



---

## Appeal Decision

Inquiry opened on 11 January 2022

Unaccompanied site visits carried out on 8 and 22 January 2022.

**by Mrs J A Vyse DipTP Dip PBM MRTPI**

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

**Decision date: 9<sup>th</sup> March 2022**

---

**Appeal Ref: APP/Z0116/W/21/3279920**

**10 and 12-16 Feeder Road and 6-8 Albert Road, St Philip's,  
Bristol BS2 0SB**

- 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 Summix FRB Developments Limited against the decision of Bristol City Council.
  - The application, No 19/01881/F, dated 12 April 2019, was refused by a notice dated 25 February 2021.
  - The development proposed comprises demolition of existing buildings and development of 4 buildings - a 5 storey building comprising flexible commercial floorspace (Use B1 and B8) and a part 7, part 8 and part 14 storey building interlinked to provide a communal area at ground floor level and student bedspaces (sui generis) at the upper levels, incubator space (B1 use class) at ground floor level, shared social and study spaces, roof terrace and associated car parking (for the commercial use), cycle parking.
- 

**Documents handed up to the Inquiry are listed at Annex B below and are prefixed with 'ID'. Core Documents are prefixed with 'CD'. All these documents can be accessed via the electronic library**

**<https://www.bristol.gov.uk/planning-and-building-regulations/public-inquiry-10-feeder-road>**

### Decision

1. For the reasons that follow, the appeal is allowed and planning permission is granted for demolition of existing buildings and development of four buildings - a 5 storey building comprising flexible commercial floorspace (Use B1 and B8) and a part 7, part 8 and part 14 storey building interlinked to provide a communal area at ground floor level and student bedspaces (sui generis) at the upper levels, incubator space (B1 use class) at ground floor level, shared social and study spaces, roof terrace and associated car parking (for the commercial use), cycle parking on land at 10 and 12-16 Feeder Road and 6-8 Albert Road, St Philip's, Bristol, in accordance with the terms of the application, No 19/01881/F, dated 12 April 2019, subject to the conditions set out in the attached schedule.

### Procedural and Preliminary Matters

2. The Inquiry opened on 11 January and sat for a total of ten days. The parties agreed that I should carry out a visit in advance of the Inquiry to familiarise myself with the site and its surroundings. I did this on an unaccompanied basis on 8 January following an itinerary that had previously been agreed. I

carried out a second unaccompanied visit during the Inquiry, on 22 January, again at the request of the parties.

3. The application was amended on a number of occasions prior to determination by the Council, including a reduction in the overall number of bedspaces from 641 to 595. The revised description of development set out above, which is taken from the Council's Decision Notice, was agreed by the appellant.
4. The application form was also amended to reflect the revised description. That later version is dated 23 September 2020. The April 2019 date in the header above is taken from the application form originally submitted to the Council when the application was lodged. Among other things, the revised application form deletes any reference to Use Class B1a) office space being proposed, reflecting the annotations on the submitted floor plans.
5. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1 September 2020, amending the Town and Country Planning (Use Classes) Order 1987. However, since the planning application was submitted prior to that date, the transitional provisions (Regulation 4) mean that no alteration is required to the description of development in terms of any reference to use classes in this case, nor to any reference to use classes in the suggested conditions.
6. The appeal site lies close to a redevelopment site at Silverthorne Lane (on the opposite side of the Feeder Canal) which was the subject of a call-in Inquiry last year.<sup>1</sup> At the time of this Inquiry, the Secretary of State had not issued his decision on that. Given the proximity of the sites, and noting that the scheme included some 693 student bedspaces, the appellant sought to rely on some of the evidence to that Inquiry and submitted a number of related documents.<sup>2</sup> Whilst I have determined the instant appeal on its own merits in light of the evidence presented to me at this Inquiry there could, it seems to me be some, albeit limited, merit in looking at some of the material presented to that Inquiry, in particular the respective stances of the Council and the Environment Agency. I am mindful, in this regard, that the Council did not object to that application and that, at the time of writing this Decision, I do not have the views of the Secretary of State on the respective cases at that Inquiry. The Environment Agency objected to both the Silverthorne Lane scheme and that the subject of this current appeal.
7. This appeal was accompanied by a schedule of planning obligations under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended). This is provided in the form of a deed of agreement between the Council and the appellant and its provisions were discussed at the Inquiry. With the agreement of the parties, an engrossed version was submitted shortly after the Inquiry closed.<sup>3</sup>

## **Main Issues**

8. The appeal site is located at the junction of Albert Road with Feeder Road. The Feeder Canal, which forms part of the Floating Harbour, runs along the northern side of Feeder Road here. It is proposed to demolish the existing low-rise industrial buildings on the site in order to redevelop it. The appeal scheme

---

<sup>1</sup> APP/Z0116/V/20/3264641

<sup>2</sup> CD9.1-CD9.13 are transcripts from parts of the Inquiry (although the Inquiry was not recorded) CD9.14- CD9.19 relate to other documentation from the Inquiry, including proofs of evidence, rebuttals and closings.

<sup>3</sup> ID17

- comprises four blocks. Block D is a free standing five storey commercial building fronting Albert Road. Other than a reception area at ground floor, it is annotated on the submitted plans as comprising Class B1b) and c) and B8 floorspace. An existing vehicular access off Albert Road would be used to serve the proposed parking/servicing area, located between Blocks D and C.
9. The student accommodation is within Blocks A, B and C which are interlinked through areas of social and common space at ground floor (00) level with a roof terrace above at level 01. Block B (14 storeys) is located on the corner of the site, between Blocks C and A. Block A (8 storeys) is located at the western end of the Feeder Road frontage and Block C (7 storeys) faces Albert Road, extending in an L -shape back into the site. The three blocks would form a 'U' around a central landscaped courtyard at ground floor level. Five commercial units are shown on the ground floor of Block C, fronting onto Albert Road. The student's residential accommodation, arranged as cluster flats of study bedrooms with each cluster having its own shared kitchen, occupies the upper floors of blocks A, B and C.
  10. As set out in the officer's report, the proposal would, in land use terms, accord with both current policy<sup>4</sup> and with the direction of emerging policy<sup>5</sup> in this area of identified change, subject to conditions. The Council is also content that the design is of sufficient quality to ensure that the development would make a positive contribution to a sense of place within an area that is set to change. I have no reason to come to a different view on any of these matters.
  11. However, the site lies within flood zone 3a, which means that it is at high risk of flooding. In that context, and as agreed at the Inquiry, the main issue in this case relates to whether the proposal represents an acceptable form of development having regard to flood risk in relation to future occupiers (in terms of safe access and egress during design flood events over the lifetime of the development and increased scale of evacuation required) and any implications for increased flood risk elsewhere.
  12. The appeal site is adjacent to the recently designated Silverthorne Lane Conservation Area, with three of the buildings on the appeal site comprising non-designated heritage assets. Inasmuch as there is some intervisibility, the appeal site can also be held to lie within the setting of a number of listed buildings. Although both the Council and Historic England had some concerns in this regard, it was not a reason for refusal on the basis that, in the Council's view, the identified less than substantial harms were outweighed by public benefits. However, I have a statutory duty to consider any effects on the special interest of those heritage assets. Given that context, a further main issue in this case relates to the effect of the development proposed on the special interest and significance of nearby heritage assets.

## **Reasons for the Decision**

### ***Flood Risk***

#### Sequential Test

13. The National Planning Policy Framework (the Framework) requires the application of a sequential approach to the location of new development in

---

<sup>4</sup> The development plan for the area includes the Bristol Development Framework Core Strategy (June 2011) and the Site Allocations and Development Management Policies Local Plan (July 2014) (SADMP)

<sup>5</sup> Bristol Local Plan Review: Draft Policies and Development Allocations – consultation March 2019

order to steer it to areas with the lowest risk of flooding. That is reflected in policy BCS16 of the Core Strategy which, among other things, gives priority to development of sites at the lowest risk of flooding.

14. The application was accompanied by a schedule of sites within the Lawrence Hill Ward that had been considered pursuant to the Sequential Test. The search area was agreed by the Council as being appropriate in this case. The schedule included the marketing agents who were contacted, an indication of site availability and characteristics, and a summary of whether the sites would be 'reasonably available'. Based on that, the Council was satisfied that no other sites that could accommodate the development proposed were reasonably available within the search area. As such, the Sequential Test was deemed to be passed. I have no reason to disagree.
15. Where the Sequential Test is passed, the Exception Test set out at paragraph 164 of the Framework may be applicable, the need for which depends on the vulnerability classification of the development proposed. The appeal scheme comprises development that is classed in the Planning Practice Guidance as being 'less vulnerable' to the effects of flooding (Block D) and 'more vulnerable' (Blocks A, B and C). Table 3 of the Guidance confirms that where more vulnerable development is proposed in flood zone 3a, the Exception Test is required. Less vulnerable development (Block D in this case) does not raise any requirement for conformity with the Exception Test.
16. As noted earlier, some commercial units are proposed on the ground floor of Block C. It is not generally appropriate in my view, to disaggregate uses within a single building into different categories of vulnerability. Here, however, although the units are an integral part of the building, they are separate from the student accommodation both physically (being connected internally only by a single stairwell, with their main entrances directly off Albert Road) and in terms of their use. I am content, in this instance, that they can be disaggregated from the more vulnerable residential student accommodation and fall to be considered as being less vulnerable to the risks of flooding. As less vulnerable uses, they do not need to pass the Exception Test.

#### Exception Test

17. The Exception Test comprises two parts, both of which need to be satisfied for it to be passed. Part a) requires demonstration that the development would provide wider sustainability benefits to the community that outweigh the flood risk. Part b) requires demonstration that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, would reduce flood risk overall. This is echoed by policy BCS16, which also requires that development in areas at risk of flooding be safe for its lifetime and does not increase flood risks elsewhere.
18. The discussion that follows relates mainly to Blocks A, B and C, being 'more vulnerable' development.

#### *Exception Test – part a):*

19. Wider sustainability benefits in this case, include meeting a pressing need for purpose built student accommodation in the city, freeing up family homes onto the housing market at a time when there is an urgent need for housing in the city, the gifting of land along the northern site boundary to facilitate delivery of

improvements to the cycle lane on Feeder Road, together with public realm improvements along this frontage and along Albert Road, plus significant biodiversity net gain. The Council was content that these were sufficient for it to conclude that this part of the Exception Test was satisfied. I have no reason to disagree.

*Exception Test – part b):*

20. The Planning Practice Guidance explains how new development can be made safe,<sup>6</sup> confirming that specific local circumstances are to be taken into account, including the characteristics of a possible flood event; the safety of people within a building if it floods and also the safety of people around a building and in adjacent areas, including the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood; the structural safety of buildings; and the impact of a flood on essential services provided to a development.
21. Although there were apparently differing positions in the lead up to the Inquiry, it was a matter of agreement at the event that there is no objection in principle to the proposed development in the absence of strategic flood defences for Bristol. There is no reliance, in this regard, on the delivery of a strategic flood defence strategy. Rather, the appeal scheme falls to be considered on its own merits, in particular whether it would 'wash its own face' in terms of flood risk.

*Modelling*

22. Whilst the Council did not advance a case that the appellant's flood modelling was unreliable or unclear, a significant part of the Environment Agency's case related to difficulties in interrogating the modelling files that informed that evidence. I am mindful, in this regard, that the Agency is the statutory body tasked with protecting or enhancing the environment so as to promote the objective of achieving sustainable development, with protection of the environment relating to threats including flooding.
23. Notwithstanding complaints about errors in the titling of some of the model result figures in the appellant's Flood Risk Assessment Rev C (FRA)<sup>7</sup> I consider the model run, including the year and relevant climate change scenario, to be clear from the embedded legend within each of the figures.
24. I am aware that some hydraulic modelling results were submitted to the Agency the day before proofs were to be submitted. It would seem, however, that that modelling was actually done in September 2020, informing the December 2020 Technical Memorandum (Rev B).<sup>8</sup> I have no reason to suppose, given its content, that the Agency was not aware of the Memorandum, which clearly references the additional modelling. Despite sending numerous consultation responses to the Council in respect of the scheme throughout the application process, and despite having sight of the appellant's Flood Risk Assessment (albeit an earlier version than the Rev C version used at the Inquiry) the Environment Agency did not request to see any model files prior to November 2021. It is not clear, in this regard, why the modelling was not requested at the time, if it was considered necessary.

---

<sup>6</sup> Paragraph: 054 Reference ID: 7-054-20150415

<sup>7</sup> Figs 6.5, 6.12, 6.13, 6.14

<sup>8</sup> CD7.21

25. The Agency had difficulty accessing the model files that were provided on 8 December 2021, notwithstanding detailed responses from the appellant explaining how to access them and how to locate the files being sought. It is not clear to me why, if the problems were so significant, no-one picked up the telephone to sort a meeting whereby the Agency's officers could be taken through accessing the model files by EdenvaleYoung.
26. In coming to a view on this, I understand EdenvaleYoung (who gave evidence to the Inquiry (Mr Young)) to be a reputable firm that carries out modelling for the Environment Agency and other public bodies, including Bristol City Council. Indeed, the company was appointed by the Council to implement a range of amendments to the hydraulic model of central Bristol to support updates to the Strategic Flood Risk Assessment. All in all, it seems to me that the company can be assumed to have a detailed understanding of the flood characteristics of Bristol, including the appeal site. I appreciate that only limited testing/examination of the models has been achieved by the Environment Agency in this instance, but I have no reason to suppose, given the context set out above, that the hydraulic modelling is fundamentally flawed. Moreover, as set out in the proof of Mr Taylor for the Environment Agency, whilst he did indicate some concerns regarding the hydraulic modelling, he confirmed that his evidence focused on questioning and challenging how the outputs and results have been used and interpreted.

