



Appeal Decision

Inquiry held on 26 to 29 April 2022

Site visit made on 29 April 2022

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th May 2022

Appeal Ref: APP/P1940/W/21/3289305

Land to the north of Maple Cross Lodge, Maple Cross, Rickmansworth WD3 9SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by BCL (Maple Cross) LLP against Three Rivers District Council.
 - The application Ref: 21/0573/FUL, is dated 4 March 2021.
 - The development proposed is described as a 'comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works.'
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Decision

1. The appeal is allowed and planning permission is granted for 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works at land to the north of Maple Cross Lodge, Maple Cross, Rickmansworth WD3 9SE in accordance with the terms of the application, Ref: 21/0573/FUL, dated 4 March 2021, subject to the conditions in the attached schedule.

Procedural Matters

The Council's Position

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council submitted a Statement of Case (SoC) which raised matters concerning the potential impact of the proposal on water supply and the Maple Lodge Nature Reserve (MLNR). This was subject to independent hydrogeological advice that the Council was in the process of seeking. The Council also referred in its SoC to matters related to Biodiversity Net Gain (BNG), the Forester Moth and a travel plan.
3. The Council subsequently submitted an Addendum to the SoC (Addendum) to further clarify its position. The Addendum was produced after it had received the independent hydrogeological advice. On that basis, the Council came to the view that the proposal's effect on water supply and the MLNR can be managed and appropriately mitigated by planning conditions. The Council also stated that subject to the completion of a Section 106 Agreement to secure the BNG and Travel Plan contributions, and subject to conditions, that there were

- no sound and clear cut reasons for the refusal of planning permission for the proposal.
4. With regard to the conditions, the Council also stated that there was not a necessity for a condition to require monitoring of groundwater levels across the MLNR. The Council also came to agreement with the appellant over conditions relating to noise, including noise assessment, and that it was not necessary to apply a condition that would control the hours of operation of the proposal.
 5. The Inquiry also included the consideration of a final draft Agreement under Section 106 of the Town and Country Planning Act 1990. A completed and executed version was submitted after the close of the Inquiry, with the Council, the County Council and the appellant as the signatories. The related obligations concern the travel plan and BNG.
 6. On the basis of the above, the Council shares essentially the same position as the appellant on the planning merits of the proposal. It did not put forward witness(es) at the appeal or contest the appellant's evidence. There are not matters of dispute between the Council and the appellant.

The Rule 6 Party's Position (Maple Cross Residents Environment Group)

7. The Maple Cross Residents Environment Group's (MCREG) Statement of Case concerned the effect on the MLNR with regard to groundwater, biodiversity in relation to the Forester Moth and BNG, and noise by way of the effect on local residents. MCREG confirmed that public water supply did not form part of its case. It subsequently provided Proofs of Evidence concerning the MLNR, biodiversity and noise.
8. During the course of the Inquiry, MCREG withdrew from its position over the effect on the MLNR with regard to groundwater. This included the removal of its previous stipulation that the monitoring of groundwater levels in the MLNR was required. It also confirmed that it agreed that there would be no impact on the MLNR and that a Water Framework Directive (WFD) assessment was not required.
9. MCREG maintained its position on BNG, the Forester Moth and noise, in evidence. It also contested proposed conditions on dust, noise, lighting design and hours of use/operation, and whilst not presenting expert evidence in these respects, economic benefits and accessibility¹.
10. However, subject to the imposition of suitable planning conditions that MCREG considered should be imposed on a planning permission and the appropriate commuted sum through a planning obligation, MCREG confirmed that the proposal would not be unacceptable in planning terms. Nonetheless, these matters remain contested between MCREG and the appellant in particular with regard to the Forester Moth, BNG and noise, principally because of disagreements over conditions and the appropriate commuted sum.

Other Procedural Matters

11. The proposal has been considered by the Secretary of State in accordance with the Town and Country Planning (Environmental Impact Assessment)

¹ Statement of Common Ground between Maple Cross Residents Environmental Group (Rule 6 Party) and BCL (Maple Cross) LLP (Appellant)

Regulations 2017 (SI 571/2017). A screening direction has been issued which states that the proposal is not Environmental Impact Assessment development.

12. The description of development in the banner heading above is taken from the planning application form. I have used this description in my decision paragraph, excluding the superfluous element that does not relate to the act of development that is for my consideration.

Main Issues

13. Taking into account the above, the main issues are the effect of the proposal on (i) biodiversity interests, in particular BNG and the Forester Moth; and (ii) the living conditions of the occupiers of local residential properties by way of noise from traffic and the operation of the proposal.

Reasons

Site and Surroundings

14. The appeal site comprises an area of undeveloped land that is of a size of approximately 3.4 hectares. It is not currently in use. Much of the site contains grassland, and there are smaller areas of loose stone. There is a mix of mature trees and other forms of vegetation along its boundaries. It contains a gated entrance onto an adjoining access road that also serves a nearby utility treatment works. This road joins onto the A412 Denham Way which provides access to Maple Cross and Rickmansworth. It also provides access to the M25, around a mile from the site.
15. To the north and north west of the site is an area of employment uses, which include offices and an implemented permission for a hotel. Near opposite the site, there are further commercial premises, uses and storage, and which I have been informed are the subject of enforcement proceedings. To the south of the site lies a cricket pitch, beyond which is the MLNR, a locally designated nature reserve and wildlife site. The nearest residential properties lie to the south west on Longmore Close. This cul-de-sac joins onto Maple Lodge Close where there are further residential properties, including at Maple Lodge Barn and Maple Lodge Farm, amongst others.
16. The site is identified within an employment area under Policy SA2 of the Council's Site Allocations Local Development Document (2014) (Site Allocation SA2 E(d)). It is also the subject of a Tree Preservation Order (ref: 493) (TPO) and lies within the wider Colne Valley Park. A small area of land within the site around where an access is proposed falls within the Green Belt, as does the access road south of the site which is also contained within the site boundary.

