
Appeal Decision

Hearing Held on 4 October 2022

Site visit made on 4 October 2022

by Kenneth Stone BSc (Hons) DipTP MRTPI

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

Decision date: 2nd November 2022

Appeal Ref: APP/Z5630/W/22/3293957

Land off Coombe Road, Norbiton KT2 7QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Advanced Living (Kingston) Limited against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 19/02504/FUL, dated 4 October 2019, was refused by notice dated 25 February 2022.
 - The development proposed was originally described as 'The redevelopment of land off Coombe Road, Norbiton including the demolition of existing buildings to provide Extra Care Accommodation. This comprises of 128 apartments with associated care and communal facilities, including a Wellness Centre and restaurant'.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the Regent Wing at Kingston Hospital and the erection of a part 3 to 8 storey building comprising 128 self-contained apartments with associated care and communal facilities. Together with the provision of 43 car parking spaces including 18 disabled parking bays, landscaping, new means of pedestrian access and improvements to the site access at Land off Coombe Road, Norbiton KT2 7QB in accordance with the terms of the application, Ref 19/02504/FUL, dated 4 October 2019, subject to the conditions contained in the schedule at the end of this decision.

Preliminary Matters

2. The description of development set out in the banner heading above has been taken from the original application form. However, the Council adopted an alternative description, cited in the committee reports and on their decision notice. The Application was also amended during the Council's consideration of the scheme. In relation to the description of development adopted by the Council the Statement of Common Ground (SoCG) recognises that there are areas, including reference to buildings that have already been demolished and the level of parking, that do not reflect the current position. The Appellant therefore proposed an alternative wording for the description of development, *'demolition of the Regent Wing at Kingston Hospital and the erection of a part 3 to 8 storey building comprising 128 self-contained apartments with associated care and communal facilities. Together with the provision of 43 car parking spaces including 18 disabled parking bays, landscaping, new means of*

pedestrian access and improvements to the site access', albeit this was not agreed in the SoCG.

3. At the hearing the parties agreed that the Appellant's amended description, as provided in the SoCG, did accurately reflect the current position in respect of demolished buildings (deleting those already demolished and which were therefore superfluous from the Council's previous description) provided an accurate description of the parking and included additional detail which was accurate. The Local Planning Authority therefore confirmed they did not object to the amended description of development. On this basis, as the Appellant's latest description does not materially alter the nature of the development for which permission was sought and is the most complete and accurate description of the development for which they have sought permission, I have used this as the basis for my decision.
4. The scheme the subject of this appeal had been amended during the Council's consideration of it, with various iterations of amended plans. The parties agreed the Plans on which the Appeal was to be determined were those as specified in condition 1 in the suggested listed of conditions attached to the SoCG. I have determined the Appeal on the basis of these plans.
5. As a point of clarity, in the run up to the hearing, the Appellant raised with the Council that it did not appear to have received a response to a letter that was submitted with the original application in 2019 seeking confirmation from the Council that the proposed development did not constitute EIA development, under the terms of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as amended. They sought to confirm whether the Council did not issue an opinion as the scheme fell below the relevant Schedule 2 thresholds¹ or whether a screening opinion should have been issued. The Council at the hearing stated that they had no record of such a request being made but that they accepted that the scheme fell below the relevant Schedule 2 thresholds and that the proposed development was not EIA development.
6. I have been provided with no evidence to suggest that an alternative view would be appropriate and have no reason to disagree with the judgements of the parties. In this regard I have determined this appeal on the basis that the proposed development is not EIA development.
7. The Council accept that they cannot demonstrate a 5 year supply of deliverable housing sites² and that through footnote 8, the relevant part of paragraph 11d) ii) of the National Planning Policy Framework (The Framework) is engaged: i.e. where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting planning permission unless ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, the 'tilted balance' as it has become known.

¹ The Appellant judged that the scheme fell within category 10 of Schedule 2 'Infrastructure Projects', sub-section (b) 'Urban Development Projects' that the site was not in a sensitive location and that the relevant thresholds relate to developments that include more than 150 dwellings, more than 1 hectare non-residential floorspace or the overall area of development exceeds 5 Hectares. They viewed that as the scheme covers an area of 0.6744 ha, 128 apartments and up to 1,000 sqm non-residential floorspace the development falls below the thresholds.

² The SoCG Point 1 of the Table of 'Areas of Agreement' related to 'The Principle of Development' The Council note that 'The LPA has 2.32 years' worth of housing land supply and has delivered 76% of its required housing'.

8. The Wolverton Avenue Residents Association clarified their position on this matter at the hearing, as in a written submission they had sought to argue that the 'tilted balance' was not engaged. At the hearing they confirmed they accepted that the 'tilted balance' was engaged but they were concerned at the way it was phrased in the Council's committee report and wanted to ensure that the proper and appropriate test as set out in the Framework was adopted.
9. With the lack of a five year housing land supply accepted by all parties and given footnote 8 paragraph 11 d) ii) of the Framework is engaged. I will return to this in my planning balance towards the end of this decision.
10. A completed signed and dated Agreement under section 106 (s106) of the Town and Country Planning Act 1990 as amended has been provided to me within an agreed timescale. The Appellant requested a short extension for one week to the timescale agreed at the hearing³ to which I agreed. The Council's third reason for refusal was predicated on the basis that a completed s106 agreement had not been submitted and they had stated in their Statement of Case, and the SoCG, that should such an agreed position be reached the reason for refusal would potentially fall away. In effect with the agreement reached the majority of matters are agreed and provided for in the legal Agreement. It does however contain a number of 'blue pencil' clauses which require my consideration and determination of and therefore remains a matter on which my decision turns and which I address below.

Main Issues

11. The Local Planning Authority's Planning Committee considered a report on the scheme at an initial meeting where the Officer report recommended permission be granted. The Committee resolved not to grant permission and carried a motion to defer the application for Officers to prepare a paper to feed back on the issues raised by members of the Committee. The Committee raised a number of issues including: impact on amenities of surrounding occupiers; poor design, excessive height and massing; mechanism to secure and lack of affordable housing; not demonstrated that the proposed use was appropriate; lack of a fire statement; loss of parking and loss of the site for hospital use.
12. A second report was produced to advise members on these matters and at which the Committee took the decision to refuse permission on the basis of the effect on the amenities of surrounding residents, the design massing and height of the building and the lack of a completed legal agreement to secure affordable housing. Given that there was no completed legal agreement other matters that were to be secured through the legal agreement in the event of permission being granted were not secured and so they were included in the reason related to the lack of a legal agreement. The other matters raised by members were resolved by the provision of additional information or advice that they could be secured through the imposition of suitable planning conditions. The outstanding issues formed the basis of the reasons for refusal and from the information that has been submitted during the Appeal and the application, including representations from third parties, I am satisfied that these remain as the main issues to be considered in the determination of this appeal.

³ A final draft agreement was available for discussion at the hearing but had not been signed and sealed by all parties. I gave the Appellant until the 18 October to submit a finalised Agreement if I were to take it into account in the determination of this appeal.