#### *Design Flood*

27. The Design Flood informs the finished floor levels of a development and largely determines whether occupiers will be safe in a design flood event over the lifetime of the development. In this case, the lifetime for Block D (the majority of the commercial premises) is some 60-80 years, whilst the lifetime for Blocks A, B and C is 100 years (to 2120).
28. The appeal site is at risk of flooding from both the River Avon and the tidal influence of the Bristol Channel, with the latter producing the most onerous flood conditions. In light of that, as set out in the Flooding Statement of Common Ground,<sup>9</sup> it is agreed that the design flood in this instance is the peak water level for a 1:200 year (0.5%) tidal event, in conjunction with a 1:2 year (50%) fluvial event in 2120.
29. Although there is no reference in the Planning Practice Guidance to any need to add a climate change allowance to the design flood, related advice on preparing flood risk assessments suggests that they should include such an allowance. Guidance produced by the Environment Agency entitled *Flood risk assessments: climate change allowances*<sup>10</sup> suggests that in flood zone 3a, the central allowance should be used for both less vulnerable and more vulnerable uses in terms of peak river flow. In relation to sea level allowances, whilst it requires that flood risk assessments assess both the higher central and the upper end climate change scenarios, it is not prescriptive as to which allowance should be used in any particular situation and it doesn't really identify how and/or when each should be used. Both the appellant and the Council are of the view that the higher central allowance is appropriate here, which would mean a design flood level of 10.14m AOD, with the Environment Agency

---

<sup>9</sup> CD12.4

<sup>10</sup> CD7.32 (last updated 6 October 2021)

maintaining that the upper end allowance is essential in this location, resulting in a flood design level of 10.65m AOD.

30. In coming to a view on this, I note that with the apparent agreement of the Environment Agency, the draft Bristol Avon Flood Strategy<sup>11</sup> uses the higher central allowance for fluvial flows in its strategic flood modelling for new residential development.<sup>12</sup> Whilst there is no reference to equivalent advice for tidal flooding in the report, I understand that at the Silverthorne Inquiry, the person in charge of modelling for the Strategy confirmed that the higher central climate change allowances were applied to the reporting and modelling for both fluvial and tidal events. That appears to have been confirmed in cross-examination of Messrs Taylor and Willitts, who also gave evidence to that Inquiry for the Environment Agency.<sup>13</sup> It would seem, therefore, that all of the modelling for the Strategy for both tidal and fluvial flooding used the higher central climate change allowances.
31. I appreciate that the Strategy, although a long time in the making, is still at a relatively early stage, having only recently reached Strategic Outline Case level.<sup>14</sup> Even so, it is clear that a considerable amount of work has been done on it over the last ten years. It seems logical to me therefore, absent those defences at the present time, to apply the same standard of protection to the appeal site. In any event, as set out below, other than the entrance off Feeder Road, a small area of social space to the north of Block B and storage areas, the accommodation would be set above a design flood including the upper end allowance, with safe access/egress.
32. Moreover, in terms of speed of onset, this is not a site where flooding is likely to occur as a consequence of a sudden catastrophic breach of flood defences, which may be a reason for requiring an upper end allowance. I recognise however, based on the stage-time hydrograph at Figure 6.16 of the appellant's FRA,<sup>15</sup> that it would only take around a couple of hours from the start of the third tidal cycle<sup>16</sup> for the water in a higher central design flood event to reach the ground level of the site (8.8m AOD) with the peak, at 10.14m AOD, occurring just under an hour later.
33. Whilst this may represent a relatively rapid onset, the design flood would be a consequence of unusually low atmospheric pressure in the Atlantic causing a huge storm surge, a weather event of such scale that it would be readily picked up in advance. The consequent storm surge would also need to arrive at the same time as an astronomical high tide, which event is entirely predictable. Indeed, the Council's own Flood Plan<sup>17</sup> confirms that the Met Office can usually predict storm surges a few days in advance and works with the Environment Agency to determine relative high tide times and impact on water height. Whilst the Agency aims to provide a minimum of 6 hours lead in time for flood warnings in relation to tidal locations,<sup>18</sup> this is not always met, as discussed

---

<sup>11</sup> CD7.58

<sup>12</sup> Paragraph 3.6 of Mr Goodey's proof of evidence on behalf of the Council (CD9.14) and paragraph 2.3 of his rebuttal (CD9.15) at the Silverthorne Lane Inquiry and paragraphs 3.10-3.16 of the Council's closing submissions to the same Inquiry (CD9.16)

<sup>13</sup> CD9.16 Closing Submissions of the Council at the Silverthorne Inquiry

<sup>14</sup> Approved by Cabinet and the Environment Agency March 2021

<sup>15</sup> CD7.18 and CD10.16 (page 48)

<sup>16</sup> The water level would not exceed the current ground level of 8.8m AOD until, and only during, the third tidal cycle.

<sup>17</sup> CD7.44 Section paragraph 2.2.2

<sup>18</sup> Eg paragraph 4.7 of MR Taylor's rebuttal proof and paragraph 44a of the Environment Agency's Closings (ID13)

- later on. I also recognise, in this regard, that weather forecasting is not always accurate, although accuracy is improving all the time, but the circumstances that would lead to a design flood event at the appeal site would, it seems to me, be predictable in most cases, allowing for sufficient advance warning.
34. The Environment Agency criticised the hydrograph for not modelling the upper end climate change event. The difference between the higher central and upper end events is 0.51 metres. In cross-examination Mr Young, for the appellant, confirmed that the lines on the graph would be the same, they just needed moving up by 0.51m to demonstrate the upper end climate change scenario. On that basis, it would seem that the timescales are similar, although the fourth tide cycle, it would appear, may almost reach the ground level of the site. Whilst the Environment Agency maintained that it would have been fairer to show it on the graph, no evidence was offered to undermine Mr Young's approach. In any event, I have no reason to suppose that the speed of flooding in such an event is so different that the upper end scenario should necessarily inform the design flood at this site.
35. A further part of the Agency's case for requiring the upper end scenario related to what it perceives as the particular vulnerability of students as a consequence of their behavioural characteristics, referring to issues such sleeping patterns, language difficulties, and attitude to risk.
36. Floods can occur at any time of night or day and there could be any reason why people might be sleeping at any particular time. I see no reason in this regard why students, as a group, might be at any greater risk than other residential occupiers of a 'more vulnerable' development. In any event, as set out later on, the study bedrooms would set well above even the H++ event flood level,<sup>19</sup> with the student Flood Response Plan based on most students staying put. On that basis, even if they were asleep, they would be safe.
37. It was also suggested that students returning to the accommodation after a night out might be unaware that there was flooding and try and get back to their accommodation through potentially hazardous flood conditions. I am mindful in this regard, that developments such as this in areas prone to flood risk both now and in the future but accepted to meet the Sequential Test, will either have to respond by reducing risks across the whole site, which will often be impracticable, or through floor raising, the provision of in-building refuge and safe access and escape routes.
38. In most cases, it will not be practicable to make an entire site safe for its lifetime. Indeed, the Framework recognises that risk will vary across a site advising, at paragraph 167, that within the site, the most vulnerable development should be located in areas of lowest flood risk. I recognise that areas around the appeal buildings may be exposed to greater hazard in any flood event, but the proposal is to provide safe refuge within the buildings in the circumstances of these relatively short-duration events, and to ensure that the buildings and associated services are flood resilient so that all residents, whose principal accommodation would be above the design flood level with suitable freeboard, are safe. Emergency access/egress or evacuation routes remain necessary and are addressed later on. I am not persuaded therefore,

---

<sup>19</sup> In relation to sea level rise, the Environment Agency's guidance *Flood Risk Assessments: climate change allowances* (October 2021) sets out the H++ scenario as a change of 1.9m for the total sea level rise to 2100 (CD.7.32) As confirmed in Table 4 in the proof of Mr Young and paragraph 4.8 of the proof of Mr Bailey, the H++ scenario is 10.97m AOD.



- that the argument pursued by the Agency in this regard provides justification for an upper end allowance in terms of the design flood in this instance.
39. In terms of those students for whom English may not be a first language, I have no reason to suppose that they would not, on arrival, be fully apprised of the Flood Response Plan by means that would make it fully understandable to them. I was advised, in this regard, that the Environment Agency did not refer to student behaviour and poor language skills as a reason for requiring use of the upper end allowance in its evidence to the recent Silverthorne Lane Inquiry, which development included some 693 student bedspaces.
40. In terms of attitude to risk, it may be that younger people are less risk averse, although no substantiated evidence was submitted in support of this aspect of the Agency's case. I recognise, in this regard, that the appeal scheme would introduce a significant student population into the area. Again however, I do not agree that that necessitates use of an upper end allowance in this instance. What were referred to as 'flood tourists' would, it seems to me, be just as likely, if they were so minded, to take risks in any flood scenario.
41. I am also mindful that in none of the eight consultation responses to the Council, or in discussions with the appellant, did the Environment Agency suggest that anything other than the higher central allowance should be used in the Flood Risk Assessment. The preference for the upper end allowance only became apparent in the Agency's Statement of Case, after the appeal had been lodged. Although Mr Willitts suggested that the Agency's change in approach was a consequence of a change in guidance, it transpired that the change he was referring to related to the updated sea level allowances using UKCP18 projections in the Agency's *Flood Risk Assessments: climate change allowances* guidance.<sup>20</sup> However, that amendment is dated 17 December 2019, more than a year before the Agency's final consultation response in January 2021.
42. The Agency's guidance also requires consideration as to whether it may be appropriate to apply the H++ allowance. In my view, such an allowance might be appropriate where, for instance, a development has a lifetime greater than 80-100 years, on the basis that it would still be around at a time when there is greater uncertainty in terms of modelling. Major infrastructure works may comprise such development, as referenced in the guidance. However, given the nature of the development proposed here, and its predicted lifetime, I am content that sensitivity testing against the H++ scenario is not required in this instance.
43. All told, no substantiated evidence was submitted to demonstrate that, as a category, students are any more susceptible to the risks of flooding than other groups of the population and their behavioural characteristics do not justify application of the upper end climate change scenario in this case. For all the reasons set out above therefore, I agree with the Council and the appellant that it is the higher central climate change scenario that should be reflected in the design flood, resulting in a design flood level of 10.14m AOD, with the upper end scenario used as a sensitivity test.

#### *Floor levels and freeboard*

44. A summary table of flood depths affecting different parts of the development, the proposed safe access/egress routes, and external areas during both a

---

<sup>20</sup> CD7.32

higher central and upper end flood event was submitted at my request.<sup>21</sup> In part, that was in light of the discussion at the Inquiry as to whether it was necessary to include any freeboard above the design flood across the development site and the proposed safe access/egress routes. I am mindful, in this regard, that freeboard is not an increase in the depth of flood water. Rather, it is the difference between predicted water levels and finished floor/ground levels allowing for residual uncertainties which may, for example, include modelling uncertainties.

45. Whilst freeboard is not a term that is mentioned in the Framework or the Planning Practice Guidance, the Bristol Level 1 Citywide Strategic Flood Assessment recommends a freeboard of 300mm.<sup>22</sup> I note too, that guidance produced by the Environment Agency<sup>23</sup> refers to a minimum freeboard of 300mm, increasing depending on levels of uncertainty. In this case, I was advised that the flood modelling is accurate to +/- 150mm. To my mind, that indicates that a freeboard here of 300mm could be considered as fairly generous, especially as there is unlikely to be wave action or similar. In any event, as confirmed by the summary flood depth table, the proposed finished floor levels for all the study bedrooms and kitchens, and the social/study spaces on level 05 and above, are at 11.945m AOD or higher, well above both the higher central and upper end design flood scenarios, including a 300mm freeboard allowance. Above even the H++ flood level of 10.97m AOD.
46. On the ground floor (level 00)<sup>24</sup> the main social/common space, the laundry and pump room, substation and switch rooms, the energy centre/boiler plant, comms room and an external loading bay, are shown at 10.77m AOD, above both the higher central design flood levels. Moreover, although not clear from the plans, the evidence of Mr Bailey, both in his proof<sup>25</sup> and orally, was that all plant items, including the boiler etc should be raised on plinths above the H++ level (10.97m AOD). That is a matter that can be secured by condition.
47. Other elements of the accommodation on the ground floor are set either at the design flood level of 10.14m AOD (heat exchanger, a meeting room, office, the entrance foyer, an area of social space to the north of Block B and the entrance to the Core A lifts and staircase) or below, at 8.8m AOD, the current ground level (two bin stores, a store room the cycle store).
48. It was acknowledged for the appellant that the entrance to the Core A lifts would need turning round 90 degrees so that access is taken from the social and common space at 10.77m AOD. Whether or not the lifts would be flood resistant (so continuing to work during a design flood) each of the Blocks is also served by various staircases which would provide access to the upper floors. Mr Bailey confirmed that reconfiguration of the lift access is a matter that could be secured by condition, with no implications for the external appearance of the development. He also confirmed that there was sufficient headroom to increase the floor level of the heat exchanger to above even the H++ level if required, without having any implications for the floors above. Again, that is a matter that could be controlled by condition.

---

<sup>21</sup> ID12

<sup>22</sup> CD7.54 (eg page 44)

<sup>23</sup> Delivering Benefits Through Evidence - Accounting for residual uncertainty: updating the freeboard guide (Report- SC120014) published February 2017 (CD7.38)

<sup>24</sup> Plan No 2786\_GAD\_120010\_R (Plan 2 in the bundle of plans at CD10.8)

<sup>25</sup> Paragraph 4.8. also re-confirmed in closing submissions for the appellant at paragraph 95.

