



Appeal Decision

Inquiry held on 17,18, and 20 May 2022

Site visits made on 17 and 19 May 2022

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2022

Appeal Ref: APP/H1840/W/22/3291830

Land off Swan Lane, Evesham WR11 4PB

- 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 Churchill Retirement Living against Wychavon District Council.
 - The application Ref 21/02252/FUL, is dated 30 September 2021.
 - The development proposed is redevelopment for retirement living accommodation for older people comprising 49 retirement apartments and 7 retirement cottages including communal facilities, access, car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment for retirement living accommodation for older people comprising 49 retirement apartments and 7 retirement cottages including communal facilities, access, car parking and landscaping at Land off Swan Lane, Evesham, WR11 4PB in accordance with the terms of the application, Ref 21/02252/FUL, dated 30 September 2021, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The appeal follows the Council's failure to determine the planning application within the prescribed time period. As well as the Council's Statement of Case, I was also provided with a list of putative reasons for refusal which reflected the reasons that planning permission would have been refused by the Council had they been empowered to do so. These were in relation to: i) unacceptable living conditions for future occupiers of the proposed development in relation to sunlight, daylight, and overbearing (RfR1); and, ii) lack of provision/contributions towards affordable housing, public open space, formal sport and leisure, and health care having regard to viability (RfR2).
3. During the course of the appeal the Council confirmed that they did not wish to defend RfR1, submitting evidence to corroborate their revised position¹. No evidence was given at the Inquiry on this matter. Moreover, during the Inquiry updated viability appraisal summaries were submitted by both parties, along with a revised Statement of Common Ground which refined RfR2 so that the disagreement between the main parties was centred on viability and affordable housing matters, and the anticipated build costs associated with the proposed apartments. I accepted these documents as they focused the areas of dispute.

¹ Report entitled 'Internal Average Daylight and External Sunlight Study' findings summarised in the Council's position statement dated 19th April 2022.

4. A draft Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted by the appellant during the Inquiry and subsequently signed. At the same time the Council submitted a statement of compliance with Regulation 122 of the CIL Regulations² in respect of the UU. I deal with this in my reasoning below.
5. I accepted a written objection to the proposal from a local interest group during the Inquiry. Each main party was given an opportunity to comment on the representation during the event.

Main Issue

6. In light of the putative reasons for refusal and the matters subsequently agreed, the main issue in this case is whether the proposal would make adequate provision for affordable housing, with particular regard to the scheme's viability.

Reasons

7. Policy SWDP15(b) of the South Worcestershire Development Plan 2016 (Local Plan) requires that for a proposal of this type on previously developed land, 40% of the residential units should constitute affordable housing. In accordance with Policy SWDP15(c), off-site contributions in lieu of affordable housing would be appropriate in this case due to the financial and logistical challenges associated with managing affordable units on-site and as part of the proposed retirement scheme³.
8. Policy SWDP15(f) requires that, in circumstances where the affordable housing required by policy would not be viable, the maximum proportion of affordable housing will be sought that does not undermine the development's viability. In this case the total contributions required to provide an equivalent of 40% affordable housing would be £1,361,450, and it is common ground that for viability reasons this would not be deliverable. However, the contention between the parties concerns the extent of contributions that the scheme could viably provide.
9. The appellant's final position is that the scheme could provide an off-site affordable housing contribution of £63,125, as opposed to £774,356 as assessed by the Council⁴. In other words, a difference of £711,231 lies between the parties in respect of the surplus available to make a contribution to affordable housing⁵.
10. Planning Practice Guidance⁶ (PPG) advocates the use of appropriate build costs data, including that derived from the Building Cost Information Service (BCIS). Both parties relied in part on a recent BCIS dataset⁷, published by RICS⁸, which was filtered to focus on Wychavon using recent 5-year data to inform cost inputs. The BCIS dataset is divided into a number of building categories and sub-categories to account for different types of development and scale. Each

² Community Infrastructure Levy Regulations 2010

³ As set out in the Council's 'Revised Community Infrastructure Levy Compliance Statement 18.05.22'

⁴ This is based on the agreed provision of £25,517.73 for Public Open Space and £11,803 Primary Health Care contributions

⁵ The dispute relates solely to the anticipated build costs associated with the proposed apartments

⁶ Paragraph: 012 Reference ID: 10-012-20180724

⁷ Quarter One 2022

⁸ Royal Institute of Chartered Surveyors

of these respective categories contains a range of data including the median £/m² gross internal floor area and details of the sample size.

