most amount of change during the course of the 20th century. The area is situated to central-western and southern part of the NTCA is characterised by a mix of 20th century developments, fine grain historic buildings, and contemporary development. It is also subject to ongoing change with the recent construction of the Weavers Yard development.
28. The main typologies or building types within the area are a mix of late 20th century developments including: The Kennet Centre (KC) and associated car parks, the Council Offices and some larger-plot buildings including residential and commercial buildings; contemporary development, including Weavers Yard, and fine grain historic buildings. One is led by a narrow and meandering historic route network around this southern part of the town centre leading to some of the most significant heritage assets in the Bridge, St Nicolas Church and around Market Place.
29. The area contains a range of buildings that differ in form, height and appearance, and in the parts of the centre, historic architecture can be appreciated from street level and in middle and longer distance views. Building heights range from two to five storeys, with Weavers Yard reaching five storeys and some residential blocks behind the Council offices at four storeys. There are several prominent heritage assets and townscape features that help to form the identity of the town, such as Newbury Bridge, The Parish Church of St Nicolas, The Town Hall, and various other prominent houses, churches and alms houses. Its high concentration of

quality heritage assets allows Newbury to play a key role as the cultural centre of the district, and the NTCA is at the heart of this.

30. Although no single architectural style dominates, buildings in the area predominantly use brown or red brick, with some historic buildings featuring render or stucco; other materials include cladding, glazing, and slate or clay tile roofs. I observed that the generally high-quality stock of traditional buildings creates a coherent and intimate atmosphere, enhanced by the narrow plots and fine urban grain with generally low and modest scale buildings but there remains variety in styles, materials, heights and plot widths to add visual interest.
31. In walking those routes and in accordance with the agreed itinerary I also observed that the varied rooftops of the buildings generally, affected by some notable exceptions such as the car park mansard tower, stood strongly silhouetted against an open sky which in short, medium and longer views played an important part in my understanding and appreciation of the buildings, their setting and the historic townscape of this part of the NTCA.
32. Views along certain streets within the NTCA also revealed a mixed character, with both modern and historic buildings visible together at certain points and with some notable juxtapositions. The NTCA undoubtedly does have detracting and neutral architectural elements. The KC is one of a large number of generic town centre malls built around the country during the same period, facing inwards and visually detracting from the surrounding historic built form due to its appearance. It is clearly of its time, as are many of the other more modern buildings within the NTCA and its wider setting, including the somewhat monolithic BT telephone exchange and more redevelopments such as Parkway and Weavers Yard. However, the KC does not unacceptably dominate the experience of the NTCA because its scale and height is generally sympathetic and broadly appropriate to its context.
33. Ultimately, there was no dispute that the KC is a detracting element which diminishes an understanding of the former historic grain of the site and its Bartholomew and Cheap Street facade are of their time and could be considered uninspiring. The Vue Cinema in the southeastern corner displays materials, a form and scale that is incongruous with the rest of the conservation area and that building, along with the multi storey car park would be retained.
34. The combination of the character and appearance of its buildings, together with their function in contributing to the uses and activity of the town centre, both individually and collectively contribute strongly to the significance of the NTCA. Despite modern development the high concentration of designated and non-designated heritage assets dating from multiple eras, and its routes create a distinct and rich cultural heritage and with multiple buildings of special historic and architectural interest that can be readily appreciated.

Character and Appearance

35. The CAAMP is clear, amongst other things, that the maximum building height is 5 storeys in this area with most buildings on Batholomew Street being 2 or 3 storeys. It is also clear that future development should be mindful that existing features and buildings within the setting of the conservation area that

could benefit from enhancement do not set a suitable precedent for development³ (e.g. the telephone exchange) which in my view presents an unrepresentative impression of the town's historic character and identity. It is worth noting at this point that the appellant's HTVIA aligns with the findings in the CAAMP.

36. Paragraph 137 of the Framework requires that design quality should be considered throughout the evolution and assessment of individual proposals. Reaching conclusions on the visual aspects of design and its impacts often involves a level of subjective judgment but the design analysis and evaluation that underpins such proposals is an objective process that should be based on a thorough and detailed understanding of a site's context.
37. As well as being an iterative process, good design embraces all elements of a scheme, such as form, function, aesthetic, detailing, durability, sustainability, local and wider context, an appreciation of the environment and heritage. There are many other factors in trying to satisfy all these requirements in the same space whilst delivering a viable and deliverable scheme.
38. Contemporary design can develop a further layer of townscape which complements, rather than competes with the past. However, it is critical to understand how the proposals will spatially and visually engage with their context and how new development responds to and addresses the constraints and opportunities of the site and locality. Achieving high quality of design is not just centred around what a place or development looks like – aesthetics – but also how users experience it.
39. The DAS⁴ sets out that the overall concept is a simple one, to create a series of pedestrian routes, spaces, alleyways, all familiar patterns within the heart of Newbury, which connect the main areas of pedestrian activity and interest. The starting point for a permeable scheme is consideration of the existing system of links, and here the legibility of the scheme has been clearly considered with the new north to south route.
40. The DAS states however that towards the southern and central area of the site where the surrounding buildings are newer, larger, and where the historical industrial uses were located, the texture of the design changes a 'little', with buildings of a larger scale and a more industrial aesthetic. The DAS also refers to design led optimisation and that the volume of the perimeter blocks has been maximised but to not exceed the absolute maximum heights considered appropriate.
41. However, the appellant also does not contend that the historical use as Plenty's Ironworks contained buildings of the scale or heights proposed. Although blocks were revised in order to create landscape podiums it is somewhat unclear what consideration was given to the overall suitability of the form, mass and heights of the tallest blocks relevant to designated heritage assets as being appropriate given the prevailing existing building heights and the scale and form of buildings that formerly existed on the site, in accordance with the guidance in the CAAMP.

³ Paragraph 2.19 of the CAAMP.

⁴ Paragraph 6.1.2.

42. Whilst there would be some improvements and enhancements to the appreciation of the NTCA (and its listed buildings) these would be experienced predominantly at street level and at close range. I do not regard the change as 'little' because the scale, height and form of Blocks A, B less so with S would unacceptably raise and draw the eye up and behind the existing historic roofscape as one experiences the town centre and in particular, in a number of views along Bartholomew and Cheap Street within the NTCA. From Market Place (AVR_4 and 5) enhancements at street levels from frontage buildings would not offset the visual harm from the significant array of additional built form extending significantly above the existing and proposed roofscape.
43. Views from within or outside an area form an important way in which its significance is experienced and appreciated, thus highlighting the importance of setting and its potential impact on the conservation area's significance and overall experience. The scale and height of the blocks looming behind would dominate the townscape in views from Bear Lane to a built form of a much larger scale than anything that previously existed and detracting from an appreciation of the significance of the more modest scale of built form in this part of the NTCA, as demonstrated in AVRs B and C.
44. Whilst I note the appellant's views these views are not positive contributors I disagree as there are clear views of and into part of the NTCA at these points. The introduction of such overly dominant built form onto the site would jarringly stand out against the skyline. I deal with these further below but from a number of views along Bartholomew Street the scale, mass and height of development as a backdrop to the lower built form of the frontage buildings would also result in a major change and an erosion in the appreciation of the character and significance of the NTCA.
45. In other views into the NTCA AVR_10 and 11 demonstrate to me there would be some further erosion of the character of the NTCA from the introduction of further massing above the existing roofscape. This is despite being seen in association with other modern development and would dilute an appreciation of the form and grain of the NTCA.
46. Turning to matters of appearance the appellant was correct in confirming⁵ that whilst the Council did not take any issue with the external appearance of the proposal per se, assessing a high quality of design means that external appearance cannot be separated from consideration of the scale, form and layout of the building it serves. The detailed appearance of a scheme has an important role to play in responsiveness and should not be regarded as a mere by-product of the proposal. There are limited ways however to address buildings of this use, form and scale.
47. If a building is intended to be visually integrated into its surroundings it is important that its detailed design has a family resemblance to its surroundings and here there is undoubtedly a mix. The DAS states the focus is on a simple architectural approach of paying closer attention to the forms of existing buildings but this has resulted in a significant contrast between a mix of appropriately detailed and well-designed street elevations and buildings in some places, and substantially larger modern interpretations of built form in the internal areas of the site.

⁵ Dr Miele in response to my questions and in closing submissions.

48. The dominance and prominence of Blocks A and B would be exacerbated by the use of contrasting dark grey metal roof set against red brickwork. Although set back, the appearance would draw attention to the height and bulk of built form that would be visually far larger and dominating than any building in this part of the NTCA. The balconies on the eastern elevation of Block A would add little perception of visual depth to create sufficient interest for blocks of this size.
49. For the most visible parts of the blocks the window arrangement adds vertical emphasis with further interest from balconies but the overall impression gathered from a number of views would be of a series of flat roof podium spaces juxtaposed with pitched roofs and gables that appear more in keeping with a Victorian Mill or Warehouse in a more industrial urban location and not a lower-level industrial shed or similar structure that would have previously occupied the site. The design may well bring to mind an industrial past and was the intention but I am not convinced it is suitably reflective of Newbury's because such blocks would not be read or seen as part of the former industrial uses and buildings on the site or in the immediate area.
50. On Market Street the DAS common principles utilised in this typology contain high levels of repetition, rhythm and hierarchy of vertical and horizontal elements seeking to create buildings that would consist of simple detailing but yet are rich in character. The Market Street frontage could certainly be improved and cues have been taken from traditional Victorian warehouse typologies with the façade articulated by different eaves details, inset brick window reveals, contrasting spandrel panels and pitched roofs visible from street level.
51. Despite the Weavers Yard development opposite the blocks either side of the new north/south route would also be the largest buildings by some margin along Market Street. The existing facades are referred to as 'impermeable' and 'faceless' but this would be replaced by overly repetitive window arrangements giving too much vertical emphasis that for such an important gateway would result in an institutional appearance on buildings of significant height. Sited directly on the street frontage and over such wide and box like buildings the appearance of Blocks S and D would be uninspiring and appears justified on the basis of other modern developments opposite. Rather than creating a strong identity it is the very type of 'of its time' modern architecture that has been allowed in and around the NTCA that are not as positive contributors as perhaps once intended or envisaged.
52. Seen in association with the retained cinema, the juxtaposition of the two six storey blocks and their marked contrasting appearance would visually compete with each other on an important gateway into the town as shown in AVRs E and F. Despite the lack of architectural merit in the existing elevations the proposal would replace inappropriate design with just a different and more modern version of, inappropriate design.
53. There would clearly be a number of positive heritage enhancements and I have no doubt the design process was iterative led by leading Architects and designers and supported by other experts in their field. Attempts were also made to address concerns and work proactively with the Council and consultees, so much so that a positive recommendation was made by officers. Nonetheless, as a direct consequence of the choice to seek to accommodate 427 units density and viability considerations appear to me to have dictated the overall form, scale, mass and appearance of the buildings.

54. As an imposition of a confused mix of retained buildings that cause harm, some new buildings that have been appropriately designed, others not, historic buildings and existing buildings with a negative effect such as the cinema the approach fails to capture the essence of the site and its historic surroundings. A clashing intrusion of urban apartment-built form imposed onto the centre of the site the blocks in dispute would feign respect to local distinctiveness but would simply be too big and visually dominating for this site.
55. At its heart this is a scheme that to my mind has been created and arranged in such a way that it seems too artificial and unrealistic, imposed on the historic townscape of the NTCA rather than integrating successfully with it. The blocks in dispute would be the wrong Architecture, in the wrong place introducing a false narrative to Newbury's past. The design bar is a high one and one which in this sensitive historic environment would not be met. I return to matters of overall harm and weight in my conclusions below.

The setting of the listed buildings

56. There are 44 listed buildings grouped by the appellant into nine groups along with a number of 'other' buildings. I must consider the effects individually but for the purposes of this decision I have grouped them in the same way below.
57. I have set out the context for consideration of setting above but in each case there are broad similarities between buildings with the significance of each building mainly derived from its historic and architectural appearance and as surviving examples of an earlier streetscape and demonstrate several stages of this market town's evolution along the historic street layout. In terms of setting, each building can be understood in close, medium and longer views as part of the still discernible historic street layout and within a town centre environment comprising a mix of uses and building types including other listed and non-listed historic buildings and cultural, municipal and religious buildings amongst others. In other words there are aspects of the setting of each which contribute to their significance and the NTCA.

Group 1 – Immediate vicinity of the appeal site

58. This group includes the Newbury Public House (Bricklayer's Arms) on the western side of the appeal site fronting Bartholomew Street. On the eastern side it includes the Catherine Wheel Inn, 32-34 Cheap Street, all Grade II listed buildings. These buildings are those that are located on the 'island' that accommodates the KC. Some listed buildings have been retained on the island site and integrated into the new block and frontages. Whilst the appearance of the KC has partially eroded the settings of these listed buildings, they are still important survivors with special interest that also make a clear contribution to the streetscape and character and appearance of the NTCA.
59. What is not there is also important as what is and from a number of viewpoints the eye is drawn to the largely uninterrupted and consistent skyline above the varied roofscapes of the buildings. The buildings would see some beneficial enhancements to their immediate setting from replacement frontages of a more suitable appearance that reinforces setting but this would be at street level and appreciated in short distances/views. I disagree that it is only over these short

distances one 'best'⁶ appreciates significance as it is a kinetic experience as highlighted in the CAAMP and medium and longer views are important. Here, the eye would be further drawn up and toward the significant built form and roofscape of the internal blocks and away from The Newbury as shown in AVR_A and to a much lesser degree AVR_3.

60. Again, new development to the south of Nos. 33 and 34 Cheap Street would be a more appropriate design than the existing flat roof but of a significantly greater scale and with a variety of markedly different roof forms. The use of contrasting materials would allow a degree of prominence to be retained for the Catherine Wheel Inn but my own observations and informed by AVRs B and C and D (taken from outside the NTCA), they still show a scale and massing of built form as an immediate backdrop to the Catherine Wheel and Nos 33 and 34 Cheap street that would substantially reduce the backdrop of sky. The blocks would unacceptably draw the eye away from the architectural interest of the buildings resulting in a clear and harmful diminishment in the appreciation of their upper storeys and roof form and detracting from their architectural interest.
61. I do not share the appellant's view that these areas do not allow for positive views, the context of the NTCA has changed but even having regard to the heritage benefits I still consider the harm to setting is not outweighed by the benefits to be beneficial. There would be lower harm on the scale of less than substantial harm.