49. The meeting room and office at 10.14m AOD, plus the other areas at 8.8m AOD are not critical for safe occupation of the building.
50. Turning then to the entrance foyer accessed off Feeder Road. This is set at the design flood level (10.14m AOD) and links to one of two alternative safe access/egress routes proposed. I return to the routes themselves in more detail later. In terms of the building itself, while the foyer may not be completely dry in a design flood because, for instance, of lapping water, the depth of water there would not be hazardous and, being space within the building, speed of flow would not be an issue. The same goes for the meeting room, office and the area of social space to the north of Block B. In a design flood plus an upper end climate change allowance, whilst those areas could well be flooded (depending on flood resistance measures) safe access and egress could be achieved via Route 2 (see below).
51. Mr Bailey also confirmed in his oral evidence, that the building could continue to function even in a H++ event, and that even if there was an off-site power failure, the on-site generator would provide back-up for 24 hours. The generator is shown adjacent to Block C, within the parking/servicing space between Blocks C and D. Whilst not clear from the plans, Mr Bailey confirmed that in fact, the generator room would be raised up to the H++ level, either on posts or columns, possibly with grilles/louvres, to allow for flood water beneath. Although the generator is not included on any of the elevations I am content, given its location within the parking/servicing area, that it would be acceptable to secure details of its height and appearance by condition.
52. The Environment Agency was concerned that the generator had not featured in any of the flood modelling. However, given that it would be set above the design flood level, mounted on posts/columns, it would not displace any meaningful volume of flood water and I see no reason why it would have a material effect on flow in terms of any implications for the surrounding area.
53. Subject to the above conditions, and conditions securing flood resilience measures within the student blocks to a minimum level of 10.97m AOD (the H++ level) to minimise residual risk, I consider the floor levels proposed to be acceptable.

#### *Use of voids*

54. Below slab voids are proposed for the site, to allow flood water to flow beneath the building in a tidal event and provide flood storage in a fluvial event.<sup>26</sup> At the Inquiry, whilst there remained no disagreement that the use of voids could be acceptable, the Environment Agency had concerns in relation to their efficacy in terms of performance and ongoing maintenance.
55. The total volume of water that would be displaced by the development in a design flood is 189m<sup>3</sup>. The total void volume available would be in the region of some 3,168m<sup>3</sup>, well in excess of the pre-development scenario.<sup>27</sup> In terms of any implications for increased flood risk elsewhere, a very slight dis-benefit in terms of flood depth on Albert Road for lower order fluvial events in 2080 was addressed in Revision C of the FRA,<sup>28</sup> through reconfiguration of the bin store

---

<sup>26</sup> Eg Fig 2 in the proof of Mr Young

<sup>27</sup> Figures taken from page 52 of the FRA Rev C (CD7.18 and CD10. 16)

<sup>28</sup> CD7.18 and CD10.16

beneath Block C to allow flow under the building and ensure connectivity from the front of the building through the flood storage area.

56. Neither the Council nor the Environment Agency called any evidence to demonstrate that the voids would not function as modelled. Indeed, I am mindful that the arrangement proposed is a lot simpler than one apparently endorsed by the Agency for the Soapworks development in Bristol, where voids were interconnected by a complex system of culverts.
57. As demonstrated by the hydrograph referred to earlier, water would only enter the voids once in a design flood event.<sup>29</sup> Based on that, concerns relating to consecutive tidal cycles flooding the voids are unsubstantiated. I understand that outlet from the voids would be to the Feeder Road frontage into the Floating Harbour, via flapped valves with a sump pumping to remove standing water left in the void following a flood.<sup>30</sup> I recognise that no details of the treatment of the voids is shown on the elevation plans but I am content that this is a matter that can be left to conditions. I have no reason to suppose in this regard, that the envisaged grilles/louvres would not be able to prevent large pieces of debris from entering the voids during a flood event. Even were silt etc washed into the voids, they are between 1.15 and 1.29 metres in height,<sup>31</sup> and so jet washing, or similar, to clear them of silt and/or any debris after a flood event, should not be problematic. A maintenance regime to that effect could be secured by condition.
58. Other concerns referred to potential use of the voids over time, for the storage of items which would reduce void capacity and inhibit the flow of flood water during a flood event. However, unlike private dwellings or private flats, the appeal scheme comprises managed student accommodation (whether that be by Unite, or some other similar organisation) whereby unauthorised storage could be readily controlled. Again, I consider that to be a matter that could be secured by condition.

#### *Safe access and access*

59. Under the heading *How can you ensure safe access and egress to and from the development?* the Planning Practice Guidance<sup>32</sup> requires that access considerations should include the voluntary and free movement of people during a 'design flood', as well as the potential for evacuation before a more extreme flood. Access and egress must be designed to be functional for changing circumstances over the lifetime of the development. Specifically:
- access routes should allow occupants to safely access and exit their dwellings in design flood conditions;
  - vehicular access to allow the emergency services to safely reach the development during design flood conditions will also normally be required;
  - wherever possible, safe access routes should be provided that are located above design flood levels and avoiding flow paths. Where this is not possible, limited depths of flooding may be acceptable, provided that the proposed access is designed with appropriate signage etc to make it safe.

---

<sup>29</sup> The water level would not exceed the current ground level of 8.8m AOD until, and only during, the third tidal cycle.

<sup>30</sup>

<sup>31</sup> Table 6.6 of the FRA Rev C (CD7.18 and CD10.16)

<sup>32</sup> Paragraph: 039 Reference ID: 7-039-20140306

The acceptable flood depth for safe access will vary depending on flood velocities and the risk of debris within the flood water.

60. There was some discussion as to whether the reference to 'free and voluntary' movement meant movement within a building. Even if it does (and I am not persuaded that that is necessarily the case) only very limited less-vulnerable, non-critical parts of the Blocks would flood during a design flood event, as set out above. As already noted, the main circulation and social space on the ground floor would be set above both the higher central and upper end design flood levels. The remaining parts of the ground floor to which the students would have access, are set at the design flood level (10.14m AOD). All the study bedrooms and kitchens, and the social/study spaces on level 05 and above, would be at 11.945m AOD or higher, well above both the higher central and upper end design flood scenarios, above even the H++ flood level of 10.97m AOD. All told, I am content that there would be voluntary and free movement within the building, sufficient to facilitate the 'stay put' regime that informs the Flood Response Plan (see below).
61. Having said that, I tend to agree with the Environment Agency that the reference in the Guidance to free and voluntary movement is aimed at external movement in both a design flood and a more extreme event. The appeal site lies within an area of Bristol which historically is prone to flooding. There is no dispute in this regard, that the water depths and velocities in the vicinity of the appeal site represent a current danger to most (a danger to all further south along Albert Road) increasing to a danger to all over the lifetime of the development in both the higher central and upper end scenarios. Pedestrian and vehicular access and egress along existing roads is therefore not an option during a design flood event. In response, two alternative routes are proposed, as described at Section 2.2 of the FRA and as shown on Plan 9 of the bundle of plans provided for the Inquiry.<sup>33</sup> Further illustrative detail is provided in an Appendix to the Landscape and Public Realm Strategy.<sup>34</sup>
62. Route 1 leaves the building via the Feeder Road entrance foyer, passing along the front of Block B before heading out across an area of proposed public realm to the Avon Street bridge. The route then crosses the bridge (over the Feeder Canal /Floating Harbour) where it is intended that it would link into a high level walkway system proposed in connection with the Silverthorne Lane development. However, the outcome of the Silverthorne Lane Inquiry is not yet known and so delivery of the high level walkway is not certain. Route 1 also requires off-site works to the Feeder Road/Albert Road junction, on the south side of the bridge, including raising the ground levels here, with corresponding works to the canal parapets and railings etc. A Grampian-type condition is proposed to deal with these matters, precluding occupation unless and until the escape route is completed and available for use.
63. The ground raising and other works proposed to the highway have been worked up and are shown in plan form.<sup>35</sup> I have no reason to suppose that the works are not technically feasible, or that they would have any adverse impact on the highway or its operation. The works would also tie in with the proposed highway improvement along the Feeder Road frontage of the site to accommodate an extension to the existing cycle route (see below).

---

<sup>33</sup> CD10.8

<sup>34</sup> CD10.9

<sup>35</sup> Plan No 1808-36 SK111 Rev A on page 15 of the plans bundle (CD10. 8)

64. That part of the route from the development to the Avon Street bridge would be at the design flood level including an allowance for climate change ie 10.14m AOD. The bridge is at a sufficiently high level such that no raising of that part of the route is required. The Environment Agency raised concerns about wave action and the potential for debris to be washed onto the route. However, even should the route get wet, the additional depth of water would be minimal and of low velocity. Moreover, in the section of the ADEPT guidance dealing with what an emergency plan will need to deal with (which guidance was prepared in part by the Environment Agency<sup>36</sup>) there is no mention in relation to escape routes, of any requirement for an allowance for freeboard above the design flood event (including climate change).
65. It seems to me that at worst, the scenario envisaged by the Agency may present a danger for some, and then only for a period around 30 minutes at the peak of the flood event. I am mindful, in this regard that the ADEPT Guidance does not require pedestrian routes to be dry, rather that they should not be subject to any combination of depth and velocity that would result in a flood hazard rating<sup>1</sup> of 0.75 (danger for some) or greater. As the accommodation is intended for students (as opposed, for instance, to being for children or the elderly) the access would, in all likelihood, be safe, albeit not dry.
66. Whilst any debris on the short route between the building and the bridge would, in my view, be clearly visible and would be unlikely to be of such size that it could not be easily moved out of the way given the minimal depth of any water that might lap onto the route, or present such a hazard as to make the route dangerous or impassable, measures to minimise debris blocking the walkway, such as kicker boards, could be secured at detailed design stage if necessary. In any event, as the flood events affecting the site would be tidally dominated, they would be relatively short lived, with the hydrograph at figure 6.16 of the appellant's FRA showing that during a design flood event in 2120, the water level would be at 10.14m AOD only for around 30-40 minutes, with the surrounding land under water to varying degrees for around five hours.
67. Mr Sugden, for the Council, raised concerns about the integrity of the bridge should it be struck by debris, such as a tree or a car washed into the canal during a flood event. However, during cross-examination of Mr Sugden and the evidence in chief of Mr Bailey, it became clear that there is no real possibility of a tree being carried up to the bridge through the Floating Harbour, because of other obstacles to progress along that route. Moreover, the distance that a tree would have to travel up the River Avon, on a rising tide, and the need for it then to migrate across flooded land and structures before reaching the bridge means that this scenario is very unlikely. In relation to any tree in the river travelling down the River Avon during a flood event, the appellant's modelled flow diagram<sup>37</sup> demonstrates that the preferential flow is along the main channel over Netham Weir, rather than into the Feeder Canal and the Floating Harbour. Even if any tree did leave the main channel, it would have to pass over Netham Lock, which would be closed in a flood event, or pass overland to the south of the lock where there are existing buildings to negotiate.

---

<sup>36</sup> Flood Risk Emergency Plans for New Development - A guide for planners: How to consider emergency plans for flooding as part of the planning process (published September 2019) CD7.27

<sup>37</sup> ID7f

68. All in all, I consider that the chance of a tree reaching the Avon Street bridge to be highly improbable. In any event, the evidence before me<sup>38</sup> was that the impact force a tree, or a car, would have on the Avon Street Bridge would be insignificant - a car striking the bridge would be 7.5kN compared to standard design load of 150kN. Should a tree reach the bridge, the force would be even less, because of the greater deformation that would occur due to the tree's branches and root ball. Even were a car to become lodged against the bridge, Mr Bailey calculated the force exerted as being some 8.75kN, which again is insignificant for a bridge he estimated to weigh 150 tonnes (or 1,500 kN).
69. In terms of access by emergency services, vehicles would be able to get access to the proposed high-level walkway at the eastern end of the Silverthorne Lane development (if approved). The western elements of the Silverthorne Lane development would be 500m from the closest emergency vehicle access, which apparently was acceptable to the Council at the related Inquiry. However, it would be a further 250m from there to the current appeal site, over the bridge and across the Feeder Road/Albert Road junction. On that basis, even to get to the building would require a round trip on foot, potentially with a trolleyed stretcher or wheelchair, of some 1.5 kilometres, quite apart from any journey once inside the building, potentially up 14 floors. To my mind, the residual risk that would be a consequence of the distance involved for all emergency service vehicles during a design flood event, is unacceptable. Moreover, it would be dangerous, potentially, during a more extreme flood event.
70. Route 2 comprises a pedestrian route from the western side of the development.<sup>39</sup> It would leave Block C at first floor level (01) at a height of 14.82m AOD on an elevated walkway that would run alongside the appeal site towards the River Avon, where it would then turn west towards Brock's Bridge, landing on an embankment and meeting the bridge at a height of 10.65m AOD.<sup>40</sup> Minor re-grading of the cycle path adjacent to Brock's Bridge would be required, together with adjustments to an existing handrail and removal of a small section of the pedestrian parapet. Even at its lowest point on the last part of the route on the approach to the bridge, the walkway would be above the design flood, including a 300mm freeboard.<sup>41</sup>
71. In terms of sensitivity testing, that last part of the route would be at the design flood level in the upper end climate change scenario, but with no freeboard. In that event, any water on the route would not necessarily make it hazardous, because of low water velocity and shallow depth and the limited time of the flood peak, given that the nature of tidal flooding is such that it can be relatively short lived as the tide ebbs and flows. Indeed, the hydrograph referred to earlier shows that during a design flood event in 2120, the surrounding land is expected to be under water to varying degrees for around five hours. All in all, for the reasons set out in relation to Route 1, I am not persuaded that the route would be dangerous or impassable even in the more extreme scenario.

---

<sup>38</sup> ID10 and evidence in chief of Mr Bailey

<sup>39</sup> Fig 13 in the proof of Mr Bailey and Fig 2.8 in the FRA (CD7.18 and CD10.16). A stylised visualisation of this route is at CD10.9.

