

**Determination of Planning Applications under the Town & Country Planning Act 1990.**

## Penderfyniad ar yr Apêl

## Appeal Decision

Ymweliad â safle a wnaed ar 12/02/16

Site visit made on 12/02/16

**gan Declan Beggan BSc (Hons) DipTP  
DipMan MRTPI**

**by Declan Beggan BSc (Hons) DipTP  
DipMan MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**an Inspector appointed by the Welsh Ministers**

**Dyddiad: 05/05/16**

**Date: 05/05/16**

**Appeal Ref: APP/B6855/A/15/3139369**

**Site address: The Boat Yard, Trawler Road, Swansea Marina, Swansea, SA1 1UP**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Waterstone Homes Ltd against the decision of the City and County of Swansea Council.
- The application Ref 2015/1498, dated 16 July 2015, was refused by notice dated 22 October 2015.
- The development is described as the 'Construction of four/three storey block containing 50 residential apartments (Class C3) and 1 no. ground floor retail unit (Class A1) with associated undercroft car parking and bin/bike stores (outline – including details of access, appearance, layout and scale).'

## Decision

1. The appeal is allowed and planning permission is granted for the 'Construction of four/three storey block containing 50 residential apartments (Class C3) and 1 no. ground floor retail unit (Class A1) with associated undercroft car parking and bin/bike stores (outline – including details of access, appearance, layout and scale)' at 'The Boat Yard', Trawler Road, Swansea Marina, Swansea, SA1 1UP in accordance with the terms of the application, Ref. 2015/1498, dated 16 July 2015, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

## Procedural Matter

2. The Appellant submitted an Odour Note (J2220/3/F1 dated November 2015) to accompany their appeal documentation; hereafter referred to as the 'Note'. This additional information was prepared in addition to the original Odour Assessment (J2220/1/F2 dated June 2015) to 'specifically assess the potential for odour impacts from the smoking of fresh fish; a process which was not assessed during the previous study'. As this additional information was only submitted by the Appellant at the 6 week stage of the appeal process and had not previously been seen by interested parties, those parties were not able to make representations by the 6 week appeal deadline. In view of this, interested third parties were given additional time to make comment on the 'Note'. The Appellant was given the opportunity to respond to the resulting additional representations received; all these additional representations have been considered in my determination of the appeal.

## **Background**

3. The application is submitted in outline with only the matter of landscaping reserved for future consideration. The application was reported to the Council's planning committee on 13 October 2015 with a recommendation to approve subject to conditions. Contrary to officer recommendation, Members resolved to refuse planning permission for two reasons. The first refusal reason referred to the proposed development's proximity to existing business uses being detrimental to the residential amenity that future residents of the apartments could reasonably expect to enjoy by virtue of noise, smells and air pollution generated by existing businesses. The second refusal reason referred to the proposed development being in close proximity to existing business activities of the marina boatyard and the commercial fish market and as such would be likely to result in nuisance complaints from future occupiers of the proposed apartments which could in turn unduly impact on the operations of those existing businesses which are of strategic importance to the City and County of Swansea and its adopted vision to make Swansea a vibrant, attractive and distinctive 21<sup>st</sup> century Waterfront City.

## **Main Issues**

4. I consider the main issues to be:
  - Whether the proposed development would provide acceptable living conditions for future occupiers in terms of noise, odour and air pollution, with regard to its location in proximity to existing businesses.
  - The effect of the proposed development on the operations of existing businesses.

