



Appeal Decision

Inquiry Held on 8-11 & 15-18 December 2020, 11-13 January 2021

Site visit made on 17 March 2021

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2021

Appeal Ref: APP/T5720/W/20/3250440 265 Burlington Road, New Malden, KT3 4NE

- 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 planning permission.
 - The appeal is made by Redrow Homes Limited against the Council of the London Borough of Merton.
 - The application Ref 19/P2387, is dated 5 June 2019.
 - The development proposed is Demolition of the existing buildings and erection of two blocks of development ranging in height between seven and 15 storeys and comprising 456 new homes, of which 117 will be one beds, 290 will be two beds and 49 will be three beds. 499sqm of B1(a) office space will be accommodated at ground floor level along with 220 car parking spaces, 912 cycle parking spaces, a realigned junction onto Burlington Road, hard and soft landscaping and associated residential facilities. The application also includes minor changes to the layout and configuration of the retained Tesco car park.
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Decision

1. The appeal is allowed and planning permission is granted for Demolition of the existing buildings and erection of two blocks of development ranging in height between seven and 15 storeys and comprising 456 new homes, of which 117 will be one beds, 290 will be two beds and 49 will be three beds. 499sqm of B1(a) office space will be accommodated at ground floor level along with 220 car parking spaces, 912 cycle parking spaces, a realigned junction onto Burlington Road, hard and soft landscaping and associated residential facilities. The application also includes minor changes to the layout and configuration of the retained Tesco car park at 265 Burlington Road, New Malden, KT3 4NE in accordance with the terms of the application, Ref 19/P2387, is dated 5 June 2019, subject to the conditions in Annex A.

Procedural Matters

2. A planning obligation was submitted under section 106 of the Town and Country Planning Act (s106) that would provide financial contributions toward provision of a car club and car parking permits, along with air quality impact, bus capacity enhancement, CPZ contribution, a carbon offset contribution, junction improvement contribution, pedestrian crossing facility, pedestrian, and cycle infrastructure contribution and play space contribution¹. It also includes the provision of affordable housing through an affordable housing scheme

¹ ID 41

3. Statements of Common Ground (SoCG)² were agreed between the Council and the Appellant. The West Barnes Residents Association (WBRA) were not party to these and had Rule 6 (R6) Status at the inquiry.
4. The London Borough of Merton's New Local Plan (NLP) Stage 2 Consultation³ has not yet been examined and found sound. As such the weight to be attached to its policies is limited. I have considered the appeal on this basis.
5. Following the close of the inquiry the London Plan 2021 (LP) was adopted. At the inquiry I was provided with information from both the London Plan 2016 and the Intend to Publish version which was ultimately adopted. The parties were asked for their confirmation that they were satisfied that the decision could proceed based on the evidence heard at the inquiry on both documents. They responded that the pertinent issues were covered at the inquiry. I have proceeded on that basis. The main parties agreed the description of development that I have used in my decision.

Main Issues

6. As set out above, this appeal is against the failure of the Council to determine the planning application. There is not, therefore, a formal decision of the Council. The evidence⁴ makes it clear that, had it been in a position to determine the planning application, the Council would have refused planning permission for the scheme. The statement of case identifies two putative reasons⁵.
7. Accordingly, the main issues in this case relate to:
 - The effect of the scheme on character and appearance of the area;
 - Whether the appeal scheme would make appropriate provision for parking; and
 - Whether the Council is able to demonstrate a five-year supply of deliverable housing sites sufficient to meet assessed housing need and the implications of this in terms of national and local planning policy.

Reasons

Character and Appearance

8. The Site is bordered by Burlington Road (B282) along the eastern boundary with the railway line and level crossing beyond. The Tesco superstore is located to the west with the A3 motorway beyond. The Pyl Brook and Raynes Park High School are to the north and a predominantly residential area with some small convenience retailing services to the south.
9. It is common ground that the NLP⁶ (allocation RP3) proposes comprehensive re development to re provide the supermarket and to optimise the remainder of the site for new homes, landscaping and access. The appeal site sits within the wider RP3 allocation⁷. The area that would form the appeal site currently

² CD 5.3, CD 5.6, CD, 5.7, CD 5.16

³ Draft October 2018 CD 3.3

⁴ CD 5.2 Council's Statement of Case

⁵ Paragraph 1.4 CD 5.2

⁶ CD 3.3

⁷ CD 8.1 Page 17

contains a vacant commercial building and car parking used in association with the adjacent Tesco store. The scheme would lead to changes to the layout and configuration⁸ of the retained car park area for Tesco, with 577 car parking spaces retained. There is no dispute that the existing buildings on the site are in a poor condition and have a poor relationship to the street. Furthermore, the Council accept that the existing townscape is poor and that regeneration of the site is accepted in principle, reflecting the spirit of the draft allocation⁹.

10. The scheme would be comprised of seven buildings. The buildings on the Burlington Road frontage would range in height from 6 to 8 stories above podium and therefore 7-9 overall, stepping up to the rear of the appeal site to between 8 to 15 stories in height including the podium. The design approach was explained at the inquiry as being to locate the taller elements of the scheme where there would be an interface with the future development area. In addition to this steps have been placed in the elevations and, alongside window patterns, have been used to articulate the buildings. The building heights have been developed to produce a variation in height and roof scape across the scheme.
11. The scheme would be focussed around residential blocks. Internal courtyards would be provided at podium level and car parking would be at ground floor level. The plans show that at ground floor level commercial units would be provided along the Burlington Road frontage. Block A is described as forming a square internal courtyard and the dwellings would all be apartments. Block B is described as being triangular shape. The three buildings that create this block would also create an internal courtyard for the new apartments. In both blocks the plans show that the apartments would be a mix of 1 bed, 2 bed and 3 bed.
12. The design of the scheme is described as taking inspiration from the Printworks of Bradbury Wilkinson & Co. Ltd¹⁰ with various architectural elements being distilled and used in the building design. In terms of material finish the main envelope would have contrasting external and internal brickwork. The colour of the brickwork on the external face of the buildings, which address the street, has been carefully selected to reference the industrial past of the site, as well as the neighbouring buildings to the south of the site along the edge of Burlington Road. The interior face of the buildings would be contrasting in silver grey brickwork. The aim is to create a light and welcoming space. A further level of detail would see colour introduced to the elevations across the building groups.
13. A zip-toothed brickwork detail would be applied to window reveals in the grey brick and subtle reference would also be included at the outside edges of the buildings where the principle two colours of brick intersect to form a continuous contrasting detail between the red and silver grey brick. The window proportions and internal divisions also seek to reference the previous industrial heritage of the site, similar in aesthetic style to steel crittal fenestration, but in double glazing. Three balcony designs have been utilised around the buildings to provide contrasting architectural styles while maintaining a strong correlation with the overall design concept. The Design and Access Statement

⁸ CD 8.1 These are listed in detail at 1.5, page 13

⁹ CD 3.3

¹⁰ CD 8.1 section 6

(DAS) is well justified and worked through with clear principles that explain the scheme and how it has evolved.

14. The Appellant has submitted a Townscape and Visual Appraisal (TVA)¹¹. This shows the location of the site within the Shannon Corner Townscape Area which contains medium to large building footprints, extensive areas of parking and industrial scale buildings. The West Barnes TCA is identified as having a medium townscape value and has a typical suburban residential development pattern. The appeal site is located at the interface of these two areas albeit it is actually within Shannon Corner. The Shannon Corner TCA is described as being of 'very low townscape value with considerable potential for enhancement'¹². I have considered the impact of the bulk, overall proportions and appearance of the scheme from a series of eight viewpoints (VP). These are set out in the TVA¹³.
15. VP1 is from within the car park area of the existing Tesco store. The existing view is dominated by the car park and represents a functional area associated with the Tesco store. A substantial amount of the appeal scheme would be visible from the VP. The TVA points out that there would be visual enclosure to the car park area. Indeed, longer term a proportion of this area within this VP would be in the wider area covered by the draft allocation. Nevertheless, considering the appeal scheme itself the degree of change would be high. That said the scale of the buildings would be broken down through the use of stepping of the built form, articulation, detailing of the elevations and use of a distinctive roof scape. The building would be taller and more visually prominent than existing but it would be well designed and good quality. As such it would not represent a harmful change to the view.
16. Looking along Burlington Road, VP2, the current view of two storey buildings in the foreground and forecourt parking would be replaced by a much taller set of buildings and within VP2 the upper floors of the scheme would be visible above the existing buildings on the Burlington Road frontage. The heights would be variable as the buildings step up from Burlington Road. The view would be broken down by the material finish, window detailing and use of balconies. Therefore, whilst it would appear taller it would not appear overbearing. In the context of the street scene it would be a marked change but I do not consider it would be harmful.
17. In VP3 the existing view contains three and four storey apartments as well as two storey houses. The change would introduce seven to nine storey buildings on the frontage and they would be seen together with the existing flatted development. In this regard the degree of change would be high but it would be contextual therefore I do not consider that it would be harmful or out of place.
18. VP4 would be further from the site and on Claremont Avenue. The site currently not visible from this VP. The view is described as being contained by two storey properties. The upper floors of the scheme would be visible in longer views above the roof of the existing buildings. The relative levels and the variation in height and massing would serve to limit the impact of the presence of the new buildings. As such the appeal scheme would result in a

¹¹ CD 8.2 and CD 8.3

¹² Proof of Evidence of Mr Nowell 2.3.3

¹³ CD 8.2 & 8.3 page 22

medium magnitude of change. This view would be at distance from the site and therefore would have a minor adverse impact.