13. The main issues in this appeal are therefore:

- a) The effect of the proposed development on the character and appearance of the surrounding area, including the effect on heritage assets;
- b) The effect of the proposed development on the living conditions of the occupants of neighbouring properties with regard to privacy and outlook/overbearing effect; and
- c) Whether the proposed development would make adequate provision for future connection to a district heat network, zero-carbon, a mechanism to address on-street car-parking pressure, sustainable modes of transport, highway junction improvements, affordable housing (subject to early and late stage review), and secure the use of the development as specialist older persons' accommodation and provide sufficient off-site short-stay cycle parking.

Reasons

14. The development plan for the area comprises the London Plan 2021 (LP), Kingston Core Strategy, adopted April 2012 (KCS) and the Kingston Town Centre Action Area Plan, adopted 2008 (KTCAAP). There is also the South London Waste Plan 2012 (SLWP). The site is not located in Kingston Town Centre and the proposed development does not relate to waste the KTCAAP and SLWP are not therefore relevant for the purposes of this decision. There is a new emerging Local Plan however this is in its very early stages with the latest consultation concluding last year and no draft Local Plan yet published. There is very limited weight that can be given to the emerging plan and indeed no parties rely on it for their cases.

Character and appearance

15. The Appeal site is located at the south-west corner of the Kingston NHS Hospital estate, of which it formerly formed a part. The site is occupied by a building known as the 'Regents Wing', a four storey, red brick with tiled roof late Victorian/ Edwardian building originally constructed as an infirmary for an adjacent workhouse. The building is presently vacant and no longer forms part of the hospital estate. A number of smaller buildings immediately surrounding it have recently been demolished. However, to the north and east the large Hospital estate contains a variety of buildings of varying ages, forms, heights and materials. In particular, immediately to the north of the Regents Wing is the Esher Wing, a seven-storey building.
16. To the west the appeal site bounds the rear gardens of properties fronting Wolverton Avenue, which is formed by detached and semi-detached late Victorian houses with mainly red brick and pitched roofs of two principal storeys with accommodation in a third storey within the roof. At the junction of Wolverton Avenue and Coombe Road is the former Registry Office dating from around 1900s and which has been converted to flats.
17. Coombe Road forms the Appeal site's and Hospital estate's southern boundary. It is a primary traffic route towards Kingston Town Centre. Beyond Coombe Road, opposite the appeal site, is Jemmett Close and to the south and west is Hanover House and Norbiton Railway station. The area contains a mix of uses and buildings of varying ages and designs. The uses include residential, retail,

- office space and a nursing home and include buildings rising to 3/4 storeys of a reasonably modern age.
18. Overall, the surrounding area has a wide range and variety of building styles forms and ages with discreet pockets of greater quality but little overall coherent layout, form or materials. The utilitarian hospital complex buildings dominate the northern and eastern approaches whilst modern development is readily evident in the area. Some elements create small interesting attractive punctuations in the overall eclectic mix including Wolverton Avenue properties, the former Registry Office building, Norbiton Railway station and the existing Regents Wing building.
 19. The Appeal site sits within the Kingston Hill/Coombe Hill Strategic Area of Special Character (SASC) and adjacent to the Wolverton Avenue Local Area of Special Character (LASC). The former Registry Office Building and Norbiton railway station are locally listed buildings. Following a recent request to list the Regents Wing a certificate of immunity from listing has been issued by Historic England, the building is not locally listed although it has some architectural and historic merit given its form, age and association with the development of the hospital site and the local area. The historic line of a water conduit running to Hampton Court Palace the 'Water supply Line North' crosses the site from south west to north east and is identified as an area of archaeological significance. For the purposes of the Framework policies I consider these are non-designated heritage assets.
 20. Policies CS8, DM10, DM11 and DM12 are the most important policies in the KCS that set the policy framework to consider these proposals against in respect of design matters relevant to this decision. They address character, design and heritage matters providing design requirements, a design approach and advising on development in conservation areas and affecting heritage assets. The most important LP policies in this regard are policies D3 and D9 which seek to optimise site capacity through a design led approach and provide policy in terms of Tall buildings. Given the more recent adoption of the LP where there are conflicts in policy between the LP and KCS the LP should take precedence.
 21. These policies are consistent with the advice provided in the National Planning Policy Framework (the Framework) particularly in section 12 achieving well designed places.
 22. In terms of Tall buildings the LP has evolved its policy position from earlier plans and now includes advice that Boroughs should define Tall buildings and identify locations where they would be appropriate. The KCS was adopted prior to the latest LP and does not have a policy to define what Kingston considers to be a Tall building or identify specific locations where such would be appropriate, albeit CS8 does make reference to Tall buildings being located in Town Centres although caveated by a fact not all parts of these areas will be appropriate or too sensitive for such buildings. On this basis the advice in the LP is that in the absence of a local definition policy D9 applies to a building over 6 storeys or 18 metres. The proposed building includes elements of 3, 4, 6, 7 and 8 storeys. All parties accept that the proposed building falls within the LP definition of a Tall building.
 23. The proposed development consists of a single building with a central spine running north to south across the site including expanded elements, at the northern and southern ends and in a central location, which increase the

footprint and incorporate differing building heights. The main spine rises to six storeys in height plus a basement level. On the western façade the three projecting elements provide for the northern and southern ends of the building rising to four storeys and the central element rising to 3 storeys. While on the eastern façade the southern and central elements rise to 8 storeys and the northern element rises to 7 storeys. The upper storeys of the higher elements also overlap part of the six-storey central spine.

24. The proposed development takes its overall height and context from the Hospital estate. This incorporates large footprint buildings and includes buildings rising to seven storeys, the Esher Wing in particular, which sits directly north of the Appeal site. The western elements of the building closest to the boundary with Wolverton Avenue properties are 3 and 4 storeys and are no closer to the boundary than the main façade of the existing Regents wing which is 4 storeys. The six-storey central main spine is set approximately 16m off the boundary. With the highest eight storey elements being set around 22m off the boundary and the seven-storey element at the northern end set approximately 16m off its boundary. The Wolverton Avenue properties are three storey and set at a slightly lower level than the appeal site but given the separation distances and the existing and proposed landscaping I am satisfied that, given the urban location, these appear reasonable distances to afford the building a reasonable degree of visual separation and provide adequate transition in building heights.
25. The surrounding area includes buildings of three and four storeys with large footprints including in Jemmett Close and Hanover House. Whilst the proposed building would be higher than these buildings the separation and transition between building mass blocks and heights ensures the proposed building would not appear excessively domineering in relation to surrounding properties including those in Wolverton Avenue, Jemmett Close, on Coombe Road and the surrounding area generally.
26. The scheme utilises a palette of materials and brick colours to reflect surrounding developments and to assist in breaking up the mass of the elevations. This in association with the articulated elevations and overall heights assists in reducing the visual impact of the building scale and mass.
27. The scheme was subjected to a Design Review Panel process with Design South East, the comments from which included advice to the effect that the panel were comfortable with the height and massing of the building, which included revised massing and repositioning following earlier comments from the review panel. Similarly, the Council's Design Officer's advice whilst acknowledging a step change in scale again supported the scheme. I give significant weight to the independent review panel comments and the Council's own design officer advice in respect of these matters given the advice in the Framework at paragraph 133 which states that in assessing applications regard should be had to the outcome from processes for assessing and improving the design of development including any recommendations made by design review panels.
28. Whilst there are elements of the detailed design that are identified within the review panel and design officer advice, including the appropriate use of materials on specific elements of the scheme and articulation at the upper levels, in general terms the proposed building is generally supported.