## **Reasons**

5. The appeal site is located on the northern side of Trawler road along Fishmarket Quay and is next to Tawe Basin Marina. The site area at 0.19 hectares was previously used as a boatyard with associated boat maintenance and chandlery. Within the site a two storey building is located to the south east boundary, whilst the overall site is enclosed by a 2 metre high mesh fence. The site is bounded to the west by commercial units along Fishmarket Quay, including a fish market, to the south on the opposite side of Trawler road by residential apartment blocks forming part of the St. Catherine's Court development, to the north by Tawe Basin Marina, where a boat hoist is found, and to the east by a boatyard.
6. Both of the Council's refusal reasons refer to the proposal bring contrary to policies EV2, EV40, HC2 and CC1 of the adopted City and County of Swansea Unitary Development Plan 2008 (UDP). Policy EV2 relates to 'siting and location' of new development and refers, amongst other things, to avoiding locations that would have significant impact on the general locality, having full regard to existing adjacent developments, and the possible impact of environmental pollution from those developments. Policy EV40 relates to 'air, noise and light pollution' and refers to proposals not being permitted that would result in or cause significant harm to health or local amenity because of significant levels of air, noise or light pollution. Policy HC2 relates to 'urban infill housing', and refers to proposals for housing development being supported where the site has been previously developed or is not covered by conflicting plan policies or proposals, and provided such development does not, amongst other criteria, result in a significant loss of residential amenity, or have a significant effect on the character and appearance of the area. Policy CC1 relates to

'city centre mixed use development' and refers to retailing and housing development being supported within the city centre with such development considered against a number of criteria including any impact on existing uses or residential amenity, and the potential for noise, disturbance and pollution.

## **Living Conditions**

### *Noise*

7. Both parties accept that the existing noise levels that are likely to impact on the proposed development consist mainly of traffic noise from Trawler road, the general noise from the marina, and general activity associated with the operation of the boat yard. In addition the Council, refer to noise from an existing fan that serves the adjacent fish wholesaler. The Council argue the appellant's submitted noise impact assessment (NIA) focusses too much on general background noise and road traffic noise which can be misleading if the data is mapped or averaged without due regard to actual noise sources which may be intermittent.
8. However, such concerns, which are material considerations, must be based on objective evidence. The evidence presented by the appellant on noise indicates that readings taken predominately fall within Noise Exposure Category B of Planning Guidance (Wales) Technical Advice Note (Wales) 11, Noise – October 1997. Category B is noise which should be taken into account when determining planning applications, and where appropriate, conditions imposed to ensure an adequate level of protection. A number of readings fall within the lower category C which overlaps with category B. Category C noise is such that planning permission should not normally be granted, however, where it is considered permission should be given, conditions should be imposed to ensure a commensurate level of protection against noise.
9. Whilst I appreciate the external noise readings indicate a maximum night-time level at one of the survey measuring points that falls just within category C, nonetheless, the overwhelming majority of recordings were either within category B, albeit at a point which shares a common reading with category C. In such situations it is clear that planning conditions should be imposed in order to ensure an adequate level of protection. In this regard I note that at the time the proposal was considered by the Council's planning committee, the Head of Public Protection, Housing and Health accepted the conclusions of the NIA and agreed that a suitably acoustically insulated window design imposed via a planning condition would safeguard future residential amenity; these mitigation measures include acoustic secondary glazing and acoustic trickle vents. To my mind, neither the Council nor other interested parties have submitted any substantive technical evidence or provided any other substantive evidence to indicate a change in circumstances that would lead me to take a different view to the previous views of the Head of Public Protection, Housing and Health. There is a paucity of information to counter the appellant's technical evidence, and I conclude that whilst noise is a material consideration, conditions could be imposed to ensure an adequate level of protection for future residents.
10. I note there is concern from the Council that the existing fan related to the operations of the adjacent fish wholesaler is noisy and tonal, and is likely to result in a noise abatement notice being served on the business, if planning permission was granted for the development. Such potential noise must be objectively assessed against empirical noise data; however, no technical evidence was submitted in regards to the level of noise the fan generates, nor to the frequency of that noise. In the absence of such evidence, and the fact that the NIA concludes that potential noise can be mitigated, I

have no reason to believe that existing residents would be unduly affected by noise as a result of the adjacent fan.