Group 2 – Northern end of Bartholomew Street

62. Numbers 149, 150, 151, 152, 153 and 154 Bartholomew Street are Grade II listed buildings and sited to the north of Group 1. Principally listed for their group value, the significance of the buildings lies in their varied character and plot widths, and subtle variety of height within a traditional height datum, creating an attractive group (which adds to their interest), employing varied traditional detailing, such as elevated bayed frontages, sash windows, dentilled eaves, pitched roofs, with dormers.
63. Again, there would be some enhancements to the immediate street context and setting of the buildings but having lingered in this location a while, as many pedestrians do with its views along the canal, moving south there would be a clear awareness and views of the upper storey of the taller blocks behind which would detract from an appreciation of their significance over this intermediate or middle distance. I did not observe the proposal or its impacts would be peripheral, on the contrary the views are channelled along the well-defined and enclosed Bartholomew Street and again, the eye would be drawn up and away from the elevations at a number of points.
64. Even having regard to the KC which reveals itself in closer views the imposition of much taller blocks behind the rooflines and against the sky would diminish the appreciation of their architectural interest as demonstrated in AVRs 2 and A, lesser so in AVR_3. I disagree it would be net beneficial and would be less than substantial harm to the significance of those buildings at the lower end of the scale.

⁶ Dr C Miele PoE 7.58.

Group 3 and Group 7 – Bridge over the River Kennet and Northbrook Street

65. Group 3 consists of the Grade II 1 Northbrook Street, 1, 2 and 4 (Grade II) Bridge Street and the Grade II* listed bridge over the River Kennet and are sited at a point of emphasis within the NTCA, at the intersection of the canal and the commercial frontage to Northbrook Street. Group 7 is 102-103 Northbrook Street and The Former Stables at No. 104, all Grade II listed buildings.
66. The above-named buildings comprise a highly attractive grouping, and the bridge itself affords an opportunity to enjoy views east and west along the canal and to admire the historic buildings one sees from this location, including their prominent frontages and roofscape.
67. AVR_2 shows that on traveling south the upper storeys and roofscape of Blocks A and B would be clearly visible above the existing buildings along and behind the chimneys. As one pauses to experience the historic built and natural environment here the view is channelled by the narrow street and again the eye would be unacceptably drawn up and away from the historic street and roofscape by much larger built form behind.
68. The appellant categorises this as very low that with enhancements of the street frontage of Bartholomew Street it becomes 'Net Neutral' but these are minor enhancement in the context of the kinetic experience from this area of Group 3 as one moves south. Having regard to those enhancements I do not find they are so weighty so as to outweigh the lower level of less than substantial to be neutral effects on significance. My observations were that there would still be a low level of less than substantial harm.

Group 4 – Remainder of Bartholomew Street

69. This group includes 12 Grade II listed buildings (16, 17, 28, 29A, 29, 40 and 45, 104 and 106 and 102-103, 118 and 119, 114 and 115 Bartholomew Street, The Dolphin and Coopers Arms public houses. Positioned to the immediate south and southwest and are essentially the remaining buildings in Bartholomew Street to the south.
70. Forming part of the historic layered streetscape of this part of Newbury their historic features are appreciated relatively close given the narrow nature of the street. There are a number of modern insertions including modern shopfronts and buildings the blank facades of the KC form a backdrop to the scene for Nos. 28-29A, eroding the historic interest and attractiveness of the setting. The prominent 'campanile' mansard structure to the north of the car park also draws the eye.
71. From the south the appeal site is a more distant backdrop to the majority of those buildings with the closet of the group being Nos. 118-119 and there is some detracting from modern development associated with the appeal site to the setting of this southern group. However, AVR_12 shows the enclosure of the sky gap at the end of the view north from development of a significant scale and above and behind the existing campanile mansard structure. The introduction of further large and modern buildings in the background would result in some further erosion of the appreciation of the historic interest of those buildings. I categorise this as a very low level of less than substantial harm.

Group 5 – Cheap Street

72. Group 5 comprises buildings located along Cheap Street: Newbury Post Office, 41, 48 and 50 Cheap Street - Grade II listed buildings ranging from the 17th to 19th century. These lie immediately adjacent the southeastern corner of the appeal site. I agree with the appellant that each of these buildings have a group value with the retained historic layout and grouping of buildings on the eastern side of Cheap Street. Further I observed the Post Building to be visually dominant with its open yard to the immediate south and views across to the Cheap Street frontage.
73. There would be some improvements by replacement of buildings with more suitably designed buildings in Block C albeit any benefit needs to be balanced against the significantly greater scale of development introduced. At street level the cinema would remain and it is unlikely Block A would be appreciated other than from the immediate area around the junction with Bear Lane into Market Place and from Bear Lane itself including from across the less developed yard of the Post Office building. Again, the large brickwork walls and arrangement of windows and balconies on Blocks A and B would be at a height and scale significantly above the existing, including new street facing buildings.
74. Taking account of appearance benefits at street level from Block C and others in this frontage, along with the removal of the KC eastern entrance, these still do not outweigh the harm so as to be beneficial. There would still be a very low level of less than substantial harm to the significance of the Post Office building and No 41 Cheap Street.

Group 6 – Market Place and Wharf Street

75. Group 6 comprises buildings located along Market Place and Wharf Street (Nos. 1-3 Wharf Street, 24 and 27 Market Place, The Elephant at Market (formerly listed as the Queen's Hotel), The Corn Exchange and The Hatchet Inn all Grade II listed buildings. I have also included 21-25 Market Place given its location close to the others in this group around the square.
76. These buildings are all located on the open space formed by Market Place, an important historic space where along with other non-designated buildings that forms a well-defined and attractive space with a mix of uses reflecting the commercial core of Newbury. There would be enhancements to the frontage of the Market Place and in combination with its location the effect on 21-25 Market Place would be negligible and not harmful.
77. The change to skyline should be viewed relative to the overall extent of Market Place, a generous space with varied townscape within and visible from it but it is also a central and well used space. However attractive the street elevations may be, above roof level there would be an overly prominent array of gable ends and pitched roofs with the upper parts of the taller Block B behind. I do not agree that in views south (AVR_4) the roofs would gently climb, they would be read as untypical and noticeable major changes to the roofscape. The upper storeys of Block C would also be visible, the prominence of which would be exacerbated above the red brick and tile by the flat roof and contrasting use of white render.

78. The degree of visibility where it would be seen would be peripheral to the setting of 24 Market Place, and The Hatchet but the impact would become more appreciable as one passes The Corn Exchange and Elephant of the Market. The Corn Exchange is a more monumental building, taller and more prominent than its neighbours, projecting into the square from the northeastern frontage of the space. I observed in views from the northern end of the place it formed a dominant silhouette against the undeveloped skyline to its principal elevation, already set forward from The Hatchet Inn.
79. Its setting is most appreciated from the square but the setting of The Corn Exchange would be eroded by modern, taller development from certain points around the space and on moving south as demonstrated in AVR_04 and to a lesser degree in AVR_05. Having regard to some street level enhancements from new frontage buildings this would not outweigh the harm to result in beneficial effects and there would be a low level of less than substantial harm to the significance of The Corn Exchange and the Elephant at the Market.

Group 8 – The Wharf

80. This group consists of the Grade I Museum on Wharf Street, the Grade II* Corn stores and two Grade II listed buildings of Wharf House and The Stone Building. Neither the Council or Rule 6 parties allege harm to the latter two buildings and the dispute relates to The Corn Stores (now museum).
81. The heritage value of the museum is derived from its interest as a structure from the late Stuart period. The building has interest with its association and relationship with the adjacent Grade I listed former cloth factory and represents the development of the agriculture industry in the 17th century. Its primary setting could be regarded as the relationship with Wharf Street and Market Place, which would be unaffected but its long roof forms have special architectural interest relating to former use that can be appreciated from the north and Victoria Park, as shown in AVR_8 and to a lesser degree AVR_9 which is not as sensitive, and from a much-changed context of modern development and road infrastructure. It would also appear that the Telephone Exchange was approved before the wharf areas became part of the NTCA.
82. The appellant contends this modern setting actively detracts from an appreciation of the pair of buildings but the long roof line of The Granary is an important part of its architectural interest and heritage value. There are limited viewing points that communicate the particular historic or architectural significance of the former historic stores, which is reflected, for example, in its timber framing, proportions, materials and other details which communicate its age and purpose. The higher elements of the scheme would be prominent behind the largely uninterrupted roof line and therefore results in a further erosion in the ability to appreciate that particularly long and distinctive roof form and architectural interest would result. This would not be a neutral impact and would be less than substantial harm to the setting of the Museum but toward the lower end of the scale.

Others

83. The Parish Church of St Nicolas – A grade I listed building with its north and south gateways, both Grade II* listed. The church plainly has historic and architectural interest. The immediate setting of the church, its historic church yard and listed

entranceways contributes to an appreciation of the architectural qualities of the church.

84. Its wider setting has been subject to change over time. The appeal site in its current condition does detract from a close appreciation of the church by eroding an understanding of the historic streetscape of Bartholomew Street and the somewhat incongruous materials of the modern KC entrance. The architectural, historic, and internal significance of the church would not be affected, as to would any ability to appreciate it, from its churchyard.
85. The church also has relatively limited visibility from the close network of streets around the appeal site and Market Place, due to interposing development and the orientation of streets. Heading south along Northbrook Street, one does not become aware of it until they have passed the bridge, and similarly in the journey north from Bartholomew Street and east from Market Place, almost upon it. The immediate setting of the gateways would be affected to a minor degree as the bridge is crossed and one moves south by Blocks A and B but any very low level of less than substantial harm would be outweighed in this instance by the removal of the KC frontage and reinstatement of a more sympathetic form of development, at street level.
86. From Goldwell Park, the proposal would appear behind the church tower but would remain lower in height, screened and filtered by mature trees. Whilst this could add to cumulative impacts, given the monolithic scale of the exchange building, the church is closer to the viewer, and the proposal would sit below both the far horizon and the church's pinnacles. Consequently, the effect would be neutral.
87. *Town Hall and other municipal buildings* – The immediate setting of the Town Hall is at the nodal point between the main commercial thoroughfare of Northbrook Street and the top of the inverted 'Y' formed by the street layout that contains the site. The town hall is visible from multiple locations across the town, with views of the tower from Market Place, the northern side of the canal, terminating views along Wharf Street, views north along Cheap Street and Bartholomew Street.
88. The position of the Town Hall at the main confluence of historic streets in Newbury, abutting the main commercial square and landmark qualities in views over varying distances means that its setting makes a substantial contribution to the significance of the building. The eastern elevation is the most sensitive containing the clock tower which would not be affected by the proposal other than in some longer views such as AVR_9. Its rear elevation is secondary and the building's silhouette would not be affected and there would be improvements at street level. I agree with the appellant that no harm to significance, in terms of its setting would result but I do not consider that the replacement frontages given how the hall is appreciated should be regarded as enhancements that should carry significant weight.
89. At the inquiry additional longer distance views were also put forward by the NS, from Abbey Close and Russell Road to the west of the appeal site. The views were not verified or agreed by the parties and having visited those areas I have not found them to be determinative in my assessment of heritage effects or my determination of the appeal.

Conclusions on first main issue

90. In this appeal there would be enhancements to the NTCA and the setting of listed buildings including from the removal of certain elements, from the architectural approach to some of the new buildings and as set out in the Heritage SoCG. I have considered these in my assessment of harm for each heritage asset above but have found in a number of instances that the effects have been underestimated and that the heritage benefits would not offset the harm to the extent contended by the appellant. For the avoidance of doubt however I do not consider that the substantial harm contended by the Rule 6 to be evident.
91. The proposal would seriously depreciate and detract from the experience of being in the NTCA and an appreciation of its significance (and that of the listed buildings within it) in a number of ways and in a number of views. I consider the proposal to not be sufficiently considered in the way it deals with the changes necessary for effective re-use of this site in such a sensitive historic context.
92. Achieving the high bar for design at such densities requires places and schemes to integrate not intrude into their surroundings, so they relate well to them, are influenced by, and influence their context positively. That would not be the case here. The blocks in dispute would be at complete odds with the more domestic and modest commercial scale of the prevailing character and appearance of this part of the NTCA. This would not be the 'sensitive' re-development that respects the surrounding historic townscape as advocated in the CAAMP⁷.
93. The proposal would therefore cause harm to the heritage significance of the NTCA the character or appearance of which would not be preserved or enhanced. There would also be harm in and from certain views into the NTCA from its wider setting. I have also found a number of harms to the listed buildings above as a consequence of the extent and location of the development proposed within their setting.
94. The development would run contrary to the expectations under s72 and s66 of the Act which requires that I take account of the desirability of preserving the character or appearance of a conservation area and listing buildings. It would conflict with Policy DM9 of the LP insofar as that requires conservation areas to be preserved or enhanced and in particular, that the scale, height, form, massing, and respects the historic and architectural character, including roofscapes of the area, the relationship between buildings and the spaces between them. There would also be conflict with Policy DM10 which requires development to not be permitted if it would harm the setting of a listed building.
95. Turning to Policy SP9 of the LP which aligns with the Framework on heritage, on the scale of less than substantial harm, the overall harm to the NTCA should not be categorised as low or minor, for the reasons set out above I consider that even with the enhancements that is a clear underestimation of the magnitude of harm caused by key components of this particular proposal on its significance. I categorise it as less than substantial harm in the middle of the scale.
96. The requirement to give considerable importance and weight to any harm to the setting of a listed building does not mean that the weight to be given to the desirability of preserving its setting is the same in every such case. It is a matter of

⁷ CD4.7 page 250.

planning judgement and the Framework does not prescribe any particular approach to identifying harm or gauging its extent. Here there would be a range of very low and low less than substantial harms to the setting of listed buildings as set out above.

97. Less than substantial harm does not equate to a less than important planning consideration and the Framework at sets out that, in such circumstances, the extent of such harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In carrying out either an internal or public benefits balance, sustaining or enhancing the significance of a heritage asset and the contribution of its setting is a public benefit⁸. A potentially relevant public benefit can include a heritage related benefit as well as one that has nothing to do with heritage. Having carried out an internal balance to conclude on heritage harm and having still found less than substantial harms I now return to the public benefits overall.
98. Paragraph 125 (c) of the Framework is relevant in terms of giving substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs. Nonetheless the PPG is also clear that the decision maker will need to take account of it alongside other policies within the Framework taken as a whole. What is required is a clear articulation of how that revised approach has been considered and applied alongside the other policies.
99. High quality design has always been an objective of the Framework and more recently the National Design Guide (the NDG) has been published. Whilst not a detailed set of criteria against which to assess the design of a proposed development at a local level, sets out broad principles to achieve the well-designed places that the Framework expects new development to deliver. I have had regard to the appellant's specific assessment but disagree and find that the elements considered above and the scheme overall should not be regarded in my view as a well-designed place.
100. The proposal would maximise the development capacity of this accessible site. Regeneration of the site would in principle be a positive public benefit along with the effects from an increase town centre population. Additional workspace, a possible health space and retail floorspace for local and independent retailers. The existing KC is largely vacant and it is a site where residential led redevelopment should be targeted.
101. Since the proposal was submitted, determined and appealed the Council can now demonstrate a 5-year supply of housing land. It is of note that the strategy and housing requirements appear challenging in the face of constraints within West Berkshire but the plan has been found sound. An imminent review is required but it is challenging to conclude with any certainty on the evidence before me as to the ability of the Council to achieve the housing objectives, or otherwise of the LP. It is also a matter squarely for the review process to examine and resolve.
102. Nevertheless, the LP housing requirement appears to be double that planned for and 427 BTR units would provide a year's worth of the anticipated shortfall in an accessible town centre location. The calibration of the weight to be attached to these benefits is not an exact science and there is no prescribed methodology. In

⁸ PPG 020 ID:18a-020-20190723.

balancing all of these factors together the contribution to the town centre and housing attracts very significant weight in favour.