19. Many of the areas around the Shannon Corner Townscape area contain straight roads which offer long views of the skyline in the locality. Within the TVA the view from Linkway is given as an example and the Council's design witness also provides this example¹⁴. Linkway is described as being a typical street with uninterrupted semi detached dwellings. VP5 is taken from West Barnes Lane/Linkway junction where the local townscape is represented by a terrace of two storey 'railway cottages'. The junction also contains a pedestrian bridge and level crossing. The scheme would introduce much taller buildings that would be visible above the frontage buildings. They would form a taller frontage to Burlington Road when compared to the existing situation. The TVA refers to street trees being put in place. However, in reality this would not mitigate the scale of the scheme. The buildings that would be visible would have varying heights and roofscape. The façade would be articulated and therefore, whilst there would be a change, it would not be harmful.
20. The site is not currently visible from VP6. If the scheme is built then as with other VPs the upper stories of the buildings would be visible above the roofs of many of the houses. The TVA describes the impact on this VP as minor adverse which I consider to be fair.
21. VP7 is a linear view and along West Barnes Lane. The existing street scene has a variety of buildings and lacks a coherent character of built form. The upper stories of the new buildings as well as the step change in height would be apparent when approaching along West Barnes Lane. The buildings would be viewed together with Albany House and enclose the street scene. They would be taller than existing but due to the detailed design approach would not appear jarring within the townscape.
22. From VP8 the site is not currently visible and this VP is at a distance. Therefore, it is likely that only the tallest buildings would be visible. Overall they would sit within the wider urban area and as a result the impact would be low.
23. In terms of existing building heights DAS¹⁵ acknowledges that the wider context is mainly development less than three stories. This is also referred to within the proof of evidence of the R6¹⁶. Indeed, the scale and massing are described as being generally characterised by the terraced house. Closer or more immediate to the site there is a greater range of height, scale, bulk and massing. There is a clear change from a mainly residential to a mixed use character. As demonstrated by Figure 14 of the TVA and the analysis of the TCAs, Burlington Road itself physically marks a change and the area to the west, which includes the appeal site does not display a cohesive or homogenous character. In addition, more recent schemes that have been built out, such as Albany House, apartment blocks on Burlington Road and Malden Court, have marked a change to both the scale of buildings and character along Burlington Road. For these reasons I do not think that it would be fair to describe the appeal site as being within a wholly suburban area or a cohesive and homogenous environment.

¹⁴ Figure 2.4 and 2.5 Mr Nowell Proof of Evidence

¹⁵ CD 8.1 2.5.1

¹⁶ CD 5.4 page 16

24. The scale of the buildings that would form an edge to Burlington Road would be 7 to 9 stories in height. The premise for the scale of the various building is that those at the front would address the existing residential buildings on Burlington Road, such as Albany House which is described by Mr Pullan as having a maximum height of 5 stories. The scale of the frontage buildings, whilst greater than the two storey houses, would be reflective of schemes that have been recently built on Burlington Road. In this context, read as frontage buildings within a mixed use area, I do not consider that the scale would appear out of place.
25. An increase in height towards the centre of what would eventually be the wider allocation would place the taller buildings in a position where they would address the public park when the wider site is developed. The step up to 15 stories would represent a more significant departure from the scale of buildings currently evident along Burlington Road. In particular consideration must turn to whether it is justified in this location and if it is whether the design approach, layout and quality of materials create a scheme that is well designed and would not harm the character and appearance of the area. In addition to the VP in assessing whether this would be the case there are a number of specific matters addressed at the inquiry which would be functional and visual. I address these in turn.
26. The Council and R6 are concerned that the appeal scheme would effectively lead to retro fitting of a masterplan. The concept of a wider masterplan is addressed in the DAS¹⁷ and seeks to consider the Council's ambition for site wide development and demonstrate how the appeal scheme would fit into this. The Council's draft allocation refers to comprehensive redevelopment of the site. However, there is some debate about when and how the Appellant's scheme has given consideration to the future development of the site. The draft allocation seeks retention of the supermarket and to optimise the remainder of the site. As such the scheme should accord with this objective. More specifically issues were raised regarding the location of the public park, whether the masterplan has been daylight or sunlight assessed and that the Appellant proposes changes to the scheme frontage with the Tesco car park at a later date.
27. The masterplan provided in the DAS has not been sunlight/daylight tested and this is not specified as a requirement within the draft allocation. Moreover, the appeal scheme as presented would not lead to loss of daylight/sunlight to existing uses nearby¹⁸. Furthermore, in this case, it would not prevent the future re provision of the supermarket or further development on other parts of the site as expressed in RP3. I have not been provided with any policy justification or evidence from the Council that would suggest that the absence of such an assessment would be a reason to refuse the scheme.
28. There is no dispute that the views of the Design Review Panel (DRP) were advisory and represented the views of one of a number of consultees¹⁹. There was also agreement that it is not mandatory for a developer to return a scheme to the DRP following feedback and in this case whilst the outcome was 'red' it is clear that the Appellant sought to address the comments in discussion with Council officers. Furthermore, the DAS specifically addresses the issues

¹⁷ CD 8.1, 4.1 page 44

¹⁸ See para 69/70 reference to Raynes Park High School

¹⁹ ID23 Supplementary Statement of Common Ground Design Review Panel

raised by the DRP²⁰ and it also summarises changes made following consultation²¹.

29. The Framework²² encourages local authorities to make appropriate use of tools and processes that would assess and improve design of development. It is clear that in assessing applications local planning authorities are to have regard to the outcome from the processes, including design review panels. Having carefully considered the views from all parties I am of the view that in the context of the appeal scheme the DRP has been utilised appropriately. In addition, the points that arose from it were considered by both the Council officers and the Appellant team. The Council suggest the views should attract significant weight. I have taken the response of the DRP into account as one of the consultees on the planning application. However, it has been demonstrated that the scheme was revised following the DRP and as such whilst I have carefully considered the Council's point in light of the evidence before me I attach limited weight to this point.
30. The commercial frontages in the scheme layout applied for are limited to Burlington Road and this is shown on the plans²³. The Appellant has provided active frontage plans²⁴ which demonstrate that with the exception of Tesco the existing active commercial frontages are focussed on the road. These were not disputed by the Council. I understand that the Council would want to see animation to the street along Burlington Road. The Council's design witness²⁵ provided an assessment of what he considered to be active and non active frontages in the scheme. This shows that along Burlington Road there would be mainly active frontages. There would be an area behind the existing industrial unit, adjacent to the site, which would not be. My view is that it would not be reasonable, given the juxtaposition of these buildings, to require a change to this frontage. Overall, given the context of the area demonstrated by the Appellant and the active that the plans show would be provided I consider that the scheme would be acceptable on this point.
31. Two further areas of concern raised at the inquiry were the elevation of the scheme that would face onto the existing car park area and the one onto the Pyl Brook. Both of these elements would relate to the wider development of the draft allocation. There was no dispute that the site frontage to the Pyl Brook represents an opportunity. The draft allocation is clear that Pyl Brook is currently overgrown and inaccessible. Indeed the Council's evidence suggests that opportunities to open up access to it should be explored to integrate it into the wider landscape strategy for the site and improve the current situation. The Appellant relies on the CGI pack²⁶ and the landscape plan which details the treatment of the edge of the site to Pyl Brook. The space would be overlooked by windows and balconies and also used for recreation and bike storage. This would represent an improvement as part of the appeal scheme itself and in addition it could be opened up to public access when the wider scheme comes forward. At this stage though there is nothing in place to secure it. Nonetheless the appeal scheme going ahead would lead to an improvement to

²⁰ Section 5.5

²¹ Section 5.7

²² Paragraph 129

²³ Extract shown in figure 3.2 of Mr Nowells Proof of Evidence

²⁴ CD 8.1 DAS pg. 62, 4.3.5

²⁵ Mr Nowell Figure 3.3

²⁶ CD 8.4

the Pyl Brook edge and it is my view that the issue of future access on its own is not so significant that it would be determinative.

32. The Greater London Authority (GLA) provided a response pre application²⁷ and also a Stage 1 report²⁸. The Council draw specific attention to the comments regarding the need for a comprehensive approach²⁹ and that the scheme contains an inactive impermeable frontage to the Tesco car park area which would not be acceptable. The design approach to the western edge of the scheme shows the elevation would be broken down into bays with red brick piers. Between the piers full height louvre panels would be used to provide natural ventilation to the car park and plant rooms. The DAS sets out that it would be broken up with a hit and miss pattern in the brickwork panels. In addition to this articulation with clear glass bricks is proposed. This would give a changing appearance during the day and at night from the varying light and movement with the car park. The planning obligation also seeks to address this matter. Specifically, it highlights an area³⁰ that could potentially be commercial accommodation in the future. As it stands this elevation would face a car park and would be articulated to add interest to the design.
33. The Appellant's offer through the planning obligation would provide a means to make the future use of the western edge flexible, which is a proportionate approach. The impact of the proposal within the obligation on car parking is addressed at [58]. Overall, the scheme as submitted would be acceptable and the Appellant provides flexibility for the future. Therefore, until such time as a scheme for the wider site comes forward I do not consider this approach to be unreasonable and that the scheme should not be resisted on this point.