11. The Council's first witness⁹, a qualified specialist in the field of building costs, opted to use the main category *816 Flats (apartments)*, and the sub-category '*3-5 storey*' of the BCIS dataset on the basis that this category was considered reflective of the scheme's layout and specification. However, this category relates to 'general' market housing/apartments and PPG¹⁰ sets out the different types of specialist housing for older people, making it clearly distinguishable from regular market housing. Furthermore, the differences are articulated in further detail in the RHG guidance¹¹, which highlights the typically higher build costs associated with the specification of retirement housing, bespoke layouts, and higher densities.
12. Whilst I accept that not all of the differences highlighted in the RHG guidance are present in this case (for example, the proposal does not include a laundry, a dining room, nor special activity rooms), the submitted plans detail notable non-saleable areas including a lounge, reception and an office. Furthermore, it was confirmed that the proposed apartment building would incorporate a wider corridor to improve accessibility and certain areas of the building such as bathrooms would have a higher specification than those typically associated with standard, general market flats. I see no reason why the RHG guidance's relevance should be diminished due to its age given its focus in this context is to highlight the key differences between market and specialist housing for older people. In any event, it is clear from the plans that the proposal's characteristics are distinctly different to general market housing such that the *816 Flats (apartments)* BCIS category would not be appropriate for deriving build costs associated with the proposal.
13. Both the Council's second witness¹² and the appellant's viability witness¹³ instead advocated the use of the *843 (Supported Housing)* building category within the BCIS dataset. This category is defined as '*sheltered housing and housing for the vulnerable, schemes with optional shared dining facilities, may include staff accommodation, laundry etc*' which appears to be reflective of the type of accommodation proposed in this case. However, within this main category are several sub-categories which generally reflect different building heights. The Council adopted the '*3 storey*' sub-category which shows median build costs of £1,410/m² of gross internal floor area. In comparison, the appellant adopted the '*general*' sub-category which shows a higher median build cost of £1,550/m².
14. It is apparent from the BCIS dataset that the '*3 storey*' sub-category build costs are derived from a sample size of just 8. According to RICS guidance¹⁴ this is significantly below the threshold at which robust data can be gleaned, and the guidance advises that samples of fewer than 20 should be treated with caution. In light of this, the appellant adopted the '*generally*' sub-category due to the associated larger sample size of 28, confirming during examination that

⁹ Mr Lee Jackson

¹⁰ Paragraph 010 Reference ID: 63-010-20190626

¹¹ Briefing note on viability prepared for Retirement Housing Group by Three Dragons (May 2013) (amended February 2016) – page 5

¹² Cecelia Reed - The District Valuer Service's regional Sector Lead on viability and part of the Valuation Office Agency

¹³ R James Mackay - Regional head of development viability team for Alder King LLP

¹⁴ Appendix 4 of R James Mackay Proof of Evidence – 'BCIS Tender Price Study'

the correct sub-category to be used should turn on both the type of development involved and the sample size. However, whilst accepting there is nothing contained in the guidance to preclude this, I have significant reservations about the appellant's approach in this case.