11. Similarly, the Council also refer to the impacts of potential noise from the marina boat hoist which usually operates from 8.00 am to 4.00 pm, seven days a week. It is argued that whilst mitigation measures could be incorporated into the fabric of the building, nonetheless these would be offset by the opening and closing of Juliet balconies that face towards the hoist. The Council have provided no technical evidence in regards to the nature, frequency or duration of the noise associated with the boat hoist.
12. During my site visit the hoist was in operation. Whilst I appreciate residents may choose to open windows or Juliet balconies facing onto the hoist, even so, the noise that I experienced was characterised by low to mid frequencies which are commonly associated with a diesel engine, and whilst clearly audible above the background noise, nonetheless it was short in duration and to my mind was not particularly disruptive. In addition, as mentioned in the Council's planning report, future residents do have the option of closing those openings in order to control external noise, and this noise would be highly likely to primarily occur during the standard working day when the general ambient noise is relatively high in any event. Policy EV40 refers to development not being permitted that would result in or cause significant harm to health or local amenity. In the absence of any technical evidence to substantiate any harm the operation of the hoist would have on future residential amenities, I have no reason to believe that existing residents would be unduly affected by noise as a result of the adjacent boat hoist, nor would the location of the development adjacent to the hoist be likely to cause harm to health or local amenity.
13. The Council and other third parties raise concerns in regards to the potential for other noise from the boatyard such as, the delivery of boats, the use of power tools associated with the repair and maintenance of the boats, in addition to more general noise activity associated with early morning/late evening movement of boats related to the operation of the locks and bridges. However in the absence of substantive contradictory technical evidence to prove otherwise, based on the NIA which monitored noise in the vicinity of the site over a 72 hour period, as referred to above, I have no reason to disagree with its conclusions, that subject to the proposed mitigation measures, the proposed development will adequately be able to control any external noise climate, and as reinforced in the Council's suggested condition; consequently there would be no significant and demonstrable adverse noise impacts that could not be adequately mitigated.

#### *Odour and Air Quality*

14. Whilst the Council's first reason for refusal refers to smells and air pollution, nonetheless they have confirmed in their statement of case that they agree with the findings of the appellant's submitted 'Air Quality Consultants' (AQC) report that indicates air quality is not a significant factor in regards to the appeal site. However, in regards to odour nuisance the Council argue that given the immediate proximity of the adjacent fish smoking operation it is impossible to accurately model and predict the degree of nuisance from fishy or smoky odours.
15. The methodology and assessment used in the originally submitted AQC was based on potential sources of odour from the adjacent fish market with the results of 'sniff-tests' indicating that whilst odours generated by the market were detectable at the development site, they were only detected close to the western boundary and not more than 5 metres from the site boundary. The AQC concluded that the risk of

overall impacts from Swansea Fish Ltd on future residents of the development would be negligible and should not provide a constraint to the residential development of the site. In this regard I note that at the time the proposal was considered by the Council's planning committee that the Head of Public Protection, Housing and Health whilst acknowledging that the development may result in some degree of complaint regarding odour, stated it is not likely to justify refusal. Contrary to the comments of a number of third party objectors, the appellant states the Council confirmed there had been no odour complaints related to the operation of the Swansea Fish Ltd. The Appellant argues that bearing in mind the premise's proximity to existing nearby dwellings, this is indicative of odour containment.

16. In light of concerns raised during the processing of the planning application, and the subsequent refusal, the appellant submitted a further assessment of the odour impacts associated with the adjacent fish smoking operations on the proposed development; the 'Note'. The 'Note' indicated that fish smoking operations do not generate significant amounts of odour, and that odours that are generated and which are released to the atmosphere are generally infrequent and of low intensity.
17. Since the Council issued their refusal, Council officers' revisited the area at times when the smoking operation were underway and observed that distinct fish and charcoal smells were present in the area, however, they admit the frequency of such odours was much harder to predict. During my site visit I did detect the faint odour of fish in proximity to the south western boundary of the site near to where the entrance door to the fish market is located, and where an adjacent waste bin with its lid fully open was sited; these odours correspond with the findings of the AQC and 'Note', however, the odours quickly dissipated within a few metres of moving to the east. Whilst I appreciate the Council's concerns in regards to odours in the locality, and their stance that unpleasant odours will be detectable within the proposed dwellings from time to time, nonetheless, their submitted evidence states it cannot precisely conclude whether a statutory nuisance will exist within the proposed dwellings as a result of those odours.
18. I also appreciate that measuring and quantifying the effects of odour is difficult and can be subjective due to sensitivity of the receptor, nonetheless the Appellant's AQC and 'Note' were carried out in accordance with recommended protocols relating to odour guidance<sup>1</sup>. Third parties have questioned the methodology employed by the Appellant in regards to the assessment of odours, however based on the fact that the assessments used multiple semi-quantitative on-site field surveys, involved qualitative desk-based risk assessment in accordance with guidance, and involved a review of complaint data obtained from the Council, I am satisfied, in the absence of any substantive evidence to the contrary, that the Appellant's methodology was adequate.
19. Notwithstanding the subjective nature of odour nuisance, and the concerns of interested parties to the methodology employed in the assessment of odours, nonetheless, bearing in mind the Appellant's submitted AQC and 'Note' are the only semi-quantitative evidence before me, and also based in part on my own observations during my site visit, the fact that the Council have not received documented odour complaints related to the operations of the adjacent fish market, and due to the fact that the proposed development would present a blank wall to the side elevation adjacent to the fish market, I am of the opinion that future occupiers of the proposed