Conclusions on Character and Appearance

34. The LP views tall buildings as those that are generally '*substantially taller than their surroundings, cause a significant change on the skyline...*'. It is common ground that the scheme would include a tall building for the purposes of application of relevant planning policy and guidance. LP policy D9 refers to tall buildings³¹ and sets out that boroughs should determine if there are locations where tall buildings may be appropriate subject to other policy requirements and part C of the policy addresses visual, functional, environmental and cumulative impacts.
35. The issues regarding building height and massing expressed in both Mr Nowell and Mr Pullan's evidence focus primarily on matters that would sit under visual impacts. Other matters relating to the layout of ground floor uses would sit within a functional impact. The detail of the elements of the design that fall under these heading have been addressed in the preceding paragraphs. In particular I have found that, overall, the design approach is acceptable. As such I do not consider that the scheme would be in conflict with the visual, functional, environmental and cumulative impact elements of LP policy D9.

²⁷ Appendix 2 Mr Murch Proof of Evidence

²⁸ CD 7.3

²⁹ para 38, Mr Murch Appendix 2 p.7

³⁰ ID41 Plan 4

³¹ The inquiry was referred to policy 7.7 of the 2016 London Plan and D9 of the Intend to Publish version of the plan. There has been no substantive change to policy D9

36. In terms of determining locations in the borough I was directed to the Council's Tall Buildings Paper (TBP) which I consider along with the relevant policy from the Merton Core Strategy (CS).
37. Policy CS14 is a design policy which seeks to promote high quality design. In terms of the first strand of LP policy D9 part (c) of CS14 gives some direction regarding the location of tall buildings and is clear that *'...protecting the valued and distinctive suburban character of the borough by resisting the development of tall buildings where they will have a detrimental impact on this character. Tall buildings may therefore only be appropriate in the town centres of Colliers Wood, Morden and Wimbledon, where consistent with the tall buildings guidance in the justification supporting sub-area policies, where of exceptional design and architectural quality, where they do not cause harm to the townscape and significance of heritage assets and the wider historic environment, and where they will bring benefits towards regeneration and the public realm. Even with the identified centres, some areas are sensitive to tall buildings'*. The supporting text to the policy suggests that tall buildings may be suitable in areas of the borough where regeneration or change is envisaged, good public transport accessibility is present and there is an existing higher building precedent. The objective to regenerate is clearly set out in the emerging policy for the site, albeit as the Council point out the site is not in a town centre location.
38. Within the TBP Figure 41 identified opportunities and constraints for tall buildings within the borough. On a straight read of this figure the appeal scheme is located with the 'grey' area which is marked as being as an inappropriate location for tall buildings. Indeed, the supporting text to this sets out that Merton's valued and distinctive suburban character should be protected from tall building development. It identifies that this is made up of much of the area outside of the main centres. The reason given is that these areas have a distinctive character and that to introduce a tall building would in fact erode a fairly cohesive and homogenous environment. This element would align with policy CS14 in so far as it seeks to protect the valued and distinctive suburban character of the borough by resisting the development of tall buildings where they will have a detrimental impact on character. However, I have already found that the appeal site is not in a cohesive and homogenous environment [23].
39. The TBP³² forms part of the evidence base for the CS. It has not been adopted as a Supplementary Planning Document and is therefore not planning policy but it is a material consideration. The paper sets out that tall buildings become prominent in a suburban London borough such as Merton. The paper explores the appropriate locations for tall buildings. The existing building heights³³ for the appeal site are annotated within the paper as being suburban low rise and undeveloped land (0-3 storey). There would be conflict with it in so far as it does not support tall buildings in this location. Having considered the premise of the TBP I attach limited weight to it as a material consideration. CS14 also places weight on considerations relating to character and appearance, however, on that point, overall, I have not found the scheme to be harmful.
40. The Council does not object to the redevelopment of the site. This is borne out in the allocation of the site within the NLP. This does not have the full weight

³² CD 3.8

³³ Figure 21, page 42

of an adopted policy. Nonetheless, it does attract some weight and the Council's evidence does not suggest that it resiles from the in principle position presented in the draft allocation, which identifies the opportunity for regeneration and redevelopment including residential uses. The issue of optimising the development of the site for new homes is set out in the emerging allocation. However, this makes no reference to scale or amount. As such, given that the allocation is draft, what represents an appropriate scheme or indeed an optimal development should be guided by the policies of the development plan.

41. The scheme would represent a departure in scale for the area, which is acknowledged in the TVA³⁴ and I acknowledge that it would also be visible³⁵. There is no dispute that the taller buildings within the scheme would be a marked contrast to the existing dwellings in the West Barnes Urban TCA. The Shannon Corner TCA is described as having a very low townscape value with potential for enhancement. Within the scheme taller buildings would be set back from the road frontage within the Shannon Corner TCA. The scheme would place lower buildings on the Burlington Road frontage which would relate well to Albany House and the West Barnes Character TCA. These buildings would have a varied design. The street facing facades of the buildings would have articulation through the use of window details³⁶, contrast materials and balcony designs³⁷. The larger buildings would have a varied roof form³⁸. This combined with the other design elements would serve to limit the impact of the buildings from a distant view. Given the detail to design set out in the DAS and the transitional nature of the site the design approach would be appropriate. Indeed I consider that the Appellant has demonstrated that the scheme would achieve a high standard of design and create a sense of place.
42. The higher elements of the scheme would be visible from the VPs identified in the TVA in the surrounding area. This is also shown within the Zone of Theoretical Visibility³⁹. Overall the taller buildings would be most visible from some distance away and in this regard the Appellant makes the point that in the London cityscape it is not unusual even in the suburbs to glimpse tall buildings from public vantage points. The development has been carefully designed to be respectful of the surroundings with attention to detail and the impact on the wider draft allocation when it comes to fruition. The Shannon Corner TCA, within which the scheme would be located, is distinct and the scheme respects and responds to the character area. The buildings would be visible from some vantage points but overall would not be significantly discordant or intrusive.
43. There is no dispute that the appeal scheme would be visible from views close to the site and at a distance. It is the elements of the schemes that would be between 8 and 15 stories in height, thereby a tall building⁴⁰ that would lead to conflict with CS14 and D9 in so far as they seek to locate tall buildings to specific areas and town centres. However, the adopted policy is more nuanced than that and its wording provides scope for the decision maker to exercise judgement regarding the impact of a scheme on character.

³⁴ Para 5.18

³⁵ Zone of Visibility and Mr Nowell's Proof of Evidence Figure 4.1

³⁶ DAS 7.5.

³⁷ DAS 7.7

³⁸ DAS 7.4

³⁹ CD 8.2 Figure 8 page 7

⁴⁰ CD 3.8

44. In this regard my view is that the appeal site itself is not an area of distinctive suburban or homogenous character. Indeed the Council's future plans identify the benefits of housing led regeneration on the site. The visual and functional impacts of the scheme that were in dispute have been shown not to be fatal either singularly or collectively. This demonstrates that the scheme would optimise not over develop. Therefore, overall, I consider that the proposed scheme would not adversely affect the character and appearance of the area. In this regard it would accord with policies D9 and CS14 in so far as they seek to promote high quality design that responds to the distinctive areas of the borough.

Car Parking Provision

45. The key point of concern raised by the Council and R6 is that the scheme as designed would not make adequate provision for car parking for the new housing. Therefore the knock on effect of this, in combination with the sites location and the absence of local parking controls, would be an overspill of kerbside parking on the surrounding roads. Therefore, highway safety issues could arise as a direct result of the lack of parking provision for the appeal scheme. I take each of these issues in turn.
46. The approach of the LP is that new residential development should not exceed maximum car parking standards. These are a maximum of 1 car parking space per dwelling in Outer London PTAL 2 and up to 0.75 spaces per dwelling in Outer London PTAL 3. In applying maximum standards the LP also makes reference to the existing and future public transport accessibility and connectivity for the site. There is agreement that the site has a PTAL of 3⁴¹ and therefore the maximum of 0.75 would be the applicable standard.
47. As submitted the appeal scheme would provide 456 residential units with 220 car parking spaces. This would be a provision of 0.48 spaces per unit⁴². The development plan policies for the provision of parking are expressed as a maximum. The emerging position⁴³ locally seeks development to provide the level of car parking that would be necessary taking into account the sites accessibility by public transport and local circumstances. In essence the policy seeks to strike a balance between a development providing sufficient off-street parking to avoid causing overspill parking on-street while not encouraging unnecessary car use. In this context it is clear that the sites access to other modes of transport should be considered carefully.
48. Motspur Park Station is within the 10 minute walk Isochrone⁴⁴ for the appeal site. Raynes Park Station is beyond the walk limit for PTAL calculations but it was not disputed that it is about 16 minute walk from the site. The R6 party and local residents were concerned that due to the absence of step free access that the site location would not be accessible to all future residents. The inquiry heard that the funding has been confirmed⁴⁵ to implement step free access at Motspur Park Station. However, I have no information regarding the timetable for this or when it would be available to users of the station. Therefore, this reduces the weight to this as a choice. I appreciate that Raynes Park Station is not significantly outside of the 10 minute Isochrone. However, I