Biodiversity

Policy Context

17. Policy DM6 of the Development Management Policies Local Development Document (2013) (DMP) sets out that development should result in no net loss of biodiversity as a whole. Under part a) it states that where development would affect a species in need of conservation by the UK Biodiversity Action Plan (BAP), amongst other protections, that it will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site. This is unless it can be demonstrated that the need for the

development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and that adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area. The Forester Moth is a species in need of conservation, as identified by the BAP.

18. More broadly, Part d) of Policy DM6 sets out that development must conserve, enhance and, where appropriate, restore biodiversity. It refers to measures that relate to protection, compensation and management of habitats and species, amidst others.
19. The comments to Policy SA2 also concern biodiversity as regards the allocation of the site. It states that measures to avoid adverse impacts and to enhance biodiversity will need to be provided by developers and that applications would need to be supported by an adequate ecological survey. It takes a more permissive approach to development than the more stringent part a) of Policy DM6. This arises from the recognition under Policy SA2 that the site is to be developed as it is an allocation. However, this does not mean that Policy DM6 does not apply. It remains part of the development plan that is for my consideration.
20. Paragraph 174 of the Framework sets out that planning decisions should contribute to and enhance the natural and local environment by, amongst other matters, minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
21. Paragraph 180 then goes on to identify the principles that Local Planning Authorities should apply when determining planning applications. including that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Such principles also include securing measurable net gains for biodiversity.
22. The Planning Practice Guidance: *Natural Environment* (PPG: Natural Environment) also refers to genuine and demonstrable net gains for biodiversity and identifies the use of tools such as the DEFRA metric to measure such a gain.

Biodiversity Net Gain

23. The provisions of the Environment Act 2021 provide for 10% BNG. However, this statutory requirement has not yet been enacted. It is undergoing a period of consultation and will require further legislation before it comes into force, as well as guidance and the publication of a Biodiversity Metric by the Secretary of State to calculate the net gain that may be required.
24. Neither Policy DM6 nor Policy SA2 make reference to BNG and so it is not a matter that the development plan concerns itself with. It is though for my consideration given that the Framework and PPG: Natural Environment both refer to net gains. I have been referred to varying versions of the DEFRA metric to measure BNG and at the present time it is a useful tool that informs decision-making.

25. How the site is to be classified for the purposes of the metric needs to be appraised in that context. The site is for the most part grassland. It is not the subject of any designation as regards its ecological value. It has been the subject of a not insignificant level of various ecological surveys over a prolonged time period. More recently the appellant undertook an National Vegetation Classification survey, as did the Council's own ecological advisors, Herts Ecology (HE), through a grassland survey.
26. MCREG consider that HE survey points to priority habitat on the site. This arises from whether grassland on the site should be classified as modified or neutral, and if neutral would point to lowland meadow been recorded that is equated to a priority habitat. The alternate position which the appellant favours is that whilst species may be on the site that could form part of lowland meadow, this does not mean in itself that it is lowland meadow and so a priority habitat is not present.
27. The effect of these respective positions is to create different starting points for the costs calculations related to BNG, including by way of the habitat units that would be required. The cost calculations also differ because HE take an average from a Government net gain calculation, whereas MCREG favours the Herts and Middlesex Wildlife Trusts Hertfordshire Costs Calculator and which is contained within Stevenage Borough Council's The Impact of Development on Biodiversity Supplementary Planning Document. The end result in relation to a commuted sum is a figure of £142,800 for the appellant and one of £425,098 for MCREG.
28. Based on the evidence before me, there are some species that are associated with lowland meadow on the site and its loss under the proposal needs to be adequately compensated for, as well as some element of gain, in order for the proposal to accord with Policies DM6, SA2, the Framework and the PPG: Natural Environment in this regard. Cutting of the grassland may limit the contribution of the species to a degree to the meadow, but as they would in all likelihood grow back even if cut back again through maintenance, it seems to me this has a limited bearing.
29. On-site opportunities for overall gain are fairly limited because much of the grassland would make way for the built form of the proposal. There would be some areas of landscaping and related ecology works that would be the subject of a management plan. This would not however constitute net gain and so off-site works would be required, through a commuted sum.
30. Of the two figures that have been presented to me, I favour the appellant's position. MCREG is seeking to maximise the gain that can be achieved that stems from its characterisation of the site as lowland meadow. I have to though consider whether the related figure is fairly and reasonably related in scale and kind to the development, amongst other tests.
31. The appellant's position in this regard is based on the survey evidence that has built up over time and so is persuasive. The presence of species that could form part of a lowland meadow does not mean that such a meadow is present. That depends on a matter of judgment and there is the HE survey evidence to fall back on in this regard. Whilst there has been some criticism that condition sheets were not supplied, there is not substantive grounds to believe that HE would provide other than reasoned advice to the Council given the work that they have carried out on the site and in their professional capacity. As the

MCREG's position is rather based on a critique of the survey work which has been carried out, and does not have the benefit of its own survey evidence to justify its position, this also has a bearing on whose case is most compelling. I find no overriding omissions in the case of the appellant.