103. There would also be economic benefits, direct and indirect, which are an important material consideration but I do not consider the retention of an existing use in the cinema to be a benefit as part of this scheme. An estimate of 360 Full Time equivalent jobs during construction and 134 net additional FTE jobs once operational along with additional spending could arise from any similar development elsewhere but that does not detract from the fact that this particular development would offer such benefits, some of which would be temporary and short term, but others would be longer lasting and permanent. Given they are estimates, and nothing is certain or can be guaranteed I give them moderate weight.
104. Climate change benefits would amount from a reduction in carbon emissions when comparing the proposed scheme with the existing emissions of the KC which is significant. The development would also aim to meet BREEAM⁹ excellent rating for the commercial areas. Very low carbon emissions through the adoption of good fabric performance and employment of ground source heat pumps to supply space heating and domestic hot water are intended. The proposal would secure renewable energies to the level of building regulations and whilst the proposal would not achieve net zero carbon emissions in accordance with Policy SP5 of the LP, it is not in dispute that it would not be economically viable to do so within this site. I share the view of officers this is therefore a limited benefit.
105. A number of other environmental benefits such as car clubs, electric charging points, on site cycle hire appear to be predominantly mitigation with any extent of public benefit unclear. Subject to implementation of the proposed measures outlined within the Ecological Impact Assessment, the proposal would not result in any significant residual negative effects on remaining Important Ecological Features within the Zone of Influence (Zoi) as should be the case.
106. The scheme will deliver some small biodiversity net gains through installation of integrated nest boxes and the implementation of green roofs and terraces designed to maximise benefits for biodiversity. The enhancement measures are intended to benefit known features of ecological importance present within the Zoi, as well as biodiversity in general, and to contribute towards targets set out within the LP and the Framework. Given their scale they weigh modestly in favour.
107. It was accepted that the scheme would function properly with regard to delivering a good standard of BTR accommodation with a number of amenities and facilities. These are not benefits however, they are mitigation for predicted effects and perceived demands. The development would generate Council Tax and New Homes Bonus receipts. As the former is essentially a means for the Council to cover its costs arising from an increased local population, and/or to mitigate development impacts upon local infrastructure, it attracts little weight. There is no evidence of a connection between the New Homes Bonus payments and the development to enable it to be considered in accordance with the advice in the PPG. It therefore also carries limited weight.

⁹ Building Research Establishment Environmental Assessment Method.

108. There was some dispute as to whether planning obligations in the form of financial contributions and other mitigation can constitute public benefits along with some credibility issues in the Council's case as to how various weightings should be applied in the relevant decision-making process. Put simply, they can but an assessment must be made as to the extent of benefit that stems from something which is principally designed to mitigate.
109. Financial contributions would be secured for potential healthcare space, public open space, station improvements, a sustainable travel contribution, Traffic Regulation Order contributions and visual message signing. It is not credible that these contributions would result in no public benefits but it is also challenging to give anything other than an estimate of likely effects and overall they weigh modestly in favour.
110. The new north south route through the site would aid permeability and legibility and offer a further route through the site with some useable spaces, it would therefore have some wider public benefits for those accessing the town centre from the station and the south. However, given it would be largely contained between the buildings and in essence, provides access to the blocks, including access to the ground floor commercial units and spill out space for potential café uses etc I am not persuaded that provision of the route and space, particularly in an area that has two well defined routes around the east and west of the site should attract anything more than modest weight as a wider public benefit.
111. The Framework describes heritage assets as an irreplaceable resource that should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
112. In this appeal I have found a range of benefits but ultimately harm to a number of designated heritage assets which carry considerable importance and weight and conflict with policies of an up-to-date LP. When considering a proposal involving a number of heritage assets, if less than substantial harm is found to each, more weight can reasonably be attached in the overall planning balance to a number of 'less than substantial' harms than would be the case if only one asset would be harmed.
113. The appeal proposal is for development of major significance for the town and its historic built environment, and where both the harms and the benefits are considerably weighty matters. In my view, the harmful elements of the proposal from the failure to preserve or enhance the character and appearance of the NTCA and the special architectural and historic interest of the listed buildings are prevailing and the less than substantial harm is not outweighed by the public (including heritage) benefits. The proposal would therefore conflict with Policy SP9 of the LP and the Framework in terms of their heritage objectives.
114. In reaching this view I have carefully considered and given weight to the fact that that the proposal was recommended for approval by professional officers of the Council and that their recommendation was overturned by members of the committee. Members are not bound by those views and are entitled to take a different one, especially in a case which involve matters of planning judgement, as is the case here. It is ultimately the decision of the Council that I must have regard to as opposed to a recommendation from its officers. The reasons are also clearly

set out and articulated in RfR1 and were defended accordingly at the inquiry. This is also the case despite how considered or supported internally by other professionals that officer recommendation may have been, including the lack of objection from a previous conservation officer.

115. I have also been mindful throughout of the involvement of Historic England (HE) in the appeal proposals assessment and the relevant consultation responses. The Courts have found that considerable weight should be given to comments from statutory consultees and only departed from for good reason. In this case the objection to the proposal was withdrawn following amendments to the proposals with the final response given that the scheme had got to a point with the design, subject to being properly detailed the harm could not get much lower if the scale of development proposed is to be delivered. Further, that if the scale of development is needed to deliver the benefits that could reasonably be considered a clear and convincing justification.
116. This response does not read to me as any form of direct support for the proposal as the necessary consideration and assessments including any balance would rightly need to be carried out by the decision maker. The response does not refer to any conclusion on the effects on significance of any individual designated heritage asset or an assessment of harm on a scale. Historic England are no doubt familiar with the town and the proposal but as the decision maker I have also carried out a number of visits including a visit based on a series of agreed viewpoints in the immediate and wider area of the appeal site.
117. My decision is also taken in the context of a newly adopted local plan and the existence of a 5-year housing land supply. I have also held a public inquiry which HE did not attend or give evidence to. Even if my views are somehow to be interpreted as being contrary to any subjective levels of harm expressed by HE, I consider good reason has been set out above why I find the proposal to be unacceptable in terms of the first main issue. In no way does the consultation response(s) dictate that I should automatically decide or conclude otherwise and they do not alter my views or conclusions on the evidence before me.

Living conditions – Noise

118. The premises in question, The Newbury Public House has a semi enclosed outdoor terrace on its upper floor and the use of the terrace is permitted to 0130 hours with recorded music permitted to midnight Monday to Sunday. Although the Premises Licence permits live music indoors only, the Live Music Act 2012 deregulates amplified live music (along with karaoke) can be played until 2300 hours (with recorded music following) unless the licence, following review specifies otherwise. A number of breaches of the licence appear to have occurred with no further action taken by the Council's Environmental Health department.
119. A noise assessment was carried out for a single period in November 2023, following that continuous monitoring was carried out for 18 weeks. This identified external events at the Newbury Public House would yield noise levels ranging from 71 to 76 dB LAeq outside dwellings within Block B, E and F with noise levels exceeding WHO and other guidance within the external amenity levels by between 5 and 15 dB LAeq. Ultimately acoustic modelling has demonstrated that the predicted entertainment noise levels at the façade and in the external amenity

space surrounded by Blocks B, E and F will exceed the recommend target levels. Approximately a quarter of the units would be affected.

120. Noise mitigation for the exposed units has been proposed in the form of winter gardens, façade treatment, suitable glazing and an acoustically treated mechanical heat and ventilation system to achieve the appropriate internal noise levels. I am satisfied from the evidence produced that subject to mitigation, impact noise could be mitigated to acceptable levels, both internally and externally, when assessed against BS 8233:2014, which, despite the limitations set out by the appellant appears to be an appropriate reference tool along with the other guidance referred to. However, the question that arises in this issue as to whether, in this town centre location to ensure noise levels from the premises would not adversely affect the living conditions of its occupiers the mitigation proposed would provide an acceptable residential living environment.
121. As a starting point, the appellant contends using the building envelope to mitigate noise to acceptable levels is considered the viable option¹⁰. As to whether good acoustic design practice has been followed in the design and evolution of the proposal to support that approach, the design analysis does not indicate whether alternatives, such as locating sensitive rooms and amenity space away from the elevations directly overlooking the terrace or in the orientation of buildings so as to try reduce the noise exposure, were considered.
122. Achieving high quality design, which includes creating a high quality of amenity, begins with a process of analysis that should begin as soon as any land is under consideration to be developed. Whilst there is some inevitability of developing in such town centre locations a fabric first approach to mitigation appears to have been undertaken at the expense of alternative layouts and form of buildings that may not have resulted not in the same effects. I do not know the exact extent or details of that initial design work but on the evidence before me it appears that the noise consultants for the appellant have been presented with the scheme and asked to design acoustic mitigation for it rather than being involved from the outset.
123. Dealing with the amenity areas and winter gardens, there would be a number of other alternative amenity spaces that could be used. In any event, the uncontested evidence of the appellant's noise expert is that noise levels in the winter gardens would be approximately 50 dB LAeq T which would meet the World Health Organisation and British Standard guideline levels. However I am also mindful that the times at which the music events would take place would be the times at which the communal gardens would not typically be in use but for some that this would make the living environment in this location undesirable with it occurring on a regular basis. Noise levels would also appear be at the upper end of the scale.
124. I accept that it will only be when the terrace is playing live or recorded music that windows and balconies of the most affected units may need to be closed. Exposure would be on average 2 to 3 evenings a week all year round, but entertainment could quite easily occur multiple times a week, at various times, especially during the summer months as permitted by the licence. I do not regard the number of units that would be affected (c.100) as insignificant and the period of

¹⁰ Section 5 of PoE of Joe Baggeley of Anderson Acoustics.

impact could be greater given the 39 breaches reported in the period from 6 June to 19 September or put another way a breach every week¹¹.

125. For those affected residents I accept that national policy or local policy do not suggest that opening windows for ventilation is a fundamental right. However, human nature is such that where one can open a window when it is fine weather, then it would be wholly desirable to do so. Mechanical ventilation is not a substitute for being unable to do so and might be considered as something of a 'last resort'.
126. The inability to have access to fresh air at the relevant times of choice through open windows and having to use a sealed winter garden or other outside amenity space would result in a somewhat oppressive sense and perception in the living environment that would at times feel like existing in and being restricted to an enclosed space. In the summer months in particular, occupiers would have to sleep in sealed rooms, relying upon comfort cooling ventilation or alternatively seek fresh air outside.
127. Clearly residents of any BTR scheme would have a choice and I have no doubt the information measures outlined by the appellant in the form of renter's information packs and a noise management plan could assist. I would also expect for any large scale BTR scheme in such a location with identified impacts that this kind of documentation be provided and include information on the promotion of amenities, the public spaces, the various facilities within the building and their operation and so on. To my mind this does represent a somewhat take it or leave it approach and it does not provide justification for the quality of living environments created.
128. I have also carefully considered the town centre location and the government's aims and objectives in allowing greater deregulation of the leisure industry and further that there may well be additional noise sources. The PPG notes that the potential effect of a new residential development being located close to an existing business giving rise to noise should be carefully considered; existing noise levels from the business may be regarded as unacceptable by the new residents and subject to enforcement action.
129. The building is embedded into the site but to suggest that any decision other than to accept these living conditions could unreasonably blight opportunities that the site offers implies only one approach and it has not been demonstrated through the design process that other options were considered. It is also the specific effects of this particular mitigation that is the issue here and in this particular location.
130. The overall result would be a sizeable number of living environments that would fail to adequately address the connections between people and places and the integration of this new development into the historic and commercial built environment. The proposal would result in unacceptable impacts on the living conditions of a significant number of future occupiers that would likely give rise to adverse effects on health and quality of life.
131. For these reasons, the proposal would cause some harm to the living conditions of occupiers due to noise and the necessary mitigation required to satisfactorily mitigate it. In my view and no matter how standard these approaches appear to be

¹¹ CD1.220.

elsewhere I consider this element should not be regarded as a high quality of design. In this regard there would be conflict with Policies DM5 and DM30 of the LP insofar as they require a high standard of amenity and no harm to the amenity of occupants of neighbouring land and buildings, and future occupants of the development, through an unacceptable increase in noise.

132. The proposal would also conflict with the aim of the Framework at paragraph 135 to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Living conditions – Amenity space

133. The second part of Policy DM30 of the LP aligns with the Framework in terms of seeking to provide and/or maintain a high standard of amenity for existing and future users of land and buildings. Importantly for this issue functional private amenity space is required of a quality and size to meet need. The supporting text of the policy clarifies that as a guide, for 1 or 2-bedroom flats at least 25 square metres (sqm) of communal open space should be provided per unit. For three or more-bedroom flats at least 40sqm of communal open space should be provided per units. Balconies may not be counted towards the provision of amenity space for houses or flats, unless in exceptional circumstances, where they provide high quality space.
134. The Council made no qualitative assessment of the spaces but private amenity space can, and should, be sought to be provided in a variety of different forms and types, and a quantitative assessment is not the only calculation. Even with the inclusion of private balconies the quantity of such space falls short of that guidance but the Council also did not object to the quality of the amenity space proposed. There are no requirements set out for BTR units and the SPD guides that roof gardens are a good way of providing green private space within apartment blocks. I am also aware that the Council have accepted 7sqm of space for the Sterling Cables development.
135. Communal spaces for BTR schemes typically include a number of internal lounges at ground and upper floors with some open areas, and in this case a gymnasium and squash court. I agree with the Inspector in the Basildon appeal that such internal spaces can contribute to the amenity spaces available for BTR occupiers.
136. I strongly doubt that the limits on number of occupiers of the space at any one time would be breached, the spaces may not be overlooked but they are meant to be private and are covered by CCTV. With the exception of Block D whose core would access the civic square space, the spaces would be accessible across the proposal with each individual core having access to an area of communal space. Walking distances may not suit all but they would be short but space is available within a short distance from every unit, including for occupiers of Block D.
137. Turning to the new internal north south route, it is not intended as private amenity space but nonetheless could no doubt be implemented to be an attractive multifunctional space easily accessible by residents. Whilst not private as such well-designed seating and relaxation areas could provide a form of space for reflection/contemplation or even a short break during the day/evening and the quality of space proposed could be landscaped as proposed to be of a sufficiently high quality.