<sup>40</sup> A larger embankment was originally envisaged here to provide an element of flood defence. However, as confirmed by Mr Bailey in his rebuttal (paragraph 3.6) no flood defence embankment is proposed as part of this application.

<sup>41</sup> See line 21 of ID12

72. That part of the route between Block C and the bridge would be across third party land. The appellant has secured a letter from Homes England, the current owner of the land, confirming that it is looking forward to achieving both a holistic scheme from a placemaking perspective, together with satisfactory ingress and egress routes for both sites, adding that it has no objections to the proposed route across its land.<sup>42</sup> I recognise that that is not firm confirmation of agreement. It is, nevertheless, an indication of a willingness to work together to the mutual benefit of both sites and I see no reason why this part of the proposed route would, as a matter of principle at least, be undeliverable.
73. The Council raised concerns in respect of the stability of the river bank here, in relation to construction of the new embankment. It would be set some 5 metres back from the river bank, behind the existing cycle path. Even were some ground stabilisation works required, I have no reason to suppose that an appropriate engineering solution could not be found and that the method of construction could be adapted to suit during delivery. Indeed, in his evidence in chief, Mr Bailey mooted the possibility of a lightweight suspended steel route for the entire length, using a mini-piled foundation, thus removing the need for an embankment.
74. Whilst the plans for the route are only indicative at this stage, I have no reason to suppose that the route would vary to any material degree on implementation, not least since as shown, it maximises potential use of the remainder of the adjacent site. Construction of the walkway would require planning permission in its own right and, depending on the final construction method, may need an Environmental Impact Assessment. Be that as it may, there is nothing in the evidence before me that leads me to the view that there is any reason why it might not be achievable in practice. I am mindful in this regard, that it is the clear intention of the Council and Homes England to develop the site.
75. The route would then cross the bridge, which ramps up onto Temple Island. Temple Island is at roughly 14.00m AOD, in flood zone 1, clear of any currently predicted flooding. It is intended that pedestrian and vehicular access would then be taken through an arch, up onto to Bath Road (A4).
76. Although Brock's Bridge is not currently open to the public, it is a significant piece of infrastructure that provides the only access to Temple Island at present. It would be used to gain access to already consented (but not yet built) development on the Island, including 953 student bedspaces and a mix of A1, A3, A4, A5, D1, D2 uses. Given the pressing need for student accommodation in the City, and noting that reserved matters approval has been granted for layout, scale, appearance and landscaping,<sup>43</sup> I have no reason to suppose that the bridge would not be open for public use in the not too distant future.
77. That part of the route on Temple Island through to Bath Road<sup>44</sup> would also be over third party land. I note that it is the clear intention of the Council and others, including the University of Bristol, to redevelop the Island as part of the Temple Quarter Enterprise Campus. Accommodation already approved on the

---

<sup>42</sup> Appendix C to the proof of Mr Bailey

<sup>43</sup> Reserved matters approval granted 6 December 2019 (application No 19/02952/M) (CD10.4)

<sup>44</sup> Plan No P18110-HWA-ZZ-XX-DR-C-5300 Rev P01 (page 19 of the plans bundle at CD 10.8)



Island is for the University of Bristol, with the University supporting the current appeal. I have no reason to suppose, therefore, that there would be any impediment in principle to delivery of the proposed route, even recognising that the consent of others may be required in terms of use of the very final part of the route under the road. I am mindful in this regard that emergency vehicles would also need to be able to access future development on the Island (which in part is already approved) in a design flood event via this route given that, based on the evidence before me, vehicular access via Cattlemarket Road/Feeder Road would not be achievable.

78. Using Route 2, emergency vehicles would be able to get to the walkway, the bridge end of which is at 10.65m AOD. Contrary to the view of Mr Sugden for the Council, who asserted that emergency vehicles would, on crossing the bridge in a northerly direction, find themselves in hazardous water during flood conditions, the end of the bridge would be above the design flood. Even in an upper end flood event, the end of the bridge would be at water level, as opposed to being in hazardous water.
79. Whilst access for emergency service vehicles right up to the development proposed would be impossible for a period of around five hours in a 0.5% AEP tidally dominated surge event,<sup>45</sup> they would be able to get within some 150 metres of Block C (at the northern end of the bridge) from where access can also be gained to Blocks A and B. That would involve a round trip on foot of some 300m along the high-level walkway, plus any journey time within the building. I consider the residual risks in this regard to be acceptable.
80. Given the need to use third party land to secure Route 2, the appellant proposed a Grampian-type condition, precluding occupation of the buildings unless and until the escape route is completed and available for use. Both the Council and the Environment Agency raised concerns in this regard.
81. As confirmed in *British Railways Board v Secretary of State for the Environment and others* [1993] 3 PLR 125,<sup>46</sup> relied on by the appellant, even where a desirable condition appears to have no reasonable prospects of fulfilment, that does not mean that planning permission must necessarily be refused: something more is required before that can be the correct result. As confirmed in that judgement, this is because where a developer considers that it would be in its interest to secure planning permission notwithstanding difficulties that may be faced, for instance in the way of site assembly, or restrictive covenants, it is not for the planning authority to refuse it simply on its view of how serious those difficulties are.
82. The Environment Agency drew attention to the more recent judgement in *London Borough of Hillingdon v Secretaries of State* [2020] EWCA CIV 1005. In that case, the court ruled that a Grampian-type condition could not be used because deliverability of a mitigation scheme was dependent on the outcome of a yet to be carried out archaeological investigation in an area of known archaeological interest, the outcome of the investigation having the potential to impede the required mitigation were anything of archaeological significance to be found.
83. In the instant case, the owner of the adjacent land, Homes England, has indicated a willingness to facilitate the proposed route, with the University of

---

<sup>45</sup> Paragraph 6.3.4 of the FRA

<sup>46</sup> ID1

Bristol having an interest in developing both the appeal site and Temple Island such that there would be no reason to withhold cooperation in terms of a route through the Island, and with the Council positively promoting redevelopment of the area generally through the emerging local plan. On that basis, it seems to me that there is a reasonable prospect of the route being delivered, notwithstanding that that it will require the consent/agreement of other landowners and statutory consent. In my view therefore, the principles established in *Hillingdon* are not engaged in this case. As such, I am content that a grant of planning permission subject to a Grampian-type condition to secure route 2 as a safe access/egress route, would be appropriate in this instance.

84. The appellant referred a number of times to free access to the site only becoming an issue because of flooding after 2050, the year when predicted flood levels would mean that emergency vehicles were unable to get through both the Avon Street and Cattlemarket Road rail underpasses, the implication being that the proposed access/egress route would not be needed until then. However, that ignores the fact that a 1:200 year event on which the design flood is based, or greater, *could* occur long before then. Indeed the ADEPT guidance referred to earlier,<sup>47</sup> confirms that there is the potential need for evacuation before a more extreme flood (a flood with an annual probability of 0.1%) taking climate change into account. On that basis, since the development proposed would expose more people to extreme events, I agree with the Environment Agency that the route needs to be available for occupiers from day one of occupation, ie made safe for the *lifetime* of the development.

#### *Flood Forecasting and Warning*

85. The Environment Agency referred to some 30 plus flood alerts a year being issued for the Bristol area currently. Absent the presence of strategic flood defences, those warnings are likely to increase over time. There was concern in this regard that students would suffer flood alert 'fatigue' and would ignore those alerts if nothing came of them, such that when an alert was issued for an event that did materialise, it would be too late. However, flood alerts simply indicate that an area should prepare, including staying up to date with the latest flood alerts. It doesn't indicate that a specific development would necessarily be in danger. Rather, it raises awareness, with no specific actions or restrictions required. As such, it is not clear how the students might suffer from the 'fatigue' envisaged.
86. A flood warning, however, indicates that flooding is expected and would require immediate action. As set out earlier, the Environment Agency endeavours to issue flood warnings with a lead in time of at least 6 hours. The rebuttal evidence of Mr Taylor, for the Environment Agency, included a table showing examples in relation to a lower order (and therefore perhaps more difficult to predict accurately) flood event in Bristol in March 2020, where one warning was not given and where two warnings given with less than 6 hours lead in time, one being significantly less (34 minutes). However, I agree with the appellant that the effect on Bristol that would be a consequence of the severity of a design flood event makes it highly improbable that weather warnings from the Met Office and the flood alerts/warnings issued by the EA would not be issued on a precautionary basis and in a timely manner.

---

<sup>47</sup> CD7.27

87. In coming to a view on this, I am also mindful that this would be a managed building (as opposed to individual dwellings for instance) which would be purpose built and designed to be largely flood resistant, where the plan would be for occupiers to stay put (see below) with a safe evacuation route for the lifetime of the building for anyone wishing to vacate the premises before or during a design flood event. On that basis, even were a warning to be delayed, or even potentially absent, it seems to me that residual risks could be safely managed.

#### *Flood Warning and Evacuation Plans*

88. Flood Warning and Evacuation Plans (FWEPs) would be required for both the student accommodation and the commercial development. Whilst they would be based on the different flooding vulnerabilities and needs of the various parts of the site, the overall aim is to ensure that employees, residents and visitors to the development are safe and that the scheme does not place an additional burden on the emergency services. Other than concerns relating to the potential increase in numbers that might need to be evacuated from the student accommodation the Council, which has responsibility for approving the FWEP, did not criticise the document. Whilst the Environment Agency raised no specific concerns in relation to the draft response plan for the commercial units,<sup>48</sup> issue was taken with the draft student response plan.<sup>49</sup>
89. In essence, the draft response plan restricts access to those areas of the site which may become unsafe in a flood event, expects that any short-term requirements are addressed (including food and other supplies) and seeks to ensure that any residents and staff with particular vulnerability issues or medical or other needs are appropriately catered for or evacuated.
90. I recognise that there are some shortcomings with the plan as currently drafted, including a lack of clarity about the number of appropriately trained staff members on hand at any one time to co-ordinate a response; how flood wardens would be recruited and trained and whether they would be paid or work as volunteers; assuming they were recruited from the student body, what would happen if they weren't on site in the lead up to and during a flood event; what the different roles and areas of responsibility would be during a flood event; and where students that needed to be evacuated would be evacuated to. It was suggested for the appellant in this regard, that a more detailed Plan could be secured by condition were the appeal to succeed.
91. The Environment Agency drew my attention to a recent decision relating to three linked applications in Skegness, which were called in for determination by the Secretary of State,<sup>50</sup> suggesting that it demonstrated that key matters, such as the way a FWEP would operate, and a judgement as to whether it would be effective, were integral to any approval and could not be left until a later date. However, my reading of the Inspector's Report is more nuanced.
92. That case involved three Section 73 applications<sup>51</sup> relating to occupancy conditions on separate caravan sites on the east coast. The risk of flooding of all three sites derived from a catastrophic breach of existing coastal defences, including flooding of evacuation routes. The site-specific flood risk assessments submitted did not offer any additional protection or prevention

---

<sup>48</sup> Appendix C to the FRA (CD7.18)

<sup>49</sup> Ibid Appendix B

<sup>50</sup> Nos APP/D2510/V/20/3262525, /3262551 and /3262549 Decision dated 17 January 2022. (ID11a)

<sup>51</sup> S73 of the Town and Country Planning Act 1990 (as amended) ie appeals against conditions

measures and generally relied on the FWEPs. Those FWEPs required everyone to leave the sites before they were affected by a flood event, the trigger being a flood warning. The Inspector found that given the particular circumstances of those cases, the adequacy of the FWEPs was not a matter that could be left to be resolved by conditions, not least because the identified trigger may come too late to allow for safe evacuation, and that some occupiers may resist evacuation in order, for instance, to try and minimise the effects of flooding in on their property. If the FWEF failed in any way, such that people were still on site when flood conditions occurred, they would be exposed to danger and likely to be in need of rescue. Given the significant uncertainty as to how any re-drafted FWEPs would operate, and significant doubt about the effectiveness and reliability of them in those particular cases, the Inspector could not conclude with any reasonable degree of confidence that re-drafted FWEPs, secured by conditions, could ensure that everyone would leave the sites before they were affected by a flood event.

93. Those are case specific considerations and do not indicate that conditions are fundamentally unsuitable for dealing with such matters. The circumstances that prevail here are very different from those at Skegness. Here, the flood threat is different and is more predictable; the plan would be to stay put, with all the study bedrooms and kitchens, together with the vast majority of the social and common space, being above the design flood. Moreover, for the most part, only those who had previously indicated a particular vulnerability necessitating evacuation, would be evacuated. There is no reason to suppose in this regard, that they would resist evacuation. Furthermore, the evacuation route (Route 2) would be safe for the lifetime of the building for anyone wishing to vacate the premises and, as purpose built student accommodation, the buildings would also be subject to a management regime (whether operated by Unite or some other company) with flood wardens etc. In essence, the instant appeal can be clearly distinguished from the Skegness decisions, and I have considered it on its own merits.
94. As to the scale of any evacuation, it is important to bear in mind that that the Council takes no issue with the principle of the development proposed in this location. I have found that the development would be safe for its lifetime taking account of the vulnerability of its users, with the response being based on a 'stay put' policy during an event for the majority of residents, as opposed to a mass evacuation. Even if the whole building did need to be evacuated, Route 2 proposed would provide a safe means to achieve that. I am mindful, in this regard, that Ms Pettit, for the Council, confirmed in cross-examination that the emergency services had been consulted on the proposals and that no objections had been received in relation to any potential increased pressure on them during an emergency as a consequence of the development proposed.
95. All told, I am not persuaded that the shortcomings of the draft student response plan are decisive in this instance. I am satisfied in this regard that a more detailed, suitably robust site specific FWEF could be secured by condition to address residual safety risks.