32. The appellant's position, which is based on the HE approach, represents a more proportionate response as regards gain in reflecting the baseline of the site and costs calculations that have been applied. Whilst I note views over whether the Middlesex Wildlife Trusts Hertfordshire Costs Calculator greater represents local conditions, as the DEFRA metric is referred to in the PPG: Natural Environment, its use cannot be discounted to inform decision-making.
33. When the on-site measures and off-site commuted sum figure are combined, it would represent a net gain for biodiversity, based on the current policy framework. It does not have to represent a 10% net gain at the present time and so this does not count against the proposal. A net gain simply has to be demonstrable, as has been ably established in this case. It is also measurable because it has been based on a metric, even with the disagreement over how the metric has been applied.

Forester Moth

34. The Forester Moth is a rare species, reflective of its BAP status. Prior to 2021, it was thought to be extinct in Hertfordshire. In 2021, there was a sighting on the site, as well as at Chorleywood Common. There were also sightings in London. The habitat range for the species is fairly diverse, including chalk downland, heathland, woodland clearings, and ridge and furrow meadows.
35. There has been one recorded sighting of the Forester Moth on site. Whether its larvae is present is unknown and there is not evidence of either breeding or the formation of a colony. Subsequent to its sighting, the appellant undertook a further site survey, but did not find the species. This does not in itself rule out its presence on site because much is unknown about the species and whilst my attention was drawn to the presence of common and sheep's sorrel on the site as habitat, and the role of other habitat, there is not pivotal evidence before me over why the Forester Moth would be utilising the site. The variety of habitats it seems to occupy would make such an explanation far from exact.
36. Sections 40 and 41 of the Natural Environment and Rural Communities Act (2006) (NERC Act) place a statutory duty to have regard to the purpose of conserving biodiversity and to take such steps to be reasonably practicable to further the conservation of the living organism and promote the taking by others of such steps. The consideration of the proposal on the Forester Moth thus needs to be considered in these terms and there is the need to safeguard such a BAP species under the NERC Act.
37. With regard to habitat provision as part of the proposal, as it is intended it would be informed by biodiversity objectives, there is not a particular reason why this should not include planting and species that may be attractive to the Forester Moth, especially as its habitat range is broad. This could ably include plant species that are currently found on the site.
38. As potential habitat on the site would make way for the proposal, an adverse impact would occur. On-site mitigation would though be unlikely in itself to be sufficient to fulfil the duty under the NERC Act. Off-site provision would be

provided by way of the commuted sum because it would be utilised to provide an appropriate species rich grassland that would be suitable for the Forester Moth. Such measures are not merely speculative as they are informed by an appreciation of the species, based on what is known. Whilst it clearly cannot be certain that such an off-site scheme would attract the Forester Moth, such an approach would increase the likelihood of habitat compensation and management being successful.

39. Nor does the commuted sum providing for both BNG and the Forester Moth raise particular concern. There is a linkage between the two in that BNG can result in an improved habitat that would also be of benefit to the Forester Moth. The proposed level of commuted sum would satisfactorily address this matter. When the habitat provision and mitigation are considered, it would not result in the local extinction of the species as has been alleged, notwithstanding that the species has in any event been found in the other locations that I have been referred to. What is proposed would seek to encourage the species further in the locality and so it would not be in conflict with the NERC Act with regard to conserving the species and furthering the conservation of the living organism.
40. A translocation strategy by way of a planning condition has also been suggested so that any larvae on the site would be located to a rich grassland receptor site. Given that the commuted sum would also be intended to provide habitat and that it is not known if larvae are found on site, such a condition would not be reasonable and necessary. The proposed on-site mitigation and off-site commuted sum would suffice.
41. The need for the development also has to be considered with regard to the balancing exercise that Policy DM6 applies with safeguarding the biodiversity of the site. The site remains allocated for the proposed use under Policy SA2 and it continues to be the position over the various economic studies that have been carried out over time that an objectively assessed need for such employment floorspace clearly exists. The most recent South West Herts Economic Study Update (2019) identifies a deficit of near 40,000 square metres. Capacity is constrained in the Council area due principally to Green Belt, and that was an important factor in the allocation of the site itself. Accordingly, the proposal would make an important contribution to alleviate this deficit. Whereas there may be some dispute over the likely number of jobs that would result, they would be not insignificant by any reasonable analysis of the construction and operational phases of what would be two sizeable warehouses.
42. I have had regard to the safeguarding of the Forester Moth as a BAP status species on the site based on the sighting, but for the purposes of Policy DM6 an adverse impact would be outweighed by what is an important economic need for the development. Furthermore, with the on and off-site measures that are proposed, it would provide alternative wildlife habitat to maintain local diversity and that adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.

Conclusion on Biodiversity

43. I conclude that the proposal would not have an unacceptable effect on biodiversity interests. With regard to BNG, it would comply with the Framework and the PPG: Natural Environment because it would provide a net

gain that would be measurable as it is based on a metric. It is also the case that with regard to the Forester Moth as a BAP species, the proposal would comply with Policy DM6 a) because whilst an adverse impact would arise the criteria that would allow a development to be permitted are met. I have already set out my conclusions above concerning the NERC Act and it would not be in conflict with the statutory duty.