138. Further, I observed that within reasonable walking distances and along safe routes are a variety of parks, recreation and other open spaces which would provide additional and accessible alternative and additional spaces, including for those seeking some privacy, for the occupiers of the flats, should they wish to use it.
139. Wherever the numbers may ultimately fall the combination of amenity spaces proposed, in this town centre location and even on the Council's best case in terms of the quantitative shortfall would be outweighed by the considerations above. The proposal would provide amenity space which would be of an acceptable location, size and quality to meet the needs of occupants. Insofar as this issue is concerned, there would be no conflict with Policy DM30 in terms of its requirement for functional amenity space of a quality and size to meet the needs of the occupants.

Other Matters

140. Issues were raised by NTC concerning parking provision and ultimately, effects on highway safety. The amount of car parking serving the development would reduce significantly as part of the scheme and the residential element of the proposal is intended to be 'car free' with parking provision on-site only for those who need it. There is nothing unusual about 'car free' developments especially on sites like the appeal site that are close to public transport hubs and in an accessible town centre location.
141. On the written evidence submitted and further to my own questions at the inquiry on this matter, I do not consider that the scheme need result in increased parking pressure on adjacent, or even more far flung, streets, subject to planning obligations secured in the S106 agreement, that should be regarded as unacceptable or that would result in unacceptable highway safety impacts.
142. The Council and Rule 6 parties drew my attention to an alternative proposal by the appellant on the same site and known as 'The Old Town' scheme. A valid application has been submitted and is currently being considered by the Council's officers. In this appeal that proposal is not before me in anything other than name, brief outline, and no drawings or further details were submitted to the inquiry. Further, at no point did the Council or Rule 6 parties seek to demonstrate in their evidence that this was a realistic alternative scheme of a less harmful design and with lesser impacts. I have no doubt this is because that proposal still has outstanding issues to be resolved, consultation responses to be reviewed and decisions made.
143. Caselaw of relevance includes the *East Quayside*¹² judgement which explains, in cases relating to heritage assets and alternative schemes '*this, of course, is not to say that the absence of an alternative design that would cause less harm than the development proposed is irrelevant to the decision on the application for planning permission, and an immaterial consideration... it can be relevant, and may be important, in the balance finally struck between harm and benefit.*' However, for the above reasons it has not been considered further in any detail and on the evidence before me in this appeal its existence carries little weight.

¹² East Quayside 12 LLP v The Council of the City of Newcastle Upon Tyne [2-23] EWCA Civ 359.

144. Other appeal decisions and judgements have been put before me to inform and support the respective cases of the main parties. I have had regard to them so far as necessary, whilst also noting that the facts and matters in this case turn on materially different considerations, for example either by location or the main issues and the evidence presented. It is an accepted premise that each case is to be determined on its own merits and circumstances and it is a matter for the decision maker to undertake the necessary planning balance. As such, I do not consider they are directly comparable and I attach limited weight to those presented.

Conclusion

145. Drawing my conclusions together, although there would be no conflict with the LP in terms of the provision of private amenity space the conflicts with the LP that I have identified are such that the proposal should be regarded as being in conflict with the development plan, when read as a whole. I consider the harm in relation to the first main issue to be prevailing and such that this would be the case even if I had found with the appellant on the second main issue in terms of noise.

146. Material considerations, including the Framework, do not indicate a decision should be made other than in accordance with the development plan.

147. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

R Aston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Douglas Edwards, of King's Counsel

He called,

Sarah Ballantyne-Way BSc (Hons) MSc MRTPI

Lochailort Investments Ltd

Dr. Christopher Miele MRTPI IHBC

Montagu Evans

Nick Jones-Hill

Waterman

Joe Baggerley BSc (Hons) MSc MIOA

Anderson Acoustics

FOR THE LOCAL PLANNING AUTHORITY:

Mark Beard, of Counsel

He called,

Sian Cutts BSc (Hons) DipTP MRTPI

Senior Planning Officer – WBC

Laila Bassett BA (Hons) MSc

Principal Planning Officer - WBC

Dr. Rebecca Hawkes-Reynolds PhD IHBC

Principal Conservation and
Design Officer – WBC

Russell Davidson BSc (Hons) DipAc

Senior Scientific Officer - WBC

RULE 6 PARTIES:

Cllr Andrew Moore

Newbury Town Council

Closing submissions delivered by Cllr Gary Norman leader of Newbury Town Council

Dr. David Peacock

The Newbury Society

INTERESTED PARTIES:

Keith Hoddinott

Cllr Adrian Abs - West Berkshire

Cllr Martin Colston - West Berkshire

DOCUMENTS SUBMITTED TO THE INQUIRY

Document Number	Document name	Submitted by
Document 1	Addendum to Dr. Miele's PoE	Appellant
Document 2	ERRATA to Dr. Miele's PoE	Appellant
Document 3	Draft S106 legal agreement	Appellant
Document 4	Appellant's Opening Statement	Appellant
Document 5	Representation of Cllr A Abs WBC	Cllr Abs
Document 6	WBS Opening Statement	Council
Document 7	NTC Opening Statement	Rule 6
Document 8	NS Opening Statement	Rule 6
Document 9	Representation of Mr. Hoddinott	Mr. Hoddinott
Document 10	Representation Cllr M Colston	Cllr Colston
Document 11	EiC Statement NTC	Rule 6
Document 12	NS EiC Statement	Rule 6
Document 13	Spoken representation from Cllr A Abs	Cllr Abs
Document 14	Appendix to SBW's PoE	Appellant
Document 15	Site Visit Itinerary	Both
Document 16	Pack of AVR's	Both
Document 17	Open Space distances	Both
Document 18	Note of Historic England site visit	Appellant
Document 19	Draft CIL compliance statement	Council
Document 20	NTC EiC - Planning	Rule 6
Document 21	NS EiC - Planning	Rule 6
Document 22	Draft planning conditions	Both
Document 23	Closing Submissions	Council
Document 24	Closing Submissions	NTC
Document 25	Closing Submissions	NS
Document 26	Closing Submissions	Appellant
	<i>Submitted after the inquiry adjourned on Thursday 12 June 2025</i>	
Document 27	Amendment to closing submissions correcting a page number reference omitted from original	Rule 6 (NS)
Document 28	Shared Listed Buildings and Visual Impacts Table	Appellant
Document 29	The Newbury Society Additional Buildings Table – Not accepted	Rule 6 (NS)
Document 30	Amended CIL Compliance Statement	Council
Document 31	Completed S106 legal agreement	Appellant

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Appeal Decision

Site visit made on 21 December 2021

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 March 2022

Appeal Ref: APP/B1415/W/21/3272859

York Road Buildings between 4-6 York Road, St Leonards-on-Sea TN37

6PU Grid Ref Easting: 580081, Grid Ref Northing: 110755

- 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 Paul Ferguson against the decision of Hastings Borough Council.
 - The application Ref HS/FA/20/00130, dated 10 February 2020, was refused by notice dated 16 October 2020.
 - The development proposed is 'change of use of buildings from mixed Class B8 Storage and Distribution and, Class B1 Offices to C3 Dwellinghouses, including live/work units. Conversion and rear extension to existing building to form 3 dwellinghouses. Conversion of existing building to form 4 live/work units. Provision of amenity space, parking areas and bin store, and associated works'.
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Decision

1. The appeal is allowed and planning permission is granted for the 'change of use of buildings from mixed Class B8 Storage and Distribution and, Class B1 Offices to C3 Dwellinghouses, including live/work units. Conversion and rear extension to existing building to form 3 dwellinghouses. Conversion of existing building to form 4 live/work units. Provision of amenity space, parking areas and bin store, and associated works' at York Road Buildings between 4-6 York Road, St Leonards-on-Sea TN37 6PU in accordance with the terms of the application, Ref HS/FA/20/00130, dated 10 February 2020, subject to the attached Schedule of Conditions.

Preliminary Matters

2. The site address referred to in the application form is different to that in the appeal form. I have taken the site address for the banner heading above from the appeal form as this matches that used in the appellant's other submissions and more clearly describes the appeal site.

Main Issues

3. The main issues are: i) whether the proposal would represent the unacceptable loss of employment land; and ii) whether the proposal would be capable of providing appropriate waste collection facilities.

Reasons

Employment Land

4. The appeal site is a commercial yard and buildings located to the rear of terraced and semi-detached houses, accessed by a narrow passage between

two houses off York Road. The buildings have been described as being used for office and storage purposes, and I saw the appeal site remains in active use. As such, the proposed development would be carried out on existing employment land. Plots 1 - 4 have been described as 'live/work' units, and the proposed plans show ground floor areas annotated as 'workspace', rather than living areas.

5. Policy E1 of the Hastings Planning Strategy 2011 – 2028 (2014) (PS) seeks to protect existing employment land to secure its effective use. The starting point for the policy, as explained in the Council's Supplementary Planning Document¹ (SPD), is at criterion 'a', which sets out that existing employment land will be retained unless it is demonstrated that there is no reasonable prospect of its continued use for employment purposes or it would cause serious harm to local amenities. Where continued employment use is unviable, criterion 'b' supports mixed uses incorporating employment.
6. The appellant's business currently occupies the appeal site and it is claimed to have outgrown the facilities, but no evidence, such as a marketing campaign following the advice of the SPD, has been provided to demonstrate the appeal site could not be occupied by any other businesses or is otherwise unviable for employment use. The appellant has suggested the existing use could operate 24 hours a day, 7 days a week, to the detriment of neighbours' living conditions, but the Council advise the current arrangement causes no disruption in this regard. I saw the layout of the site and its close relationship to neighbouring houses and gardens would provide opportunities for conflict between commercial and residential uses; however, no evidence of existing 'serious harm' has been provided.
7. In comparison to the existing use, it is claimed the appeal site would be appropriate and viable for a mixed development incorporating an element of employment use, such as that proposed through the live/work units at Plots 1 – 4. Reading Policy E1 alongside the SPD it is clear that criterion 'a' should be complied with first, before support is provided for any live/work units in place of existing employment land.
8. The Council has referred to The Hastings and Rother Housing and Economic Development Needs Assessment (2020) (HEDNA) and a progress report² which post-dates its decision notice. These show a steady demand for industrial and warehouse space locally, and the Council describe the shortfall for such as particularly acute in Hastings. I have not been referred to any figures demonstrating the magnitude of any demand for the size and quality of the employment land which is, or reasonably could, be offered at the appeal site.
9. I note the appellant's claims that the demand for warehousing primarily relates to companies with wide distribution networks, but this has not been demonstrated through any detailed research. The appeal site would, however, be inappropriate for many businesses on account of its location within a residential area and its narrow access. Notwithstanding those concerns, I am unconvinced by claims that the existence of other office space in the local area means the loss of such as proposed would be insignificant, or that the loss of storage space would be negligible.

¹ Retention of Employment Land and Premises Supplementary Planning Document (2015)

² Final Room to Grow Report 2, by SHW dated June 2021

10. The Framework offers support for the redevelopment of employment land for housing where, amongst other things, it would not undermine key economic sectors or sites. The Council has not suggested the appeal site is a key economic site and the appellant has claimed the specific circumstances of the appeal site would ensure no key economic sectors would be undermined by the proposal. Rather than explicitly state the proposal would undermine any key economic sectors, the Council has concluded the appeal site provides an important function by providing space for storage and distribution in the Borough, which has a steady demand predicted to grow in the medium-term. This conclusion does not appear to have taken the specific circumstances of the appeal site into account, notably the limited width of its access which would prevent many large commercial vehicles from accessing the site, and its position amongst houses and gardens in a predominantly residential area.
11. The proposal would not therefore undermine key economic sectors or sites, but it would have a harmful effect on existing employment land, reducing its supply in the face of latent demand and without a sufficiently justified reason. The appeal scheme would therefore represent the unacceptable loss of employment land. This would conflict with Policy E1 of the PS which seeks to protect such, and for the reasons I have set out above none of the criteria under which Policy E1 would offer support for mixed uses incorporating an element of employment land would be met.

Waste Collection

12. The straight, hard-surfaced access driveway from York Road into the appeal site would be too narrow for the Council's refuse vehicles to use, and the proposed plans show refuse stores would be located within the core of the appeal site, either side of this access. The appellant refers to the distance from the proposed refuse stores to the highway as measuring 23m, which has not been disputed by the Council. The Council claims that it would be unacceptable for refuse collection crews to have to walk over 15m to collect wheelie bins from refuse stores, and this forms the basis for their objection to the proposal on this issue.
13. The main parties have confirmed that a maximum distance of 25m between refuse storage facilities and the point at which the refuse collection vehicle stops to collect a wheelie bin is specified in the Building Regulations. The appellant has also referred to excerpts from a Good Practice Guide (GPG) relating to refuse and recycling storage for new residential developments within parts of East Sussex, including Hastings, which suggests a standard 25m minimum hard surfaced distance between refuse stores and the edge of the highway is encouraged in those parts of the County.
14. That would conflict with the advice of the Council's Waste Services Team, but no detailed argument has been presented to explain why any distance over 15m from the highway would be an unacceptable distance for refuse collection crews to walk. I accept that there would be a maximum distance over which it would be unreasonable to expect refuse collection crews to move wheelie bins, but this is not specified in the development plan. In the absence of any explanation as to why a distance of 23m would be too far in this instance, I consider the 25m distance set out in the Building Regulations and GPG would be a reasonable maximum. However, in practice, there would be no certainty

that the Council's refuse collectors would be willing to walk over 15m to collect refuse from the proposed development.

15. The existing use of the appeal site has its own non-residential refuse collection needs, which are managed on a weekly basis by a private waste collection company, and the appellant has explained that similar private waste collection services would also be available to serve the proposed development. I am therefore satisfied that the proposal would be capable of providing appropriate waste collection facilities, subject to the approval of a waste management strategy specifying how refuse would be collected and by whom in the case that an agreement could not be reached with the Council's waste collectors. This could be required by condition.
16. The proposal would therefore be capable of complying with Policy DM3 of the Council's Development Management Plan (2015). This requires, amongst other things, that development provides adequate space for the storage of waste and the means for its removal. The proposal would also be capable of functioning well, with integrated bin stores which would not be visible from the street, in accordance with the guidance set out in the Framework and National Design Guide.