15. Indeed, on closer inspection of the '*generally*' sub-category, it constitutes the sum of the samples and associated data of all the sub-categories within the 843 (*Supported Housing*) main category. Whilst the appellant dismisses the Council's use of '*3 storey*' on the basis that the small sample size means it would be unreliable, not only is the '*3 storey*' sub-category sample data included in the appellant's chosen sub-category, but this sub-category also comprises an amalgamation of the build cost data associated with single-storey, two storey, and four storey or more height developments¹⁵. Furthermore, I do not know the precise details of each of the schemes contained within the '*generally*' sub-category in order to understand the extent to which the associated build costs are comparable with the proposed scheme. Therefore, I am not persuaded that the '*generally*' sub-category would be more robust and reflective of build costs associated with the proposal given the variety of samples within a range of sub-categories which go to make up the dataset.
16. Therefore, and as the proposed apartments would be three storeys in height, the Council were correct to adopt the sub-category which is reflective of the scale of development. Simply dismissing the '*3-storey*' sub-category outright, as the appellant has done, is not merely a case of 'exercising caution'. On the contrary, to my mind the '*3 storey*' sub-category should have been the default position upon which subsequent analysis was based.
17. The appellant refers to a recent appeal decision¹⁶ (Diss) which appears to support the use of a larger sample size over a smaller sample size. However, to apply that logic to this case would be over simplistic, and the principle of using a larger sample size in this case is not in dispute and is clearly preferable. Rather, the issue concerns the appellant's use of an alternative sub-category which does not appear to be reflective of the proposal, nor has it been sufficiently justified. In that respect, the Diss scheme does not appear to be directly comparable.
18. I also heard that there may be other methods available to verify build costs involving alterations to variables within the BCIS dataset or a different statistical analysis. For example, a longer period or different local geographical areas could be used to increase the sample size as a benchmarking exercise. However, no alternatives were pursued with any vigour by either party. I also note that a 'Detailed Cost Analysis' document was appended to the appellant's proof¹⁷. The conclusion of this report appears to support a build cost higher than the BCIS build costs adopted by either the Council or the appellant. However, the author of this report did not give evidence at the Inquiry, nor was the report presented as evidence or tested. Moreover, the appellant did not suggest that these alternative build costs should replace the BCIS dataset figures. Therefore, I am not able to take this into account with any degree of confidence.

¹⁵ The sub-categories are - 1no. single storey, 12no. two storey, 8no. three storey, 5no. four storey and above, 4no. supported housing with shops, restaurants or the like

¹⁶ Appeal reference APP/L2630/W/21/3279754

¹⁷ Appendix 6 of R James Mackay Proof of Evidence 'Cost Plan'

19. The Council also attempted to justify the build cost figure associated with the '3-storey' sub-category, relying on a 'rule of thumb' approach, suggesting that build costs are generally around a third of Gross Development Value. This rather crude approach lacked detailed analysis. Notwithstanding this, for the reasons given, I do not have any alternative build costs which I can rely on.
20. In drawing this analysis together, I start with the fundamentals. The proposed apartment building would be three storeys in height. It would, therefore, fall squarely within the '843 (Supported Housing); 3-storey' BCIS dataset category. Despite the small sample size associated with this dataset, on the face of it the dataset is aligned with the type of development proposed, and I have greater concerns over the veracity of the data which underpins the appellant's chosen sub-category.
21. As a result, I accept the sub-category and associated build costs adopted by the Council in this case. Consequently, the proposal would not make adequate provision for affordable housing, with particular regard to the scheme's viability. It would be contrary to Policy SWDP15(f) of the Local Plan which requires that the maximum proportion of affordable housing is sought that does not undermine the development's viability.

Other Matters

22. Concerns have been raised by interested parties relating to the potential impact on the road network. However, no objections are raised by the Highway Authority, and the site access would achieve adequate visibility for those entering and exiting the site. Moreover, the proposed number of parking spaces would more than meet the likely demand from future residents, and the loss of an existing town centre car park would not undermine the overall availability of spaces within the town centre. During construction unacceptable highway impacts could be ameliorated through the provision of a Construction Environmental Management Plan.
23. The Council initially objected to the scheme (RfR1) on the basis that the proposed apartment block would be too close to some of the proposed cottages, thus resulting in inadequate daylight, sunlight and overbearing for future occupiers of the cottages. However, the Council commissioned a study which found that the development would not result in unacceptable levels of daylight and sunlight and subsequently withdrew their objection. I too am satisfied with the conclusions of the study. In terms of overbearing, whilst I accept that the proposed apartments would be relatively close to the cottages; this is a town centre location where high-density development is a characteristic of the area. Given the context of the surroundings, the apartments would not appear unacceptably overbearing for future occupiers of the cottages.
24. Several Grade II listed buildings are located within proximity of the appeal site. The Council does not suggest that there would be any effect on the special interest of these buildings as a result of development within their respective settings. I have no reason to take a different view.