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<sup>1</sup> Environment Agency (2011) *H4 Odour Management. How to comply with your environmental permit*, & IAQM (2104) *Guidance on the assessment of odours for planning*

development would be unlikely to be unduly affected by odours from existing local businesses.

20. The Council refer to any trickle vents to windows in the proposed development that may be required for ventilation purposes or to mitigate noise, allowing odours to enter the apartments, and which would be particularly noticeable during the night, with such odours also possible when windows are open. However, for the reasons given above I do not consider such a possibility is likely to give rise to any significant harm to occupants especially as the apartments will have no window opening facing directly towards the fish market, with other windows set back from the boundary and at a higher level.
21. Concluding on this first issue, I consider, subject to an appropriately worded condition in relation to acoustic controls as suggested by the Council, that the proposal would not undermine policies EV2, EV40, HC2 and CC1 of the UDP which collectively seek to safeguard residential amenity, and would provide acceptable living conditions for future occupiers in terms of noise, odour and air pollution, and with regard to its location in proximity to existing businesses.

### **Existing businesses**

22. In regards to the Council's second reason for refusal, I have concluded on the first main issue that the location of the proposed development in proximity of the existing businesses would not be likely to give rise to any significant or undue detriment as a result of odour nuisance to future occupiers of the apartments, and would not be subject to any significant and demonstrable adverse noise impacts.
23. Bearing in mind my conclusions on the first main issue, then it follows, contrary to the Council's view, as echoed by third parties, that the proposed development is unlikely to result in any material nuisance complaints from future occupiers of the proposed apartments which could in turn unduly impact on the operations of those existing businesses which are of strategic importance to the City and County of Swansea and its adopted vision to make Swansea a vibrant, attractive and distinctive 21<sup>st</sup> century Waterfront City. Consequently, the proposal would not undermine policies EV2, EV40, HC2 and CC1 of the UDP which collectively seek to safeguard existing businesses.

### **Other Matters**

24. Third parties objectors have drawn attention to the Council's position in regards to the previously refused application for the site for a similar development; however, that scheme differs from the revised scheme that is the subject of this appeal, as the appeal proposal included a revised noise impact assessment, traffic impact assessment (TIA) and an odour assessment. In regards to concerns into how affordable housing would be provided, the Council planning committee report refers to the provision of 30% affordable housing in line with Council policy requirements; in order to secure this requirement the Council's suggested condition has been included in the schedule of conditions attached at the end of this decision. Others have queried the need for affordable dwellings in the locality; however, Council policy requires such provision on development such as the appeal proposal.
25. Concerns have been raised in regards to the impact of additional traffic generated by the proposal onto the local highway network. However, I note that the Council confirm in their planning committee report that the Head of Transportation concurs with the conclusions of the TIA, in that the traffic from the proposed development can be accommodated on the surrounding highway network without detriment to highway

safety or the signalised junction of Trawler Road/Oystermouth Road; without substantive evidence to the contrary, I have no reason to take a different view.