Other Matters

17. I note concerns from a number of neighbouring residents in relation to the extent of the appeal site which covers an existing pedestrian access path between 25 and 27 Strood Road and along the rear boundaries of 27 to 35 Strood Road. That land falls outside the ownership of the appellant and I am satisfied that Certificate B of the application form has been correctly completed and complied with. The access already exists but it does not lead into the appeal site, and I understand there would be no right of access for future occupants of the proposal over that land; however, that would be a matter for the appellant or future occupants to address with the owners of that land.
18. I do not consider the proposed pedestrian access from Strood Road to be essential to provide safe access to the appeal site, which is presently accessed by pedestrians and vehicles from York Road. There would be the potential for conflict between pedestrians and vehicles using the narrow access from York Road, but such a situation already exists, and I do not consider the short length of the access drive would be likely to create any unacceptable risks to highway or pedestrian safety.
19. I have read the comments of the Highway Authority, which take the existing use of the appeal site into account and raise no objection to the proposal. No evidence has been presented to suggest to me that the proposal would have a more harmful effect on parking provision or highway safety within the appeal site itself, or outside of the appeal site, compared to the existing use and the extent to which it could be used for commercial purposes.
20. As the pedestrian access from Strood Road already exists and is used by some residential properties on that street, any possibility of the future occupants of up to 7 additional dwellings also using that access would not lead to an unacceptable risk of crime or noise. The proposal would therefore remain acceptable in either case where the proposed pedestrian access from Strood Road is provided or not.

21. The orientation of the appeal site and its existing buildings and boundaries do not suggest to me that the proposal would result in any unacceptable loss of light being experienced within neighbouring residential properties. I noted small changes in land levels within the appeal site and its surroundings, but these did not appear to be significant enough to create the potential for any harm resulting from any future boundary treatment which may replace existing low walls and fences.

Planning Balance

22. The Council is unable to demonstrate a five-year housing land supply and I have been referred to Paragraph 11 of the Framework. Where this is the case, the policies which are most important for determining the application should be considered out of date, and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. Although some mixed use employment space would be retained within the proposed live/work units, the proposal would reduce existing employment land in an area where warehousing is in demand. The existing employment land is a constrained site unsuitable for large vehicles, in a location where there would be potential for conflict between any commercial use and the living conditions of surrounding residents. The quality of the existing premises could be improved to an extent but would be limited by the age and size of the existing buildings and their siting amongst residential properties. These factors reduce the weight that I would assign to the economic harm which would result from the unacceptable loss of employment land proposed and the subsequent conflict with the development plan.
24. The proposal would provide 7 new dwellings which, the precise extent of housing shortfall aside, would be a modest but not insignificant contribution to the Council's supply. The appeal scheme would redevelop brownfield land and enhance drainage and biodiversity through the reduction in hardstanding.
25. The Framework refers to the important contribution small and medium sized sites can make to meeting housing requirements and advises support should be given to the development of windfall sites and great weight should be assigned to the benefits of using suitable sites within existing settlements for homes. It also advises significant weight should be given to the need to support economic growth. Paragraph 120 advises that substantial weight should be given to the value of using suitable brownfield land within settlements for homes, and Paragraph 123 advises a positive approach should be adopted for alternative uses of developed land. This should include using employment land for homes in areas of high housing demand, provided it would not undermine key economic sectors or sites and would be compatible with other policies in the Framework, amongst other things.
26. Taking all of the above into account, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework taken as a whole. As such, under the provisions of the Framework, planning permission should be granted.

Conditions

27. A condition requiring the commencement of development within the relevant timeframe is necessary, and a condition identifying the approved plans is also needed in the interests of clarity and enforcement. The Council has suggested a condition controlling the hours within which the development could be carried out, which would be reasonable and necessary to protect the living conditions of neighbouring residents while development is carried out. A condition requiring the approval of details of the external surfaces of the development would be reasonable to ensure those elements of the proposal blend appropriately with the existing buildings and surrounding area.
28. Details of hard and soft landscaping would be required to ensure these parts of the proposal are finished to an appropriate standard and are thereafter retained. Such details could include the vehicle and pedestrian access and circulation arrangements and parking specifications, removing any need for a separate condition specifying the sizes of parking spaces. Additional conditions would be reasonable and necessary to ensure the proposed planting is completed, retained and replaced where necessary, and to require the approval of a landscape management plan in respect of the proposed communal garden. The landscape management plan would ensure the proposed communal garden is appropriately managed and maintained to the benefit of the future occupants of Plots 1 – 4 and neighbouring residents whose boundaries abut that space.
29. The Council has suggested a condition which would prevent the occupation of the proposal until it is satisfied that the necessary drainage infrastructure capacity is available to adequately service the proposal. However, no evidence has been presented to suggest a suitable sewerage and surface water drainage/management scheme may not be capable of providing the necessary drainage infrastructure to service the proposal. The wording proposed by the Council would not be reasonable where appropriate details would have already been approved to their satisfaction and completed prior to the first occupation of any dwellings. I have therefore amended the suggested condition to ensure it meets the tests set out at Paragraph 56 of the Framework.
30. Conditions clarifying the extent of residential and business floorspace within the proposed live/work units and their retention are reasonable and necessary to protect the employment space proposed. I note concerns from neighbouring residents relating to the hours of use of the proposed live/work units, but as that building is currently used for commercial purposes with no controls over its hours of use, and because the proposed live/work units would be a less intensive commercial use, it would be unreasonable to control the business hours of those properties. In any case, I consider it unlikely that live/work units of the sizes proposed would cause any noise or disturbance which would harm the living conditions of neighbouring residents.
31. Windows in the rear roof slope of Building A would serve a vaulted ceiling, avoiding any unacceptable levels of overlooking into properties along Vale Road. However, I am aware that the internal arrangement of the roof space of Plots 1 – 4 may change without the need for planning permission. It would therefore be reasonable to attach a condition requiring those roof lights to be obscure glazed and non-opening where any part of those windows are within 1.7m of the finished floor level of the room they serve to protect against unacceptable levels of overlooking. A condition requiring the blocking up of the

first floor level east elevation window of Building A in accordance with proposed elevation plans would provide certainty that those works would be completed and prevent any unacceptable levels of overlooking from that window.

32. The Council has suggested a condition prohibiting the installation of an external lighting scheme until such a scheme has been approved to prevent light obtruding beyond the area it is intended to light. I have amended the wording of the suggested condition to make it unambiguous, which would protect the living conditions of neighbouring residents in the case that an external lighting scheme is required.
33. As concluded in the second main issue, a condition requiring the approval and implementation of a waste management strategy would be necessary to ensure appropriate waste collection facilities are provided as part of the proposal.

Conclusion

34. The appeal scheme would conflict with the development plan. However, the approach of paragraph 11 of the Framework, as a significant material consideration, is worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore, subject to the attached conditions, be allowed.

L Douglas

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: OV/PF/YR/GT/01, OV/PF/YR/GT/02, OV/PF/YR/GT/03, OV/PF/YR/GT/04, OV/PF/YR/GT/05, OV/PF/YR/GT/06, OV/PF/YR/GT/07, OV/PF/YR/GT/08, OV/PF/YR/GT/09, OV/PF/YR/GT/10/B and OV/PF/YR/GT/11/C
- 3) Demolition or construction works shall take place only between 08:00 and 18:00 on Mondays to Fridays and between 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) No development shall take place above ground level until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place above ground level until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) Planting plans, including written specifications and cultivation and other operations associated with plant and grass establishment;
 - ii) Schedules of plants noting species, sizes and numbers and densities;
 - iii) boundary treatments;
 - iv) vehicle parking layouts;
 - v) vehicle and pedestrian access and circulation areas;
 - vi) hard surfacing materials;
 - vii) cycle stores;
 - viii) Bin stores; and
 - ix) an implementation programme.

The hard and soft landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 6) All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the first 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.
- 7) The live/work units at Plots 1, 2, 3 and 4 hereby permitted shall not be first occupied until a landscape management plan, including details of the long-term management and maintenance of the communal garden, measures to control the spread of dominant plants, and a strategy for replacement

planting shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

- 8) The dwellings and live/work units hereby permitted shall not be first occupied until a scheme for the management and disposal of foul and surface water to serve the development hereby permitted has been submitted to and approved in writing by the local planning authority. The scheme shall be completed on site in accordance with the approved details prior to the first occupation of any dwelling or live/work unit hereby permitted and retained thereafter.
- 9) The business floorspace of the live/work units at Plots 1, 2, 3 and 4, as annotated 'Workspace' on drawing number OV/PF/YR/GT/07, shall not be used for any purpose other than purposes within Class E(g)(i) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 10) The live/work units at Plots 1, 2, 3 and 4 hereby permitted shall not be first occupied until the windows in the rear roof slope shown on the proposed north elevation plan have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed. Once installed the obscured glazing shall be retained thereafter.
- 11) The live/work unit at Plots 1 hereby permitted shall not be first occupied until the existing window on the east elevation of Building A has been blocked up as shown and annotated on approved plan OV/PF/YR/GT/06.
- 12) No dwelling or live/work unit hereby permitted shall be first occupied until a waste management strategy has been submitted to and approved in writing by the local planning authority. The waste management strategy shall include details of who will be responsible for collecting waste from the dwellings and live/work units hereby permitted, how that waste will be collected and taken away from the site, and how regularly that waste will be collected. The approved waste management strategy shall be adhered to at all times.
- 13) No external lighting scheme shall be installed unless full details have been submitted to and approved in writing by the Local Planning Authority. Any external lighting scheme shall be installed and maintained in accordance with the approved details.

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Appeal Decision

Site visit made on 15 August 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Appeal Ref: APP/T2405/W/23/3318532

43 New Street, Blaby, Leicestershire LE8 4GT

- 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 Perry against the decision of Blaby District Council.
 - The application Ref 22/0464/FUL, dated 6 May 2022, was refused by notice dated 25 November 2022.
 - The development proposed is the erection of 12 dwellings with associated vehicular access, parking and landscaping and drainage including demolition of 43 New Street, Blaby.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 12 dwellings with associated vehicular access, parking and landscaping and drainage including demolition of 43 New Street, Blaby at 43 New Street, Blaby, Leicestershire LE8 4GT in accordance with the terms of the application Ref 22/0464/FUL, dated 6 May 2022, subject to the conditions set out in the Schedule at the end of this decision.

Application for Costs

2. An application for costs was made by Mr Perry against Blaby District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Various descriptions of the development have been given on the planning application and appeal documents. The application which has led to this appeal was originally for 15 dwellings, but this was reduced to 12 dwellings as part of the application process. I have taken the description in the heading above from the Council's decision notice and the appeal form as these accurately reflect the proposal before me.
4. A signed and completed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 has been submitted including contributions towards civic amenity facilities, healthcare, libraries and off-site open space. In respect of those matters, the UU meets the tests set out in paragraph 57 of the National Planning Policy Framework (the Framework), and I have proceeded to determine this appeal giving due consideration to those parts of the UU.

Main Issue

5. The main issue is whether the proposal would make suitable provision for the collection of household waste.

Reasons

6. The appeal proposal would be served by a shared private access. The Local Highway Authority (LHA) has concluded that whilst they are satisfied that there are no highway safety or parking implications, the proposed road layout would not conform to an acceptable standard and therefore it would not be considered for adoption and future maintenance by the LHA.
7. The unadopted nature of the proposed access route has in turn led to an objection from the Council's Neighbourhood Services as the Waste Collection Authority (WCA). The WCA's Waste Collection Guidance¹ requires householders to present their wheeled bins at the boundary of the public highway, and new development to be designed to be adopted as a public highway.
8. Due to the layout of the appeal proposal, the boundary with the adopted public highway would be the junction with New Street, and it would not be possible to provide a suitable presentation point for household waste adjacent to the adopted highway without impeding vehicular and pedestrian traffic.
9. The LHA has confirmed that the private access could be constructed to withstand the weight of a refuse vehicle and other larger wheel-based vehicles, although the matter of future maintenance would be unresolved. The LHA are also satisfied that the current refuse vehicles used by the WCA can enter, turn, and leave the site in a forward gear.
10. However, the concerns of the WCA in respect of the unadopted nature of the access remain. To a large degree, these concerns stem from the WCA's statutory duty to collect waste from rate payers under Section 45 of the Environmental Protection Act 1990 (the EPA). This Section states:
*45. It shall be the duty of each waste collection authority—
(a) to arrange for the collection of household waste in its area except waste—
(i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and
(ii) as to which the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste.*
11. With regard to the cost of collection, the WCA refers to liability claims arising from damage to the roads and other private property. Reference is also made to the procurement of a bespoke vehicle which could lessen the risk of damaging the access road. The likelihood of this scenario is unclear, given that the LHA has concluded that the proposed access and the potential form of construction as recommended by the LHA is suitable for the existing fleet of waste collection vehicles.

¹ Waste Storage and Collection Guidance for New Developments, April 2021; and New Development Quick Reference Guide - Waste Storage and Collection.

12. However, I am mindful that the make-up of the vehicle fleet could change, and I consider that it is reasonable for the Waste Guidance and the approach of the WCA to allow for such changes. It may therefore be the case that a future vehicle fleet would not be able to safely access the development, and that this would result in unreasonable costs being placed on the WCA to address the constraints of the appeal proposal.
13. The appellant contends that a determination as to whether the exceptions of S.45 of the EPA provide the WCA with a justification to refuse to collect waste is not within my jurisdiction. Indeed, it may be for the Courts to determine whether the WCA can be compelled to collect household waste from the appeal proposal. However, in the absence of such a decision from the Courts, there remains a reasonable possibility that the WCA could refuse to collect waste from the site due to its inaccessibility by its existing or future vehicle fleet and the associated costs, including potential costs. I have had regard to that possibility as a material consideration in my decision, and taken by itself this may result in residents of the proposal not being provided with adequate waste disposal facilities.
14. However, even if I was to conclude that the WCA may refuse to collect waste under S.45(a)(i) of the EPA, then S.45(a)(ii) refers to adequate arrangements for waste disposal being made. In this respect the appellant has provided a UU as part of the appeal process which requires the signatory to have a private waste collection service. The use of a private waste collection service for a suburban development of this nature is unusual, but it is not inherently unfeasible or unacceptable in planning terms.
15. The Council and the WCA have expressed concern about the effectiveness of the UU in perpetuity. However, the obligations of the UU would remain in place in perpetuity and the Council would be able to enforce against them on that basis. Successors in title to the appellant would be bound by the UU, and this would also be the case when plots are re-sold individually in the future. The obligations would remain in place even if individual property owners indicated a preference for waste to be collected by the WCA.
16. Reference is also made to the potential that the appointed waste management company could go into liquidation. However, the UU includes a funding arrangement over the lifetime of the development, including the imposition of a service charge. The appellant emphasises that the company would be a non-profit organisation owned by the future homeowners and financed by a service charge. These provisions should provide sufficient confidence and certainty that the private waste collection scheme would endure. Furthermore, even if the management company was liquidated, the UU requires the waste collection measures to be retained in perpetuity. The responsibility for this would remain with the individual householders, and it has not been demonstrated that the liability for waste collection would revert to the Council.
17. The Council's Statement of Case raises a number of other issues in relation to the UU. However, this was based on a draft document, and the completed UU has addressed matters such as the timescale for the submission and approval of a Waste Collection Scheme. The reference to enforcement within the completed UU is appropriate as this gives the Council the power to ensure compliance with the provisions of the UU, rather than representing an unacceptable imposition of an obligation on the Council. Reference to

indemnities within the UU is also appropriate, as this gives the Council or other body a degree of protection when performing their statutory duties.