29. When viewed on the easterly approach coming down Coombe Road the building will appear as a significant new element in the townscape and along with the Esher wing will define the western boundary of the hospital estate and transition beyond. The southern elevation fronting Coombe Road will introduce a building form that engages with the frontage and the detailing and landscaping make for a more successful relationship with this frontage than the poorly defined landscaping and parking area that currently forms this frontage.
30. I am satisfied that given the scale, expanse and nature of the SASC that the development will have little influence or effect on the significance of this area given the reasons for its designation. These being primarily related to open spaces, topography, buildings and landscaping and gardens. The scale of the area of the designation and the nature of this proposal which seeks redevelopment of a previously developed area within the hospital estate envelope will have little effect on the wider SASC.
31. In terms of Wolverton Avenue LASC this was designated because of the late Victorian houses, the homogeneity of materials, forms and design. It has not been considered worthy for designation as a conservation area and is only afforded local designation as the quality threshold for a conservation area is not reached. Whilst there is some historic and architectural quality in the significance of the LASC it is not directly affected by the proposed development. The building will be seen in glimpsed views between the buildings and above the roofs from certain view points and from the rear gardens of the properties that have a boundary with the appeal site. Whilst there will be a change in views out from the LASC that will influence the perception of the wider area within which it sits this will not detract from the qualities of the layout form and design of the existing properties and their historical associations with the development of the area. Any impact on the LASC's significance is therefore limited.
32. The former Registry Office building sits lower than the appeal site and the proposed building will be substantially higher than it and in reasonably close proximity. However, the existing street tree, existing landscaping on site and the proposed landscaping along the Coombe Road frontage will mitigate the effects to a significant degree. The landscaping features segregate the buildings and would mean that in views westward travelling down Coombe Road from east of the proposed building you would not be aware of the relationship with the former Registry office. While when viewing eastward from back up Coombe Road, from the west below the registry office, the proposed building would be segregated by a landscape buffer that would reduce the influence of the lower elements of the proposed building in the street scene. Overall, I am satisfied that there would be limited effect on the significance of the former Registry Office building which derives its significance from its architectural quality and historical associations with the development of the area.
33. Norbiton station is sufficiently distant such that the proposed building would not affect its significance which derives from its architecture as a station building of Victorian age and its historical associations with the development of the area.
34. The archaeological significance of the Water Supply Line North is likely already compromised by the construction of the Regents Wing and is therefore of

limited value however steps can be secured which would ensure that any impact was mitigated through investigation and recording if necessary.

35. The loss of the Regents Wing cannot be avoided. It is however a non-designated heritage asset the significance of which is limited; this is reflected in the immunity from listing and the fact the Council have not identified it as a locally listed building. Its loss needs to be weighed in the balance along with the other effects on non-designated heritage assets in the planning balance which I do below.
36. As a tall building the locational requirements of LP policy DP9 would require the local authority to identify suitable sites to accommodate such, which it has not done. The LP policy is reasonably recent and the Council has not had an opportunity in policy terms to respond to the changing policy framework. However, in this context DP9 states that Tall buildings should only be developed in locations that are identified as suitable in Development Plans. In this context the proposals conflict with the locational requirements of DP9. However, I am satisfied that, for the above reasons it does not conflict with and is consistent with the other aspects of the policy with which it engages. Similarly in terms of policy CS8 there is limited conflict in the context of broad locational comment for Tall buildings but not as part of a defined identification of suitable locations. For these reasons I give the conflict with policy DP9 and CS8 moderate and limited weight against the proposal respectively.
37. For the reasons given above I conclude that the proposed development would not result in material harm to the character and appearance of the area and would not conflict with the general thrust of KCS policies CS8, DM10, 11 and 12. Where there is some limited conflict with policies in relation to Tall buildings, ie in respect of parts of LP policy DP9 and KTC policy CS8, I give this conflict moderate or limited weight against the proposals. I have also identified some limited harms to non-designated heritage assets and these will be weighed in the balance against the proposal in my planning balance below.

Amenities of occupants of surrounding properties

38. Policy DM10 of the KCS provides design requirements for new developments (including house extensions). The policy includes a number of sub clauses that development proposals should accommodate including k, 'have regard to the amenities of occupants and neighbours, including in terms of privacy, outlook, sunlight/daylight, avoidance of visual intrusion and noise and disturbance'. The Council has also produced further guidance in the form of a Residential Design SPD (RDSPD), adopted in July 2013. This provides detailed guidance and section 3 describes the key planning issues associated with residential development and design principles and specific policy guidance for those making planning applications. Section 3 includes in its design principles advice that the design of new residential development should maintain good levels of amenity for existing neighbouring residents, whilst ensuring good living standards for future occupants.
39. In the context of the main issues identified above the issues of privacy and outlook/ overbearing effect of the scheme are the most relevant matters. In this regard the parties refer to Guidelines 16, 18 and 25 the RDSPD which refer to separation distances, loss of light to existing windows and building heights respectively.

40. The LP policy D3 advises on optimising site capacity through the design led approach and at part D7) of that policy states development proposals should 'deliver appropriate outlook, privacy and amenity. Policy D9 of the LP, in respect of Tall buildings, also includes part c 1) a) iii) which includes reference to the need for an appropriate transition in scale between the tall building and its surrounding context to protect amenity or privacy.
41. Both the KCS and LP policies are consistent with the Framework, in particular paragraph 130 which advises that planning policies and decisions should ensure that developments f) create places that have a high standard of amenity for existing and future users.
42. The Wolverton Avenue Residents' Association (WARA) rely on, amongst other matters, Guideline 18 (loss of light to existing windows) to support their contention that the scheme breaks a 25 degree line and is thereby too close and overbearing. The purpose of the 25 degree rule is however extracted from the BRE Guide to Daylighting and Sunlighting and is related to light reaching rooms rather than proximity of buildings and overbearing. The Appellants have provided a Daylighting and Sunlighting report which concludes that there would be no material impact on sunlight levels with all neighbouring properties meeting the guidelines and that the proposal will not cause any additional overshadowing to neighbouring gardens at the periods of 21st March, June September or December. The Analysis does indicate that a small number of rooms that will experience reductions in daylight distributions beyond the 20% at which the BRE state reductions will be noticeable. Where room layouts are known these are identified as less important or small reductions which given the urban location they consider are acceptable. The Council does not raise any issues with regard to Daylight and Sunlight and WARA have produced no evidence to identify an alternative conclusion. The Use of the 25 degree rule by WARA to seek to demonstrate the overbearing nature of the development is therefore misconstrued. There is no evidence to demonstrate that there would be a material reduction in daylight or sunlight.
43. The Council refer to Guideline 25 (building heights), however this advises that building heights should follow the dominant eaves height of the street. The advice preamble and associated imagery all relate to street scenes and the reference is to the street. The guideline seeks to ensure that developments are compatible with the street scene. The Proposed development is seen in the background in glimpsed views above and between the existing buildings in Wolverton Avenue. This does not appear to be what that guideline is aimed at. In this context the Character and appearance of the wider area is separate from the issue of overbearing effect and outlook. This guideline is not an appropriate measure in this context.
44. The proposed development will introduce a building that is taller than the existing 4 storey Regents wing. The proposed building will be predominantly six storeys for the majority of its length, which will be longer than the Regents Wing. The proposed building will have projections rising to 7 and 8 storeys. The building will therefore undoubtedly be bigger than the existing, taller and with a greater mass of elevation. However, the proposed building will have its main bulk set back further into the site than the Regents Wing; the west elevation will be broken up and modulated with the provision of 3 and 4 storey elements that will be no closer to the boundary than the Regents Wing and the 7 and 8 storey elements are further set into the site and well back from the main west