44. The proposal would also accord with Policy SA2 because it includes measures to avoid adverse impacts and to enhance biodiversity. In addition, it has been supported by what is not an inconsiderable amount of adequate ecological surveys. The proposal would also accord with the broader biodiversity aims of Policy DM6 d) in conserving, enhancing and restoring biodiversity with the measures that are proposed. It would further accord with the Framework as it would avoid significant harm to biodiversity.

Noise

Policy Context

45. Policy DM9 of the DMP is the main development plan policy which concerns noise, amongst other considerations. It states under criterion d) i) that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development.
46. Policy DM9 goes on to state that the Council will ensure that noise from proposed commercial, industrial or transport use does not cause any significant increase in the background noise level of nearby existing noise-sensitive property such as dwellings, amidst other types of land uses.
47. The Framework provides a similar approach. Paragraph 174 e) sets out that planning decisions should prevent new development contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Under paragraph 185 a), planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, as well as avoiding noise giving rise to significant adverse impacts on health and the quality of life.
48. The Planning Practice Guidance: *Noise* (PPG: Noise) sets out how it can be established whether noise is likely to be a concern with regard to the 'no observed effect level' (NOEL), 'lowest observed adverse effect level' (LOAEL) and 'significant observed adverse effect level' (SOAEL). Where exposure crosses the LOAEL, noise starts to cause small changes in behaviour in attitude of those affected.
49. However, it is where the noise exposure causes the SOAEL level to be crossed that material changes in behaviour of those affected will occur, such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. It is at this level that the PPG: Noise advises that the planning process should avoid this affect occurring. It is undesirable for such exposure to be caused, even taking account of economic and social benefits. The approach of the PPG: Noise in this regard, and the Framework, relates to that of the Noise Policy Statement for England (2010) (NPS).

50. In considering the above, where noise exposure may be at a level which raises particular concern as regards planning decision-making is where it gives rise to significant adverse impacts. It is not unreasonable to equate such an effect to the SOAEL. This does not mean that where the adverse effect may be less than significant by way of the LOAEL that such an effect is not a consideration and nor that mitigation should not be considered. This is because the planning system seeks to protect living conditions on a broader basis than simply noise threshold levels. However, this should not as a matter of course be equated with an unacceptable effect because Policy DM9, the Framework and the PPG: Noise align an unacceptable adverse impact to a significant increase in noise, not any increase.

Relationship of Site to Residential Properties

51. The nearest residential property to the site is 19 Longmore Close. It lies at the end of a terrace of 2 storey houses and has a single storey structure attached to its side. It contains a grassed side garden area nearest the site that also extends around the rear of the property towards a boundary with an existing employment use. There is also a raised outdoor area, adjacent to its rear elevation. Its main windows are located on its front and rear elevations, including those that I was informed on the site visit are of a habitable room nature. The plot is largely unenclosed on its boundary nearest the site. It is separated from the site by a ditch and a strip of land which it is understood is owned by the Council.

52. The remaining properties on Longmore Close extend away from the site and down the opposite side of this cul-de-sac. The majority of properties on Maple Lodge Close lie further away again, or beyond the properties on Longmore Close, apart from Maple Lodge Barn and Maple Lodge Farm, and associated accommodation. The nearest properties on the access road side of the site lie on Springwell Lane. These include Springwell Barn, amongst others. They are located some distance away, separated by intervening land and waterbodies. They maintain a general orientation towards the site by way of the openings on this side of these properties, as well as with the positioning of their gardens.

Noise Limit

53. It is not a matter of dispute that the appellant's noise impact assessment work has been carried out with regard to BS4142². There are however differences in views over how the associated methodology has been applied. BS4142 sets out that an increase of 5dB over background noise levels as a likely indication of adverse impact (although not a significant adverse impact). This is caveated in that it is also said to be dependent on the context.

54. There is not a justification for not considering a 5dB increase altogether, the result of which would be that the NOEL and the LOAEL would be the same. As the site lies adjacent to existing commercial and employment uses, the proposal would not amount to an entirely new source and type of noise. Applying 5dB above background noise levels is therefore not unreasonable, bearing in mind this context. My attention was also drawn to the logarithmic nature of dB increases, although no doubt the authors of BS4142 would have

² BS 4142:2014 +A1; 2019 Methods for rating and assessing industrial and commercial sound

been aware of this in preparing the guidance. Hence, it does not alter my view over the use of a 5dB increase and I favour its application in this case.

55. Nor do I find concerns over the use of the absolute noise level in the appellant's noise impact assessment work persuasive. BS4142 permits their use when background and rating levels are low. The appellant has based their use on extant World Health Organisation guidelines. MCREG point to content in a previous version of BS4142, but this is no longer current. As such, there is not a substantive reason why the use of absolute noise levels is not justified. Matters in relation to the Covid-19 pandemic and why a noise survey was not taken to support the original planning application do not therefore change my view. I consider the noise impact implications of MCREG's own noise survey results below.