Planning Balance

25. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise¹⁸.
26. The proposal would fail to provide the maximum affordable housing contribution available having regard to the viability of the scheme. Maximising opportunities to deliver affordable housing is one of the Local Plan's objectives. Whilst I accept that these objectives do not prioritise affordable housing over other objectives, including the delivery of specialist housing for older people¹⁹, the proposal would be significantly deficient in terms of the amount of affordable housing provision it could viably provide. I consider this in the context of the SHMA which also identifies an annual shortfall in affordable housing provision. Therefore, Policy SWDP15 is an important policy relative to the Local Plan's objectives, and there would be conflict with the policy which carries substantial weight. Whilst I have also taken into account the numerous Local Plan policies which this proposal would satisfy, overall, I find conflict with the development plan when read as a whole.
27. Notwithstanding the fact the Council can demonstrate a 5-year supply of deliverable housing sites, it is common ground between the parties that the proposed provision of a total of 56 residential units would make a substantial contribution towards Wychavon's housing targets over the plan period. It would also provide housing for older people, which is much needed in the locality²⁰ particularly given that only a limited number of units of this type have been built in Wychavon over the last 10 years²¹. The proposal would meet the needs of a group of society with a specific housing requirement in accordance with paragraph 60 of the National Planning Policy Framework (the Framework). Therefore, these matters carry substantial weight in favour of the scheme.
28. The site lies within Evesham Conservation Area (CA) and the CA appraisal²² identifies that gap sites are negative features of the CA. The appeal site constitutes a car park which forms a prominent gap site, and one which harms the significance of the CA. Subject to a planning condition in relation to materials the Council are satisfied that the sympathetic use of materials, and the overall composition of the proposed buildings would achieve the statutory duty²³ in relation to the CA by enhancing its character and appearance. These benefits attract substantial weight in favour.
29. Redevelopment of this site would bring previously developed and underutilised land into residential use, in accordance with paragraph 120 of the Framework, in a central location where shops and services within Evesham would be readily accessible such that future residents could meet their day to day needs in a sustainable manner. There would be temporary benefits to the local economy during the construction phase and long-term benefits through a likely increase in spending in Evesham by future residents of the development. These benefits combined would be significant.

¹⁸ Section 38(6) of the Planning and Compulsory Purchase Act 2004

¹⁹ Local Plan – Table 1 'SWDP Objectives'

²⁰ According to the Wychavon Strategic Housing Market Assessment 2019

²¹ See Planning Rebuttal of Gillian McDermott

²² Evesham Conservation Area Appraisal and Management Plan 2007

²³ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

30. Other benefits would flow from the scheme due to a reduction in demand for health facilities and social services. The specialist retirement housing as proposed would likely help residents remain in better physical and mental health, and if health practitioners were required, they would be able to attend to several occupiers at once. These benefits were not challenged by the Council, and I attribute significant weight to them.
31. Whilst I accept that the effects of residents moving into the development would be likely to release existing housing stock, not all of it would necessarily constitute under-occupied stock. It is also likely that some future occupiers would vacate housing outside of the area. As a result, the benefits associated with releasing existing housing stock attracts moderate weight. There would also be moderate environmental benefits primarily as a result of the proposed solar panels and other water and energy efficiency measures.
32. Finally, whilst the conflict with Policy SWDP15 is readily apparent, the appellant's UU nevertheless proposes a relatively small contribution to provide off-site affordable housing²⁴, considerably less than the maximum figure taking into account viability²⁵. As a result, this benefit carries only limited weight in favour.
33. I accept that a finding in favour of a scheme which would not achieve policy compliant levels of affordable housing for a site is somewhat unusual, particularly where there is an unmet affordable housing need. However, my conclusions are that the benefits, including the provision of housing for older people, carries substantial weight. In combination with other benefits as set out above, including the previously developed nature of the site, its accessible town centre location, and the proposed improvement to the character and appearance of the area, it is clear to me as a matter of planning judgement, that when taken together, the benefits in this appeal are very substantial and clearly outweigh conflict with the development plan. Consequently, the material considerations indicate that I should determine otherwise than in accordance with the development plan and allow the appeal.

Planning Obligation and Conditions

34. A signed S106 UU has been provided and includes obligations relating to the provision of off-site public open space, affordable housing, and a contribution towards primary health care.
35. The public open space contribution would address the requirements of Policy SWDP38 of the Local Plan and the South Worcestershire Developer Contributions Supplementary Planning Document (2018). Whilst the amount to be provided is less than the total amount requirement indicated by the policy, in the circumstances of this case and given the type of accommodation involved, it is considered to meet policy requirements. The contribution would go towards open space within proximity of the site. The primary health care contribution of £11,803 would meet the requirements of Policy SWDP7. The Council have evidenced policy and/or local requirements in terms of each of these provisions²⁶. No substantive evidence has been provided questioning the necessity or viability of these obligations.