26. Concerns have been raised into the level of car parking to be provided for the scheme, including provision of spaces for disabled visitors. The Council planning report confirms that the proposed development would ordinarily require 60 car parking spaces; however, this is reduced to 50 spaces based on the sustainability criteria of accessibility to local facilities and public transport; in addition the Council have raised no objections in regards to the proposed level and form of car parking designated for those with disabilities. The planning report states that whilst the scheme falls short of the required 50 spaces by 1 space, the Head of Transportation considers this would not constitute a sustainable reason for refusal. The Head of Transportation also highlights the fact that within the area 50.6% of residents of the Castle Ward do not have access to a car, and if this trend were to be continued with the appeal proposal then it is likely that there will be an element of residents that will not need their allocated car parking space which will provide more scope for on-site visitor parking. Bearing in mind the shortfall of only 1 car parking space, and the fact that each apartment is to be provided with one cycle space which is well in excess of the recommended levels for residential apartments, which will help to reduce car dependency and encourage more sustainable modes of transport, and the fact that there are a number of pay and display car parks in the area, and there is on street parking along Trawler road that can accommodate visitors, then I consider the level of car parking provision to serve the proposed development would be adequate.
27. Concerns have been raised in regards to the potential detrimental impact of the proposed development on the amenities of adjacent residential occupiers on the opposite side of Trawler Road by way of loss of privacy and loss of daylight. The Council planning committee report refers to a distance of 17 metres being considered a satisfactory distance from adjacent properties that would not lead to an unacceptable loss of privacy to either existing or future residential properties; based on my observations on site I have no reason to take a different view.
28. In regards to assessing the potential for loss of light to existing properties, a daylight analysis (DA) was submitted with the planning application that considered the proposed development's impact on a number of ground floor units opposite the appeal site. The DA measured daylight in terms of the view of the sky which gives diffuse light, access to direct sunlight, and the average daylight factor which gives total light. The DA acknowledges that the reduction in a sky view will be reduced to a greater extent than recommended by BRE<sup>2</sup>, however, it emphasises this is difficult to avoid with new development within a built up area, and that any reduction would be expected to be less severe in higher floor apartments. In addition the planning officer's report refers to the fact that 'the view of the sky reduction has been shown to not have any major impact upon the average daylight factors expected to be achieved and as such would not result in an unacceptable loss of daylight to existing properties along Trawler Road'; based on the submitted evidence I have no reason to take a different view.
29. As regards the impact of the proposed development on the access to direct sunlight, the DA indicates any reduction is within the levels considered acceptable under the BRE. As regards the average daylight factor, only one of the rooms studied would

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<sup>2</sup> British Research Establishment – Document Site Layout Planning for Daylight and Sunlight: A Good Practice Guide (2012).



have its average daylight factor drop below the British Standard<sup>3</sup> ('BS') recommended levels as a direct result of the proposed development. Whilst I accept there will be a reduction in average daylight to most properties studied, nonetheless for the majority of those properties that reduction is slight. Bearing the overwhelming majority of properties would not drop below the BS as direct result of the proposed development, and there is the possibility for additional reflected daylight from the light coloured façade of the proposed development into the north facing façade of the existing apartments, I do not consider, based on the submitted evidence that these properties would be significantly affected such as to warrant dismissal of the scheme.