Noise Impact

56. The primary source of noise that would arise from the proposal would relate to vehicular movements for Heavy Goods Vehicles (HGVs), and associated loading and unloading. This would also include reversing and manoeuvring, as well as the use of forklift trucks and conveyors. There would also be cars coming and going associated with employees. As these sources relate to external activities, they would likely have the greatest impact. I am less convinced there would be a particular impact from internal operations because they would be taking place within the proposed buildings.
57. In light of these proposed operations, the appellant has imposed a 6dB tonal penalty to the noise impact. This would still be 1dB below the appellant's LOAEL threshold of 40dB during the night time. It would be higher than the MCREG's LOAEL threshold of 32dB, which relates to its noise survey. However, as I have set out above, I favour the appellant's LOAEL threshold and so this does not cause me particular concern. Even if MCREG's LOAEL threshold was applied though, the noise impact would still be below the SOAEL level.
58. I also find that the addition of a further 6dB tonal penalty for HGVs would be unlikely to be representative because of the 6dB that has already been applied by the appellant throughout the site. Therefore, the removal of the 3dB tonal penalty for HGVs in the appellant's noise impact assessment in lieu of the 6dB addition is not unreasonable and nor are the appellant's commercial noise limits, overall. The likely noise impacts would adhere to such limits.
59. Clearly, local residents' noise concerns are broader than adherence to the thresholds that have been set out in the noise impact assessments in evidence. They point to disruption to sleep, health and well-being. The PPG: Noise itself recognises that the subjective nature of noise means that there is not a simple relationship between noise levels and those affected.
60. With regard to the properties on Longmore Close, including No 19, and on Maple Lodge Close, the proposed layout would be as such that the associated external activities would be taking place on the opposite sides of the site, where the service yards and accesses are proposed. The proposed buildings would themselves act as a form of mitigation, including for night time operations because in effect they would act as a barrier to the external areas that would be in use.

61. As a consequence, the outside activities associated with the proposal would be distant and so it would not be a case where there would be an unacceptable change in the quality of life. Nor would garden areas be likely used at night and so undue disturbance would also not occur in this regard. The proposed buildings would also act as screens during daytimes when the gardens may be in use.
62. With regard to the properties on Springwell Lane, whilst they clearly benefit from a quieter noise environment, they are some distance from the site, even accepting there would be less screening in times of leaf fall. There is also some topographical difference because of an embankment that lies on the far side of the access road to the site. The effects from noise and disturbance during night and daytimes would not be unacceptable both in relation to where these properties are used for permanently occupied residential accommodation and for holiday let purposes.

Planning Conditions

63. Despite the reservations expressed by MCREG about the noise limit and impact, there is agreement that at least in principle that conditions could overcome its concerns. However, this would require a restrictive noise assessment condition that would require any increase in noise based on rated commercial noise and not applying the 5 dB increase. For the reasons that I have already set out, I do not agree with this approach.
64. MCREG has also raised the issue of noise creep, whereby the background noise level would be potentially increased if one of the proposed buildings was built before the other. There is not though compelling evidence to suggest that in practice this would occur. The appellant has pointed to strong demand for such units and this has not been contested. Nor do I consider that future occupiers of the proposed buildings should have to carry out their own assessment because the limits are already set in the proposed noise assessment condition.
65. With the external activities on the site taking place on the opposite sides of the site to Longmore Close and Maple Lodge Close, a condition limiting the hours of operation would not be reasonable and necessary. The condition that was tabled on this matter would also have restricted activities within the proposed buildings, where the structure of the buildings themselves would act as mitigation. The external activities would take place on the side nearer to the Springwell Lane properties, but with the distance involved in particular, this would also not be unacceptable as regards the unlimited hours of operation.
66. Local residents should also take some assurance from the noise assessment condition in this regard because there would be representative assessment points at Maple Lodge Farm and No 19, and Springwell Barn was also added during the course of the Inquiry. This sets noise limits, including a lower noise limit at night, although the noise impact is in any event predicted to be lower than this.
67. A further condition is proposed to prevent the operation of refrigerated HGVs or tug units without prior approval of the Council, whilst the noise from piling operations would also be dealt with by a construction environment management condition because it would have to mitigate the impact of all construction activities. These conditions are also to ensure that the occupiers of those properties would not be subject to excessive noise and disturbance.

Conclusion on Noise

68. The proposal would not result in a significant adverse effect as regards noise. Furthermore, where there would be potential for effects, even if they would be considered adverse to some degree, they would be effectively mitigated through the site design and layout, distances, topography and screening, as well as through the controls imposed by the proposed planning conditions. Planning policy does not seek to preclude any effect arising from noise, and in this case such an effect would not render the proposal unacceptable.
69. Hence, I conclude that the effect from the proposal on the living conditions of the occupiers of local residential properties by way of noise from traffic and the operation of the proposal would not be unacceptable. It would comply with Policy DM9 where it seeks to avoid unacceptable adverse noise impacts and significant increases in the background noise levels of nearby existing noise-sensitive properties. It would also accord with the Framework as it would not result in unacceptable levels of noise pollution and it would avoid a significant adverse effect, and so it would also accord with the related guidance in the PPG: Noise and the NPS.