⁴¹ CD 5.3 Statement of Common Ground

⁴² ID9 Summary of Parking Demand and Supply Scenarios

⁴³ CD 3.3 policy T6.7

⁴⁴ Mike Savage Proof of Evidence Figure 2

⁴⁵ CD 5.16 Para 4

- agree with the R6 that its location would not encourage residents with children, the elderly or mobility impaired to use it as an alternative to the car. This reduces the consideration of it as a reasonable alternative.
49. There are several bus stops within about 400m of the site that serve local routes within Merton and into central London. The scheme makes provision for a contribution that would assist in further improvements to services which would include a contribution towards providing an additional bus journey in each peak period⁴⁶. In addition, there was no dispute that the site has reasonable pedestrian access and that there are a number of dedicated cycle routes in the locality with connections to the wider area.
50. The sites location is close to major A class roads and, as the R6 and local residents pointed out at the inquiry, it would have fast links to the motorway and wider road network. In this regard I have some sympathy with the R6 position that this easy access to the road network would in fact encourage car ownership by future occupiers. Nevertheless, the site has an agreed PTAL of 3 which is described as good connectivity. It is clear that, whilst there are some limitations, overall the site location does allow for future residents to choose modes other than the private car.
51. The second element of this issue is, given the public transport position, whether the amount of car parking proposed is acceptable in this instance. The standards are expressed as maximum and therefore the provision made by the scheme cannot be in conflict with policy in that regard. Nonetheless, whether the provision strikes the right balance, as expressed in adopted and emerging policy is relevant.
52. There are two points which were pursued at the inquiry. The amount of overspill parking that could result from the scheme and could this be accommodated? If overspill parking is an issue arising directly from the development then is the use of a Controlled Parking Zone an appropriate means of mitigation?
53. Both the Appellant and Council have undertaken parking stress survey on the same road areas and in accordance with the Lambeth Parking Survey Methodology⁴⁷. The Council undertook their survey in September 2020 which the Appellants consider would not be representative. This survey suggests that if the overspill was at the level of 63 then there would be an issue if residents wanted parking as there would only be 31 spare spaces. In addition to this the Council provided evidence regarding the Census data on car ownership for the West Barnes Ward. In particular that it indicates that the area is characterised by relatively high levels of car ownership. By contrast the Appellants survey suggests that the level of spare spaces would be 64 which would theoretically be sufficient to accommodate any overspill from the appeal scheme.
54. The scheme would be at a ratio of 0.48 spaces per unit. In considering these points during the inquiry the highway witnesses provided a summary of parking demand and supply scenarios⁴⁸. This information is further refined in the summary to exclude streets where there are restrictions in place. The summary document⁴⁹ sets out that using the census data would lead to a

⁴⁶ ID 41 & CD 5.9 para 2.9

⁴⁷ 2.7.1 and 1.4.2 of Mr Savage's Proof and Rebuttal Proof of Evidence

⁴⁸ ID9

⁴⁹ ID9

requirement for provision of 0.62 spaces per unit. The summary indicates that this scenario would have the potential for an overspill off site of about 63 spaces. Of the scenarios presented this is the closest to but still below the maximum LP policy position. As such I think it is fair to consider this position when assessing the appeal scheme, it is in effect the worst case based on the Council's position that the census gives a true picture of car ownership and thereby parking requirement.

55. The GLA response⁵⁰ to the appeal scheme was that, at the point the comments were made, the scheme was considered to be in line with the then London Plan and Draft London Plan standards. Similarly, the response from Transport for London (TfL)⁵¹ sets out that parking provision should be made in accordance with the then Draft London Plan. Further comments from TfL⁵² asked the Appellant to consider reducing the car parking provision from what is applied for on the basis that the surrounding highway network is congested and to encourage active travel. This suggests to me that consideration of the scheme against the LP policies is reasonable.
56. Given the planning policy position which is expressed as a maximum I do not consider that it would be reasonable for the scheme to be refused because it does not meet the maximum standard. Indeed this is not within the spirit of the policy. The worst case scenario for overspill based on the scheme as submitted would be up to 63 vehicles seeking parking and there only being availability on street of about 31 spaces. Assuming this to be true there would inevitably be some residents that would have to rely on alternatives. The scheme can be described fairly as having good connectivity. Clearly a PTAL of 3 indicates that it is not the best connectivity but it is good.
57. Nevertheless, it is clear that there would be a number of non car alternatives available to future residents. In addition to this the planning obligation includes a number of measures to support and encourage sustainable methods of transport. The obligation explicitly mitigates in favour of existing residents should a CPZ be required in the future to protect on street parking provision in the surrounding roads. Therefore, taking all of these elements into account, I do not consider that, given the other options available, the issue of overspill parking would be so significant that it would lead to tangible highway safety issues.
58. The residual issue regarding parking is that the obligation in providing an alternative northern ground floor use option would remove and reduce car parking at a later date. The obligation makes provision for an alternative use scheme should the wider RP3 allocation come forward in a timely manner. The definitions in the agreement refer to a scheme for change of use which the Council would determine. It would impact on about 13 spaces and 2 disabled. The Appellant's approach is that the parking requirement would be reviewed annually in any event. Therefore the evidence could be collated to allow the Council to consider this issue carefully when the wider site comes forward. Therefore, for the purposes of this appeal the provisions in the obligation are proportionate.

⁵⁰ CD 7.3

⁵¹ CD 7.5

⁵² Mr Murch Proof of Evidence, Appendix 2 para 50, p.9

59. I therefore conclude that the appeal scheme would make appropriate provision for parking. It would not be in conflict with the LP policies T4 (A), T6, Local Plan policies CS20, DM T2, NLP policies T6.7 (a), T6.6 and paragraphs 108 and 109 of the Framework.

Housing Land Supply

60. The London Plan 2021 has now been published by the Mayor. The inquiry was provided with a position statement regarding the intent to publish plan⁵³. The Council and Appellant provided a set of agreed housing supply scenarios that considered the LP housing target⁵⁴. Specifically, table 3 sets out the position based on the new LP requirement of 918 dwellings per annum over the five year period. In both the position presented by the Council and the Appellants there would not be a five year supply of deliverable housing.
61. The Appellant presents two scenarios both of which are less than the 4.2 years that the Council set out. These reductions are based on the application of a committee refusal rate⁵⁵ and deliverability of sites⁵⁶, both of which it is submitted would reduce the Council's supply. These scenarios would lead to 4.1 years and 3.0 years supply respectively.
62. The Appellant presented a 'committee refusal rate' to the inquiry. This is the evidence relating to the proportion of schemes that were refused contrary to the recommendation of officers. It specifically considers a period from October 2019⁵⁷. The Appellant's planning witness was clear that in his opinion that if these schemes are being refused by the Council's Committee then they would fall away and there would be a resultant impact on supply. I was not referred to any specific policy basis for this approach by either party other than the Appellants submission that this issue is relevant in consideration of 'Deliverable' within Annex 2 (b) of the Framework. Specifically, that this would impact on the consideration of whether there is clear evidence that housing completions will begin on site within five years.
63. The Council provided a response⁵⁸ to a number of matters raised in evidence by the Appellant. More specifically that applying an approval rate as the Appellant proposes is not a reasonable approach and in particular the 11 month period highlighted. The Council provided details of a five year period⁵⁹ which demonstrates that over that longer period the rate of major applications refused by its committee is in fact substantially lower. Overall, given the lack of a clear policy justification for applying such a rate and the arbitrary application of an 11 month period I do not consider a committee refusal rate should be applied.
64. The remaining scenario presented by the Appellant would be 4.1 years. The Appellant provided evidence to the inquiry regarding the list of sites provided

⁵³ ID29

⁵⁴ ID40

⁵⁵ Table 3.1 ID30, from Para 11 ID29

⁵⁶ From Para 28 ID29

⁵⁷ ID29 Paras 13 & 14 set out that it is relevant to note the increase in refusal rates of major developments from October 2019, because at that stage planning applications (particularly those referable to the GLA) were being assessed against the draft London Plan, which sought a step change in housing delivery, the threshold approach to affordable housing, requiring 35%, and the optimisation of land and that that the refusal rate of applications by the Council's committee increased at that stage which is why it is considered to be a relevant factor.

⁵⁸ ID28

⁵⁹ ID28 para 3.7 and table 3.1

by the Council⁶⁰. More specifically that there are sites within the Council's supply that would not meet the requirements of the Framework for deliverability⁶¹. Whichever scenario is adopted paragraph 11d of the framework would be engaged. The degree of the shortfall is relevant in my consideration of the weight to be attributed to the delivery of new housing. However, in this case the difference between the Council's position and the Appellant's, if I were to accept it, would not be so significant as to alter my weighting to the provision of market housing.