18. The Council's Waste Guidance states that the Council will not support or allow the deferment of its statutory duty to collect household waste to a separate management company or contractor. However, this is only guidance and is not part of the adopted development plan. It is not a determinative matter in my consideration of this appeal. Given the particular circumstances of this site with regards to planning matters, I consider that the issue of the collection of household waste is satisfactorily addressed by the UU and that on this issue the UU meets the tests set out in paragraph 57 of the Framework.
19. I therefore conclude on the basis of the evidence before me, including the UU, that the proposal would make suitable provision for the collection of household waste. The proposal would therefore comply with Policies CS2 and CS10 of the Core Strategy² and Policy DM1 of the Delivery Plan³ in respect of the design of new development and transport infrastructure. The proposal would also comply with the Framework with regards to achieving well-designed places, promoting healthy and safe communities, and promoting sustainable transport.
20. The Council refers to Policy BNP1 of the Blaby Neighbourhood Plan 2018 in its reason for refusal, but this is not relevant to this main issue as the policy relates to matters of character and a sense of place rather than design and infrastructure.

Other Matters

21. I have had regard to the comments raised locally in respect of the proposal. With regards to access to the site, based on what I have seen and read the local highway network would be sufficient to cope with the extra traffic movements arising from the proposed development. The proposal also includes suitable off-road parking provision and do not include a through road leading to nearby commercial units. The highways consultee has not objected to the principle of the proposal, subject to the access not being to an adoptable standard.
22. The mix of housing is also appropriate for this area and I note that the Council accepts that the proposed mix meets the housing needs of the district. In respect of climate change, it has not been demonstrated that issues such as heat pumps, electric car charging points and solar panels are required to ensure compliance with local and national planning policy.
23. There would be some disturbance during construction, but this would be for a temporary period and potentially harmful effects can be suitably controlled by condition. The degree of noise and air pollution arising from the completed development would also not be out of character with nearby residential uses.
24. The layout of the development is such that this would not lead to unacceptable harm to the outlook, privacy, light and access requirements of nearby residents and recreational facilities. Matters including means of enclosure and obscured glazing can be addressed by condition. The effect on trees and planting within the site can also be suitably controlled by condition.

² Local Plan (Core Strategy) Development Plan Document 2013

³ Local Plan (Delivery) Development Plan Document 2019

25. There is no substantive evidence before me that services in the area are inadequate for the increase in demand that may arise from the proposal.

Conditions

26. The Council, consultees and appellant have made comments on a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result, I have amended some of the conditions for clarity and accuracy.
27. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty. I have removed the reference to a historic site layout and location plan as this does not relate to the approved development.
28. A condition regarding the demolition of 43 New Street is required in the interests of the character and appearance of the area and the living conditions of nearby residents.
29. Conditions regarding details of materials and boundary treatment are required in the interests of character and appearance. A condition regarding waste and refuse collection is required in the interests of the amenity of future residents and highway safety.
30. Conditions requiring the submission of a soft landscaping scheme and an arboricultural method statement are required in the interests of character and appearance and biodiversity. These details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations. Conditions in respect of the timing and implementation of the soft landscaping and future management are required in the interests of certainty, character and appearance, and biodiversity. An ecological enhancement strategy is required in the interests of biodiversity.
31. A condition regarding floor levels is required in the interests of the living conditions of nearby residents.
32. It is appropriate to require the submission of a construction method statement in the interests of the living conditions of residents, highway safety and drainage. I have also included conditions in respect of land contamination in the interests of public safety. Details in respect of these conditions should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
33. Conditions regarding noise mitigation and the use of obscure glazing are appropriate in the interests of the living conditions of residents.
34. Conditions in respect of drainage, including implementation and maintenance, are required to ensure that the site is properly drained and in the interests of highway safety. Details of surface water drainage should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.

35. Conditions in respect of the implementation and maintenance of the access road and parking areas are required in the interests of highway safety and the living conditions of residents. I have inserted a clause regarding the written approval of the Council regarding phasing to give some control and flexibility in respect of implementation.
36. Due to the extent of parking provision and the proximity of the site to nearby dwellings, the removal of national permitted development rights in respect of the use of garages and for extensions to a number of plots are clearly justified in the interests of highway safety and the living conditions of residents. A restriction on obstructions in the vicinity of the highway is required in the interests of highway safety.
37. The implementation of a programme of archaeological work is necessary in the interests of the historic environment. This should be undertaken at the pre-commencement stage as it relates to matters which need to be established before the commencement of building operations.

Conclusion

38. I conclude that the appeal should be allowed.

David Cross

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 approved shall be built in strict accordance with the approved plans listed below:
 - Site Location Plan – Dr No – (04)10-01
 - Proposed Site Plan 01– Dr No – (04)12-01 - Rev J
 - Proposed Site Plan 02– Dr No – (04)12-02 - Rev J
 - Proposed Landscaping Plan– Dr No – (04)12-03 - Rev J
 - Proposed Refuse Collection Plan– Dr No – (04)12-04 - Rev J
 - House Type AV.1 - Plots 2,4,11 – Dr No – (04)13-01 Rev D
 - House Type AV.2 – Plot 10– Dr No – (04)13-02 Rev D
 - House Type B – Plot 9– Dr No – (04)13-03 Rev D
 - House Type C – Plot 1 – Dr No – (04)13-04 Rev D
 - House Type D – Plots 3,5,7 – Dr No – (04)13-05 Rev E
 - House Type E – Plot 12 – Dr No – (04)13-06 Rev D
 - House Type E Garage – Plot 12 – Dr No – (04)13-07 Rev D
 - House Type F – Plot 8 – Dr No – (04)13-08 Rev D
 - House Type Av.1 – Plot 11 – Dr No – (04)13-09 Rev B
 - House Type Av.3 – Plot 6 – Dr No – (04)13-10 Rev A
 - Proposed Site Elevations – Dr No – (04)14-01 Rev F
 - Works to No. 43 and 45 New Street – Dr No – (04)15-01 01 Rev A
 - Hard Landscaping Layout – Sheet 1 of 2 – Dr No – FW2021-C-011-01 Rev A1
 - Hard Landscaping Layout – Sheet 2 of 2 – Dr No – FW2021-C-011-02 Rev A1
 - Drainage Strategy – Sheet 1 of 2 – Dr No – FW2021-D-401-01 Rev A2
 - Drainage Strategy – Sheet 2 of 2 – Dr No – FW2021-D-401-02 Rev A2
- 3) No above ground development on any of the dwellings hereby approved (shown as plots 1-12 on the proposed site plans drawings – Dr No (04)12-01 - Rev J and (04)12-02 - Rev J) shall commence until such time as the existing dwelling at No 43 New Street has been demolished and the retained property (No 45 New Street) has been made good in strict accordance with the details shown in (04)15-01 01 Rev A.
- 4) No above ground construction shall take place until details of the materials to be used in the external elevations of the dwellings hereby approved have been submitted to and agreed in writing by the District Planning Authority. The development shall subsequently be carried out in accordance with the approved details.
- 5) Notwithstanding the submitted details, no above ground construction shall take place until boundary treatment details to be provided throughout the development have been submitted to and approved in writing by the District Planning Authority. The development shall subsequently be carried out in accordance with the approved details.
- 6) The development hereby approved shall be carried out in accordance with the Waste Collection Strategy as detailed in the approved plan entitled - Proposed Refuse Collection Plan– Dr No – (04)12-04 - Rev J. The Waste Collection Strategy shall subsequently be implemented and adhered to in perpetuity in accordance with the approved details.

- 7) Prior to commencement of the development hereby approved, a plan showing a detailed soft landscaping scheme shall be submitted to and agreed in writing by the District Planning Authority. The scheme shall include details of:
 - a) Any existing trees, shrubs, hedges, water bodies to be retained and measures of protection in the course of the development.
 - b) New tree and shrub planting. Including plant type, size, quantities and locations.
 - c) Other surface treatments.
 - d) Any changes in levels of contours.
 - e) The position of service and/or drainage runs (which may affect tree roots).
- 8) Within one year of completion of the development hereby approved, the soft landscaping scheme shall be implemented in strict accordance with the details as specified on the approved plans. If within a period of 5 years from the completion of the development any of the trees, hedges, shrubs or plants die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the District Planning Authority gives written consent to any variation.
- 9) Prior to first occupation of any dwelling hereby approved, a Landscaping Management Plan (drafted by a competent professional and to include the management arrangements of all existing and proposed hedgerows, and the maintenance arrangements for all landscaped areas, landscape buffers, swales, balancing ponds, drainage features and new planting within the development) shall be submitted to and approved in writing by the District Planning Authority. The agreed Landscaping Management Plan shall subsequently be implemented and adhered to in accordance with the approved details.
- 10) No development shall take place until an Arboricultural Method Statement, including Tree Protection Plan, shall be submitted to and approved in writing by the District Planning Authority. The agreed Arboricultural Method Statement, including Tree Protection Plan, shall subsequently be implemented and adhered to in accordance with the approved details.
- 11) No above ground construction shall take place until an ecological enhancement strategy has been submitted to and approved in writing by the District Planning Authority. Any enhancement measures (such as integrated bird/bat boxes) need to be shown on all relevant submitted plans/elevations. All works are to proceed strictly in accordance with the approved scheme.
- 12) No above ground construction shall take place until details of the Finished Floor Levels throughout the development hereby approved have been submitted to and approved in writing by the District Planning Authority. The development shall be carried out in accordance with the approved details.
- 13) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the District Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a. Routing of construction traffic
- b. The parking of vehicles of site operatives and visitors.
- c. Loading and unloading of plant and materials.
- d. Site compound locations.
- e. Storage of plant and materials used in constructing the development.
- f. Measures to control the emission of dust and dirt during construction.
- g. Hours of operation – the details shall include the hours of construction and the Hours of loading/unloading of materials.
- h. Construction noise and vibration strategy.
- i. Piling strategy
- j. Wheel cleaning facilities
- k. Timetable for provision of facilities
- l. Management of surface water on site during construction

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

- 14) Prior to commencement of development (with the exception of the demolition of 43 New Street) a Phase II ground 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:
- a) a survey of the extent, scale and nature of contamination;
 - b) an assessment of the potential risks to:
 - i. human health;
 - ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - iii. adjoining land;
 - iv. ground waters and surface waters;
 - v. ecological systems;
 - vi. archaeological sites and ancient monuments
 - vii. an appraisal of remedial options and proposal of the preferred option(s) and construction methods
 - viii. piling strategy.

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

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

- 16) The development hereby approved shall be carried out in strict accordance with the recommendations set out within the Existing Noise Climate And Noise Impact Assessment - Revision 2.
- 17) No development shall take place until such time as details of the disposal of surface water drainage have been submitted to and approved in writing by the District Planning Authority. The development shall subsequently be carried out in accordance with the agreed details.
- 18) No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance and management of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.
- 19) Before the development hereby permitted is brought into use, drainage shall be provided within the site such that surface water does not drain into the public highway and thereafter shall be so maintained.
- 20) No above ground construction shall take place until the site access road, including visibility splays and internal road network shown on the approved plans has been implemented in full, unless otherwise agreed in writing with the Local Planning Authority. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 21) Prior to the occupation of any dwelling hereby approved, the parking and turning facilities and any private access drives for each dwelling, as detailed in the approved drawings, shall be provided and retained and be made available for such use in perpetuity.
- 22) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent re-enactment with or without modification), the car parking space indicated within the proposed garages serving plots 2,4,6,8,9,10,11 and 12 shall not be converted or put to any alternative use that would prevent it being available as a garage for the parking of a motor vehicle without prior permission of the District Planning Authority granted on an application submitted in that regard.
- 23) No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary.
- 24) All windows serving bathrooms, en-suites and w.c's shall be obscurely glazed and non-opening above 1.7m and shall remain so in perpetuity.
- 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent re-enactment with or without modification) no extensions, alterations or additions, or the provision of any additional building within its curtilage, shall be constructed within the plots 1, 9 and 12 without the prior permission of the District Planning Authority granted on an application submitted in that regard.

- 26) No demolition/development shall take place/commence (with the exception of the demolition of 43 New Street) until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and
- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.
- 27) The materials to be used in the external surfaces of the alterations to 45 New Street shall match those used in the existing building.

End of Schedule



Costs Decision

Site visit made on 15 August 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Costs application in relation to Appeal Ref: APP/T2405/W/23/3318532 43 New Street, Blaby, Leicestershire LE8 4GT

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Perry for a full award of costs against Blaby District Council.
 - The appeal was against the refusal of planning permission for erection of 12 dwellings with associated vehicular access, parking and landscaping and drainage including demolition of 43 New Street, Blaby.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. I will initially address the second ground of the appellant's claim, which is that the Council's case appears to invite the Inspector to determine matters that are not within my jurisdiction. However, as can be seen from my Appeal Decision, I have concluded that the potential for the Waste Collection Authority (WCA) to refuse to collect waste from the site is a material planning consideration. Although ultimately it may be for the Courts to determine whether the WCA can be compelled to collect household waste from the site, in the absence of such a decision from the Courts it is reasonable for both myself and the Council to have regard to this as a possibility. I therefore do not conclude that the Council has behaved unreasonably in its consideration of S.45(a)(i) of the Environmental Protection Act 1990 (the EPA).
4. An alternative scenario is that a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 could compel the appellant and their successors in title to implement a private waste collection service. I have concluded that a completed UU enables me to be satisfied that adequate arrangements for the collection of household waste and its disposal would be in place. However, a completed UU was only provided relatively late in the appeal process. The Council raised a number of detailed concerns on a draft UU that had been provided to it, and it is only on the basis of an amended and completed UU that I have been able to conclude that this meets the requirements of S.45(a)(ii) of the EPA.

5. I note the appellant's comments about the lack of engagement from the Council in respect of amendments to the UU. However, given the late stage of the submission of the UU and nature of the amendments, as well as the technical and detailed nature of the issues raised, I do not consider that the Council's concerns on this matter, including in its original decision and Statement of Case, are so without foundation or substantiation as to represent unreasonable behaviour.
6. Turning to the first ground of the appellant's claim, this contends that the Council has an in-principle objection to the use of unadopted highway, and emphasises that this is couched in terms of the Council's refuse vehicles. The appellant is also of the opinion that the Courts are likely to compel the WCA to collect waste from the appeal site. However, this potential imposition on the Council adds weight to its consideration of the issue of accessing the appeal site with regards to both its current and future fleet of vehicles.
7. The Council has also referred to liability claims arising from damage to the unadopted road and other private property from waste collection vehicles. Although I have concluded that the UU would indemnify the Council against such claims, the concerns of the Council are not fundamentally unfounded both in respect of the existing or future vehicle fleet.
8. Drawing the above together, although I have concluded that the proposal would make suitable provision for the collection of household waste, the Council's concerns are not without substantiation. The Council has set out its case, and although I have allowed the appeal, I consider that the Council has provided an appropriate objective analysis of its concerns and that these are not totally without merit.
9. I have also concluded that the obligations of the UU would address the main issue, but given the detailed issues raised by the draft and completed UU the Council's concerns are not so illegitimate or unfounded as to represent unreasonable behaviour.
10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not therefore justified.