Other Matters

Groundwater

70. The appeal site is located within Source Protection Zone 1. It is found over a secondary gravel aquifer, under which is a principal chalk aquifer. The aquifer is thought to feed the water bodies in the MLNR under certain conditions. However, this may also be impacted by the levels of the water bodies themselves, rainfall and flow from a boundary watercourse.
71. It is not in dispute between the main parties over the groundwater impacts on the MLNR. The small reductions in flow in groundwater that would result from the use of piling would not derogate from the water bodies contained within the MLNR but would follow a different flow path. Even if there was some reduction, the impact would be within normal fluctuations at a short distance from the piling zone. The piling arrangements would also be adapted in the vicinity of a dissolution feature on the site so that the water flow would not be impacted in this regard.
72. It is therefore unsurprising that the Environment Agency (EA) ultimately came to the view that monitoring in the MLNR was not necessary. It would not serve a useful purpose because the MLNR is too far from the piling zone for there to be a discernible impact. The EA also has responsibilities under the WFD for monitoring and reporting of waterbodies and with regard to River Basin Management Plans. The EA has confirmed that a WFD assessment is not required and given it is not evident how there can be an effect on the water bodies in the MLNR, I see no reason to disagree.
73. Monitoring is however proposed within the site itself and so in any event potential impacts on the MLNR would be monitored via the borehole that is nearest the MLNR. If impacts to groundwater were unexpectedly apparent, methods would be utilised to re-route the groundwater around the piled zone. This is a matter which can be addressed through the proposed conditions on groundwater, including those recommended by the EA. On this basis, there would not be an unacceptable effect on groundwater with regard to the MLNR.

74. The aquifer is also used to provide public water supply and there are 3 chalk abstraction boreholes in the vicinity of the site, as well as pumping stations. The previous appeal decision³ for a similar development on the site was decided on the basis of the proposed piling on groundwater and the quality of the public water supply. That Inspector was not persuaded that sufficient evidence had been submitted to demonstrate that the risk to the public water supply could be adequately mitigated. The sources of such contamination were from naturally occurring manganese and materials found in a nearby landfill. Turbidity was also raised, as well as the effect of the proposed piles on groundwater flow.
75. Since then further work has been undertaken on this matter, including in conjunction with Affinity Water, with whom the statutory duty to supply drinking water of a sufficient quality lies. This has included the consideration of data that Affinity Water has provided to inform the construction and piling process, as well as mitigation measures and controls to reduce any risk to public water supply.
76. Affinity Water are of the view now that whilst the risk to public water supply remains, these risks can be managed subject to the imposition of planning conditions. This is a change in position since the last appeal decision on the basis of the work that has been subsequently carried out in order for Affinity Water to be satisfied that contamination risks can be managed.
77. On this basis, I am satisfied that the previous Inspector's concerns have been overcome and there is now sufficient evidence to demonstrate that the risk to the public water supply could be adequately mitigated, subject to planning conditions. The proposal would thus not have an unacceptable effect on groundwater and the quality of the public water supply.

Accessibility

78. The site benefits from ready access to the A412 and the M25. These routes are capable of accommodating the traffic associated with the proposal, subject to highway improvements including at the Denham Way junction. In coming to such a view, I am also mindful of commitments for development in the area that I have been referred to, as well as HS2.
79. Nor would there be an obvious reason why such traffic would seek to take a more indirect route via Maple Lodge Close. Moreover, a construction traffic management plan would provide for routes for construction to exclude the use of Maple Lodge Close. I am aware of a school beyond the roundabout that provides access to the M25, but only a limited amount of traffic is predicted to pass the school. The improvements at the Denham Way junction would also assist with pedestrian safety.
80. With regard to encouraging modes of transport other than the car, Denham Way benefits from bus services that stop fairly close to the site and a footway/cycleway. There is an existing footway alongside the access road that would be extended to the site. A travel plan is also proposed so that sustainable modes of transport are encouraged. Overall, the proposal would not be unacceptable as regards highway safety and would be in an accessible location, including for non-car users.

³ Appeal ref: APP/P1940/W/19/3243565

Living Conditions – Outlook and Visual Impact, Light, Air Quality

81. No 19 benefits from views over the site, in particular from its garden area. Such views are filtered to a degree by trees and vegetation, although this would be less at the times of year of leaf fall. The nearest of the 2 proposed buildings would though be located away from the nearest site boundary with No 19 and while it would be a large building to reflect its use, such an effect would not be overbearing or domineering. As such, the effect on the outlook and the visual impact would not be unacceptable. With the positioning of the nearest building to No 19 and the distance, there would also not be an undue effect on sunlight and daylight. Hence, overshadowing to any significant degree would not occur.
82. Other residential properties on Longmore Close and Maple Lodge Close are located further away again from the nearest proposed building and so there would also not be unacceptable effects with regard to visual impact, outlook and light. Similarly, with regard to the properties on Springwell Lane.
83. In terms of impact of lighting from the proposal itself on living conditions, this is a matter which can be addressed through a scheme that is proposed to be the subject of a planning condition. With regard to the potential for light spill from within the building itself, details of the external materials by condition would deal with this issue in order to prevent undue disturbance.
84. With regard to air quality, the appellant has previously undertaken a dust assessment related to construction. Proposed mitigation measures include site management and practically dealing with dust through a management plan. On-going particulate monitoring would not be warranted during construction, in particular as Maple Lodge Close would not be used as a construction route.
85. With regard to operational phase road traffic emissions, the appellant's air quality assessment indicates that the relevant air quality thresholds would not be exceeded, including with regard to particulates. Nor is their evidence before me that suggests that thresholds would be exceeded by monitoring that has been carried out by other parties. The proposed layout is also of some benefit in this regard because of the vehicle movements largely taking place on the opposite sides of the proposed buildings to where the nearest residential properties are found.
86. Thus, the effect on the living conditions of the occupiers of the nearest residential properties would also not be unacceptable in these respects, subject to the imposition of suitably worded planning conditions.