Other matters

65. Whilst not a reason for refusal raised by the Council local residents⁶² raised concerns regarding the proportion of single and dual aspect apartments in the scheme. The LP⁶³ sets out that '...housing development should seek to maximise the provision of dual aspect dwellings and normally avoid single aspect dwellings'. The policy does not rule out the inclusion of single aspect dwellings and the supporting text describes dual aspect as being those with opening windows on at least two sides.
66. The committee report⁶⁴ sets out that on each floor of the scheme all but one unit per floor would be dual aspect and that none of the units would be north facing. The residents' concern relates to units described in the representation as being 'side return dual aspect' and internal corner dual aspect' units and the effect of this on the quality of accommodation provided.
67. The scheme was submitted with a Daylight and Sunlight Assessment (DSA)⁶⁵ which includes an internal daylight study of the appeal scheme. For daylight it demonstrates that about 98% the rooms assessed would meet the BRE and British Standard guidance criteria. The internal courtyard/garden area was also sunlight assessed. The courtyard areas would be compliant with BRE as at least 50% of the space would receive 2 hours or more direct sunlight on 21 March. This is an indication that it would provide a pleasant internal environment. These conclusions are supported by the GLA comments on the scheme⁶⁶.
68. I acknowledge that the scheme would not provide all dual aspect units. However, the policy is not worded this way. It seeks to maximise them and based on the evidence before me it is my view that the scheme would meet this objective.
69. Raynes Park High School is located adjacent to the school on the opposing side of the Pyl Brook. The school is concerned that the scheme would shade its design and technology block, which is the building closest to the boundary with Pyl Brook. Appendix 4 of the DSA is a Sunlight Amenity (overshadowing) assessment. Part of this considers the relationship between the appeal site and the school. This is undertaken through modelling of the existing situation and proposed scenario if the scheme went ahead.

⁶⁰ ID29 Para 29

⁶¹ Annex 2

⁶² ID5

⁶³ Policy DN6 CD 2.2

⁶⁴ CD 7.1

⁶⁵ CD8.6

⁶⁶ CD 7.3 para 42

70. This demonstrates that the change in the areas receiving more than 2hrs of sunlight would be low. The plan shows a very limited area would move into the category 'less than 2hrs of sunshine'. As such the change to the area adjacent to and affecting the technology block would be extremely limited. The schools' other concerns related to construction impact. These matters are considered under conditions [97].
71. Representatives from AW Champion Ltd attended the inquiry and made specific comments about an extension to the filter lane⁶⁷. In particular that the length of what is described as the 'stacking lane' should be increased to allow traffic to flow more freely when the level crossing barriers are down. The representation included drawings illustrating how this could take place. This scheme in essence proposes an amendment to the appeal proposals. This proposal, within the adopted highway, was not supported by the Council or advanced by the Appellant. As such it does not form part of the appeal scheme and I cannot consider it further.
72. Residents are concerned about flooding of Pyl Brook. The application was supported by a Flood Risk Assessment⁶⁸. The Council's report sets out that the Flood Risk and Drainage Officer did not object to the assessment, the mitigation measures contained within it and recommended detailed conditions regarding a scheme for foul and surface water drainage and the specifications for permeable paving and green roofs. Therefore, flood risk would not be a reason to resist the scheme and conditions to ensure that the scheme comes forward in accordance with the principles of the submitted information are reasonable and necessary.
73. Representations suggest that the scheme should include more family sized dwellings than the mix applied for contains. Policy H10 of the LP refers to housing mix and the supporting text states that '*Well-designed one- and two-bedroom units in suitable locations can attract those wanting to downsize from their existing homes, and this ability to free up existing family stock should be considered when assessing the unit mix of a new build development*'. Therefore whilst there would be some conflict with local policy Sites and Policies Plan (SPP) DM H2 this has to be balanced against the strategic policy. Overall, the Council did not consider that the unit mix of the scheme would justify a reason for refusal and I have no evidence that would lead me to make a different conclusion.
74. The application was supported by an Air Quality Assessment⁶⁹. This considers air quality impacts associated with traffic generated by the operational phase of the development. The site also lies in an Air Quality Management Area and therefore an assessment of the potential for future residents to be exposed to poor air quality has also been undertaken. The Council's Air Quality officer has advised that a financial contribution to address air quality impact issues during the sensitive period of development should be sought. This is secured through the planning obligation⁷⁰.
75. The scheme is predominantly residential and therefore it is likely to be comparable to existing uses in the wider area. The impact of any noise from

⁶⁷ ID11

⁶⁸ CD 8.7

⁶⁹ CD 8.10

⁷⁰ ID41 and para 87

commercial uses, such as plant, can be addressed through the imposition of appropriate conditions.

76. Appendix 7 of Mr Murch's rebuttal proof of evidence outlines the approach to Whole Life Cycle Carbon Emissions. LP policy SI 7 sets out the need for a circular economy statement. The statement provided in response to the issues raised by the R6 sets out the principles that would be utilised and explored in more detail as part of the appeal scheme. This matter would be further controlled through the imposition of an appropriately worded condition.
77. I understand that there have been a significant number of objections to the scheme at both the application and appeal stage. I have carefully considered the points made and these points were fully aired and tested at the inquiry. Therefore, whilst I return to the weight to these objections in the planning balance the sheer volume is not in itself a reason to resist the scheme given my findings on specific issues.

*Planning obligation*⁷¹

78. The Appellant has provided a unilateral undertaking under section 106 of the Town and Country Planning Act 1990, which includes a number of obligations which would come into effect if planning permission were to be granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and as set out in paragraph 56 of the Framework. These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The Council has provided a CIL compliance statement⁷².
79. Affordable Housing: The scheme would secure 143 affordable housing units of Affordable Rent (85) and Shared Ownership (58). The delivery of 35% affordable housing by habitable room and the tenure split proposed would be in line with the Council's current policy requirement⁷³. Furthermore, the provision of affordable houses as part of the development would accord with the Framework which seeks to ensure a sufficient supply of homes to reflect identified needs. I am satisfied that this planning obligation meets all three planning obligation tests and so is necessary. I give this obligation significant weight.
80. Viability Review: The obligation secures the delivery of the units at appropriate occupation triggers and the affordability of the units at their given tenure in perpetuity, subject to standard provisions for right to buy, staircasing, mortgagee/chargee exclusions and a moratorium to protect affordability for on sale. The CIL compliance statement sets out that the GLA has confirmed that the affordable housing offering meets the Mayor's Fast Track criteria. Accordingly an early stage viability review (triggered if an agreed level of progress in implementing the development isn't reached within three years of the grant of planning permission).
81. Transport, Highway Works, Travel Plan and Monitoring Fees⁷⁴: The anticipated distribution of traffic associated with the site is expected to give rise to a

⁷¹ ID 41, ID 32a, ID 32b

⁷² CD 5.9

⁷³ Policy CS8, London Plan H4, H5, H7 and Mayors SPG

⁷⁴ CS policies CS20, CS18 and CD 3.2 SPP DM T1, DM T2, DM T3

change in performance of the Claremont Avenue junction with Burlington Road and therefore a commuted sum was sought from the developer to provide the necessary junction improvements. Accordingly it has been agreed that the developer provides financial contribution of £100,000 towards a pedestrian crossing facility and junction improvements at this junction which would be relevant to the development and necessary.

82. The CIL compliance statement sets out that TfL have confirmed that bus route 131 is already near capacity in the vicinity of the site. Therefore, based on the predicted uplift in bus trips and current bus capacity, TfL have sought a bus services contribution of £450,000 (£90,000 per annum for 5 years) which has been agreed for inclusion in the Unilateral Undertaking. The £90,000 p.a. would cover the cost of an extra journey in each peak period. This would be directly relevant to the development and necessary.
83. Car Club: TfL and the Council's transport planning officers⁷⁵ recommended that three years free car club membership is secured for all new residents in accordance with standard provisions for this type of development, to reduce their reliance on unsustainable modes of travel including individually-owned high emission generating private vehicle journeys. The obligation makes provision for free car club membership for new residents for three years.
84. Travel Plan: The submission of a travel plan can be addressed by condition. The Framework⁷⁶ is clear that '*planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition*'. However, the monitoring fee should be dealt with by the obligation. Monitoring surveys for TPs secured through a planning obligation would be undertaken using TfL's standardised methodology. In order to cover the managing and monitoring cost of the TP the Council charge a fixed one off fee of £2,000, which would be secured through the planning obligation. In this regard this provision would be necessary to support highway safety, sustainable modes of transport together with ongoing monitoring, meeting the requirements of the relevant development plan policy⁷⁷ and tests set out in Section 122 of the CIL regulations.
85. Healthy Streets: This is the framework of the Mayor's Transport Strategy, putting human health and experience at the heart of planning the city. This results in a healthier, more inclusive city where people choose to walk, cycle and use public transport. It outlines some practical steps to achieve this. The application includes improvements to the public realm set out in the DAS⁷⁸. A contribution of £150 000 would be provided towards improving the walking environment and cycle infrastructure around the site in accordance with the objectives of Healthy Streets. This provision would thereby be necessary, relevant to the development to be permitted and would meet the tests set out in Section 122 of the CIL regulations.
86. CPZ and Permit Free Development: This obligation offers a financial contribution to fund the cost of consultation on the use of a CPZ should the Council consider it is necessary. In addition the purpose of the further obligations would be that in the event of a CPZ being introduced that residents

⁷⁵ CD 7.4

⁷⁶ Para 54

⁷⁷ CS 18

⁷⁸ Para 2.16 of CIL Compliance Statement

of the appeal scheme would not be eligible to apply for parking permits. The proposed contribution and ineligibility of parking permits for occupants/users of the development would help to mitigate the impact of the of development on local resident amenity and help to make the development more sustainable in that it would provide an incentive for occupiers/users to invest in more sustainable modes of travel. This provision would thereby be necessary, relevant to the development to be permitted and would meet the tests set out in Section 122 of the CIL regulations.