30. Reference has been made to the 'Human Rights' of adjacent occupants being affected with particular regard to loss of light to adjacent properties, although the specific human right as enshrined in the European Convention on Human Rights (ECHR) is not cited. Nonetheless as discussed above, whilst I accept there will be a reduction in average daylight to most properties studied, I am satisfied based on the submitted evidence that if this development goes ahead the degree of interference that would be caused would be insufficient to give rise to a violation of rights, with any effect of a granting of planning permission on those properties not being disproportionate.
31. It is argued the development is not genuinely sustainable in terms of the economic, social and environmental well-being of future residents due to impacts on their amenities by virtue of the proximity of existing businesses, and on the existing businesses whose operations may be unduly impacted should future residents be subjected to nuisance from the various activities. However, for reasons previously mentioned, I do not consider the well-being of future occupants of the proposed development would be likely to be materially affected by the presence of existing businesses, and as a result the proposal is unlikely to result in any material nuisance complaints from future occupiers of the proposed apartments, which could in turn unduly impact on the operations of those existing businesses. The site is a brownfield in nature, is located in the centre of Swansea, is accessible by sustainable modes of transport other than the private car, and would increase the supply of housing generally in the area, of which 30% would be delivered as affordable dwellings. Bearing in mind my conclusions on the two main issues of this appeal, and the sustainable benefits of the scheme as discussed above, I consider that the scheme meets the definition of sustainable development as stated in either Planning Policy Wales Edition 8 or and the Wellbeing of Future Generations Act (Wales) 2015.
32. Concerns have been raised in regards to the design and appearance of the proposed development. I note the Council raised no objections to the proposal in this regard, and bearing in mind the scheme in broad terms is reflective of nearby residential development, I have no reason to take a different view. Interested parties have raised concerns in regards to the lack of open space associated with the development and the general lack of 'green' spaces for public use in the general locality. This issue did not form part of the Council's reasons for refusal and was not referred to in either the Council's appeal statement or the planning committee report related to the application. Notwithstanding the concerns of interested parties in this regard, the site is located in close proximity to the seashore which provides access to extensive tracts of beach, in addition to a coastal walkway.
33. Reference has been made to a restrictive covenant relating to the appeal site which seeks to restrict any works or activities that would impede or hinder navigation in the

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<sup>3</sup> BS 8206-2 Code of Practice for Daylighting

harbour; I have not had sight of the covenant, however, irrespective of its contents this is a separate matter that is outside of the jurisdiction of this appeal. Reference has also been made to the Appellant providing £10,000 towards the cost of modifying the boat hoist to make it quieter, however, this was not a requirement sought by the Council during the processing of the application, nor has been offered as part of the appeal process by the Appellant; in any event bearing in mind my findings above I do not consider such a contribution would be justified in planning terms.

34. Concerns have been raised in regards to the surface water attenuation. I note that Natural Resources Wales (NRW) did not object to drainage arrangements for the proposed development. NRW's consultation response to the proposal notes the intention is for the development to discharge directly into the marina which is unlikely to affect flood risk, however, they recommended the use of SuDS<sup>4</sup> as best practice. I consider the Council's suggested drainage condition, which I have attached to the schedule of conditions at the end of this decision, would adequately address the drainage related to the development.

### Conditions

35. I have considered the conditions suggested by the Council, given my decision to allow the appeal. In doing so I have had regard to the tests for conditions set out in Circular 16/14: *The Use of Planning Conditions for Development Management*. Conditions 1-3 relate to the submission of a reserved matter and the commencement of development which are all necessary. Condition 4 is necessary in regards to listing the approved plans to facilitate any minor material amendments and to define the plans with which the scheme should accord for the avoidance of doubt; I have reworded it slightly in the interests of precision. Conditions 5, 6 & 7, relating to means of enclosure, samples of all external finishes and other specified details are necessary in the interests of visual amenity. I have reworded condition 6 in the interests of precision.
36. Condition 8 restricts permitted development rights in regards to the installation of satellite antenna to individual apartments. The condition is necessary in the interests of visual amenity.
37. Conditions 9-14 relate to highway matters. Conditions 9, 10, 11, 12 & 13 relate to the provision of any vehicular crossings over the existing footpath, the provision of on-site car and cycle parking, the management of the access to the undercroft and surface car parking area, and delivery times for servicing/deliveries to the retail unit; these conditions are necessary in the interests of highway safety and the free flow of traffic. Condition 14 relates to the submission and approval of a travel plan which is necessary in the interests of sustainability.
38. Conditions 15 & 16 are necessary in regards to the drainage of the site and managing flood risk. Whilst conditions 17 & 18 relate to sound and noise attenuation, and are necessary in the interests of residential amenity; I have reworded condition 17 in the interests of precision. Condition 19 relates to a construction pollution management plan and is necessary in the interests of safeguarding neighbouring residential amenities, however reference is made to a notification of whether a Control of Pollution Act 1974 (Section 61) Notice is to be served on the local authority; I consider this matter should be dealt with by other legislative controls.