²⁴ £63,125

²⁵ Of £744,356

²⁶ As set out in the 'Revised Community Infrastructure Levy Compliance Statement 18.05.22'

36. In respect of off-site affordable housing, the UU includes a contribution of £63,125, based on the appellant's respective position on viability. Whilst this amount would not meet the Council's requirements based on their respective viability position, it would nevertheless constitute a small contribution towards affordable housing, which is needed in Evesham. Moreover, in the event that the development would not be completed within three-years, the UU contains a provision that would require further viability testing on the basis that the viability of the scheme may have changed by that time. This is advocated by the Council's Affordable Housing Supplementary Planning Document (2016) and such a review mechanism is appropriate in this case. Overall, I consider the affordable housing, public open space and health contributions would be necessary to make the development acceptable, be directly related to the development and be fair and reasonable in scale and kind. They comply with Regulation 122 of the CIL Regulations and paragraph 57 of the Framework.

Conditions

37. The Council and appellant agreed on a list of planning conditions which were discussed during the Inquiry. I have considered them against the relevant guidance contained within PPG and I have amended some of them for clarity and to meet PPG, and to avoid repetition. Conditions relating to contamination, archaeology, tree protection and the requirement for a construction method statement are 'pre-commencement' as it is necessary to secure such details before any work commences on site. The appellant confirmed their agreement to this.
38. I have applied the standard '3 year' time limit condition, and conditions detailing the approved plans for certainty. Conditions relating to materials, boundary treatments and landscaping are necessary to ensure the character and appearance of the CA would be enhanced.
39. In the interests of highway safety, a condition is necessary to ensure access, car parking and turning areas are laid out prior to occupation. Electric charging points need to be secured by condition in accordance with the Streetscape Design Guide 2020²⁷ and in the interests of air quality. I agree with the appellant that, based on the type of accommodation proposed, the provision of 12 cycle parking spaces would be sufficient to address the Streetscape Design Guide.
40. A condition requiring the submission of a construction management plan is necessary to protect nearby existing occupiers from harmful impacts on their living conditions, and to reduce highway safety impacts and reduce the likelihood of mud and other debris from being deposited on the highway.
41. The submission of a biodiversity enhancement and management strategy is required in order to detail mitigation measures included in the submitted ecological appraisal, particularly in relation to bats and birds. Measures to protect existing trees are required in the interests of biodiversity.
42. Even though the site constitutes brownfield land, works required in order to construct the development could disturb ground where archaeological remains lie. A condition is required in order to ensure any remains of archaeological importance are recorded in the interests of the historic environment.

²⁷ By Worcestershire County Council

Conditions are also required in order to deal with potentially contaminated land, in the interests of the environment.

43. Given the position of the proposed buildings within the CA, details of proposed solar panels, refuse storage and external lighting are required to ensure no undue impact on its character or appearance.
44. In accordance with Policy SWDP26 of the Local Plan, broadband details and implementation are required by condition. Details of foul and surface water drainage are required in accordance with Policies SWDP28, SWDP29 and SWDP30 of the Local Plan.
45. A condition is required so that windows within the proposed north elevation are fitted with obscure glazing in the interests of the privacy of future occupiers. I have corrected this condition in relation to that suggested, so it refers to the correct flat no's which face the proposed cottages. Finally, given the age-specific nature of the development applied for which was the basis on which this appeal has been assessed, a condition limiting the age of the residents is necessary.

Conclusion

46. For the reasons given above I therefore conclude that the appeal should be allowed, subject to the conditions in the attached Schedule.

M Woodward

INSPECTOR

Annex A: Appearance

FOR THE LOCAL PLANNING AUTHORITY:

Gary Grant of Counsel

He called:

Mr Lee Jackson MSc IEng MIET MCIQB	Lead Quantity Surveyor, National Valuation Unit
Cecelia Reed BSc(Hons) MRICS	Principal Surveyor, DVS, Valuation Office Agency
Gillian McDermott BSc(Hons) MA TP, MRTPI	Principal Planning Officer

FOR THE APPELLANT:

Sasha White, QC, assisted by Kimberley Ziya

He called:

R James Mackay BSc(Hons) MRICS	Alder King LLP
Matthew Shellum BA(Hons) DIPTP MRTPI	Planning Director, Planning Issues Ltd.