elevation. Given the design, massing and form of the proposed building I am satisfied that the separation is sufficient to ensure that the building is not oppressive and domineering for the occupants of the properties in Wolverton Avenue. It makes a reasonable compromise between achieving reasonable site densities and safeguarding the amenities of adjoining residents in this regard.

45. Turning to privacy, Guideline 16 (separation distances) provides advice to the effect that general minimum separation distances should be maintained including no less than 21m between facing habitable room windows. The advice does make it clear that these are general and the prevailing character of the area may dictate what separation distances will be. The Guideline does also include a caveat that indicates that where the site typology, landscape features or adequate screening is in place it may be appropriate to relax these distances.
46. The Appellant has produced various plans to provide the indicative distances from the proposed building to the site boundaries and the adjoining properties in Wolverton Avenue. These were not contested by any party and it was not suggested that the distances indicated were incorrect. Generally, the plans illustrate that for the closest three and four storey elements the proposed building would be in the region of 24m from the rear of properties in Wolverton Avenue. The exception to this was in relation to the former Registry Office building where the separation distance would be in the region of 16 m. The 24m between the proposed building 3 and 4 storey elements and the houses in Wolverton Avenue is in excess of the guidelines. There is existing landscaping and this will be further enhanced by proposed landscaping. The building incorporate Oriel windows in these sections and which provide views southwards and not directly westwards. In this regard the privacy of the houses in Wolverton Avenue would be protected.
47. In relation to the Registry Office building again the elevation includes Oriel windows to reduce the incidence of direct overlooking, the boundary includes existing landscaping and fencing which will protect the lower floors. Although the separation distance reduces to in the region of 16m I am satisfied that the design features, landscaping and screening will ensure that the occupants of the Registry Office building will be reasonably protected.
48. There are some balconies associated with units at these lower levels but a condition is proposed to provide screens on the western side of the balconies to address any potential views towards properties in Wolverton Avenue and this would address any concerns in that regard.
49. On the main façade and at the higher levels of the main block where the building rises to 6 storeys the building is set further back into the site and is in the region of 32m from the rear of properties in Wolverton Avenue. This elevation includes windows to habitable rooms and includes balconies. But given the separation distances proposed, which are substantially in excess of the 21m general guide and that there is some landscaping on the boundary (that is to be further supplemented) the privacy of adjoining residents will be adequately safeguarded. Although the landscaping will obviously not rise to the height of the building it will still provide some protection for areas of the rear gardens because of line of sight.
50. The eighth floor elements of the building are set further back into the site and include balcony areas. However, these are some 25m from the boundary at

their closest point, with the depth of the gardens to be added. Similarly, the seventh storey element is set back into the site and would be some 16m from the boundary at its closest point.

51. Concern was expressed by WARA and the Council that the intensity of overlooking resultant from the significant number of windows on the west elevation would significantly increase the perception of overlooking along with increased awareness of the building and its occupation particularly in the evening when lights would be on. The windows of the proposed building are reasonably distant from the adjoining properties and in many instances significantly in excess of the Council's own guidelines. With the design features, including Oriel windows and balcony screens at the lower and closer elements I am satisfied that direct overlooking will not result in a material effect on the privacy of the surrounding residents such that would warrant dismissal of this Appeal. The proposed development will have a heavily modulated elevation which will reduce the perception of overlooking to a significant degree in association with the distances provided. Whilst there will evidently be more windows facing the properties in Wolverton Avenue and that the use will be residential rather than Office there will be an inevitable change in circumstances. However, this is an urban location and it is appropriate to make the best use of urban land. Given the safeguards that are proposed with the design of the building, the landscaping and the screening I am satisfied that any residual impact on privacy is acceptable.
52. In terms of properties to the south of the Appeal site, on the opposite side of Coombe Road, the separation distances, landscaping and relationships are such that no significant harm would arise.
53. For the reasons given above I conclude that the proposed development would not result in a materially harmful impact on the living conditions of the occupants of neighbouring properties with regard to privacy and outlook/overbearing effect. The proposal would therefore not conflict with policy DM10 in the KCS or DP3 and DP9 in the LP in respect of these matters.

Planning Obligation

54. The Appellant has submitted a signed, dated and completed legal agreement under section 106 of the Town and Country Planning Act as amended (s106) this includes various provisions in clauses and schedules. The s106 Agreement includes at clause 7 a covenant that the owner agrees and declares in respect of the schedules and 'blue pencil' clauses that in the event that I declare in my decision that one or more obligations are not necessary to make the development acceptable the obligation shall be of no effect and that if I so declare that it does not satisfy the tests in section 122 (a-c) then the Owner will not be obliged to comply with that obligation.
55. Section 18 addresses Affordable housing and provides for an Affordable Housing Sum which is an Affordable Housing Contribution together with an amount to cover a forecast surplus in lieu of an early and late stage review. If this is accepted then Schedule 5 would not apply. In the alternative if such an approach is not considered appropriate then Schedule 5 will be operative and the payment in section 18 would not apply. Schedule 5 would provide for an Affordable Housing Contribution and an additional Affordable Housing Contribution determined by an early stage review along side a further late stage contribution. The amount of these contributions are set out in various

formula attached to Schedule 5. In respect of the Late Stage Review this is to be determined by formula 3 which has two forms, one in Schedule 5A and one in 5B. The purpose of the two formula 3 is to provide a choice between the Appellant's preferred formula 3 (that set out in 5A) and the Greater London Authority standard late stage review formula (that set out in 5B).