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<sup>4</sup> Sustainable Urban Drainage Systems

39. Condition 20 relates to the method of piling or other foundation design and is necessary in the interest of safeguarding the stability of the existing dock wall.
40. Condition 21, relates to the provision of affordable housing and is necessary in order to provide adequate affordable housing in line with the UDP.
41. Condition 22 requires elevational drawings of the western elevation of the building to be submitted for approval and is necessary in the interests of visual amenity, whilst condition 23 restricts storage on the external flat roof area above the ground floor parking area and is necessary in the interests of residential amenity. Condition 24 requires an assessment of noise attenuation performance of the apartments to ensure compliance with the details agreed in condition 17; it is necessary in the interests of safeguarding the residential amenities of future occupiers.

### **Overall Conclusions**

42. After taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be allowed.

*Declan Beggan*

INSPECTOR

## **Schedule of Conditions**

1. Details of the landscaping of the site (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. The application for approval of the reserved matter (i.e. the landscaping works) shall be made to the Local Planning Authority not later than 3 years from the date of this permission. The reserved matter application shall include all details of the external surfaces to the undercroft and car parking areas, pedestrian areas and any external lighting.
3. The development to which this permission relates shall be begun either before the expiration of 5 years from the date of this outline permission, or before the expiration of 2 years from the date of approval of the reserved matter, whichever is the later.
4. The development shall be carried out in accordance with the following approved plans and documents, unless otherwise amended by any other condition in this permission: Site location plan - AS.15; Site Plan - AS.00; Existing Site Plan - AS.01; Level 00 Plan - AL.00rev. E; Level 01 Plan - AL.01 rev. J; Level 02 Plan - AL.02 rev. G; Level 03 Plan - AL.03 rev. G; Level 04 Plan - Roof AL.04; Elevation 03 / Sections - AE.01 rev A (Rev. B); Elevations 01 & 02 AE.00 rev. B.
5. Notwithstanding the details shown on any approved plan, the precise location, extent, height and design of all means of enclosure, including the vehicular entrance and exit gates, and the enclosure to the undercroft parking area, shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of any superstructure works. All of the means of enclosure shall be built and installed in accordance with the agreed details, before any of the flats hereby approved are occupied.
6. Notwithstanding the details shown on any approved plan, samples of all external finishes, including windows and doors and the precise pattern and distribution of the external finishes shall be submitted for the written approval of the Local Planning Authority, prior to the development of superstructure works. If following the submission of the sample materials, the Local Planning Authority requires the provision of a composite sample panel, this shall be provided/built on site and shall be retained on site for the duration of the works, unless otherwise agreed in writing by the Local Planning Authority.

7. Prior to the commencement of any superstructure works, details at an appropriately agreed scale of the following elements shall be submitted to and agreed in writing by the Local Planning Authority:
- A typical window unit within its opening;
  - Typical external door within its opening;
  - Typical balcony construction and balustrade detail;
  - Precise design and location of the rainwater goods;
  - Glazed shop front and fascia;
  - PPC metal fascia and soffit;
  - Louvre panels and any ventilation grilles.

The development shall be carried out in accordance with the agreed details unless otherwise agreed by the Local Planning Authority.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking or amending that Order), Part 25 of Schedule 2 shall not apply, and if required, the installation of any satellite antenna shall comprise of a single satellite television system solution to serve each residential block in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to its installation.
9. The vehicular crossings over the existing footpath shall be completed before any of the development is occupied and shall be constructed in accordance with details to be submitted to and approved by the Local Planning Authority.
10. Prior to the occupation of any part of the development hereby approved, the on-site car parking shall be laid out within the development site in accordance with the approved plan - Level 00 Plan (Drwg. No. AL.00.Rev. E - rev. F), with the incorporation of 3 disabled parking bays and shall be retained as such for that purpose at all times thereafter.
11. Prior to the occupation of any part of the development hereby approved, the on-site cycle parking facilities shall be provided within the development site in accordance with the approved plan - Level 00 Plan (Drwg. No. AL.00.Rev. E - rev. F) and shall be retained as such for use by the residents of the development hereby approved.
12. A scheme for the management of the access to the undercroft and surface car parking area, along with the servicing of the site shall be submitted to and agreed in writing by the Local Planning Authority. The roller shutter doors and other form of automated enclosure shall incorporate a manual override facility to ensure that in the event of a power failure, vehicles would be able to continue to access and egress the site in accordance with details to be submitted as part of the management scheme. The agreed scheme shall be implemented at all times following the commencement of development.
13. Servicing/deliveries to the retail unit shall not take place between 0800 and 0900 hours and 1700 and 1800 hours, unless otherwise agreed by the Local Planning Authority.