INTERESTED PERSON WHO SPOKE AT THE INQUIRY:

James Powell	Consultant to Evesham Civic Society
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Annex B: Documents submitted during the Inquiry

1. Letter of representation from Mr James T.Powell
2. *Updated Viability SoCG* dated 17th May 2022
3. *Development Appraisal* by C Reed dated 17th May 2022
4. *Appraisal Summary* by Alder King LLP dated 12th May 2022
5. *Council Position Statement* dated 18th May 2022
6. *Agreed list of planning conditions* dated 17th May 2022
7. *Revised Statement of Common Ground 18.05.22*
8. *Streetscape Design Guide 2020 – Worcestershire County Council*
9. *Revised Community Infrastructure Levy Compliance Statement 18.05.22*
10. *Diss Appeal Decision – 3279754 – Viability background* by R James Mackay
11. Council's Closing Submissions
12. Appellant's Closing Submissions
13. 'Corbett' case referred to in Appellant's Closing submissions
14. Note on Legal Agreement dated 19th May 2022

Annex C: Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 30048ES-PL 001, 30048ES-PL 002 Rev A, 30048ES-PL 003 Rev B, 30048ES-PL 004, 30048ES-PL 005, 30048ES-PL 006, 30048ES-PL 007 Rev A, 30048ES-PL 008 Rev B, 30048ES-PL 009 Rev A, 30048ES-PL 010 Rev A, 30048ES-PL 011 Rev A, 30048ES-PL 016 Rev A, 30048ES-PL 030 Rev A.
- 3) No development shall take place above slab level until details of all external facing materials to be used in the construction of the external wall and roof surfaces of all buildings, and details of windows, doors, and rainwater goods, 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.
- 4) Prior to the first occupation of the development, a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
 - i) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - ii) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
 - iii) a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - iv) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner.

The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 5) Prior to the first occupation of the development, a plan(s) indicating the position, design, materials and types of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected in accordance with the approved details and completed before the first occupation of the development hereby permitted.

- 6) Prior to the first occupation of the development, turning areas and parking facilities detailed on approved plan number *30048ES-PL 002 Rev A* shall be provided. These areas shall thereafter be retained and kept available for their respective approved uses at all times.
- 7) Prior to the first occupation of the development, 10% of parking spaces shall be fitted with an electric charging point. The charging points shall comply with *BS EN 62196 Mode 3 or 4 charging* and *BS EN 61851* and the *Worcestershire County Council Streetscape Design Guide (2020)*. The electric charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.
- 8) Prior to the first occupation of the development, details of sheltered, secure and accessible cycle parking for up to 12 bicycles 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 shall be kept available for the parking of bicycles at all times.
- 9) Development shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall, where applicable, provide for:
 - i) Measures to ensure that vehicles exiting the site do not deposit mud or other detritus on the public highway;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the location of temporary buildings and facilities to be used by site operatives during construction;
 - v) the hours that delivery vehicles will be permitted to arrive and depart and arrangements for their loading and unloading;
 - vi) hours of operation, clearance, and construction works.The measures set out in the CEMP shall be carried out and complied with in full during the construction of development.
- 10) No development above slab level shall take place until a Biodiversity Mitigation and Enhancement Strategy based on the Ecological Assessment Report *14192_R01a_HM-CW* has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include the specification and location and programme of installation for four bat boxes and four bird boxes and details of other measures as necessary to maximise the biodiversity of the site. Development shall be carried out in accordance with the approved Strategy.
- 11) Temporary fencing for the protection of all retained trees/hedges on site and trees outside the site whose Root Protection Areas fall within the site shall be erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) before development of any type commences, including site clearance, demolition, materials delivery, vehicular movement and erection of site huts. Any alternative fencing type or position not strictly in accordance with BS 5837 (2012) must be agreed in writing by the local planning authority prior to the

commencement of development. This protective fencing shall remain in place until the completion of development or unless otherwise agreed in writing with the local planning authority. Nothing should be stored or placed (including soil), nor shall any ground levels altered, within the fenced area without the previous written consent of the local planning authority. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.