87. Air Quality⁷⁹: The Council's Air Quality Officer has confirmed that financial contributions are required to implement measures to address air quality impact issues during the sensitive period of development/construction where significant dust and construction vehicle/machinery results in adverse levels of emissions effecting the air quality of surrounding neighbourhoods. This provision would meet the policy requirements and the tests set out in Section 122 of the CIL regulations.
88. Carbon Offset Contribution⁸⁰: An on-site reduction of 203 tonnes of carbon dioxide per year in regulated emissions compared to a 2013 Building Regulations compliant development is expected for the domestic buildings. This is equivalent to an overall saving of 35%, which does not meet the zero-carbon target. The non-residential element would achieve a 41% reduction, which exceeds the emissions target set in the LP. So as to accord with the Mayoral and Local Plan requirements it is considered that the remaining regulated CO2 emissions must be met through a contribution to the borough's offset fund. A contribution of £651 060 is sought by the Council and the obligation makes provision for this. This provision would meet the policy requirements and the tests set out in Section 122 of the CIL regulations.
89. Play Space Contribution⁸¹: The scheme would provide 2,758qm of communal space provided at podium level of each Blocks A and B. A further 408sqm of amenity space is provided along Pyl Brook. The external amenity space would include Social space with communal table, barbecue and pergola, play areas and 'grow your own' planting beds. On site provision would be made for 0-5 and 5-11 year olds. In terms of provision for 12-18 year olds there is agreement that the provision could be made by a commuted sum for a play area enhancement in the locality rather than a dedicated on site facility. The specific amount to be sought by way of a commuted sum is £24,600 as this would provide a Multi-Use Games Area of 400sqm for the 12-18 year olds, expected to be yielded by the proposed development. This provision would meet the policy requirements and the tests set out in Section 122 of the CIL regulations.
90. Alternative Northern Boundary (ANB) Landscape Scheme: The Obligation makes provision for an alternative landscaping scheme for the northern boundary of the Land to be provided in the event that the Council's NLP is adopted; Site RP3 is retained in the Local Plan for residential-led mixed-use development; and the Council grants the planning permission for Site RP3; and that permission is Substantially Commenced after which the Council may serve the ANB Landscaping Notice (which shall confirm that the Council has granted the planning permission for Site RP3 and that the ANB Landscaping Scheme is

⁷⁹ SPP policy DM EP4

⁸⁰ LP policy SI 2 and CS policy CS15

⁸¹ LP Policy S4

to be delivered). It is necessary to ensure that this becomes a publicly accessible area in any masterplan development, it is directly related to the development as it is part of the site and required for any masterplan layout and it is fairly and reasonably related in scale and kind to the development. As such I am satisfied that this would meet the tests set out in Section 122 of the CIL regulations.

91. Alternative for Western Elevation Frontage: The Obligation includes flexibility for alternative uses for the ground floor western elevation to come forward in the event that: the Council's the NLP; Site RP3 is retained in the Local Plan for residential-led mixed-use development; and 10.1.3 the Council grants the planning permission for Site RP3; and that permission is Substantially Commenced. This is specific to the requirements of RP3 and therefore the development on site. As such I am satisfied that this would meet the tests set out in Section 122 of the CIL regulations.
92. Monitoring: The Council is seeking a payment of £33,550.53 towards covering the total costs that may be incurred (i.e. not exceeding the Council's estimated total costs of £45,205.39⁸² for monitoring the development over the lifetime of the obligation. Therefore I am satisfied that this would be in accordance with Paragraph 2A Regulation 122 of the CIL Regulations.
93. Overall, I am satisfied that these obligations meet all three planning obligation tests and so are necessary. The above obligations comply with Framework and CIL Regulations and I have taken them into account in coming to my decision.

Conditions

94. A list of suggested planning conditions was agreed between the Appellant and Council following a round table discussion at the inquiry⁸³. I have considered the conditions in the light of the advice given in the Planning Practice Guidance (PPG) and Paragraph 55 of the Framework which sets out that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In agreeing the conditions document and at the round table discussion the Appellant made clear which conditions are deemed to be acceptable, including those that are pre commencement. I have combined conditions and amended the wording where necessary, in the interests of precision and enforceability.
95. Standard time and plans conditions are necessary to ensure certainty and clarity. A further condition is included which lists the document that the scheme should comply with. I have considered these documents and if necessary the need for compliance with them. I have therefore altered other suggested conditions to refer to specific supporting documents as necessary or remove duplication for compliance.
96. In the interests of the character and appearance of the area a condition is necessary to secure the submission of samples of materials for the scheme. For the same reason conditions are necessary to secure the details of the surfacing of the site, landscaping and landscape management plan, boundary treatments, tree protection, provision of refuse and recycling facilities and a lighting scheme.

⁸² Table 1 CIL Compliance Statement

⁸³ ID22

97. In the interests of highway safety and to promote sustainable travel conditions are necessary that would ensure that the parking shown is provided prior to occupation, provision of secure cycle parking facilities, submission of a Travel Plan, submission of a Parking Management Strategy and a Delivery and Servicing plan. In addition in the interests of highway safety and the living conditions of existing occupiers nearby, including Raynes Park High School, it is reasonable and necessary to require that a Construction and Demolition Plan be submitted and agreed. This plan should include details to ensure liaison with the adjacent school regarding timing of demolition and compliance with the considerate contractors scheme referred to by the Appellant at the round table session.
98. In the interests of the living conditions of future occupiers of the scheme a scheme for acoustic glazing specification is necessary.
99. CS Policy CS15 refers to climate change and compliance with a number of standards and to make effective use of resources and materials, minimises water use and CO2 emissions. Therefore the suggested condition seeking confirmation of the relevant standards and provision of air source heat pumps are reasonable to accord with this part of the development plan. In addition to this conditions are proposed and in this case necessary that require compliance with the Ventilation and Overheating Strategy (included in condition 3), scheme for future connection to the future district heating network, compliance with the Energy Statement and the submission of a whole life cycle Carbon Emissions Assessment. LP policy SI 7 sets out the need for a circular economy statement. The statement provided in response to the issues raised by the R6 sets out the principles that would be utilised and explored in more detail as part of the appeal scheme and a condition is attached to secure a further submission to be agreed and carried out.
100. To ensure that the construction phase of the development will not result in a deterioration of local air quality in line with SLP Policy 34 and the Mayor of London's Supplementary Planning Guidance on the control of dust and emissions during construction and demolition a condition is necessary which requires that all non-road mobile machinery (NRMM) used during the course of the development shall comply with the SPG.
101. The Framework (para 181) and the LP contain policies that seek to manage and prevent any further deterioration of air quality in London. Therefore it is reasonable to require the detail of combustion plant for the scheme to be agreed. Within residential parking the LP and CS seek the provision of electric vehicle charging points. As such a condition to ensure provision of these for the scheme is necessary and reasonable.
102. Part g of policy CS18 encourages design that provides, attractive, safe, covered cycle storage, cycle parking and other facilities (such as showers, bike cages and lockers). A condition is therefore relevant which seeks the details of these for staff of the non residential uses in the scheme.
103. The scheme is supported with a FRA⁸⁴ and a Preliminary Ecological Assessment⁸⁵ and these documents make specific recommendations that it is

⁸⁴ CD 8.7

⁸⁵ Dated October 2018

necessary to secure by condition. London Plan policy SI 13⁸⁶ refers to sustainable drainage and requirements for surface water management. The scheme also includes permeable paving and green roofs. Therefore conditions requiring the submission of this information and its implementation are relevant and necessary in this case.

104. Policy CS14 requires new development and improvement of the public realm to be accessible, inclusive and safe. Therefore conditions seeking a scheme to ensure the principles of Secure by Design are incorporated are reasonable.
105. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors conditions relating to contamination and protection of controlled waters are necessary.
106. The officer committee report⁸⁷ indicates that Thames Water raised no objection to the scheme with regard to the capacity of the foul water sewerage network. Two conditions are included in the agreed list of conditions submitted at the inquiry. The condition which requires the scheme to conform that any network upgrades required would be carried out is relevant and reasonable. I have no evidence that the condition referring to construction in close proximity to Thames Water assets would be relevant to planning and so I have not imposed it. A further condition is imposed regarding piling which is necessary to ensure that there would not be an adverse impact on underground water utility infrastructure.
107. The development plan seeks schemes to provide functional spaces and buildings with adequate internal amenity. A condition is proposed to secure the provision of external amenity space and children's play space and equipment. The planning obligation secures on site delivery as appropriate and the condition would not duplicate this but it would secure the detail and as such is reasonable.

Planning Balance and Conclusion

108. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the Development Plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework which is of course a material consideration to which substantial weight should be attached. There is no dispute that with the adoption of the new LP the Council does not have a five year supply of deliverable housing and therefore the tilted balance in the Framework is engaged.
109. In this case there would be a minor adverse impact from some views of the appeal scheme. As such there would be development plan conflict in part with CS14 and D9. I have found that the parking provision for the scheme would be acceptable and as such there would not be conflict with the policies in the development plan in this regard. In terms of benefits the construction of 456 new homes would deliver both market and affordable homes. These are both matters to which substantial weight is attached. The planning obligation provides a package of other benefits which collectively attract moderate weight. Therefore, I consider that the limited harm to character and

⁸⁶ CD 2.2

⁸⁷ CD 7.1

appearance would not significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the Framework as a whole. As such the Framework is a material consideration which weights in favour of the scheme.