14. A travel plan shall be submitted to and agreed in writing by the Local Planning Authority prior to any of the flats being occupied or the retail unit being brought into beneficial use. The recommendations and suggested actions contained within the agreed travel plan (to include details of car reduction initiatives and methods of monitoring, review and adjustment where necessary) shall be fully implemented by the developer thereafter.
15. The development hereby approved shall not be occupied until a scheme for the comprehensive and integrated foul water, surface water and land drainage for the site has been implemented in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Foul water and surface water discharges must be drained separately from the site and no surface water shall be allowed to connect (either directly or indirectly) to the public foul sewerage system. No land drainage run-off will be permitted, either directly or indirectly, to discharge into the public foul sewerage system.
16. A flood management plan shall be submitted to and approved in writing by the Local Planning Authority prior to the beneficial occupation/use of any part of the development commencing. The plan should include flood warning, emergency access/evacuation arrangements and clear responsibilities. The agreed plan shall be communicated to all occupiers of the proposed flats and the retail unit, in accordance with details to be agreed by the Local Planning Authority prior to the beneficial occupation/use of any part of the development commencing.
17. Prior to the commencement of superstructure works, details of the sound attenuation of the properties for the windows and doors and external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
18. Prior to the beneficial occupation of the Class A1 retail unit, a scheme for protecting residential units from noise generated by any plant requirement shall be submitted to and approved in writing by the Local Planning Authority. Any subsequent plant installed shall incorporate the approved scheme, and shall be maintained as such at all times thereafter.
19. Prior to the commencement of demolition/construction works on the application site, a Construction Pollution Management Plan (CPMP) shall be submitted to and approved in writing by the Local Planning Authority. The CPMP shall include the following:
  - a) Demolition/Construction programme and timetable;
  - b) Detailed site plans to include indications of temporary site offices/ compounds, materials storage areas, proposed compounds, delivery and parking areas etc;
  - c) Traffic scheme (access and egress) in respect of all demolition/construction related vehicles;
  - d) An assessment of construction traffic generation and management in so far as public roads are affected, including provisions to keep all public roads free from mud and silt;

- e) Proposed working hours;
  - f) Principal Contractor details, which will include a nominated contact for complaints;
  - g) Details of all on site lighting (including mitigation measures) having regard to best practicable means (BPM);
  - h) Details of on-site dust mitigation measures having regard to BPM;
  - i) Details of on-site noise mitigation measures having regard to BPM; and,
  - j) Details of waste management arrangements (including any proposed crushing/screening operations).
20. Prior to the commencement of development, details of the proposed method of piling or other foundation design for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The proposed development shall be completed in accordance with the approved scheme.
21. The development shall not commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of Technical Advice Note:2 Planning and Affordable Housing or any future guidance that replaces it. The scheme shall include:
- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units/bed spaces;
  - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii. the arrangements for the transfer of the affordable housing to an affordable housing provider[or the management of the affordable housing] (if no RSL involved);
  - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
22. Prior to the commencement of development, elevational drawings of the western elevation of the building shall be submitted to and approved in writing by the Local Planning Authority. The approved development shall be carried out in accordance with the approved elevational drawings.
23. The external flat roof area above the ground floor parking area shall not be used as a storage area, balcony, roof garden or similar amenity area.
24. Prior to the first beneficial use of the flats hereby permitted, an independent assessment of the noise attenuation performance of the flats, to ensure compliance with the details approved in Condition 17

above, shall be undertaken and a verification report providing the results of the assessment shall be submitted to and approved in writing by the local planning authority.