12) Development shall not commence until a Written Scheme of Investigation (Archaeology), has been submitted to and approved in writing by the Local Planning Authority. The Written Scheme of Investigation shall include:

- the programme and methodology of site investigation and recording;
- the programme for post investigation assessment;
- the provision to be made for analysis of the site investigation and recording;
- the provision to be made for publication and dissemination of the analysis and records of the site investigation;
- the provision to be made for archive deposition of the analysis and records of the site investigation;
- the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall be carried out in accordance with the approved Written Scheme of Investigation.

13) Development shall not commence until:

- i) A preliminary risk assessment has been carried out. This study shall take the form of a Phase I desk study and site walkover and shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. The preliminary risk assessment report shall contain a diagrammatical representation (conceptual model) based on the information above and shall include all potential contaminants, sources and receptors to determine whether a site investigation is required and this should be detailed in a report supplied to the Local Planning Authority. The risk assessment shall be approved in writing before any development takes place.
- ii) Where an unacceptable risk is identified in (i), a scheme for detailed site investigation shall be submitted to and approved in writing by the Local Planning Authority prior to being undertaken. The scheme shall be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with the Environment Agency's Land contamination risk management (LCRM) guidance;
- iii) Reports relating to (i) and (ii) shall be submitted to and approved in writing by the Local Planning Authority prior to any development taking place. The investigation and risk assessment scheme must be compiled by competent persons and shall be designed in accordance

with the Environment Agency's Land contamination risk management (LCRM) guidance.

- 14) Where required under Condition 13, development shall not commence until a detailed Remediation Scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors has been prepared and is subject to the approval of the Local Planning Authority in advance of undertaking. The remediation scheme shall ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be implemented prior to the commencement of development.
- 15) Where a Remediation Scheme is produced under Condition 14, prior to the occupation of the development, a Validation Report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.
- 16) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. A Risk Assessment shall be undertaken and where remediation is necessary a Remediation Scheme shall be submitted to the Local Planning Authority in accordance with the requirements of condition 14.

Following completion of measures identified in the Approved Remediation Scheme a Validation Report shall be prepared and submitted in accordance with condition 15.

- 17) Prior to the occupation of the development, details of the location, dimensions, and specification of the photovoltaic panels necessary to meet the conclusions set out in the submitted *Sustainability Assessment by JSP Sustainability Ltd August 2021* shall be submitted to and approved in writing by the Local Planning Authority. The details shall also include a timetable for implementation. Development shall be carried out in accordance with the approved details.
- 18) No development shall commence, excluding works of demolition, until full details of foul and surface water drainage systems to serve the development have been submitted to and approved in writing by the Local Planning Authority. The foul and surface water drainage scheme shall be carried out in accordance with the approved details and completed prior to the occupation of the development.
- 19) Development shall not commence until details of implementation, management and maintenance of the sustainable urban drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a timetable for implementation and a management and maintenance plan, which shall specify arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime. The approved sustainable urban drainage scheme shall be implemented before the development is occupied. Thereafter, the sustainable urban drainage scheme shall be managed and maintained in accordance with the agreed management and maintenance plan.

- 20) Prior to the occupation of the development, details of the external lighting of the building and external areas (including design, location, orientation and luminance) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use and retained as such thereafter.
- 21) Prior to the occupation of the development, details of the supply of broadband infrastructure to the buildings and a programme of implementation 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.
- 22) Prior to the occupation of the development, details of refuse storage facilities to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The refuse storage facilities shall be constructed in accordance with the approved details and provided prior to the occupation of the development.
- 23) Prior to the occupation of unit no's 16 and 33 as shown on drawing numbers 30048ES-PL 005, 30048ES-PL 006 and 30048ES-PL 010 Rev A, the windows within the northern elevation of these proposed units only shall be fitted with Pilkington Level 4 obscure glazing or equivalent and shall be retained in that condition thereafter.
- 24) Each Dwelling hereby permitted shall be occupied only by:
 - (i) A person aged 60 years or over;
 - (ii) A person aged 55 years or older living as part of a single household with the above person in (i); or
 - (iii) A person aged 55 years or older who were living as part of a single household with the person identified in (i) who has since died.

End of Conditions Schedule