#### *Overall Conclusion on Flood Risk*

96. There is no dispute in this case that the Sequential Test is passed. For the reasons set out above, I also find that both parts of the Exception Test are passed. On that basis, I consider that the appeal scheme represents an

acceptable form of development having regard to flood risk in relation to future occupiers and any implications for increased flood risk elsewhere. I find no conflict therefore, with policy BCS16 of the Core Strategy, which allows for the development of sites with a sequentially greater risk of flooding where essential for regeneration, or where necessary to meet the development requirements of the city. The policy also expects that development is required to be resilient through design and layout and/or by incorporating sensitive mitigation measures in order to ensure that the development remains safe over its lifetime, and that there is no increase in flood risk elsewhere. I find no conflict either, with the relevant sections of the Framework.

### **Heritage Assets**

97. There would be no direct impact on any designated heritage assets as a consequence of the development proposed. The site does, however, lie within the setting of a number of listed buildings, the most relevant of which, as agreed by the Council for the purposes of this appeal, are discussed below.

#### *Old Station, Temple Meads*

98. The grade I listed Old Station lies some 360 metres northwest of the appeal site. It comprises the western part of a complex of railway buildings constructed in 1839-41 by Isambard Kingdom Brunel for the Great Western Railway Company. Its heritage significance is principally derived from its physical fabric and its historic, architectural and aesthetic interest as an important example of mid-19<sup>th</sup> century railway architecture and the works of Brunel. For the most part, any contribution made to that significance by its setting is derived from its location and position within the Temple Meads Station complex.

99. It is also relevant however, to consider the way views allow the significance of the asset to be experienced and appreciated. Historic England raised concern in this regard, in relation to the potential impact of proposed Block B, which would project very slightly above roofline of the Old Station building in views from Redcliffe Way to the northwest of the asset. It was agreed by the Council at the Inquiry, that any harm in this regard would be towards the lowest end of the spectrum of less than substantial harm as referred to in the Framework. I have no reason to disagree

100. I am also mindful that outline planning permission has been granted for a significant development referred to as the TQEC scheme,<sup>52</sup> located between the appeal site and Temple Meads Station. As referred to earlier, a number of reserved matters have already been approved and I have no reason to suppose that that development will not proceed. When it does, it will change the townscape within the Temple Meads area. In particular, in views from Redcliffe Way towards the appeal site, the approved TQEC buildings would have a much greater impact on the experience and appreciation of the Old Station than would Block B of the appeal scheme.<sup>53</sup> The Council agreed at the Inquiry that in that context, any impact as a consequence of Block B would at worst, be negligible, at the very bottom of the spectrum of harm that is less than substantial. Again, I have no reason to disagree.

---

<sup>52</sup> Temple Quarter Enterprise Campus.

<sup>53</sup> As demonstrated for instance by Plate 2 of the Appeal Note – Heritage at Appendix MR1 to the proof of Mr Roe for the appellants.

### *St Vincent's Works*

101. The Gothic Revival style grade II\* listed Works is located some 235 metres to the northeast of the appeal site, off Silverthorne Lane on the far side of the Feeder Canal. Its heritage significance derives principally from its historic fabric and its historic, architectural and artistic interests as an outstanding example of late C19<sup>th</sup> factory architecture. Any contribution made to that significance by its setting is, for the most part, derived from its location and position in relation to the surviving elements of the wider factory complex.
102. Historic England is of the view that the appeal scheme would have a dominant impact on the setting of the Works, with the Council considering that the verticality of the proposed development would conflict with its setting. However, as demonstrated by Plate 3 of the Heritage Report at Mr Roe's Appendix MR1, this clearly would not be the case. It is important to remember in this regard, that setting is not part of the heritage asset. In views looking southwest towards the appeal site from the junction of Gas Lane and Silverthorne Lane (with the Works to the left)<sup>54</sup> I agree with the appellant that the development proposed would not impact upon the ability to experience or appreciate the overall architectural and historic interest of the Works, whether the scheme is considered by itself, or in conjunction with the approved TQEC scheme, which would also be seen in the same view. There would be no harm in this regard.

### *Former Marble Mosaic Factory*

103. This grade II listed warehouse building, currently in use as an entertainment venue (Motion Nightclub) is located opposite the appeal site, some 70 metres away on the opposite side of the canal. Its heritage significance derives largely from its physical fabric and its historic and architectural interest as a mid-C19<sup>th</sup> industrial building associated with the industrial development and use of the St Phillip's area during that period. Any contribution made to that significance by its setting is, for the most part, derived from its immediate curtilage.
104. In views looking south along Avon Street, the development proposed would be seen rising up behind the listed building diminishing, to some degree, one's appreciation of it and the way it is experienced in the street scene. I agree with the Council that there would be some harm in this regard. However, that harm would be less than substantial, at the lowest end of the range.

### *Silverthorne Conservation Area*

105. The western end of the recently designated Silverthorne Lane Conservation Area extends across the site frontage and includes the Feeder Canal, at the southern end of the Floating Harbour. There is no statutory duty to have regard to the setting of Conservation Areas in the same way that there is for listed buildings. The only statutory protection relates to their character and appearance, and that is in relation to development *within* a Conservation Area - the appeal site lies adjacent to but outwith the Conservation Area.
106. However, the requirement at paragraph 200 of the Framework to assess harm to heritage significance, includes any harm that might arise from development within the setting of any heritage asset. The heritage significance and value of this Conservation Area derives from the surviving buildings within it which

---

<sup>54</sup> Ibid Plate 4

evidence its industrial past, particularly from the early 1820s onwards, with the built form in the area resulting in part from the importance of the water courses to those industries. Other than the railway, I am not persuaded that the setting of the Conservation Area contributes much to its heritage significance, not least because it is generally inward looking. Whilst there are vestiges of buildings of commensurate date on the appeal site, there is nothing in their current state that makes any meaningful contribution to the heritage significance of the Conservation Area.

107. Whilst the development proposed would be seen in some views of the Conservation Area, its positive response to the public realm on Feeder Road and at the junction of Albert Road with Feeder Road, as well as along Albert Road, would only serve to enhance any appreciation and experience of the heritage significance of the Conservation Area. I find no harm in this regard.
108. In relation to proposed access/egress Route 2, the appellant's Heritage Appeal Note<sup>55</sup> identifies that only the Conservation Area and the Former Mosaic Factory have the potential to be affected. I agree. Even then, any intervisibility with the Mosaic Factory is very tenuous. It is not clear at this stage exactly what use the adjacent Homes England site will be put to in the future. However, if was to be redeveloped, any buildings on the site would entirely screen the proposed walkway from both those heritage assets. Even if, as referred to in the appellant's Note, the site is to form an area of public realm, I am satisfied that the siting of the walkway would not result in a change that would impact on the heritage significance of either asset, or on one's overall experience and appreciation of them. I find no harm in these regards.

#### *Non-designated Heritage Assets*

109. With regard to built form on the appeal site, only three of the buildings<sup>56</sup> have any heritage significance which, at best, can only be described as limited. It was confirmed, however, that they are recorded on the Council's Historic Environment Record. I have, therefore, dealt with them as non-designated heritage assets.
110. The three buildings are much altered, with only fragmented historic interest. What interest there is derives mainly from the evidential and historic value of their building fabric, with the oldest parts of some of the walls dating from the mid to late C19<sup>th</sup>. Their original use is no longer discernible and, with the exception of building 8, no internal features of particular merit remain. Building 8 is of slightly more interest than the other two, with the original first floor and roof structure remaining. Even so, the building is only of minor local interest. Demolition of these buildings would result in total loss of their heritage significance.

#### *Overall Conclusion on Heritage Assets*

111. For the reasons set out above, I have found no harm to the heritage significance of the adjacent Conservation Area or to the special interest and significance of St Vincent's Works, which interests would be preserved. I have,

---

<sup>55</sup> Appendix MR1 to the proof of Mr Roe.

<sup>56</sup> Building Nos 2, 6 and 8 as shown on Plate 3 and Table 1 of the Pegasus Heritage Addendum dated September 2020, which accompanied the planning application. (Appended to the appellant's Heritage Appeal Note at MR1 to the proof of Mr Roe)

however, found that there would be some harm to the heritage significance of the grade I listed Temple Meads Station. That harm would be at the low end of the spectrum of less than substantial harm referred to in the Framework, reducing further still when it is considered together with the approved TQEC development. I have also found less than substantial harm, at the lowest end of the scale in relation to the heritage significance of the Former Mosaic Factory. Those harms, albeit slight, bring the development into conflict with policy BCS22 of the Core Strategy and policy DM31 of the SADMP, which together and among other things seek to safeguard or enhance heritage assets.

112. The loss of significance of the non-designated assets also results in conflict with the same policies. Paragraph 203 of the Framework requires that such harm be weighed against the public benefits of the scheme.

### **Planning Obligations**

113. The appeal was accompanied by a schedule of planning obligations in the form of a deed of agreement, subject to the usual contingencies.<sup>57</sup> At my request, the Council also prepared a compliance schedule to assist assessment of each of the obligations against the tests contained in the Community Infrastructure Levy (CIL) Regulations 2010 and as set out at paragraph 57 of the Framework. Namely, they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.

114. The provisions can be summarised as:

- the payment of a travel plan monitoring fee of £3,735;
- an undertaking to connect the development to the Bristol Heat Network;
- an undertaking preventing occupation until rights to maintain off-site public realm improvements on the northern corner of the site at the junction of Albert Road with Feeder Road have been secured for the lifetime of the development; and,
- provision of two of the units on the Albert road frontage beneath Block C as public art units for use by art graduates.

115. The obligations were the subject of detailed discussion at the Inquiry. Among other things, I was concerned to ensure that the monitoring fee was properly justified. A detailed explanation for the figure secured is provided in the Council's document *Travel Plan Guide for New Developments*,<sup>58</sup> which supersedes the figures referred to in the Council's Planning Obligations SPD.

116. Connection to the district heat network is required in order to ensure the most effective means of providing low-carbon energy in Bristol, pursuant to the Heat Hierarchy set out in policy BC14 of the Core Strategy.

117. The submitted plans show an area of public realm outwith the red line of the appeal site which is to be laid out and landscaped as part of the scheme. Its

---

<sup>57</sup> ID17

<sup>58</sup> CD3.9



laying out and ongoing maintenance is necessary in terms of the character and of the development itself and the area generally. Conditions cannot be used to require that something happen on such land. Since it is necessary, it can only be secured by planning obligation.

118. Among other things, policy BCS21 of the Core Strategy requires that new development should enable the delivery of permanent and temporary public art. Pursuant to that, two of the smaller commercial units are secured for use by arts graduates linked to the public art plan for the new university campus.

119. In light of the related discussion at the Inquiry, I am satisfied that all the contributions and obligations referred to above are now consistent with relevant planning policies, objectives and guidance. I am content, therefore, that the obligations comply with the requirements set out in the Regulations and the Framework and can be taken into consideration.

### **Benefits of the Development Proposed**

120. Compliance with a number of development plan policies was prayed in aid by the appellant as a benefit of the appeal scheme. For the most part however, I consider that to comprise an absence of harm, as opposed to a consideration that attracts positive weight in the planning balance. That includes, for instance, matters such as high quality design, which is expected of all new development, the acceptability of the principle of the development proposed in a part of the city identified by the Council as an area of change suitable for new student accommodation, and connection to the district heat network, which is encouraged by policy in order to mitigate and adapt to climate change. The support of Bristol University for the scheme<sup>59</sup> does not attract positive weight either.

121. The evidence of the appellant demonstrates a significant unmet demand for student accommodation in Bristol, which demand will only increase with development of the Temple Quarter Enterprise Campus. That is a consideration that attracts substantial weight.

122. With a current 2.8 years supply of housing land, there can be no doubt that there is a pressing need for new housing in the city. The Planning Practice Guidance confirms that all student accommodation can, in principle, count towards contributing to an authority's housing land supply.<sup>60</sup> No-one took any issue with the appellant's identified ratio of 2.5:1 in this regard, given the specific nature of the accommodation proposed. On that basis, the 595 student study bedrooms proposed equate to 238 dwellings, which would make a meaningful contribution to the Council's housing land supply, as well as relieving pressure on the local private rental housing market. That is a consideration that attracts substantial weight.

123. There would be financial and employment benefits relating to the construction phases and also the operative phase of the development. The local economy would also benefit from increased spend. Given the scale of the development proposed, I give these benefits significant weight.

124. The scheme includes a small amount of incubator space to foster innovation and support start-ups. I give that benefit moderate weight.

---

<sup>59</sup> CD10.1

<sup>60</sup> Paragraph: 034 Reference ID: 68-034-20190722

125. Land along the Feeder Road frontage would be dedicated to the Council to facilitate improvements to the safety and attractiveness of the cycle route past the site on Feeder Road. Although required to help mitigate increased use of the cycle route by future students, the improvements would also benefit existing users. That is a consideration that attracts moderate weight. Improvements to the public realm along Albert Road and on the corner of Albert Road/Feeder Road would not only provide a suitable setting for the development proposed, but would also improve the streetscene to the benefit others. That attracts limited weight.
126. There is little biodiversity on the site at present. The appeal scheme includes a planted courtyard and roof terrace, plus other areas of planting around the buildings. More significantly, brown roofs are proposed to all four blocks.<sup>61</sup> Together those measures would result in a significant, albeit unquantified increase in biodiversity on the site, although that is tempered to some extent by the fact that much of the brown roof space would be beneath planned PV arrays. Accordingly, I afford the benefits in this regard only moderate weight.

### **Other Matters**

127. Use of the former Mosaic Factory as a nightclub (Motion) gives rise to potential noise issues for future residents, as well as having implications for the 'agent of change principle'. Both the appellant and the night club conducted their own noise surveys.<sup>62</sup> It is my understanding from the evidence before me that Motion operates within the parameters of its licence and that acceptable acoustic mitigation is proposed within the development, including an enhanced façade and attenuated ventilation measures. That is a matter that can be secured by planning condition. I have no reason to suppose, therefore, that there would be any conflict with policy DM35 of the SAMDP which, among other things, requires appropriate schemes of mitigation to ensure adequate living conditions for future occupiers of noise sensitive development.