110. Overall, there would be some conflict with the adopted development plan regarding the location of the scheme as a tall building. The TBP is a material consideration that weighs against the scheme along with minor harm from two VP. There would be compliance with the development plan in so far as its policies seek high quality new design that responds to the character of the area in which it is located, delivery of market and affordable housing, no adverse effects on living conditions of residents and absence of highway safety issues. There are other material considerations that support the grant of planning permission, namely the Framework and the draft allocation RP3. The appeal scheme is located in an area identified for regeneration and development within the Council's NLP. As such the limited weight of the emerging allocation in the NLP weighs in favour of the scheme. As such I consider that the totality of the compliance with the development plan policies on transport and design taken together with other material considerations outweigh the limited conflict identified.
111. Therefore, for the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Annabel Graham Paul of
Counsel

Instructed by George Chesman, Locum Solicitor,
South London Legal Partnership

She called

Hugo Nowell, BSc (Hons.) MA Landscape
Architecture, Chartered Member of the
Landscape Institute, MA Urban Design
Tim Lipscomb, BA MSc

Valerie Mowah, BA (Hons)
Richard Lancaster, BA MSc

For the round table discussion:

Tara Butler

FOR THE APPELLANT:

Paul Tucker QC
Constanze Bell

Instructed by Jonathan Murch of Davies Murch

He called

Mike Savage, BEng MSc MCIHT
Colin Pullan, BA(hons) DipUD
Jonathon Murch, MA TCP, MRTPI

For the round table discussion

Matthew Bailey, BA (hons) MSc CEnv MEI

Daniel Cook, BSc (hons) MSc MEI

FOR THE RULE 6 PARTY:

John Elvidge

Chairman of the Raynes Park and West Barnes
Resident's Association

For the round table discussion:

Jerry Cuthbert

Committee member of the Raynes Park and West
Barnes Resident's Association

INTERESTED PERSONS:

Cllr Hina Bokhari
Nick West
Matthew Wingrove
Mike Ross
Philip Champion
Adrian Keal

Councillor West Barnes ward
Local Resident
Local Resident
Local Resident
AW Champion Timber
Nexus Planning on behalf of AW Champion

Steve Lister
Andrew Hogarth

AW Champion
Raynes Park High School

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

- 1 Opening statement for the Appellant
- 2 Opening statement for the Local Planning Authority
- 3 Opening statement for the Rule 6 Party
- 4 Highways Statement of Common Ground
- 5 Submission by Matthew Wingrove
- 6 Photograph submitted by the Rule 6 Party
- 7 Merton five year land supply statement June 2020 version 2
- 8 Letter from Mayor of London dated 9 December 2020
- 9 Summary of parking demand and supply
- 10 Secretary of State's response to the Mayors letter, including Annex A and Annex B
- 11 Philip Champion statement and images
- 12 GLA Control of Dust and Emissions SPG 2014
- 13 London Borough of Merton Draft Planning Obligations SPD 2014
- 14 Local Planning Authority position statement on Secretary of State letter
- 15 Appellant's position statement on Secretary of State letter
- 16 Amended planning conditions 14 December 2020
- 17 Clarification of clause 9 of the s106 agreement
- 18 Housing and Economic Needs Assessment – PPG extracts 16 December 2020
- 19 Housing Supply and Demand, PPG Extracts 22 July 2019
- 20 Written Ministerial Statement, Secretary of State for Housing Communities and Local Government, 16 December 2020
- 21 Email from Tesco dated 18 December 2020
- 22 Conditions list 8 January 2021
- 23 SSOG Design Review Panel comments 6 January 2021
- 24 Marketing update 24 December 2020
- 25 Statement of Community Involvement May 2019
- 26 Raynes Park and West Barnes Residents Association Minutes 8 January
- 27 Merton 5 Year Supply Jan 2021
- 28 Supplementary Statement on Housing Supply London Borough of Merton and Appellant
- 29 Burlington Road Position Statement London Plan and Housing Supply
- 30 Housing Supply Matters January 2020
- 31 Housing Supply Matters Position Statement 12 January 2021
- 32 s106 agreement 13 January 2021
- 32 A s106 agreement summary note 13 January 2021
- 32 B Email exchange s106 – alternative western elevation
- 33 Stoll Square Cricklewood Masterplan
- 34 Brief summary of scheme and Hugo Nowell CP edit 13 January 2021
- 35 Closing submission of behalf of the Rule 6 Party
- 36 S123 Legal note
- 37 SSOCG Tall Buildings Paper Status 13 January 2021

- 38 Closing Submission on behalf of the Local Planning Authority
- 39 Closing Submission on behalf of the Appellant
- 39 A Paul Newman New Homes Ltd v SOS Housing Communities and Local Government
- 40 Agreed housing supply scenario tables 14 January 2021
- 41 S106 Agreement 18 January 2021

Annex A – Conditions

- 1) The development to which this permission relates shall be commenced not later than the expiration of 3 years from the date of this permission.
- 2) The development shall be carried out in accordance with the following approved plans: ExA_1852_100 D, ExA_1852_110 D, D1100 P2, D1101 P2, D1102 P1, D1106 P1, D1107 P1, D1108 P1, D1109 P1, D1110 P1, D1111 P1, D1112 P1, D1113 P1, D1114 P1, D1115 P1, D1200 P2, D1201 P2, P1202 P2, D1203 P2, D1204 P2, D1205 P2, D1206 P222, D1300 P2, D1301 P2, D1302 P2, D1303 P2, D1304 P2, D1305 P2, D1306 P2, D1307 P2, D2100 P3, D2101 P3, D2102 P2, D2106 P2, D2107 P2, D2108 P2, D2109 P2, D2110 P2, D2111 P2, D2112 P2, D2113 P2, D2114 P2, D2115 P2, D2202 P2, D2203 P2, D2204 P2, D2205 P2, D2300 P2, D2301 P2, D2302 P2, D2303 P2, D2304 P2, D2305 P2, D3100 P2, D3101 P2, D3102 P2, D3103 P2, D3104 P2, D3105 P2, D6000 P2, D6001 P2, D6002 P2, D6003 P2, D6100 P2, D6101 P2, D6102 P2, D6101 P2, D6107 P2, D6108 P2, D6109 P2, D6110 P2, D6111 P2, D6112 P2, D6113 P2, D6114 P2, D6115 P2, D6200 P2, D6201 P2, D6202 P2, D6203 P2, D6300 P2, D6301 P2, D6302 P2, D6303 P2, D6304 P2, D7010 P2, D7100 P2, D7102 P2, D7103 P2, D7104 P2, D7105 P2, D7106 P2 and D8000 P2.
- 3) The development shall be carried out in accordance with the recommendations of the following approved documents:
 - Air Quality Assessment – May 2019
 - Affordable Housing Grant Funding Model
 - Arboricultural Impact Assessment,
 - Arboricultural Method Statement and Arboricultural Survey – May 2019
 - Cultural Heritage Desk Based Assessment – April 2018
 - Daylight and Sunlight Assessment – May 2019
 - Addendum to Daylight and Sunlight Analysis dated 4th December 2019
 - Design and Access Statement – May 2019
 - Design and Access Statement: Landscape – May 2019
 - Desk Study/Preliminary Risk Assessment Report – August 2018
 - Dynamic Overheating Assessment – May 2019
 - Energy Statement (amended) – 16th October 2019
 - Flood Risk Assessment – May 2019
 - Noise and Vibration Assessment – May 2019 – including Proposed Ventilation and Overheating Strategy at paras 8.23-8.27
 - Preliminary Ecological Appraisal – October 2018
 - Residential Travel Plan – May 2019
 - Statement of Community Involvement – May 2019
 - Surface Water Drainage Strategy dated May 2019
 - Sustainability Statement – May 2019
 - Town Planning Statement and Health Impact Assessment – May 2019
 - Townscape and Visual Appraisal (undated)
 - Transport Assessment – May 2019
- 4) No above ground works shall take place until details of particulars and samples of the materials to be used on all external faces of the development hereby permitted, including drawings for window frames and doors at 1:20 scale (notwithstanding any materials specified in the application form and/or

the approved drawings), have been submitted to the Local Planning Authority for approval. No above ground works which are the subject of this condition shall be carried out until the details are approved, and the development shall be carried out in full accordance with the approved details.

- 5) No above ground works shall take place until details of the surfacing of all those parts of the site not covered by buildings or soft landscaping, including any parking, service areas or roads, footpaths, hard and soft have been submitted in writing for approval by the Local Planning Authority. No above ground works that are the subject of this condition shall be carried out until the details are approved, and the development shall not be occupied / the use of the development hereby approved shall not commence until the details have been approved and works to which this condition relates have been carried out in accordance with the approved details.
- 6) No above ground works shall take place until details of all boundary walls or fences are submitted in writing for approval to the Local Planning Authority. No above ground works which are the subject of this condition shall be carried out until the details are approved, and the development shall not be occupied / the use of the development hereby approved shall not commence until the details are approved and works to which this condition relates have been carried out in accordance with the approved details. The walls and fencing shall be permanently retained thereafter.
- 7) The development hereby approved shall not be occupied until the refuse and recycling storage facilities shown on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- 8) Prior to occupation of the first unit a scheme for external lighting shall be submitted in writing for approval to the Local Planning Authority. No above ground works which are the subject of this condition shall be carried out until the details are approved, and the development shall not be occupied / the use of the development hereby approved shall not commence until the details are approved and works to which this condition relates have been carried out in accordance with the approved details.
- 9) All hard and soft landscape works shall be carried out in accordance with the approved plans and documents. The works shall be carried out in the first available planting season following the completion of the development or prior to the occupation of any part of the development, whichever is the sooner, and any trees which die within a period of 5 years from the completion of the development, are removed or become seriously damaged or diseased or are dying, shall be replaced in the next planting season with others of same approved specification, unless the Local Planning Authority gives written consent to any variation. All hard surfacing and means of enclosure shall be completed before the development is first occupied.
- 10) No development [including demolition] pursuant to this consent shall commence until an Arboricultural Method Statement and Tree Protection

Plan, drafted in accordance with the recommendations and guidance set out in BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority and the approved details have been installed. The details and measures as approved shall be retained and maintained, until the completion of all site operations.