56. Schedule 1 addresses sustainability and energy and provides a carbon off setting contribution. Schedule 2 relates to Highways and Travel and provides for highway works, a travel plan monitoring fee, restriction on parking permits, and a cycle parking contribution. Schedule 3 provides an obligation to design the scheme to allow for its adaptation to incorporate a district heat network and for the Owner to use its reasonable endeavours to enable a connection to be made. Schedule 4 provides for an occupation restriction. Schedules 1 to 4 make provision for matters that are sought through policy or are required to ensure the development would operate safely and in accordance with the terms of the application for the nature of the client group. I am satisfied that these are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly related in scale and kind to the development they therefore meet the tests in 122 a) – c) in the Community Infrastructure Regulations 2010 and are in accordance with the advice in the Framework.
57. In terms of matters related to affordable housing Policy DM15 in the KCS identifies that affordable housing is a key priority and the Council will seek to maximise its provision. On sites of 10 or more units the policy requires 50% of the units to be provided as affordable housing but is caveated that proposals that depart from these requirements will be expected to justify any lower provision through the submission of a financial appraisal. Although there is an expectation that provision should be on-site the policy indicates where this is not viable or practical the Council may accept a contribution or commuted sum.
58. The LP policy H4 identifies a strategic target of 50% of all new homes delivered across London to be genuinely affordable. Part B of the policy notes that Affordable housing should be provided on site and only provided off-site or a cash in lieu contribution in exceptional circumstances. The Mayor has also published an Affordable Housing and Viability SPG (2017) which is also relevant.
59. Following an independent financial viability assessment the parties do not disagree on the amount that the scheme can viably contribute to ensure that the scheme is making a contribution to Affordable housing. Where the parties depart is how this should be paid and how any additional element should be calculated. The Base figure is agreed. In this regard the Appellant's opening position is that a one off payment to provide the base figure plus an additional element calculated to take account of potential future early and late stage review premiums and that this whole figure is paid as the Affordable Housing Sum. They seek to make a one-off payment arguing that it provides certainty for the Council and for the Appellant in making its financial position clear at the start of the project. The Council's position is that the early and late stage reviews should be undertaken in accordance with the Mayors Affordable Housing SPD and that this would not provide for a sound basis on which to accept the contribution. I agree with the Council in this regard. Whilst it may provide greater certainty it does not reflect the adopted policy position which

seeks to provide a level playing field across London for the assessment of such matters.

60. This also is true of the Appellant's alternative position of agreeing to an early and late stage review process controlled through schedule 5 but with the late stage review formula introducing additional elements related to financing costs. Whilst I can see the attraction of such an approach to the developer and including certain costs that they are concerned would not be truly reflected in the mayor's Formula the issue of consistency of approach is significant. The London Plan has only recently been adopted and requires the provision of affordable housing with cash in lieu only accepted in exceptional circumstances. Viability assessments can provide those exceptional circumstances and the securing of the maximum figure that the scheme can support to provide affordable housing is the approach in line with the London Plan and KCS policy.
61. Whilst I have been provided with various alternative approaches to the provision there is limited analysis of the potential outcomes and whether this could be viably supported by the scheme. Indeed, the purpose of the early and late stage review processes are aimed at doing exactly that. Taking account of changing circumstances at appropriate times during the development process when circumstances may have evolved. In that regard I am not convinced that it would be appropriate to deviate away from the Mayor's approach and formula.
62. On the basis of the above reasoning I conclude that the Affordable Housing sum secured through section 18, clause 18.1, does not satisfy the tests in regulation 122 a)-c) and in particular is not necessary to make the development acceptable and is not fairly and reasonably related to the scale and kind of the development. Similarly, I find that in Schedule 5 formula 3 within Part 5A does not satisfy the tests in regulation 122 a) – c), and specifically it is not necessary to make the development acceptable in planning terms nor is it fairly and reasonably related to the scale and kind of the development.
63. I am however satisfied that the Affordable Housing Contribution, Additional Affordable Housing Contribution and the Late Stage Review Contribution as set out in schedule 5B (as potentially capped by the Late Stage Review Cap) are necessary to make the development acceptable in planning terms are directly related to the development and are fairly and reasonably related in scale and kind to the development. They will secure and maximise the level of affordable housing through a financial contribution and there are reasonable safeguards to ensure this can be viably achieved. In these terms the level of affordable housing provision is maximised and is in line with policy DM15 of the KCS and H4 of the LP.

Other Matters

Benefits

64. The Appellant, at section 5 of their Appeal Statement, sets out what it considers to be the benefits of the scheme. The Council did not contend that any of these matters were not benefits of the scheme or should not be taken into account in the decision. Indeed, no party raised any significant issues with regard to the identified benefits.

65. The benefits identified by the Appellant include the following matters to which I also ascribe the weight that I attach to these for the purposes of my planning balance.
66. Housing supply benefits: The Council accepts it cannot demonstrate a 5 year supply of housing land, its 2021 Housing Delivery Test result identifies a result of 76% and the LP identifies a 964 unit annual housing supply requirement (which rises to 1157 when the 20% buffer for non-delivery is added). Taken in this context the delivery of 128 housing units is considered a substantial positive benefit of the scheme. Given the nature of the scheme for elderly accommodation this will have an added benefit of freeing up larger units which is encouraged by policy DM13 of the KCS.
67. The proposals provide for accommodation for older people for which the Planning Policy Guidance confirms there is a critical need. The Appellant's Extra Care Need Assessment identifies a need for 468 extra care units in the borough. When this is taken in the context of the LP identifying an annual benchmark of 105 units of specialist older person housing in the Borough and against a back drop that to date the Council has delivered no extra care housing in the Borough and that there is non permitted or pending there is a significant shortfall. The provision of 128 units for older people accommodation is therefore again a substantial positive benefit of the scheme.
68. The proposals will result in the redevelopment of brownfield land and will be an effective and efficient use of underutilized land. It will optimise the potential for housing delivery on a suitable site including a previously owned surplus public sector site. This would be in accordance with policy H1 of the LP and paragraph 120 of the Framework which advises that substantial weight should be given to the value of using suitable brownfield sites.
69. The Appeal scheme is expected to generate 60 full time equivalent (FTE) jobs with the construction phase estimated to create around 600 FTE jobs. These benefits are considered to result in a moderate positive benefit from the scheme.
70. By enhancing housing choice for elderly people in the community the proposal will contribute to making a balanced and sustainable community and to which I afford moderate weight.
71. The Appellant seeks to attribute positive benefits to the design, landscaping, transport and biodiversity aspects of the scheme. But these are necessary elements to make the scheme acceptable to ensure it successfully integrates with the character and appearance of the area and makes suitable provision for future occupants. In this regard I see these as neutral factors in the balance as they are necessary elements of the scheme.