David Cross

INSPECTOR

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Appeal Decision

Site visit made on 30 November 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/K0235/W/20/3257894

187B Bedford Road, Kempston MK42 8DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Resolution Homes against Bedford Borough Council.
 - The application Ref 20/00316/REM, dated 5 February 2020, sought approval of details pursuant to condition No 2 of a planning permission Ref 18/01709/OUT granted on 31 August 2018.
 - The development granted outline planning permission is demolition of existing Liberal Club (D2) for residential development of 0.2 hectares of land to form up to five dwellings with all matters reserved except access.
 - The details for which approval is sought are: Appearance, landscaping, layout and scale.
-

Decision

1. The appeal is allowed and approval, related to the reserved matters of appearance, landscaping, layout and scale, is granted pursuant to outline planning permission Ref 18/01709/OUT, for the demolition of existing Liberal Club (D2) for residential development of 0.2 hectares of land to form up to five dwellings at 187B Bedford Road, Kempston MK42 8DG, in accordance with the terms of the application Ref 20/00316/REM, dated 5 February 2020, subject to the conditions set out at the end of this decision.

Preliminary Matter

2. The Council has indicated that it would have refused the application that is now the subject of this appeal had it been in a position to do so. Its main concerns relate to the effect of the proposal upon the character and appearance of the area, upon the living conditions of existing and future residential occupiers and due to waste collection arrangements. I have formulated the main issues accordingly.

Main Issues

3. The main issues are:
 - The effect upon the character and appearance of the area;
 - Whether or not acceptable living conditions for future residential occupiers would be created, having particular regard to the makeup of the site's external areas;

- The effect upon the living conditions of neighbouring residential occupiers to the north of the site, having particular regard to outlook and privacy; and
- Whether or not acceptable waste collection arrangements have been suitably demonstrated.

Reasons

Character and appearance

4. The appeal site occupies a discreet location, in the sense that its main part is set away from Bedford Road and reached via a private access of not insignificant length. Its boundaries and adjoining land are often well vegetated, which contributes to the site having an enclosed setting. Indeed, it does not have a clear visual relationship with parkland located to the south. Notwithstanding the site's discreet location and well-planted surroundings, a modern residential estate abuts its northern boundary. This neighbouring housing can typically be observed to be formally laid out and compactly spaced.
5. It is important to note that the principle of constructing five dwellings upon the site has already been established and that the detailed layout and dwelling footprints now before me are broadly representative of indicative details submitted at outline stage. The site is relatively constrained in area such that the opportunity to provide wide separation and long private garden areas is not readily offered.
6. I acknowledge that elements of the proposal would not fully comply with the relevant building separation and garden depth measurements suggested at Criterion N3 of the Council's Residential Extensions, New Dwelling and Small Infill Developments Supplementary Design Guidance (January 2000) (RENDSID). Nevertheless, as indicated in RENDSID, each proposal will be judged against its guidance based on the individual circumstances to hand.
7. The proposal, when considered in the context of the compact nature of residential development in place to the north of the site, would not appear discordant or be unduly dense. Indeed, meaningfully sized soft-landscaped areas would be incorporated to several plot frontages. Such features would have a positive influence upon how the scheme would be read and experienced and would assist in guarding against the development appearing cramped or over-intensive. The proposal would be suitably respectful of its verdant surroundings and each dwelling would be appropriately designed.
8. For the above reasons, the proposal would not cause harm to the character and appearance of the area. The proposal accords with Policies 28S, 29 and 30 of the Bedford Borough Local Plan 2030 (adopted January 2020) (the Local Plan) in so far as these policies expect development to contribute to good place-making and contribute positively to the area's character and identity.

Living conditions of future residential occupiers

9. As indicated at Criterion N3 of RENDSID, individual rear garden depths should be at least 13 metres on average in new development areas. Each of the rear garden areas proposed would be of a shallower depth than 13 metres. Nevertheless, the detailed scheme that is before me is led, to a certain extent,

by the site's somewhat constrained composition. Indeed, garden depths of 13 metres would be challenging to implement.

10. In the case of the two largest dwellings proposed (Plots 4 and 5), rear garden areas of generous breadth and overall size would be achieved and I see merit in the appellant's notion that garden sizes would be commensurate to the properties they would serve. It is also apparent that future occupiers of the scheme would have convenient access to parkland situated to the south, which promotes a flexible approach being taken in this respect.
11. I have already found that an unduly cramped form of development would be avoided and that landscaped front garden spaces would have a positive influence. I am also unpersuaded that the presence of trees upon and adjacent to the site would lead to the provision of private rear spaces of a poor standard. For the avoidance of doubt, I have factored into my considerations the proximity of existing residential properties situated to the north.
12. For the above reasons, acceptable living conditions for future residential occupiers would be created having particular regard to the makeup of the site's external areas. The proposal complies with Policies 28S, 29 and 30 of the Local Plan in so far as these policies require that particular attention is given to the relationship of the development with the context in which it is placed, including overdevelopment, and to the quality of the development including the provision of private space where appropriate.

Living conditions of neighbouring residential occupiers

13. Criterion N5 of RENDSID guides that a minimum privacy distance of 18 metres is required between directly overlooking primary windows and that, where a primary window of a habitable room directly overlooks another property or garden, a privacy distance of 9 metres from the relevant boundary is required.
14. As regards the intended relationship between proposed Plot 4 and No 25 Lichfield Close (No 25) to the north, it is first important to note that the first floor level of Plot 4's rear elevation would contain only one opening to serve a habitable room, in this case a bedroom, and that this window (the bedroom window) would be located towards the rear elevation's western end. It is thus the case that outlook from the bedroom window would be directed towards the rear of a garage structure rather than towards any primary window serving No 25.
15. Whilst the bedroom window could offer oblique views of No 25's rear elevation and private garden space, it would do so from a position setback a reasonable distance (although less than 9 metres) from the shared boundary line. I also noted, upon inspection, the presence of an established treeline to this boundary. Whilst planting cannot necessarily be relied upon to provide a permanent or solid buffer to views, in this case it provides additional assurances that the scheme before me would not result in any undue loss of privacy for the occupiers of No 25.
16. In terms of the relationship between proposed Plot 5 and No 23 Lichfield Close (No 23), it must be noted that No 23 is orientated with its front elevation facing east. Its side elevation thus faces the appeal site and there would be no direct relationship between habitable room windows at upper floor level. It is the case that Plot 5 would be setback a not insignificant distance from the shared

boundary and I am content that the privacy of No 23's occupiers would be satisfactorily protected.

17. It is set out at Criterion N7 of RENDSID that it will need to be made sure that proposals will not have an overbearing effect on another property because of its scale, massing and proximity, and that each individual situation varies and will be looked at upon its own merits. Having inspected the site and considered the various arguments put to me, I am content that the proposal would avoid an overbearing effect upon properties situated beyond the site's northern boundary and would thus not have an undue adverse effect upon the levels of outlook enjoyed by adjoining residential occupiers.
18. For the above reasons, the proposal would not cause harm to the living conditions of neighbouring residential occupiers to the north having particular regard to outlook and privacy. The proposal accords with Policy 32 of the Local Plan in so far as it requires particular attention to be given to factors which might give rise to disturbance to neighbours and the surrounding community, including overlooking.

Waste collection arrangements

19. As set out at Appendix C of the Climate Change and Pollution Supplementary Planning Document (December 2008) (the SPD), the Council's contractors will not enter a private road for the purposes of waste collection unless a prior legal agreement has been entered into which indemnifies the Council against structural or other damage (which is not the case here).
20. The SPD also states that any individual or communal bin store should be sited not more than 25 metres from a safe collection point. The access road that serves the appeal site is private and of a length that comfortably exceeds 25 metres. Its length does not promote future residential occupiers being able to conveniently transport wheeled bins (or any other receptacle for the storage of waste or recyclables) back and forth on foot.
21. The appellant has rightly pointed out that full details of access were provided and permitted at outline planning stage. It would appear that no issues in a waste collection context were identified by the Council when the site's access arrangements were before them for determination. To my mind, whilst layout is a reserved matter, the objections now being raised should have been sounded at outline stage. Indeed, the appeal site's long private access effectively rules out (in the absence of an appropriate legal agreement) the potential for Council waste collections to take place in accordance with the provisions of the SPD. This would have been apparent at outline stage.
22. Nevertheless, in the interests of proper planning, it would not be appropriate for me to ignore this issue. Indeed, if I were to do so and allow the appeal, circumstances would likely avail whereby future occupiers of the scheme would not be served by workable or acceptable waste collection arrangements, which would be to the detriment of their living conditions and the general amenities of the area.
23. The appellant has confirmed a willingness to secure private waste collection arrangements as an alternative to Council collections and has suggested that a planning condition could be imposed to this effect. The Council instead suggest that a private waste agreement would need to be secured via a legal

agreement. The Planning Practice Guidance sets out that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. I see no clear reason why a condition, if worded to apply in perpetuity, would not be fit-for-purpose here. Indeed, a relatively small development with a single identified collection point is under consideration. A relatively straightforward agreement would be anticipated.

24. Thus, subject to an appropriately worded planning condition being imposed as discussed above, I find that acceptable waste collection arrangements have been suitably demonstrated. The proposal accords with Policies 29 and 31 of the Local Plan in so far as these policies require all new development to integrate functional needs such as refuse/recycling storage and collection points.

Other Matters

25. The Grade II listed Kempston Grange (and curtilage listed outbuildings) is positioned close to the site. Its significance is drawn, in-part, from its relevance to the historic evolution of the area and its open parkland setting. The proposal, which already has outline permission, would replace an existing on-site building of modern form and notable bulk. In this context, the proposal that is before me would not cause harm to the designated asset's heritage significance through development coming forward within its setting.

Conditions

26. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the National Planning Policy Framework (February 2019) (the Framework) and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes and have omitted others. I have also added conditions with respect to the provision of obscured/non-openable window openings and arrangements for private waste collection.
27. In the interests of certainty, a condition setting out the approved plans is required. A timescale for implementation is already set out on the outline planning permission to which this detailed scheme relates, such that a condition to this effect is not necessary.
28. In the interests of protecting the character and appearance of the area, a condition is required to secure a scheme of hard and soft landscaping. I have omitted reference to details of existing trees and hedges to be retained and to implementation requirements, as such provisions are already conditioned on the outline permission. As are requirements for tree works to be undertaken in accordance with agreed protection methods and the relevant British Standard.
29. I am satisfied that a Biodiversity Enhancement Scheme would have a direct relationship to the reserved matter of landscaping and is thus reasonable to secure here. I have adjusted the trigger-point to be reflective of the landscaping condition (development above slab level), noting that full details of the existing trees and hedgerows to be retained are secured via the outline permission before any development takes place.
30. In the interests of highway safety and ensuring suitable levels of on-site parking are maintained, a condition is reasonable and necessary that sets out that parking and turning areas (as approved) are indeed retained for such

purposes. Provisions for fire tenders to turn on-site have already been secured via a condition attached to the outline permission.

31. To encourage sustainable/low-energy forms of transportation, conditions are reasonable and necessary to secure schemes for cycle parking and electric vehicle charging points. In the interests of minimising water use and supporting fibre optic broadband technology respectively, conditions are reasonable to secure the achievement of a high water-efficiency rating and the installation of open access fibre optic infrastructure.
32. In the interests of protecting the living conditions of existing and future residential occupiers, a condition is reasonable and necessary to secure the installation of obscure-glazed/non-opening windows to bathroom/WC/en-suite areas where otherwise unduly sensitive overlooking opportunities could avail. For the same reason, and also in the interests of protecting the character and appearance of the area, a condition is reasonable and necessary that withdraws the future use of permitted development rights with respect to extensions and roof additions.
33. It is neither reasonable nor necessary to impose a condition that requires the submission of an Energy Statement. This is because a similar condition, that seemingly refers to the appropriate target for carbon emissions on development sites of less than 10 dwellings, is attached to the outline permission.

Conclusion

34. For the reasons given above, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 100-330/010; 100-330/002C; RSE_3133_TPP V1; 100-330/011; 100-330/012; 100-330/004B; 100-330/005B; 100-330/006B; 100-330/007B.
- 2) No development above slab level shall take place until a Biodiversity Enhancement Scheme (to include details of protection and management of habitats and species and incorporating opportunities for the enhancement of existing and the creation of new habitats on site) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details.
- 3) No development above slab level shall take place until a scheme for cycle parking (with access thereto) in accordance with Bedford Borough Council's Parking Standards for Sustainable Communities: Design and Good Practice 2014 has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and made available for use before the development is occupied and the cycle parking shall not thereafter be used for any other purpose.

- 4) No development above slab level shall take place until a scheme of landscape works has been submitted to and approved in writing by the Local Planning Authority, which shall include details of the following: new planting proposals giving location, species, number, density and planting size; the relationship of new planting to buildings, roads, footpaths, drains and location of all underground and over ground services; areas of grass turfing or seeding and other surface materials; depth of topsoil to be provided where necessary and the measures to be taken to maintain the new planting for the required period; details of all hard works and, paving materials; details of the long-term management and maintenance proposals for the new planting.
- 5) No dwelling hereby permitted shall be occupied until a scheme of electric vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and retained in accordance with the approved scheme.
- 6) No dwelling hereby permitted shall be occupied until a scheme securing private arrangements for the collection of waste and recyclables from the site has been submitted to and approved in writing by the Local Planning Authority. Collections shall at all times thereafter be carried out in full accordance with the approved scheme for the lifetime of the development.
- 7) All parking and turning areas depicted upon approved plan Ref 100-330/002C shall be implemented and made available for use before the development is occupied and the parking and turning areas shall not thereafter be used for any other purpose.
- 8) Each dwelling hereby permitted shall achieve and maintain the higher water efficiency standard in the Building Regulations as set out in Approved Document G: Sanitation, hot water safety and water efficiency, 2015 edition, DCLG October 2015 (or similar replacement standard).
- 9) Each dwelling hereby permitted shall be served with an appropriate open access fibre optic infrastructure to enable high speed and reliable broadband connection unless evidence, to demonstrate that providing the required infrastructure is not feasible or economically viable, is submitted to and approved in writing by the Local Planning Authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no extensions or additions to the roof (Classes A - B of Part 1, Schedule 2 of the Order) shall be erected within the curtilages of the dwellinghouses without the specific grant of planning permission by the Local Planning Authority.
- 11) With respect to Plots 3, 4 and 5 (as depicted upon approved plan Ref 100-330/002C) north-facing window openings, where depicted to serve a bathroom/a WC/en-suites upon approved plans Ref 100-330/005B, 100-330/006B and 100-330/007B, shall not be glazed at any time other than with obscure glass and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened.