- 11) Prior to the occupation of the development a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out in accordance with the approved scheme.
- 12) The vehicle parking area shown on the approved plans shall be provided before the first occupation of the development hereby permitted either on a phased basis or as a single phased scheme and shall be retained for parking purposes for occupiers and users of the development and for no other purpose.
- 13) Prior to occupation details of secure cycle parking facilities for the occupants of, and visitors to, shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and thereafter retained for use at all times.
- 14) Prior to the occupation of the development hereby permitted, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall follow the current 'Travel Plan Development Control Guidance' issued by TfL and shall include:
 - (i) Targets for sustainable travel arrangements;
 - (ii) Effective measures for the on-going monitoring of the Plan;
 - (iii) A commitment to delivering the Plan objectives for a period of at least 5 years from the first occupation of the development;
 - (iv) Effective mechanisms to achieve the objectives of the Plan by both present and future occupiers of the development.

The development shall be implemented only on accordance with the approved Travel Plan.

- 15) The development shall not be occupied until a Parking Management Strategy, to include the provision of 14 parking spaces for disabled motorists has been submitted in writing for approval to the Local Planning Authority. The approved scheme shall be implemented prior to occupation of the scheme in accordance with the approved details.
- 16) The development shall not be occupied until a Delivery and Servicing Plan (the Plan) has been submitted in writing for approval to the Local Planning Authority and implemented in accordance with the approved plan. The approved measures shall be maintained, in accordance with the Plan, for the duration of the use.

- 17) Prior to the commencement of the development hereby permitted, a Construction and Demolition Logistics Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented during the entire construction period and shall be so maintained for the duration of the use.
- 18) No part of the development hereby approved shall be occupied until evidence has been submitted to, and approved in writing by, the Local Planning Authority confirming that the development has achieved CO2 reductions of not less than a 19% improvement on Part L regulations 2013, and internal water consumption rates of no greater than 105 litres per person per day. These standards will be maintained for the duration of use of the development.
- 19) Prior to commencement of the main works contract, details of the proposed Air Sourced Heat Pumps (ASHP) shall be submitted to and approved in writing by the Local Planning Authority. The approved ASHP shall be implemented in the scheme prior to occupation.
- 20) All Non-Road Mobile Machinery (NRMM) used during the course of the development that is within the scope of the GLA 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance (SPG) dated July 2014, or any successor document, shall comply with the emissions requirements therein.
- 21) Prior to the occupation of the development hereby permitted, a report with details of the combustion plant in order to mitigate air pollution shall be submitted to and approved in writing by the Council. The agreed measures and plant shall be installed prior to any of the residential units being brought into use and thereafter retained.
- 22) Electric vehicle charging points (EVCP) shall be provided for 20% of the car parking spaces shown on drawing 1997-00-DR-1099 P04 and passive provision shall be made available for the remaining 80% of the spaces so that the spaces are capable of being readily converted to electric vehicle charging points. The location of the EVCP spaces and charging points, and a specification for passive provision shall be submitted to and approved in writing by the local planning authority before any of the residential units are first brought into use. The EVCP shall thereafter be constructed and marked out and the charging points installed prior to any of the residential units being brought into use and thereafter retained permanently to serve the vehicles of occupiers.
- 23) Prior to the first occupation of the development hereby permitted, details of shower and locker facilities for staff members shall be submitted to and approved in writing by the Local Planning Authority. The agreed facilities shall be available prior to the first occupation of the development hereby permitted and retained thereafter.
- 24) The development shall be carried out in accordance with the following recommendations set out at Section 4 of the submitted Preliminary Ecological Appraisal dated October 2018:

- A buffer strip of native thorny planting to be put in place along the northern boundary. This will help mitigate impacts on the brook adjacent to site, and enhance the site for bats, birds, and mammals;
- Site vegetation clearance to be undertaken in September to exclude the bird nesting season (March to August inclusive) and hedgehog hibernation period (October to March) or immediately after an ecologist has confirmed the absence of nesting birds/hedgehogs;
- Bat sensitive lighting to be used along the northern boundary of the site to mitigate for impacts upon boundary habitats and trees that are potentially of use to local bat populations;
- Precautionary construction techniques sensitive to hedgehog/otter/water vole to be employed;
- Pollution prevention control to be put in place during the construction phase.

25) The development shall be carried out in accordance with the mitigation measures set out in the submitted Flood Risk Assessment dated May 2019, as follows:

- Non-return valves on any new sewer connections to prevent back-flow;
- All residential accommodation to be located at first floor level (podium level) or above. It should be noted that two two-bedroom duplex units are proposed at ground floor, however the location of these units is outside the 1:100 + 35% Climate Change flood extent; additionally the minimum finished floor level of these units is to be set no lower than 14.65mAOD, which is 300mm above the 1 in 100 + 35% flood level.
- Minimum Finished floor levels of the ground floor units to be set no lower than 14.65mAOD (300mm above the 1 in 100 + 35% flood level);
- Flood volume mitigation as per section 8 of this report to avoid displacement offsite (floodplain compensation in the 1in100yr+35% event).
- Implementation of SuDs to ensure no increase in surface water runoff.
- Site owners and residents to sign up to EA Flood Warning/Alert Service and have an onsite flood warning and evacuation plan.

26) No development approved by this permission shall be commenced until a detailed scheme for the provision of surface and foul water drainage has been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The drainage scheme will dispose of surface water by means of a sustainable drainage system (SuDS) at the agreed runoff rate (no more than x3 greenfield which is equivalent to 18.3l/s for the 1 in 100yr+40%CC), in accordance with drainage hierarchy contained within the London Plan Policy (SI 13) and the advice contained within the National SuDS Standards.

27) Prior to above ground works, the detailed design and specification for the permeable paving and green roofs shall be submitted to and approved in writing by the Local Planning Authority. The design shall be carried out as approved, retained and maintained by the applicant in perpetuity thereafter.

- 28) Prior to the commencement of above ground works a scheme shall be submitted to and approved in writing by the Local Planning Authority setting out the measures and works identified to accord with the principles of Secure by Design. The development shall be carried out in accordance with the approved details.
- 29) Prior to the first occupation of the development hereby approved a Secured by Design final certificate shall be submitted to and approved in writing by the Local Planning Authority.
- 30) No properties shall be occupied until confirmation has been provided in writing to the Local Planning Authority that either: -all water network upgrades required to accommodate the additional flows from the development have been completed; or – a housing and infrastructure phasing plan has been agreed with Thames Water. Where a housing and infrastructure phasing plan is agreed, occupation shall take place in accordance with the agreed plan.
- 31) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 32) Prior to the commencement of development approved by this planning permission, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
- 1) A site investigation scheme, based on the Preliminary Risk Assessment Report 2018, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 2) The results of the site investigation and detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
- 33) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy

shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

- 34) Prior to occupation of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, if appropriate, and for the reporting of this to the local planning authority. Any long-term monitoring and maintenance plan shall be implemented as approved.
- 35) No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.
- 36) Prior to above ground works, a scheme for the provision of external amenity space, including children's playspace and equipment, shall be submitted to and approved in writing by the Local Planning Authority. The agreed external amenity space, play space and equipment shall be installed and made available for use prior to the first occupation of the residential development hereby permitted and shall be retained thereafter.
- 37) Prior to the first occupation of the development hereby approved, a detailed scheme for acoustic glazing to the east and west elevations of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter.
- 38) No above ground works shall commence until details of sound insulation/attenuation measures have been submitted in writing for approval to the Local Planning Authority to ensure that noise from new plant/machinery does not increase the background noise level by more than 2dBA L90 (5 min) with no increase in any one – third octave band between 50Hertz and 160Hertz. No works that are subject of this condition shall be carried out until the details are approved. The plant and machinery shall not be first used until those details are approved and installed in full accordance with the approved details and shall be permanently retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 39) Prior to the commencement of development, a Whole Life Cycle Carbon Emissions Assessment shall be submitted to the Council and approved in writing. The development must be completed in accordance with that Assessment.

- 40) No development shall commence until the applicant submits to, and has secured written approval from, the Local Planning Authority evidence demonstrating that the development has been designed to enable connection to the future district heating network, in accordance with the Technical Standards of the London Heat Network Manual (2014).
- 41) The development hereby approved shall not be occupied until evidence has been submitted to the Local Planning Authority confirming that the relevant part of the development or the development as a whole has achieved CO2 reductions in accordance with those outlined in the Energy Statement (dated 16th October 2019), and wholesome water consumption rates of no greater than 110 litres/person/day including a fixed factor or water for outdoor use of 5 litres/person/day.
- 42) Prior to the commencement of development, a statement setting out the Circular Economy measures to be employed in the development shall be submitted to the Council and approved in writing. The development must be completed in accordance with the measures contained in the approved statement.

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