Green Belt

87. One of the proposed accesses and drainage works would lie within the Green Belt. Paragraph 150 of the Framework states that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include engineering operations and which reasonably include the proposed access and drainage works.
88. The proposed access would take the form of a splayed junction and footways in order to serve the proposal. In spatial terms, it would effectively represent a change in surfacing in between trees alongside the access road. Visually, vehicles using the access would be apparent, although this would be fleeting as

they access and egress the proposal. As such, the proposed access would preserve openness and there would not be a conflict with the purposes of the Green Belt. I reach the same conclusion by way of drainage works where the access road is located. The proposal would not constitute inappropriate development in the Green Belt.

Listed Buildings

89. Maple Lodge Farm (Maple Lodge) is a grade II listed former farmhouse. Its special interest relates to its historic and architectural value as a 19th century building with elements from a 17th century timber framed structure. Maple Lodge Barn is a former agricultural building that is now in residential use and is also grade II listed. The significance of the buildings lie in their relationship with agricultural development in the area since the 17th century.
90. Unlike when they were originally built, these buildings are far from isolated with the development that has taken place along Maple Lodge Close, and with existing nearby employment and utilities development. The significance of their setting is therefore of a limited nature. There is no substantive evidence of a historical functional relationship with the appeal site and inter-visibility is limited as both the listed buildings are fairly well enclosed and separated from the site by land associated with Longmore Close and the cricket pitch.
91. In having regard to the statutory duty that is set out in Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal would have special regard to the desirability of preserving the listed buildings or their settings or any features of special architectural or historic interest which they possess. It would maintain the significance of the setting of these listed buildings.

Section 106 Agreement

92. The obligations in the Section 106 Agreement include a travel plan contribution and the associated arrangements, and the BNG contribution. The Section 106 Agreement binds the owner to covenants with the District and County Councils.
93. The Travel Plan would encourage, promote and regulate sustainable modes of transport. It would be required in order for the proposal to accord with Policies CP1, CP8 and CP10 of the Council's Core Strategy (2011) (Core Strategy), as well as Policy LTP4 of Hertfordshire County Council's Local Transport Plan and the Framework.
94. The BNG contribution would be to ensure that there would be no net loss of biodiversity and to secure measurable net gains. It would provide compensatory habitat for the Forester Moth. My decision is based on a sum of £142,800, rather than an alternative sum. This would be required so that the proposal would comply with Policy CP9 of the Core Strategy, Policy DM6, the NERC Act and the Framework.
95. Having regard to the evidence before me, it has been demonstrated that the obligations are necessary in order to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. They accord with the tests that are set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (as amended, 2019). Accordingly, I have taken them into account in my decision.

Other Considerations

96. The trees around the boundaries of the site would largely be retained and where trees would be lost these would have generally less amenity value. It is also proposed to plant a not insignificant number of trees on the site, and implement a landscaping scheme. Bearing in mind that the site is allocated for the proposed use, the effect on the amenity value of trees including on the TPO would not be unacceptable. Similarly, with regard to the amount of landscaping proposed.
97. That the site does not constitute previously developed land also needs to be viewed in the context of that it is allocated for development. The same applies where I have been referred to the Colne Valley Park. The design is reflective of what is proposed and in character terms lies near to other employment buildings. Satisfactory drainage can ably be dealt with through the imposition of planning conditions, as can land contamination. Matters in relation to the conduct of the Planning Committee are not for my consideration.
98. As I have found the proposal to accord with the development plan and there are not material considerations that would lead me to a decision other than in accordance with it, I do not have cause to carry out a planning balancing exercise, save in relation to Policy DM6 which I have already addressed earlier in my decision.

Conditions

99. I have imposed conditions which concern the statutory time limit for implementation and the approved plans, in the interests of certainty. I have also imposed a condition with regard to construction traffic management details. This is in the interests of highway safety and protecting the living conditions of the occupiers of the nearest residential properties.
100. Conditions are also imposed in relation to the drainage scheme, the flood risk assessment and drainage strategy, and SuDS, in the interests of providing satisfactory drainage infrastructure and minimising flood risk. I have also imposed conditions concerning the groundwater levels, contamination, unexpected contamination, groundwater monitoring, piling method statement, the decommissioning of investigation boreholes, dewatering, conditions to be displayed on site and infiltration of surface water, in the interests of public health, the water environment and the MLNR.
101. Conditions are also imposed in relation to site waste for the purposes of minimising waste and so combating climate change, and minimising dust in the interests of protecting the living conditions of the occupiers of the nearest residential properties. A condition concerning a Construction Environment Management Plan is also imposed for living conditions reasons, in the interests of the water environment and the MLNR.
102. Conditions are imposed by way of highway improvement works, and parking and access in the interests of highway safety, and cycle parking and electric vehicle charging points in the interests of encouraging modes of transport that would lessen effects on climate change. A condition is also imposed with regard to refuse and recycling, in the interests of living conditions and character and appearance. The same reason applies for the imposition of external materials and boundary treatments conditions. Conditions are

imposed concerning site levels and landscaping details, for reasons of character and appearance.

103. In addition, a condition is imposed for a landscape and ecology management plan, also in the interests of character and appearance, as well as due to biodiversity. I have not included an on-site biodiversity unit figure, as it is not certain what this would be and moreover the condition adequately allows for related measures. An arboricultural method statement and tree protection condition is imposed in the interests of protecting the amenity value of trees.