Conditions

72. The Council and Appellant submitted a schedule of suggested conditions attached to the SoCG. There was further correspondence from the Appellant to provide a further list, with tracked changed amendments, to those in the SOCG to reflect what were described as previous agreements with the Council. The latter set of conditions were used as the basis for a discussion at the Hearing when any further comments on the conditions were aired. The conditions were

mostly agreed and I have made some adjustments to the detailed wording for precision, consistency and clarity

73. Conditions 16, 17, 20, 26, 27 and 32 require matters to be approved before the commencement of development. These are necessary either because the conditions address environmental impacts that would arise during the construction phase or because the conditions relate to aspects of the design that would need to be resolved at the outset. The Appellant agreed that it would be necessary to impose the pre-commencement conditions.
74. The statutory time limit is imposed as condition 1 and condition 2, related to approved plans, is need for clarity. Conditions 3, 6, 7, 8 and 28 relate to materials, landscaping, architectural details and a preclusion on telecommunications systems and are required in the interest of the character and appearance of the development and the surrounding area. Conditions 4 and 5 are related to detailed ecological matters and are required to ensure safeguarding of protected species and to ensure the development contributes to the greening of London.
75. Conditions 9 and 10 are required to ensure the development will be secure and safe. Condition 11 is required to ensure the development is properly drained. Condition 12 ensures the development will make adequate provision for wheelchair users.
76. In constructional terms condition 13 is required to ensure piling is undertaken without undue disturbance, while conditions 16, 17 and 18 are required to address any contamination that may be on site. Conditions 14 and 15 deal with plant and equipment in terms of safeguarding the visual amenities of the area and in terms of protecting the amenities of surrounding residents. Similarly condition 20, a Construction Environmental Management Plan is needed to protect adjoining occupiers and condition 27 is also required in this regard.
77. Conditions 19, 29 and 33 deal with sustainability measures to deal with emissions and sustainable construction. Conditions 21 and 23 require details of privacy screens and prevention of flat roofed areas to be used as balconies for the protection of the privacy of adjoining neighbours. Condition 22 restricts the use of the wellness centre and restaurant as an ancillary facility within specified use classes to protect surrounding residents and ensure the facilities identified are provided.
78. Conditions 24, 25, 30, 31 and 34 provide details of parking and delivery matters and highway details in the interest of highway safety and ensure the development is adequately provided for in terms of parking cycling and deliveries.
79. Condition 26 requires the submission of a Fire Strategy. It was suggested that a Fire Strategy had been submitted but the Council confirmed that it had not been agreed and there were still outstanding issues. On this basis it is appropriate to ensure a Fire Strategy is submitted for approval prior to the commencement of development.
80. Condition 32 requires the submission of a Written Scheme of Investigation to be submitted and approved to address any unresolved archaeology issues to ensure an assessment and any recording is undertaken if appropriate.

81. There were a number of suggested conditions that were not included as these duplicated other controls sought in other conditions or which I have amalgamated to reduce the overall number of conditions.

Planning balance and overall conclusion

82. I have concluded above that the proposed development would not materially affect the character and appearance of the area when taken as a whole. I have therefore concluded that when taken in the round the proposals do not conflict with the development plan policies in this regard, and in particular KCS policies CS8, DM10, 11 and 12 or LP policies D3 and D9.
83. I have however identified that there are some limited areas of conflict with policy D9 in the LP with regard to the locational requirement of Tall Buildings and CS8 in terms of its provisions in respect of Tall Buildings. CS8 is an earlier policy than LP D9 and is somewhat out of date, not providing specific locational advice for Tall Buildings, as required by the LP, and therefore I give the conflict with this element of the policy limited weight. In terms of D9 the locational aspect defers consideration to the Boroughs to identify such and which Kingston has not yet done. The policy advises that Tall buildings should only be developed in locations that are identified as suitable in Development Plans, which this site is not. There is therefore a conflict with that aspect of the Policy. Applying the other criteria, and in the absence of the Council's identification of such, given the newness of the policy, I have considered the scheme against the impacts identified in the policy and am satisfied that it meets these criteria. Overall, the conflict with the policy remains in locational terms however I give this conflict moderate weight given the circumstances of this case as outlined.
84. I have also identified harm to non-designated heritage assets. The proposal would result in the loss of The Regents Wing, through its demolition to make way for the proposed development and which I afford limited weight for the reasons given above. There would also be impacts on the Former Registry Office and Wolverton Avenue LASC due to the effect on the setting of these assets. I ascribe limited weight to these effects as I have concluded the effect on their significance and attributes contributing to that significance would be limited.
85. In terms of the effects of the proposed development on the living conditions of the occupants of neighbouring properties with regard to privacy and outlook/overbearing effect I have concluded that the proposed development would not result in material harm and that the proposal would not conflict with policy DM10 in the KCS or DP3 and DP9 in the LP in respect of these matters.
86. A s106 agreement has been concluded between the parties. In part this provides for the maximum amount of affordable housing that the development can viably be support subject to early stage and late stage reviews and I have concluded on the appropriate mechanism which I consider achieves this. Added to the other matters secured in the s106 agreement I am satisfied that the appropriate secured obligations, as confirmed above, do meet the tests in regulation 122 a)- c) and the policy tests in the Framework and are therefore matters that are to be taken into account in the determination of this appeal.
87. The proposed development has a number of benefits which support the development. Not least is that the scheme provides for 128 housing units for specialist elderly accommodation. In the light of the Council's significant short

fall in housing supply in overall housing land and the provision of such specialist housing I give this substantial weight in the determination of this appeal. There are also benefits attributable to the reuse of brownfield land and under-utilized land for housing which the Framework advises should be afforded substantial weight. The economic benefits and community benefits attract moderate positive weight. These benefits are supported in many instances by development plan policies.

88. Overall, I conclude that the proposed development, in the round, is in accordance with the development plan as whole.
89. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council have confirmed that they are unable to demonstrate a 5 year supply of deliverable housing sites at present⁴. The policies which are most important for determining the application are therefore out of date and so paragraph 11(d) of the Framework applies in this case. This means granting planning for the proposal unless:
- i. The application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
90. Whilst the proposals would affect non-designated heritage assets the effect on their significance, either individually or collectively, would not be such that would warrant dismissal of this appeal having regard to the scale of any harm or loss and their significance balanced against the positive benefits of the scheme. The proposed development does not impact on any designated heritage assets and there are not policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the proposed development. Paragraph 11 d) ii of the Framework would therefore be engaged.
91. Overall, I am satisfied that the proposed development would not conflict with the development plan and should therefore benefit from the presumption in favour of sustainable development. However, if the conflict I have identified in respect of Tall buildings where to be construed to be fundamental to the accordance with the development plan as a whole I would, as 11d)ii would be engaged, conclude that the adverse impacts of granting permission, derived from the conflict with policies D9 and CS8 and any limited adverse effect on the significance of the non-designated heritage assets, would not significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework as whole. The scheme would thereby, in that instance, still benefit from the presumption in favour of sustainable development.
92. As noted earlier s38(6) requires that applications for planning permission must be determined in accordance with the development plan unless material

⁴ The SoCG at 10.1 provides a table of areas of agreement. At point 1 the LPA states 'The LPA has 2.32 years' worth of housing land supply and has delivered 76% of its required housing.'

considerations indicate otherwise. I am satisfied that the proposal is in accordance with the development plan. There are no material considerations that indicate that a determination otherwise would be appropriate. Indeed, the significant benefits associated with the development and as secured through the s106 agreement further support this position. Moreover, even if I were to have concluded there were conflict with the development plan as a whole on the basis of the Tall building policies, the tilted balance would have resulted in a similar conclusion that the proposal benefitted from the presumption in favour of sustainable development, as noted above, which when added to the benefits of the scheme would have provided sufficient other material considerations to justify allowing the scheme in conflict with the development plan in the 38(6) balance, further supporting the decision to allow the appeal.

93. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Reuben Taylor KC	
Tim Spencer	Director, Nexus Planning
Andrew Williams	Director, Define
Gemma Saffhill	Technical Director, Terence O'Rourke
Roger Bowdler	Partner, Planning, Historic Environment & Townscape, Montagu Evans
Andrew Blurton	Director, Advanced Living Ltd
Ian Dobie	Director, Advanced Living Ltd
Richard Gill	Director, Advanced Living Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Barry Lomax	Head of Development Management, Royal Borough of Kingston Upon Thames
Harsha Bhundia	Principal Planning Officer, Royal Borough of Kingston Upon Thames
Rebecca Eng	Heritage and Conservation Lead Officer, Royal Borough of Kingston Upon Thames

INTERESTED PERSONS:

David Nichols, of Counsel	On behalf of Wolverton Avenue Residents Association (WARA)
Cristina Gosney	Chair of WARA
Chris Gosney	Local Resident
Jan CHemielewski	Local Resident
Rees Rawlings	Local Resident
Niels Verdult	Local Resident
Frederic Chen	Local Resident
Josie Bate	Local Resident
Karen Scott	Local Resident

DOCUMENTS submitted during the hearing

- WARA1 Statement read out by Mrs C Gosney, Chair of the Wolverton Avenue Residents Association (WARA).

SCHEDULE OF CONDITIONS FOR APPEAL REF: APP/Z5630/W/22/3293957

1. The development hereby permitted shall be commenced within 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

PL_001, Rev A, Existing Site Location Plan
PL_1200, Rev Q, Proposed Basement Plan
PL_1201, Rev V, Proposed Ground Floor Plan
PL_1202, Rev S, Proposed First Floor Plan
PL_1203, Rev B, Proposed Second Floor Plan
PL_1204, Rev D, Proposed Third Floor Plan
PL_1205, Rev N, Proposed Fourth Floor Plan
PL_1206, Rev O, Proposed Fifth Floor Plan
PL_1207, Rev O, Proposed Sixth Floor Plan
PL_1208, Rev P, Proposed Seventh Floor Plan
PL_1209, Rev E, Proposed Roof Plan
PL_3000, Rev F, Proposed South Elevation
PL_3001, Rev H, Proposed West Elevation
PL_3002, Rev F, Proposed North Elevation
PL_3003, Rev G, Proposed East Elevation
PL_3004, Rev F, Proposed Front & Back Block Elevations
PL_3005, Rev F, Proposed Middle Block Elevations
PL_3006, Rev E, Proposed Detailed Elevation - South Elevation
PL_3007, Rev E, Proposed Street Elevations
PL_3008, Rev A, Proposed Detailed Elevation - West Elevation
PL_3009, Rev A, Proposed Detailed Elevation - East Elevation
PL_4002, Detail - Brick Study

3. Details, to include samples and manufacturer specifications, of the external facing materials, windows, doors, railings and hard landscaping to be utilised in the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority before any above ground works on site are commenced (excluding demolition). The development shall then be built in accordance with these approved details.
4. Prior to the demolition of the Regents Wing, an updated Preliminary Ecological Appraisal and Bat Emergence/Re-Entry Survey shall be carried out and submitted to the Local Planning Authority for approval in writing.

Any additional surveys recommended by the updated Appraisal and Survey shall be carried out and submitted to the Local Planning Authority for approval in writing. The development shall thereafter be carried out in accordance with the approved details.

5. Prior to the commencement of any above ground works, excluding demolition, details demonstrating that the development would achieve an Urban Greening Factor target score of 0.4 shall be submitted to the Local Planning Authority for approval in writing. If the target score of 0.4 is not

met, details must be submitted to the Local Planning Authority for approval in writing demonstrating that the scheme incorporates the maximum greening possible.

The submitted details shall include calculations and shall reference Table 8.2 (Urban Greening Factor) of Policy G5 of the London Plan (2021) where appropriate. The development shall be carried out and thereafter maintained in accordance with the approved details.

6. Prior to the first occupation of the development hereby permitted, a detailed landscaping (hard and soft) scheme including details of trees/plants to be planted, wildflowers (the species, size and age to be agreed with the local planning authority in writing), shall have been submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall make provision for the planting of native trees/plant species and shall not include ivy (hedera) planting.

The approved scheme shall be implemented within the first planting season following completion of the development and any tree planting and landscaping shall thereafter be maintained for five years to the satisfaction of the Local Planning Authority. Any tree planting or landscaping which die within 5 years of planting shall be replaced with a tree or vegetation of a similar size and species.

7. Prior to the first occupation of the development hereby permitted, a detailed construction and maintenance scheme shall be submitted to the Local Planning Authority and approved in writing. The submitted scheme shall include sections of the proposed sedum roofs and rooftop terraces demonstrating their deliverability and long term viability. The development shall thereafter be carried out in accordance with the approved details unless otherwise first agreed in writing by the Local Planning Authority.
8. Notwithstanding the details shown on the approved plans additional architectural detailing plans at scale 1:10 showing the balconies, windows, doors, overhangs, rainwater goods, ducts, fans and louvres and their associated reveals and their relationship with the walls/fascias shall be submitted to and approved in writing by the Local Planning Authority prior to any above ground works commencing. The development shall be constructed in accordance with the approved details
9. The development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific security needs of the development in accordance with the principles and objectives of Secured by Design. Details of these measures shall be submitted to and approved in writing by the local planning authority prior to the commencement of any above ground works and shall be implemented in accordance with the approved details prior to occupation.

10. Prior to the first occupation of the development hereby permitted, Secured by Design accreditation certificate or its equivalent from the Metropolitan Police Design out Crime Office shall be submitted to and approved in writing by the Local Planning Authority.
11. Prior to the first occupation of the development hereby permitted evidence (photographs and installation contracts) is to be submitted to demonstrate that the sustainable drainage scheme for the site has been completed in accordance with the submitted details in the SuDS Strategy (Rev P2 dated June 2021) and agreed in writing by the Local Planning Authority. The sustainable drainage scheme (SuDS) shall be managed and maintained thereafter in accordance with a detailed management and maintenance plan confirming routine maintenance tasks for all Sustainable Drainage (SuDS) components that demonstrates how the drainage system is to be maintained for the lifetime of the development which has first been submitted to and approved in writing by the Local Planning Authority. Contact details for the owner of the agreed management plan must also be provided.
12. Prior to the commencement of any above ground works, excluding demolition, details demonstrating that at least 10% of the dwellings would meet Building Regulation requirement M4(3) (Wheelchair User Dwellings) and that the remaining dwellings would meet the Building Regulation M4(2) (Accessible and Adaptable Dwellings) shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out and thereafter retained in accordance with the approved details, save for changes to dwellings required to convert units for wheelchair accessibility and the reversion thereof.
13. Before any piling takes place, a piling method statement shall be 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.
14. No fixed plant and equipment associated with air moving equipment, compressors, generators or plant or similar equipment (including air source heat pumps) shall be installed unless and until details, including acoustic specifications have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
15. The rating level of the noise determined by the cumulative sound emissions of the plant hereby permitted shall be at least 5dBA lower than the existing background noise level at any given time of operation. The noise levels shall be measured or predicted 1m externally to any window at the nearest residential facade. Measurements and assessment shall be made according to British Standard 4142:2014.
16. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard

BS10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority.