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Appeal Decision

Site visit made on 8 February 2021

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th February 2021

Appeal Ref: APP/N5090/W/20/3260021

730-732 High Road, North Finchley, London N12 9QD

- 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 Upminster Properties Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/0791/FUL, dated 11 February 2020, was refused by notice dated 19 June 2020.
 - The development proposed is demolition of part of rear storage area and associated structures, and the construction of a two storey upward extension and first floor rear extension to front building. Construction of two storey mews block at rear. Retention of the existing ground and basement floor retail unit (Class A1), with alterations to shopfront and fascia and two no. new fire escape doors to the front. Replacement of windows to frontage building. Provision of eight residential dwellings with first floor landscaped area with associated boundary railings, private amenity spaces, and refuse/recycling and cycle store (at the rear of the ground floor).
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Decision

1. The appeal is allowed and planning permission is granted for demolition of part of rear storage area and associated structures, and the construction of a two storey upward extension and first floor rear extension to front building. Construction of two storey mews block at rear. Retention of the existing ground and basement floor retail unit (Class A1), with alterations to shopfront and fascia and two no. new fire escape doors to the front. Replacement of windows to frontage building. Provision of eight residential dwellings with first floor landscaped area with associated boundary railings, private amenity spaces, and refuse/recycling and cycle store (at the rear of the ground floor at 730-732 High Road, North Finchley, London, N12 9QD, in accordance with the terms of the application Ref 20/0791/FUL, dated 11 February 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The planning application drawings were amended as part of the determination of the planning application in order to address some of the concerns raised by the Council. In this context, the description of development in the banner heading above is taken from the appellant's appeal form and the Council's refusal notice as that more accurately describes the amended plans that were considered by the Council when it refused planning permission. In particular, the amended plans relate to a reduction in scale of the mews building from two family size houses to a single two-bedroom flat, thus reducing the number of residential units from the original nine to eight.

3. As part of this appeal, the appellant has submitted amended drawing No PO11 Rev L to replace drawing No PO11 Rev K relating to proposed Unit B. The change to Unit B relates to the inclusion of an additional internal wall so that bedroom 2 would be a single bed space and clarification that this residential unit would be a 2 bedroom and three person dwelling.
4. I acknowledge that this amended plan has been submitted in order to address part of the Council's first reason for refusal of planning permission. The amended plan proposes only a minor internal change to one of the proposed residential units and does not seek to intensify development on the site. Given the minor nature of the changes, I am satisfied that in accepting this amended plan it would not cause prejudice or injustice to any interested party. I have therefore determined this appeal on the basis of this amended plan as well as all of the other amended plans that formed the basis of the Council's reasons for refusal.

Main Issues

5. There is no dispute between the main parties that the proposal would be acceptable in land-use principle and design terms and that material harm would not be caused to the occupiers of neighbouring properties in terms of the effect of the proposal on light, privacy, outlook or in terms of associated noise and disturbance. Furthermore, I do not disagree with the views expressed by the Council in respect of the alterations to the ground floor retail unit, including refuse storage and collection matters, and that the proposal would preserve the setting of The Tally Ho Public House which is locally listed.
6. The main issues are (i) the effect of the proposal on the living conditions of the occupiers of the proposed residential units in respect of the adequacy of outside amenity space and, in respect of proposed Unit B, the standard of internal space; (ii) whether in respect of the residential units, adequate provision would be in place for the collection of waste; and (iii) the effect of the proposal on on-street car parking demand.

Reasons

Living conditions

7. As I have accepted drawing No PO11 Rev L for the purposes of determining this appeal, the proposal now accords with the minimum internal space standards in respect of residential units. In particular, Unit B now meets minimum internal space standards.
8. The point of contention between the main parties relates to the size and/or provision of outdoor amenity space for the proposed residential units. All of the residential units accord with policy 3.5 of the London Plan, and the associated Mayor of London Housing SPG 2016 (London Housing SPG), apart from one studio flat (Unit C) where no outside amenity space would be provided.
9. Whilst the proposal does not accord with the higher outside amenity space standards as outlined in Barnet's Sustainable Design and Construction SPD 2016 (Design and Construction SPD) and Barnet's Residential Design Guide SPD 2016 (Design Guide SPD), both SPDs allow for some flexibility in town centres. In particular, paragraph 13.2 of the Design and Construction SPD states "*for town centre residential accommodation the standards applied*

elsewhere in the borough (for example, in relation to car parking and amenity space) should be considered in line with Policies DM11 and DM17 and will be assessed on a case by case basis”.

10. I am satisfied that there is justification for departing from the outside amenity space standards as outlined in the SPDs. This is based on the fact that the proposal falls within a town centre location. Where outside amenity space is provided, it would be of good quality and well away from the busy and noisy High Road. Any technical conflict with the SPDs, and in respect of Unit C with the London Plan, would in this case outweighed by the flexibility afforded by the SPDs to the assessment of town centre residential proposals and by the fact that some of the residential units do in fact exceed internal space standards.
11. I accept that internal space is not the same as outside space, but nevertheless this is a matter to which I afford some positive weight in the overall planning balance. Furthermore, the proposal seeks to make efficient use of a brownfield site, located in a very accessible location, and would boost the supply and choice of market housing. These are matters which, on balance, outweigh the Council’s reference to the site falling within an area where there is a deficiency of open space, as outlined in Barnet’s Open Space Strategy 2016, and in the context that there isn’t a public park very close to the site.
12. On balance, I therefore conclude that whilst the proposal as a whole would not fully accord with policy 3.5 of the London Plan, the London Housing SPG or the Council’s SPDs, from a size of outside amenity space point of view, the occupiers of almost all of the proposed residential units would nevertheless have reasonable access to outside amenity space in the context of this town centre location. Furthermore, I have weighed the minor technical conflict with the aforementioned policies against the aforementioned benefits of the proposal.
13. In reaching the above conclusion, I am cognisant of the advice given to the appellant at pre-planning application stage, as well as the examples of other similar approved development provided by the appellant close to the appeal site. Whilst I do not have the exact details relating to such developments, the evidence before me does nonetheless appear to suggest that the Council has equally opted for a balanced and flexible approach in respect of the provision of outside amenity space for residential development in town centre locations, despite an apparent technical conflict with the aforementioned SPDs and/or London Plan. In any event, I have reached a conclusion based on the planning merits of this appeal proposal and in the context of the Council’s acceptance that *‘Planning Officer’s acknowledge that Supplementary Planning Guidance recognises that, in some instances, flexibility could be applied’*.

Collection of waste

14. As part of the appeal, the appellant has submitted a strategy for access and egress, storage requirements, vehicle specification (to suit the access road) and the tasks for operatives. The waste collection strategy, to be implemented by a private contractor known as Waste Concern, further includes a back-up option, should access not be available to the rear of the site, which is considered to be a robust solution. The back-up option would make use of the dedicated loading bay on Stanhope Road with operatives wheeling bins to and from the internal storage area for collection.

15. The submitted strategy therefore demonstrates that private refuse collection is feasible and suitable. It avoids the need for Council vehicles to travel down the rear access road or for bins to be stored on Stanhope Road for any prolonged period. I am satisfied that this strategy could address the concerns previously raised by the Council's Waste Team. In this case, compliance with an approved waste collection strategy would be secured by means of the completed (dated 26 January 2021) Unilateral Undertaking (UU) which accompanies this appeal. I am satisfied that this would meet the tests for planning obligations as laid out in paragraph 56 of the National Planning Policy Framework (the Framework).
16. Given the completed UU relating to the waste collection strategy, the proposal would accord with the waste, amenity and servicing requirements of Policy CS14 of the CS; Policies DM01 and DM17 of the DMP and Barnet's Sustainable Design and Construction SPD 2016.

On-street car parking demand

17. No car parking is proposed to serve the development. The site lies within a Controlled Parking Zone which is operational from Monday to Saturday. Unlike the planning application, the appeal is supported by a signed UU which would remove the ability of future occupiers to apply for residential parking permits, together with the provision of a contribution of £2,072.55 to be used to amend the Traffic Regulation Order.
18. I am satisfied that the UU meets the tests for planning obligations as laid out in paragraph 56 of the Framework and conclude that the proposal would therefore accord with the car parking, traffic management and planning obligation requirements of Policies CS9 and CS15 of the CS; Policy DM17 of the DMP and the Council's Planning Obligations SPD 2013.

Other Matters

19. I have taken into account comments made by other interested parties. I consider that the proposal would represent good design and that it would assimilate well into its surroundings. I have considered the position and scale of development and I do not consider that the development would cause any significant harm to the occupiers of neighbouring residential properties in respect of matters of light, privacy and outlook.
20. I note in particular the objection from the occupier of 15 Stanhope Road, but given the significant separation distances involved I do not consider that there would be any unacceptable overlooking of the garden of this property. I have no reason to doubt that a number of developments have taken place in the area in the last few years, but there is no objective evidence before me to indicate that doctors surgeries, hospitals or schools would be unable to accommodate residents living on the appeal site.
21. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conditions and Planning Obligation

22. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.

23. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
24. In the interests of the character and appearance of the area, it is necessary to impose a planning conditions relating to materials, tree protection, landscaping, levels and means of enclosure.
25. In the interests of the living conditions of the occupiers of the approved residential development and the occupiers of existing surrounding properties, conditions are necessary in respect of levels, the provision of a demolition and construction management and logistics plan, the approval of secure by design details and the approval and implementation of a surface water drainage scheme.
26. In the interests of ensuring that the approved development efficiently uses water and energy and that the dwellings are accessible and adaptable , it is necessary to include conditions which ensure that the dwellings are able to comply with Building Regulations requirements and that the development accords with the recommendations of the Energy Strategy Report by Harley Haddow dated February 2020.
27. In the interests of encouraging sustainable travel, it is necessary to impose a condition which requires the approved provision of cycle parking and storage facilities.
28. I have not imposed the Council's suggested condition relating to the waste management strategy as this is a matter that would be fully controlled as part of the UU.
29. As detailed above, the completed UU is acceptable and all of its requirements are necessary to make the development acceptable. The completed UU meets all of the tests as outlined in paragraph 56 of the National Planning Policy Framework.

Conclusion

30. For the reasons outlined above, I conclude that the appeal should be allowed.

D Hartley

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Drawing No. E001 (Existing Location Plan); Drawing No. E002 (Existing Block Plan); Drawing No. P009 J (Proposed basement plan); Drawing No. P010 J (Proposed ground floor plan); Drawing No. P011 L (Proposed first floor plan); Drawing No. P012 J (Proposed second floor plan); Drawing No. P013 K (Proposed third floor plan); Drawing No. P014 D (Proposed roof plan); Drawing No. P030 B (Proposed north elevation); Drawing No. P031 B (Proposed south elevation); Drawing No. P032 H (Proposed east elevation); Drawing No. P033 I (Proposed west elevation); Drawing No. P040 A (Proposed section 10); Drawing No. P041 G (Proposed section 01); Drawing No. P042 G (Proposed section 02); Drawing No. P043 G (Proposed section 03); Drawing No. P044 C (Proposed section 04); Drawing No. P045 B (Proposed section 05); Drawing No. P046 D (Proposed section 06); Drawing No. P048 C (Proposed section 08); 3D visuals Drawing No. P1010 E (Proposed basement and ground floor plan GIA); Drawing No. P1011 D (Proposed first and second floor GIA); Drawing No. P1012 D (Proposed third floor GIA); Drawing No. P1020 I (Proposed basement and ground floor plan NIA); Air Quality Assessment by Miller Goodall dated 27 January 2020 report number: 102248; Delivery and Servicing Plan by EAS dated February 2020; Transport Statement by EAS dated February 2020; Energy Strategy Report by Harley Haddow dated February 2020; Noise Impact Assessment by ACA Acoustics Report Reference: 191203-R001 dated 26th January 2020; Cover Letter by Firstplan dated 11 February 2020; Letters by GCW Chartered Surveyors dated 20 January 2020 and dated 04 June 2019; Design and Access Statement by HUT dated February 2020 and addendum dated April 2020; Planning Statement by Firstplan dated February 2020; Daylight and Sunlight Report by Lumina dated 31 January 2020 and addendum dated 30 April 2020; and Agent emails dated 01 May 2020, 07 May 2020, 21 May 2020 and 12 June 2020.

3) (a) No development other than demolitions works shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority. (b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

4) (a) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority. (b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.

5) (a) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following: i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures; ii. site preparation and construction stages of the development; iii. details of provisions for recycling of materials, the provision on site of a storage/delivery

area for all plant, site huts, site facilities and materials; iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway; v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works; vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance; vii. noise mitigation measures for all plant and processors; viii. details of contractors compound and car parking arrangements; ix. details of interim car parking management arrangements for the duration of construction; x. details of a community liaison contact for the duration of all works associated with the development; xi. For major developments only: provide a copy of an asbestos survey; For smaller developments -confirmation that an asbestos survey has been carried out. (b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.

6) (a) Before development, other than demolition work, commences, a scheme of proposed air pollution mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. (b) The approved mitigation scheme shall be implemented in its entirety in accordance with details approved under this condition before any of the development is first occupied or the use commences and retained as such thereafter.

7) The noise mitigation measures recommended in the Noise Impact Assessment by ACA Acoustics Report Reference: 191203-R001, dated 26th January 2020, shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.

8) (a) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. (b) The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces/storage shall be permanently retained thereafter.

9) Before the development hereby permitted is first occupied, information shall be submitted to and approved in writing by the Local Planning Authority detailing how the development would adhere to the principles of Secure by Design. The development shall be carried out and retained in accordance with the agreed details in perpetuity.

10) (a) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority. (b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site or adjacent to the site, including Council owned street trees. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in

accordance with the protection plan and method statement as approved under this condition.

11) (a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the hereby approved development. (b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use. (c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

12) Development shall not begin until a flood risk statement and a detailed surface water drainage scheme for the site, based on sustainable drainage principles, have been submitted to and approved in writing by London Borough of Barnet planning authority. The scheme shall subsequently be implemented in accordance with the approved details before development is completed and shall thereafter be retained.

13) (a) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. (b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

14) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouses (Use Class C3) permitted under this consent annotated as Unit B to Unit H shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future, and Unit A shall have been constructed to meet and achieve all the relevant criteria of Part M4(3) of the abovementioned Building Regulations. The development shall be maintained as such in perpetuity thereafter.

15) Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.

16) The development shall be implemented in accordance with the recommendations of the submitted Energy Strategy Report by Harley Haddow dated February 2020.