### **Overall Planning Balance and Conclusion**

128. It was a matter of common ground that the Council is unable to demonstrate a five year supply of housing land. As a consequence, so-called tilted planning balance set out in Framework paragraph 11d)ii) is engaged. In essence, permission should be granted unless the presumption in favour of sustainable development can be displaced.
129. Subject to the use of appropriate conditions, I have found no harm in terms of flood risk, with residual risks in terms of safety suitably addressed. I am mindful, in this regard, that paragraph 167 of the Framework refers to the need to manage residual risk, an acknowledgement that not all risk can be eliminated. Indeed, the Planning Practice Guidance defines residual risks as those that remain after applying the Sequential Test and the taking of mitigating actions.<sup>63</sup> As such, having regard to paragraph 11d)i) of the Framework and footnote 7, the risk of flooding in this case does not provide a clear reason for refusal.
130. I have, however, found harm to the heritage significance of the grade I listed Temple Meads Station and the Former Mosaic Factory, albeit less than

---

<sup>61</sup> GA Roof Plan No 2786\_GAD\_120016\_G

<sup>62</sup> CD5.30, CD10.14 and Appendices 4 and 4.1 to the proof of Mr Roe.

<sup>63</sup> Paragraph: 041 Reference ID: 7-041-20140306

substantial. Having regard to the provisions of paragraph 202 of the Framework, I consider the benefits outlined above to be more than sufficient to outweigh the identified heritage harm. In reaching this conclusion I have applied the balancing exercise so as to give great weight and importance to the conservation of the heritage assets, understanding that they are an irreplaceable resource. The outcome of this balance does not, therefore, in the terms of paragraph 11d)i) of the Framework and footnote 7, provide a clear reason for refusal. That said, a finding of less than substantial harm in relation to designated heritage assets does not equate to a less than substantial planning objection.

131. In relation to the identified harm to the non-designated assets, paragraph 203 of the Framework simply requires that it be taken into account.
132. In the overall planning balance, I am firmly of the view that the identified harms to the heritage assets, including the non-designated assets, do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. On balance therefore, I conclude that the appeal should succeed.
133. I recognise that the Environment Agency in particular will be disappointed at this outcome. I am very mindful, in this regard, that it is the statutory body tasked with protection of the environment relating to threats including flooding. I am also aware of the precautionary principle. However, the views of the Agency, important though they are, need to be considered in the light of all the evidence before me. In coming to my conclusions, especially on flood related matters, I have taken full and careful account of all the evidence submitted and the representations that have been made, which I have balanced against the provisions of the development plan, the relevant sections of the National Planning Policy Framework (in particular section 14) and other material considerations including relevant guidance. On balance, however, the evidence in this case leads me to the view that the appeal should be allowed.

### **Conditions**

134. The parties composed a list of conditions considered necessary in the event that the appeal should succeed.<sup>64</sup> For the most part these have been attached without significant alteration, but some have been amended to improve their precision and otherwise ensure compliance with the appropriate tests. The conditions imposed also include those that emerged in examination of the evidence at the Inquiry, as referenced in my reasoning above.
135. The condition numbers referred to in brackets below reflect those in the attached schedule, with conditions 3-16 necessarily worded as pre-commencement conditions.
136. In addition to the standard condition relating to commencement of development (1), it is necessary to specify the approved plans in the interests of certainty. (2)
137. Demolition and construction management plans are required in the interests of protecting the amenities of those living and working in the locality, of highway safety and environmental protection. They are split between demolition (3) and construction (4) phases to allow for separate contracts.

---

<sup>64</sup> ID16

Condition (5) is necessary in the interests of highway safety and visual amenity, in accordance with Core Strategy policy BCS10 and policy DM23 of the SADMP.

138. Three of the buildings on the appeal site have some, albeit limited heritage interest. Conditions (6) and (7) secure recording of any features of interest in relation to those buildings prior to their demolition, and any archaeology within the site as a whole, in accordance with policy DM31 of the SADMP. The Council suggested a condition to secure a watching brief by an archaeologist during development groundworks, to record any remains before destruction. In my view, the suggested condition is otiose as any interest in this regard would be adequately dealt with by the provisions of condition (7).
139. Given the industrial use of the site over many years, and having regard to paragraphs 183 and 184 of the Framework and policy DM34 of the SADMP, it is necessary to ensure that any site contamination is detected and remediated and that any risks from contamination are properly dealt with in order to protect the health of future occupiers and to prevent pollution of the environment. (8) (31) (32)
140. Pursuant to paragraph 107e) of the Framework and Core Strategy policies BCS13, BCS14 and BCS15, conditions (9) (10) (11) (30) and (41) are necessary to secure energy and sustainability measures in order to help mitigate and adapt to climate change. Connection to high speed broadband is required, pursuant to paragraph 114 of the Framework, which expects planning decisions to support the expansion of electronic communications networks, including full fibre broadband connections, and in accordance with policy BCS15 of the Core Strategy. (38)
141. In relation to the FRA and finished floor levels, suggested conditions 15, 17 and 18 are generally variations on a theme. Suggested condition 17 is to be preferred in my view, since it is much more specific and refers to levels of 10.95m AOD which reflect the upper end design flood plus 300mm freeboard, which is justified as a means of minimising residual uncertainties for future occupiers. (12) For the same reason, a condition is necessary to secure the placing of all plant, including the generator, within the respective spaces in Blocks A, B and C, on plinths above the H++ level of 10.97m AOD, as confirmed by Mr Bailey. (13)
142. Although there is reference in various places to the Blocks being flood resilient/flood resistant, including in the FRA and in the evidence of, for instance, Mr Bailey,<sup>65</sup> no details of any scheme are before me. A condition to secure such a scheme is required to reduce the impact of flooding on the proposed Blocks and on future occupiers. (14) It was confirmed during the discussion on conditions at the Inquiry, that the reference in suggested condition 19 to a height of 10.96m AOD is intended to refer to the H++ level. I have corrected that to 10.97m AOD in the imposed condition.
143. Location of the site within flood zone 3a also requires a condition to secure provision of the proposed below slab voids to provide flood storage and to allow for the flow of flood water, and to secure their ongoing maintenance, in order to ensure that flood risk is not increased off-site, in accordance with paragraph 167 of the Framework and policy BCS16 of the Core Strategy. (15) (19)

---

<sup>65</sup> His proof of evidence at paragraphs 4.10-4.14

144. Condition (16) requiring the provision and ongoing maintenance of a sustainable drainage scheme, is necessary to prevent increased risk of flooding and to improve and protect water quality pursuant to Core Strategy policy BCS16. For the reasons set out earlier, revised FWEPs are required. (17) (18)
145. As set out earlier, as things stand at the moment it is necessary to ensure that the safe access/egress route (Route 2) is constructed prior to occupation of the student accommodation and that access over it is retained for the lifetime of the development hereby permitted, to provide safe access/egress for the student blocks in a design flood scenario. (20) Whilst it was suggested that details should be secured prior to commencement of development, that is not necessary in my view. Yes, there is a risk that the development could be built out with no agreements with the other parties about providing the land for the route, or that difficulties are experienced in securing planning permission etc but as set out earlier, there is no reason to suppose that there would necessarily be any difficulties in these regards. It would also delay the start of a development for which there is a pressing need. In the event that no means of delivering the route could be found, the chance of being left with a white elephant that could not be occupied for its intended purpose is a risk for the developer.
146. Conditions controlling architectural detailing and materials, hard and soft landscaping and external lighting are required in the interest of visual amenity. (21) (22) (33) (34) (35) (42). Condition (35) is necessarily worded as a Grampian-type condition as it relates to land outwith the appeal site, but which would form part of the setting for the development.
147. Conditions to secure vehicular access and car parking/servicing/turning space are necessary in the interest of vehicular and pedestrian safety in accordance with policy DM23 of the SADMP. (23) (24) Provision of sufficient cycle parking spaces (25) and electric vehicle charging/passive provision (26) are required to promote sustainable modes of transport and healthy communities in accordance with policy DM23 and paragraph 112 of the Framework.
148. A delivery and servicing plan for Block D is necessary in the interest of highway safety, also pursuant to policy DM23. (27) A Travel Plan is required in the combined interests of highway safety and in order to promote more sustainable travel choices in accordance with Framework paragraph 113 and policies BCS10 and DM23 of the development plan. (28)
149. Provision of waste and recycling facilities (bin stores) for future occupiers is needed to encourage the sustainable management of waste pursuant to policy BCS15 of the Core Strategy, and to safeguard the visual amenities of the area. (29)
150. It is necessary to protect the living conditions of nearby residential occupiers and future student occupiers from noise from external plant and machinery (36) with condition (37) required in order to provide acceptable living conditions for future occupiers in terms of noise from Motion nightclub.
151. A condition is necessary to secure the installation of bat, bird and invertebrate boxes in the interest of biodiversity. (39)
152. Occupation of the student accommodation in accordance with the submitted Housing Management Strategy is necessary in order to protect the amenities of

- surrounding occupiers and ensure safe operation of the site in highways and flood risk terms. (40)
153. A condition was proposed to control the hours during which refuse and recyclables can be collected by private collection companies. The appellant was of the view that such a condition is not necessary as there would be no conflict with the students or the wider mix of uses. However, residential blocks such as those permitted tend to generate a large amount of refuse that is stored in large containers. These can be very noisy when emptied, especially glass and metal recyclables. Given the residential presence on the site and in the locality, I consider the suggested condition to be justified in the interest of providing acceptable living conditions. (43)
154. Notwithstanding that the submitted plans refer only to Class B1(b), B1(c) and B8 uses in relation to Block D and the commercial units on the ground floor (Albert Road frontage) of Block C, with the amended planning application form indicating that no Class B1(a) floorspace was being applied for, the appellant wanted more flexibility, asking at the Inquiry that consideration be given for up to 50% of the commercial floorspace to be used as Class B1(a) (office) floorspace. My attention was drawn in this regard to the proximity of the site to Temple Meads Railway Station and to the wider mix of uses being promoted in the emerging plan for this area.
155. The appeal site is allocated as a Principle Industrial and Warehousing Area in the current development plan, with policy BCS8 of the Core Strategy seeking to retain such areas for industrial and warehousing purposes. Whilst policy DM13 of the SADMP allows for a limited range of additional uses, office space is not among them. Although draft policy DS3 of the emerging plan suggests that northwest St Philip's Marsh is suitable for higher intensity workspace/ offices, this emerging plan is still at Consultation stage. Moreover, at the time of its preparation in 2019, a Joint Strategic Plan for the West of England was also in preparation, setting the context for the emerging Local Plan. However, that Strategic Plan is no longer being pursued. Instead, a new Spatial Development Strategy for the wider region is being prepared, consultation on which is not anticipated until later this year, with Examination in 2023. The emerging Local Plan will therefore need to be reviewed in the light of the emerging strategic policies in due course. On that basis, draft policy DS3 can be given very limited weight in this case.
156. More importantly perhaps, as a main town centre use outside a main town centre, paragraph 87 of the Framework requires the application of a sequential test for any office use here. Unlike the student accommodation which passed a sequential test, no evidence is before me of any sequential test (albeit required for a different reason) being applied or passed in relation to any dedicated office floorspace on the appeal site. At the present time therefore, office use (other than ancillary office space in connection with B1(b), B1(c) and/or B8 uses) would be contrary to the development plan and the Framework. In those circumstances, the condition suggested by the appellant would be inappropriate, as it would undermine the role of the city centre.
157. A condition was mooted clarifying the uses for which permission was granted and removing permitted development rights for their change of use to B1(a) office use or any other main town centre uses. I agree that such a condition is necessary for the reasons set out about above. I also consider that it should

preclude permitted rights for change of use to residential, given the location of the site within flood zone 3a and the lower ground floor levels of that commercial space. (44)

158. Lastly, a condition was suggested to control the operating hours of the commercial units in order to safeguard residential amenity. Class B1 comprises uses that can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. As such, I consider the suggested condition to be unnecessary in relation to such uses. However, Class B8 comprises use for storage and distribution purposes. Such use could have an adverse impact on residential amenity especially in an evening and during the night. For instance refrigerated vehicles running while they wait to load or unload, or noisy storage trolleys being loaded into or out of lorries, as well as reversing beepers etc. In my view, given that the scheme itself includes residential accommodation, and with residential occupation in the locality, a condition restricting hours of operation of any B8 use at the site is warranted in this instance. (45)

*Jennifer A Vyse*

INSPECTOR

**ANNEX A  
APPEARANCES**

FOR THE APPELLANT:

John Litton, of Queen's Counsel

He called:

Matthew Roe

Board Director at ROK Planning

BA(Hons) DipMT MRTPI

John Young

Founding Partner of Edenvale Young

BEng MSc(Eng) MICE CWem

MCIWEM

Dan Bailey

Director at Howard Ward Associates Limited

BEng(Hons) MStructE CENG

\* Matthew Mainstone (solicitor with Wedlake Bell LLP) assisted the Inquiry on behalf of the appellant during the discussion on the planning obligations.

FOR THE LOCAL PLANNING AUTHORITY:

Roy Pinney, planning lawyer with Bristol City Council

He called:

Susannah Pettit

Senior Planning Officer with the Council

BA(Hons) DipTP MRTPI

Matthew Sugden

Principal Flood Risk Officer with the Council

BSc(Hons) MSc FdSc

\* Matthew Cockburn (Transport Management Development Coordinator) assisted the Inquiry on behalf of the Council during the discussions on planning conditions and the planning obligations.