- 17.If any contamination is found, no development shall commence until a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale. Prior to the first occupation of the development hereby permitted, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Authority.
- 18.If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority and approved in writing by the local planning authority prior to the first occupation of the development hereby permitted.
- 19.Prior to above ground works, excluding demolition, details of the boilers hereby approved shall be submitted to and approved in writing by the local planning authority. The boilers shall have dry NO_x emissions not exceeding 40 mg/kWh. The boilers shall be installed and retained for the lifetime of the development in accordance with the approved details unless otherwise first agreed in writing by the Local Planning Authority.
- 20.Prior to the commencement of the development the applicant must submit a Construction Environmental Management Plan detailing how dust and emissions during the construction phase are to be controlled. The applicant shall have regard to the GLA SPG on the Control of Dust and Emissions during Construction.

Such details shall normally include: -

- An air quality and dust risk assessment (already completed by the developer)
- An air quality management plan
- Site monitoring
- Compliance with the requirements for non-road mobile machinery. See <http://nrmm.london/>.

- 21.Prior to the occupation of the development hereby permitted, details of privacy screens to the side aspect of balconies at the flats listed below (as have been identified on the approved floor plans) shall be submitted to the

Local Planning Authority for approval in writing. The approved privacy screens shall be installed prior to the occupation of the proposed flats and thereafter retained in perpetuity.

- 1.01, 1.02, 1.07, 1.11, 2.01, 2.02, 2.07, 2.11, 3.01, 3.02, 3.10.

22. Notwithstanding Section 55 of the Town and Country Planning Act 1990 (as amended) and the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) or any Order revoking and re-enacting that Order with or without modification), the ancillary premises hereby approved shall only be used as ancillary Class E(b) and E(d) uses and for no other purposes whatsoever.

23. Any flat roofed area that is not identified as communal or private amenity space shall not be converted or used as a balcony or sitting out area, and no access shall be gained except for maintenance purposes.

24. Prior to the first occupation of the Restaurant or Wellness Centre hereby approved, a delivery and service management plan shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved plan.

25. Prior to the first occupation of the development hereby permitted, a Parking Management Plan (to be included as part of a full Travel Plan) shall be submitted to the Local Planning Authority and approved in writing. The development shall thereafter be carried out in accordance with the approved Travel Plan and Parking Management unless otherwise first agreed in writing by the Local Planning Authority.

26. Prior to the commencement of the development hereby approved a Fire Statement (London Plan Policies D12(A)(B) and D5(B5) Document -Issue 2) which is an independent fire strategy, produced by a third party, suitably qualified assessor, shall have been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall detail how the development proposal will function in terms of:

- The building's construction: methods, products and materials used, including manufacturers' details;
- The means of escape for all building users: suitably designed stair cores, escape for building users who are disabled or require level access, and associated evacuation strategy approach;
- Features which reduce the risk of life: fire alarm systems, passive and active fire safety measures and associated management and maintenance plans;
- Access of fire service personnel and equipment: how this will be achieved in an evacuation situation, water supplies, provision and positioning of equipment, firefighting lifts, stairs and lobbies, any fire suppression and smoke ventilation systems proposed, and the ongoing maintenance and monitoring of these;
- How provision will be made within the curtilage of the site to enable fire appliances to gain access to the building; and

- Ensuring that any potential future modifications to the building will take into account and not compromise the base build fire safety/ protection measures.

27.No development shall take place (including any works of demolition) until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) How the proposed development will be built;
- ii) Hours of working (which shall be limited to 08.00 to 18.00 Mondays to Fridays and between 08.00 to 13.00 on Saturdays and not at all on Bank Holidays and Sundays);
- iii) The procedure for loading/unloading materials;
- iv) The route to and away from site for muck away and vehicles with materials;
- v) The protocol for managing deliveries to one vehicle at a time on sites with restricted access or space;
- vi) The protocol for managing vehicles that need to wait for access to the site;
- vii) Whether any reversing manoeuvres are required onto or off the public highway into the site and whether a banksman will be provided;
- viii) Temporary site access;
- ix) Signing system for works traffic;
- x) Whether site access warning signs will be required in adjacent roads;
- xi) Whether it is anticipated that statutory undertaker connections will be required into the site;
- xii) The storage of plant, materials and operatives vehicles;
- xiii) The potential for impacts from dust and emissions during the demolition and/or construction phase upon local air quality and surrounding residents;
- xiv) Measures for the laying of dust, suppression of noise and abatement of other nuisance arising from development works;
- xv) The location of all ancillary site buildings;
- xvi) The means of enclosure of the site, its erection and maintenance;
- xvii) Wheel washing equipment;
- xviii) The parking of vehicles of site operatives and visitors;
- xix) Meeting the requirements of the Low Emission Zone for Non-Road Mobile Machinery (where relevant plant or vehicles are being used); and
- xx) The method of recycling and disposing of waste resulting from the demolition and/or construction phases

Deliveries/collections to and from the site shall use a route that is agreed with the highway authority and the agreed route shall be signed accordingly.

28.Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (as amended) (or any order

revoking and re-enacting that Order with or without modification) no telecommunications equipment shall be installed on the roof of the development hereby approved without the written approval of the Local Planning Authority.

29. The development hereby approved shall be carried out in accordance with the measures set out within the Energy & Sustainability Statement (ref: P18-081). Within 6 months of the first occupation of the development hereby approved, details demonstrating that the development has achieved the CO2 reductions against Part L of the Building Regulations set out in Energy & Sustainability Statement (ref: P18-081), shall be submitted to the Local Planning Authority for approval in writing. The details shall include an assessment carried out by a suitably qualified professional of the carbon reduction measures implemented within the Development.
30. Prior to the first occupation of the development hereby permitted, details of refuse storage facilities and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. The refuse storage facilities and recycling facilities shall be provided prior to first occupation and retained in accordance with the permitted details. The developer and/or their successors in title shall take all reasonable steps to ensure that all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area as shown on the approved plans, or internally within the building(s) that form part of the application site, and that no refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on the day of collection.
31. Prior to the first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants and employees of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
32. No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works. If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

33. Prior to commencement of above ground works on the development hereby permitted, a Damage Cost Assessment in line with the requirements of the GLA Sustainable Design and Construction Practice must be submitted to and approved in writing by the local authority.

34. Prior to the first occupation of the development hereby permitted, the on-site car and mobility scooter parking shall be provided in accordance with the approved details and made available to the intended occupiers.

END