FOR THE ENVIRONMENT AGENCY (RULE 6 PARTY):

Sasha Blackmore, of Counsel

She called:

Mark Willitts

Planning Specialist (Sustainable Places Team) with the Environment Agency

BA(Hons) MA

Colin Taylor

Senior Flood and Coastal Risk Management

BSc(Hons) CWEM CEnv

Adviser with the Environment Agency

MCIWEM EngTech



## **ANNEX B DOCUMENTS HANDED UP TO THE INQUIRY**

- ID1 Appellant opening submissions (including the following authorities and respective case notes: *Solo Retail Ltd v Torridge DC* [2019] EWHC 489 (Admin) and *British Railways Board v Secretary of State for the Environment and others* [1993] 3 PLR 125; plus a copy of the opening submissions for Summix FRB Developments at the Silverthorne Lane Inquiry)
- ID2 Council opening submissions
- ID3 Environment Agency opening submissions
- ID4 Table 2A - Environment Agency's amendment to Mr Young's Table 2 in his rebuttal
- ID5 Table 3A - Environment Agency's amendment to Mr Young's Table 3 in his rebuttal
- ID6 Confirmation of address of sheltered accommodation referred to in the evidence of Mr Young (Ableton Court – see ID8)
- ID7 Overview of appeal site in relation to Bristol (Google Maps – satellite view)
- ID7a Feeder Road trees (Google Maps – satellite view)
- ID7b Feeder Road Canal (Google Maps – satellite view)
- ID7c Netham Weir and Lock (Google Maps – satellite view)
- ID7d Bridges upstream (Google Maps – satellite view)
- ID7e Wider area (Google Maps – satellite view)
- ID7f Modelled River Avon tide/surge dominated run in a 1:200 tide surge and 1:2 fluvial upper end climate change scenario
- ID8a Appeal Decision Ableton Court (APP/P0119/W/20/3264817)
- ID8b Environment Agency correspondence with Edenvale Young (15 May 202)
- ID9 BBC Harbour Safety news article (3 September 2021)
- ID10 Avon St Bridge Impact Load Assessment (Mr Bailey)
- ID11 Environment Agency preface note to SoS call-in Decision - East Lindsey (CD11a)
- ID11a East Lindsey Decision (APP/D2510/V/20/3262525, /3262551 and /3262549 dated 17 January 2022)
- ID12 Summary table of agreed flood depths
- ID13 Closing submissions for the Environment Agency
- ID13a Case Note on weight to the views of statutory consultees and Grampian-type conditions including the following authorities: *Visao Ltd v The Secretary of State for Housing, Communities and Local Government* [2019] EWHC 276 (Admin); *Shadwell Estates Ltd. v Breckland DC* [2013] EWHC 12 (Admin); *R (Mott) v Environment Agency* [2016] 1 WLR; *R(Keir) v Natural England* [2021] EWHC 1059 (Admin); *R (oao Plan B Earth) v Secretary of State for Transport* [2020] PTSR 1446; *R (oao BACI Bedfordshire Limited) v Environment Agency* [2020] Env LR 16; and *London Borough of Hillingdon v Secretaries of State* [2020] EWCA CIV 1005)
- ID14 Closing submissions for the Council
- ID15 Closing submissions for the appellant
- ID15a Appellant's response to ID11a (submitted by the Environment Agency)
- ID16 List of suggested conditions informed by the related discussion at the Inquiry
- ID17 Signed version of the S106

**ANNEX C****Schedule of Conditions****APP/Z01216/W/21/3279920****10 and 12-16 Feeder Road and 6-8 Albert Road, St Philip's, Bristol****Commencement of development**

1. The development hereby permitted shall begin no later than three years from the date of this decision.

**Plans**

2. Unless otherwise required by any of the following conditions, the development shall be carried out in accordance with the following approved plans:

2786_GAD_100000_C Site location plan	received 25 April 2019
1998-TF-00-00-DR-L-1001 REV 4 General arrangement	received 25 April 2019
1998-TF-00-00-DR-L-3001 REV 2 Planting plan	received 25 April 2019
1998-TF-00-00-DR-L-4001 Planting details	received 25 April 2019
2786_GAD_100010_A Plans as existing	received 25 April 2019
2786_GAD_120010_R GA plan level 00	received 30 September 2020
2786_GAD_120011_K GA plan level 0.5	received 30 September 2020
2786_GAD_120012_J GA plan level 01	received 30 September 2020
2786_GAD_120013_H GA plan levels 02-05	received 30 September 2020
2786_GAD_120014_G GA plan level 07	received 30 September 2020
2786_GAD_120015_G GA plan levels 08-13	received 30 September 2020
2786_GAD_120016_G GA plan roof	received 30 September 2020
2786_GAD_100011_B Elevations as existing	received 25 April 2019
2786_GAD_140000_M GA elevation - East Block D, Block C and Block B Albert Road	received 30 September 2020
2786_GAD_140001_M GA elevation - North Block A and Block B - Feeder Road	received 30 September 2020
2786_GAD_140002_I GA elevation - courtyard Block A and Block B - South Block B and Block C	received 30 September 2020
2786_GAD_140003_I GA elevation - West Block A and Block C - River Avon	received 30 September 2020
2786_GAD_140004_E GA commercial elevations	received 25 April 2019
2786_GAD_140005_E GA East elevation coloured,	received 30 September 2020

2786_GAD_140006_E GA North elevation coloured	received 30 September 2020
2786_GAD_140007_E GA West elevation coloured	received 30 September 2020
2786_GAD_150010_G Section A-A	received 30 September 2020
2786_GAD_150011_F Section B-B	received 30 September 2020
1998-TF-00-00-DR-L-3000 REV 2 Planting specification	received 25 April 2019
2786_SKE_500054_A View looking towards Feeder road from Totterdown basin	received 25 April 2019
2786_SKE_500055_A View looking South along Albert road	received 25 April 2019
1998-TF-00-00-DR-L-3002 REV 2 Planting plan	received 25 April 2019
2786_GAD_180004_B Bay Elevations 1	received 30 September 2020
2786_GAD_180005_B Bay Elevations 2	received 30 September 2020
2786_GAD_180006_B Bay Elevations 3	received 30 September 2020
5106-L-101 GF Landscape Masterplan	received 17 November 2020
5106-L-102E Landscape Masterplan	received 17 November 2020
5106-L-103 Site-wide Landscape Masterplan	received 17 November 2020
1808-36_SK11-A Feeder Road/Albert Road Signalised Junction – General Arrangement	received 17 November 2020
2786_GAD_120020_A, Public Arts Facility Units	received 10 December 2021

## PRE-COMMENCEMENT CONDITIONS

### Demolition and Construction Environmental Management Plans

3. No demolition shall take place until a Demolition Environmental Management Plan (DEMP) for the demolition phase of the development hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved DEMP which shall remain in force for the demolition phase of the development period. The DEMP shall include, but is not confined to:
  - i) contact details for the responsible person (site manager/office) who can be contacted in the event of any demolition related issue and a 24 hour emergency contact number;

- ii) details of site working hours, including procedures for emergency deviations;
  - iii) site management arrangements, including on-site storage of materials, plant and machinery; on-site parking and turning provision for site operatives, staff, visitors and demolition vehicles; and provision for the loading/unloading of plant and materials within the site, including timing of deliveries and arrangements to receive abnormal loads or unusually large vehicles;
  - iv) details of any temporary routes that need to be provided through the site during any temporary closures of Feeder Rd (west) during the demolition phase, to ensure that Temple Island and Temple Quay Enterprise Campus sites remain accessible;
  - v) measures to prevent mud and debris being carried onto the adjacent highway, including wheel and chassis underside washing facilities;
  - vi) measures to control and monitor the emission of noise, dust and vibration;
  - vii) a flood warning and evacuation plan;
  - viii) measures to protect vulnerable road users (cyclists and pedestrians);
  - ix) any necessary temporary traffic management measures;
  - x) a method statement for the prevention of contamination of soil and groundwater, including details of on-site storage of fuel, oils and chemicals etc;
  - xi) a construction waste management plan that identifies the main waste materials expected to be generated during the demolition phase, together with measures for dealing with such materials so as to minimise waste and to maximise re-use and recycling;
  - xii) arrangements for controlling the use of site lighting, whether for safe working or for security purposes, and hours of operation.
4. No development shall take place, other than works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved CEMP. The CEMP shall include, but is not confined to:
- i) contact details for the responsible person (site manager/office) who can be contacted in the event of any construction related issue and a 24 hour emergency contact number;
  - ii) details of site working hours during demolition and construction, including procedures for emergency deviations;
  - iii) site management arrangements, including on-site storage of materials, plant and machinery; on-site parking and turning provision for site operatives, staff, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site, including timing

- of deliveries and arrangements to receive abnormal loads or unusually large vehicles;
- iv) details of any temporary routes to reach Temple Island to the west should it be necessary to close Feeder Rd (west) during construction, to ensure that Temple Island and Temple Quay Enterprise Campus sites remain accessible;
- v) measures to prevent mud and debris being carried onto the adjacent highway, including wheel and chassis underside washing facilities;
- vi) measures to control and monitor the emission of noise, dust and vibration;
- viii) a flood warning and evacuation plan;
- ix) measures to protect vulnerable road users (cyclists and pedestrians);
- x) any necessary temporary traffic management measures;
- xi) a method statement for the prevention of contamination of soil and groundwater, including details of on-site storage of fuel, oils and chemicals etc;
- xii) a construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use and recycling;
- xiii) arrangements for controlling the use of site lighting, whether for safe working or for security purposes, and hours of operation.

### **Highways Works**

5. No development shall take place (save for demolition) unless and until details (at a scale of 1:200) of the lay-by on the Feeder Road frontage and realignment of Feeder Road, as shown on Plan No 2786\_GAD\_120010\_R, and street furniture, street trees and tree pits along both the Feeder Road and Albert Road frontages, have been submitted to and approved in writing by the local planning authority. Those works shall be completed in accordance with the approved details prior to first occupation of any part of Blocks A, B and C.

### **Heritage Assets**

6. Prior to commencement of any works of demolition and site clearance, a Level 2 record of building Nos 2, 6 and 8 (The Marsh Mill and the Avonside Refinery) identified in the Pegasus Built Heritage Addendum (P18-0781/HA dated 16 September 2020) shall be made in accordance with guidance in Historic England's 'Understanding Historic Buildings – A Guide to Good Recording Practice' (2016) and shall be submitted to and approved in writing by the local planning authority, and deposited with the Historic Environment Record, Bristol City Museum and the Bristol Record Office.
7. No development shall take place, including works of demolition and site clearance, unless and until a programme of archaeological work, including a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the local planning authority. No development shall take place other than in accordance with the WSI, which shall include an assessment of significance and research questions, and all of the following:

- i) the programme and methodology of site investigation and recording;
- ii) the programme for post investigation assessment;
- iii) provision to be made for analysis of the site investigation and recording;
- iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v) provision to be made for archive deposition of the analysis and records of the site investigation;
- vi) nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

### **Remediation Strategy**

8. No development shall commence (save for works of demolition and site clearance) unless and until a Remediation Strategy to deal with the risks associated with contamination of the site has been submitted to and approved in writing by the local planning authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Development shall be carried out in accordance with the approved Remediation Strategy, which shall include, but is not confined to, the following components:

- a) an intrusive site investigation scheme, based on the findings of the Geo-Environmental Assessment submitted with the planning application (HWA Deltasimons Ref P18-110 18-1383.02 January 2019) to assess the nature and extent of any contamination and whether or not it originates on the site (in accordance with the Environment Agency's Land Contamination Risk Management guide and BS10175:2011+A2 2017: Investigation of potentially contaminated sites – code of practice) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site; and,
- b) the results of the site investigation and the detailed risk assessment referred to in a) and, based on these, an options appraisal and Remediation Strategy giving full details of the remediation measures required and how they are to be undertaken.

### **Energy and Sustainability Measures**

9. Prior to commencement of development (excluding works of demolition and site clearance) details shall be submitted to and approved by the local planning authority demonstrating how the energy efficiency measures, renewable energy, sustainable design principles and climate change adaptation measures set out in the GWPS Sustainability Statement and appendices (Ref: (415)1827-SB-GR-FeederRd\_Rev07 dated 18.09.20) submitted with the planning application have been incorporated into the design and construction of the development such as to achieve a total 17% reduction in carbon dioxide emissions below residual emissions through renewable technologies. Development shall be carried out in accordance with the approved details and no part of the development hereby permitted shall be occupied or brought into

use unless and until the agreed measures are in place and are operational. Once completed and operational, the approved measures shall be retained thereafter.

10. Prior to commencement of development (excluding works of demolition and site clearance) details of the roof mounted photovoltaic array, including location, dimensions, design/technical specification together with calculation of annual energy generation (kWh/annum) and associated reduction in residual CO2 emissions, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
11. Prior to commencement of development (other than works of demolition and site clearance) evidence that the development hereby permitted is registered with a BREEAM certification body, and a BREEAM pre-assessment report demonstrating a strategy by which a BREEAM 'Excellent' rating will be achieved for the scheme, shall be submitted to and approved in writing by the local planning authority.

### **Flood Risk/Drainage**

12. The development hereby permitted shall be carried out in accordance with the EdenvaleYoung HWA Flood Risk Assessment Rev C (P18-110 Feeder Road Project No EVY0879 R dated 8 Nov2021) and Plan No 2786\_GAD\_120010\_R other than as follows:
  - i) the area shown as 'Social & Common Spaces' on Blocks A and B at level 00 shall be set no lower than 10.95m AOD;
  - ii) the area shown as 'Energy Centre/Boiler Plant' on level 00 shall be set no lower than 10.95m AOD;
  - iii) the areas shown as 'Laundry' and 'Pump Room' on level 00 shall be set no lower than 10.95m AOD;
  - iv) the area shown as 'Generator rm' on level 00 shall be set no lower than 10.95m AOD;
  - v) the area defined as "Loading bay" on level 00 shall be set no lower than 10.95m AOD;
  - vi) the areas defined as 'Core A' and 'Core B' on level 00, including the entrance to the Core A lifts, shall be set no lower than 10.95m AOD; and,
  - vii) the area defined as 'Heat exchanger' on level 00 shall be set no lower than 10.95m AOD.

Amended plans showing the above levels shall be submitted to and approved in writing by the local planning authority prior to commencement of development, with development to be carried out in accordance with the approved details.

13. Prior to commencement of development (other than works of demolition and site clearance) and notwithstanding the finished floor levels for the areas within which it would be located, details shall be submitted to and approved in writing by the local planning authority accommodating all plant at level 00 within

Blocks A, B and C (including the generator, boiler plant, heat exchanger etc) on plinths, such that it is above the H++ level of 10.97m AOD. Development shall be carried out in accordance with the approved details.

14. Prior to commencement of development (other than works of demolition and site clearance) details shall be submitted to and approved in writing by the local planning authority detailing flood resistance and resilience measures for each of the Blocks hereby permitted, including maintenance requirements and responsibilities for the lifetime of the development, with all Blocks to be flood resilient to the H++ level of 10.97m AOD. Development shall be carried out in accordance with approved details, with the measures to be retained and maintained in effective working order thereafter.
15. Prior to commencement of development (other than works of demolition and site clearance) a detailed scheme for the below slab voids, including the number, dimensions and locations of the inlets and outlets from the void spaces, and maintenance requirements and responsibilities for keeping them clear for the lifetime of the development, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
16. Prior to commencement of development, a surface water drainage scheme in accordance with the HWA Drainage Strategy and SuDS Statement v02 (document ref P18110-HWA-ZZ-XX-C-RP-0014) shall be submitted to and approved in writing by the local planning authority. The scheme, which is to be implemented in accordance with the approved details, shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

## **EARLY STAGE AND PRE-OCCUPATION CONDITIONS**

### **Flood Warning and Evacuation Plans**

17. No part of the student (or linked commercial) accommodation in Blocks A, B or C hereby permitted shall be brought into use unless and until a Flood Warning and Evacuation Plan (FWEP) for that part of the development, based on the Draft Flood Response Plan at Appendix B of the EdenvaleYoung HWA Flood Risk Assessment Rev C (P18-110 Feeder Road Project No EVY0879 R dated 8 November 2021) has been submitted to and approved in writing by the local planning authority. The FWEP shall be reviewed at intervals not exceeding three years, and will form part of the Health and Safety at Work Register maintained by the applicant.
18. No part of Block D hereby permitted shall be occupied unless and until a Flood Warning and Evacuation Plan (FWEP) for that part of the development, based on the Draft Flood Response Plan at Appendix C of the EdenvaleYoung HWA Flood Risk Assessment Rev C (P18-110 Feeder Road Project No EVY0879 dated



8 November 2021) has been submitted to and approved in writing by the Local Planning Authority. The FWEP shall be reviewed at intervals not exceeding three years, and will form part of the Health and Safety at Work Register maintained by the applicant.

### **Below Slab Voids**

19. No building or use hereby permitted shall be occupied or use commenced unless and until the below slab voids approved pursuant to condition 15 above, have been provided in accordance with the approved details and are operational. Those measures shall be retained and maintained in effective working order thereafter in accordance with the approved details.

### **Safe Access/Egress Route**

20. No part of blocks A, B and C hereby permitted shall be occupied unless and until safe access/egress for the development based on Route 2 as depicted on Figure 2.8 and as described in the EdenvaleYoung HWA Flood Risk Assessment Rev C (P18-110 Feeder Road Project No EVY0879 R dated 8 November 2021) and as depicted on Plan No P18119-HWA-ZZ-XX-DR-C-5300 Rev P01 (listed as Plan 17 in Core Document CD10.8) and at page 14 of the Reardonsmith Landscape and Public Realm Strategy Appendix A (Scheme 5106-A 5 December 2021) has been provided and secured for use by occupiers for the lifetime of the development in accordance with a scheme that has previously been submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented prior to occupation and retained thereafter for the lifetime of the development. The scheme to be submitted must include:

- (a) design and construction details of the safe access/egress route for its entire length between Block C and Bath Road;
- (b) the means by which rights of access and egress along the route for occupiers are secured for the lifetime of the development; and,
- (c) the means by which the availability and ongoing maintenance of the route will be secured for the lifetime of the development.

### **External Materials/Detailing**

21. Prior to commencement of work above slab level, sample panels of the following are to be erected on site and approved in writing by the local planning authority before work commences on the corresponding part of the development hereby permitted, with development to be completed in accordance with the approved details:

- i) all types of brick (to include details of mortar and pointing);
- ii) curtain walling; and,
- iii) metal panels to Block D.

22. Prior to commencement of development above slab level, detailed drawings to an appropriate scale of the following shall be submitted to and be approved in writing by the local planning authority, with development to be carried out in accordance with the approved details:

- i) sections through typical bay elevations to show depths of window reveals, thickness of window frames and any recessed panels; and,

- ii) details of louvres/grilles to the below slab voids.

**Access, Parking/Servicing, Delivery/Servicing Plan, Travel Plan**

- 23. No building or use hereby permitted shall be occupied or use commenced until the means of vehicular access to the site from Albert Road (as shown on Plan No 2786\_GAD\_120010\_R) has been constructed and completed in accordance with the approved plans. The vehicular access shall be retained for its intended purpose thereafter.
- 24. No building or use hereby permitted shall be occupied or use commenced until the parking/servicing/turning space shown on Plan No 2786\_GAD\_120010\_R has been laid out and surfaced for use in connection with the development in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. That space shall be retained and kept clear for its intended purpose thereafter.
- 25. No building or use hereby permitted shall be occupied or use commenced until the cycle parking spaces shown on Plan No 2786\_GAD\_120010\_R have been provided and made available for use. The facility shall be retained and kept clear for its intended purpose thereafter.
- 26. No building or use hereby permitted shall be occupied or use commenced until two Electric Vehicle Charging Points and points of passive provision for the integration of future charging points for the remaining six spaces (within the parking area shown on Plan No 2788\_GAD\_120010\_R) have been provided, and are operational, in accordance with details that have previously been provided to and approved in writing by the local planning authority. Once provided, the Electric Vehicle Charging Points and points of passive provision shall be retained in operational form thereafter.
- 27. No building or use hereby permitted shall be occupied or use commenced until a delivery and servicing plan relating to the commercial uses in Block D and on the Ground Floor of Block C (excluding the arts facility described on plan No 2786\_GAD\_120020\_A) has been submitted to and approved in writing by the local planning authority. The approved plan shall be implemented on first occupation of the relevant part of the development and the site shall be managed in accordance with the approved delivery and servicing plan thereafter.
- 28. No part of the development hereby permitted shall be occupied unless and until a Travel Plan for that part of the development, pursuant to the sustainable development aims and objectives of the National Planning Policy Framework and in general accordance with the TPA Framework Travel Plan (Ref: 1808-36 dated September 2020) has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented as approved. The Travel Plan shall include, but is not confined to:
  - i) arrangements for the appointment of a Travel Plan coordinator for a period to be agreed;
  - ii) objectives, targets, mechanisms and measures to achieve the targets;
  - iii) timescales for implementation; and

- iv) monitoring and review provisions together with an enforcement mechanism for failure to meet the Travel Plan targets.

### **Refuse/Recycling Storage**

29. No building or use hereby permitted shall be occupied or use commenced until the corresponding bin stores/recyclable materials storage, as shown on drawing reference: 2786\_GAD\_120010\_R, have been completed in accordance with the approved plans and made available for use. The bin stores etc shall be kept available for their intended purpose thereafter. All refuse and recyclable materials associated with the development hereby permitted shall either be stored within those dedicated areas, or internally within the buildings.

### **Energy and Sustainability Measures**

30. No part of the development hereby permitted shall be occupied unless and until the photovoltaic (PV) scheme approved pursuant to condition 10 has been installed in accordance with the approved details and is fully operational, and the following information has been submitted and approved in writing by the local planning authority:

- i) evidence of the PV system as installed including exact location, technical specification and projected annual energy yield (kWh/year) e.g. a copy of the MCS installer's certificate; and,
- ii) a calculation showing that the projected annual yield of the installed system is sufficient to reduce residual CO<sub>2</sub> emissions by the percentage shown in the GWPS Sustainability Statement and appendices (Ref: (415)1827-SB-GR-FeederRd\_Rev07 dated 18/09/20) .

Thereafter, the PV array shall be retained and maintained as functional throughout the lifetime of the development.

### **Contamination**

31. The development hereby permitted shall not be occupied until a Verification Report demonstrating completion of the works set out in the approved Remediation Strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan (a long-term monitoring and maintenance plan). The long-term monitoring and maintenance plan shall be implemented as approved.

32. If, during development, contamination not previously identified pursuant to the provisions of condition 8 is found to be present at the site, then no further development shall be carried out until there has been submitted to and approved in writing by the local planning authority an amendment to the approved Remediation Scheme, detailing how this unexpected contamination will be dealt with. Thereafter, the development shall be implemented in accordance with the approved Remediation Strategy as amended.

### **Hard and Soft Landscaping/Planting - Provision**

33. Notwithstanding the landscaping shown on Plan Nos 5106-L101F; 5106-L-102F; 5106-L-103D and 2786\_GAD\_120016\_G, no part of the development hereby permitted shall be occupied or brought into use unless and until a details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and timetable. The details to be submitted shall include, but are not confined to:
- i) a schedule of all species of plants for the courtyard and roof terrace to the rear of Blocks A, B and C and trees/shrubs proposed to the perimeter of the site;
  - ii) a schedule of hard surface materials for the courtyard to the rear of Blocks A, B and C, the parking servicing are between Blocks C and D and to the perimeter of the site;
  - iii) details of the brown roofs to each of the blocks; and,
  - iv) a timetable for implementation.
34. The development hereby permitted shall not be occupied until the public realm improvements shown outside of the red line at the corner of Feeder Road and Albert Road, shown on drawing 2786\_GAD\_120010\_R, have been implemented in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

### **Lighting**

35. No external lighting within any part of the development hereby permitted shall be installed other than in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The details to be submitted shall include a lux level contour plan, and should ensure no light spill outside of the site boundaries.

### **Noise**

36. No external plant or equipment shall be operated at the development hereby permitted unless and until an assessment, setting out the existing background noise level, and demonstrating that the rating level for the plant and equipment will be at least 5dB below the background level at any residential property, including any residential property within the approved development, has been submitted to and approved in writing by the local planning authority. The assessment must be carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS4142: 2014 'Methods for rating and assessing industrial and commercial sound'. Measures within the approved scheme shall be adhered to throughout lifetime of the development.
37. No part of the development hereby permitted shall be occupied unless and until the noise insulation measures contained within the Acoustic report (prepared by Acoustic Consultants Ltd, reference 7387/SL/BL) dated November 2019 have been implemented in full. The measures installed shall be retained thereafter.

### **Broadband Provision**

38.No part of the development hereby permitted shall be occupied unless and until

it has been provided with the necessary infrastructure to facilitate connection to a high speed broadband. This shall include as a minimum:

- i) a broadband connection accessed directly from the nearest exchange or cabinet; and
- ii) cabling and associated installations which enable easy access for future repair, replacement or upgrading.

### **Wildlife**

39.No part of the development hereby permitted shall be occupied until at least ten built-in swift boxes or bricks and five built-in bat boxes or bricks, as well as six invertebrate boxes have been installed in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The details, to be provided by a qualified ecological consultant, shall include the specification, orientation, height and location for the habitats. Once provided, the habitats shall be retained thereafter.

### **POST-OCCUPANCY CONDITIONS**

#### **Student Housing - Management Plan**

40.The student accommodation hereby permitted (Blocks A, B and C) shall not be occupied or operated other than in accordance with the Student Housing Management Plan (prepared by Unite Students) submitted on 30 September 2020.

#### **BREEAM**

41.Within six months of first occupation of any part of the development hereby permitted, a BREEAM New Construction 2018 Shell & Core Post-Construction Review certificate and summary score sheet in relation to that part of the development must be submitted to and approved in writing by the Local Planning Authority to show that an 'Excellent' (minimum score 70%) rating has been achieved.

#### **Landscaping/Planting - Maintenance**

42.Any trees or plants which form part of the landscaping plan as approved pursuant to condition 34 (including the brown roofs) which, within a period of five years from completion of the development die, are removed, or become severely damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species to those originally required to be planted.

#### **Refuse/Recycling Collection**

43.Activities relating to the collection of refuse and recyclables from the development by any private collection companies shall only take place between 08.00 and 20.00 Monday to Saturday and at no time on Sundays or bank or public holidays.

#### **Permitted Development Rights – Use of commercial units**

44. Notwithstanding the provisions of the General Permitted Development Order 2015 (as amended) (or any subsequent re-enactment thereof) no part of the commercial floorspace in Block D hereby permitted, and at level 00 in Block C (with the exception of the Arts Facility shown on drawing reference: 2786\_GAD\_120020\_A) shall be used other than for B1(b) research and development, B1(c) light industry, or B8 (storage) purposes, and shall not be occupied by any B1(a) office or any other town centre uses as defined by the National Planning Policy Framework, or for residential purposes.

**Hours of operation**

45. None of the commercial units in Block D hereby permitted, or at Level 00 of Block C (with the exception of the Arts Facility shown on drawing reference: 2786\_GAD\_120020\_A) occupied as Class B8 floorspace, shall operate outside the hours of 07.00 – 23.00 Monday to Saturday or outside the hours of 09.00-21.00 on Sundays and bank or public holidays.

-----END OF SCHEDULE-----