104. A noise assessment condition is imposed, as is a condition concerning noise from refrigerated HGVs and tug units. These are imposed in the interests of protecting the living conditions of the occupiers of the nearest residential properties. Lighting conditions are applied both in the interests of biodiversity and living conditions, and a condition is also imposed for the implementation of the submitted Energy Statement, in the interests of energy efficiency.

105. I have not imposed a separate condition concerning habitat creation adjacent to the Maple Lodge Ditch because it would duplicate a requirement of the landscape and ecology management plan condition. The same applies as regards a travel plan condition as it already forms a planning obligation in the Section 106 Agreement.

106. Where conditions are pre-commencement, there is agreement through the Final Suggested Conditions Schedule and the Statement of Common Ground that were submitted, including by the appellant. Where I have altered the wording of the conditions put forward, I have done so in the interests of precision and without changing their overall meaning.

Conclusion

107. I have found the proposal to be not unacceptable with regard to the effect on biodiversity interests, in particular BNG and the Forester Moth, and on the living conditions of the occupiers of local residential properties by way of noise from the traffic and operation of the proposal, as well as with regard to all other matters that have been raised. The proposal would comply with the policies in the development plan when considered as a whole, and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan. For the reasons set out above, the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Giles Cannock Of Queens Counsel, instructed by Tim Sturgess, Avison Young

He called

Hannah Fraser BA (Hons), MSc, CGeol Director, H Fraser Consulting Ltd
Mitch Cooke BSc (Hons), MSc, Director, Greengage Environmental
MCIEEM, CEnv
Matthew Heyes BSc (Hons), MIOA Associate Director, RSK Acoustics
Tim Sturgess, BA (Hons), MSc, LRTPI Director, Avison Young

Richard Ashford On behalf of the appellant (in attendance at the site visit)

FOR THE MAPLE CROSS RESIDENTS ENVIRONMENT GROUP (MCREG) - RULE 6 PARTY:

Mr Nicholas Grant of Counsel, instructed by Emma Montlake, Environmental Law Foundation

He called

Keith Pursall Chair/Trustee, Maple Lodge Conservation Society
Matthew J W Dodds BA (Hons), Planning and Biodiversity Manager, Herts & Middlesex Wildlife Trust
MSc, MCIEEM Director, Cass Allen Associates Ltd
Samuel Bryant MPhys (Hons),
CEng, MIOA

Carolyn Weston MCREG

FOR THE LOCAL PLANNING AUTHORITY:

Mr Timothy Comyn Of Counsel, instructed by Matthew Barnes, Three Rivers District Council

Claire Westwood Development Management Team Leader at Three Rivers District Council
Matthew Barnes Solicitor at Three Rivers District Council

INTERESTED PARTIES

Rita Jones Local Resident
Graham Nye Local Resident
Zenab Hearn Local Resident
Justine Nye Local Resident (in attendance at the site visit)

INQUIRY DOCUMENTS

- 1 Opening Submission of the Appellant
- 2 The Council's Statement
- 3 Opening Speech of Maple Cross Residents Environment Group
- 4 Comparison of Appellant's BNG Calculation and HE Calculation
- 5 Email from the Council dated 20 April 2022 concerning Condition 20 (Noise Assessment)
- 6 Email from MCREG dated 21 April 2022 in response to the Council's email dated 20 April 2022
- 7 Statement of Common Ground between Maple Cross Residents Environment Group (Rule 6 Party) and BCL (Maple Cross) LLP (Appellant)
- 8 Condition 20 – Updated 28/04/22 to include AP3 (Springwell Barn)
- 9 Email on behalf of Maple Cross Residents Environmental Group dated 28 April 2022 detailing a condition concerned with the Forester Moth
- 10 Planning Practice Guidance: *Natural Environment* extract, paragraphs 022 and 023
- 11 Closing Speech of Maple Cross Residents Environment Group
- 12 The Council's Closing Statement
- 13 Closing Submission of the Appellant

DOCUMENT RECEIVED FOLLOWING THE CLOSE OF THE INQUIRY

- 14 Deed of Agreement pursuant to S.106 Town and Country Planning Act 1990 (as amended) dated 19 May 2022 (completed and executed version)

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 17019-C4P-AV-00-DR-A-0100 REV P5 Site Location Plan, 17019-C4P-AV-00-DR-A-0500 REV P17 Site Plan as Proposed, 17019-C4P-AV-00-DR-A-0101 REV P4 Site Plan as Existing, 17019-C4P-AV-ZZ-DR-A-0700 REV P4 Site Elevations as Proposed, 17019-C4P-B1-R-DR-A-2001 REV P4 Unit 1 – Proposed Roof Plan, 17019-C4P-B1-ZZ-DR-A-2000 REV P4 Unit 1 – Proposed GA Floor Plans, 17019-C4P-B1-ZZ-DR-A-2100 REV P5 Unit 1 – Elevations as Proposed, 17019-C4P-B2-R-DR-A-2001 REV P4 Unit 2 – Proposed Roof Plan, 17019-C4P-B2-ZZ-DR-A-2000 REV P4 Unit 2 – Proposed GA Floor Plans, 17019-C4P-B2-ZZ-DR-A-2100 REV P4 Unit 2 – Elevations as Proposed, 55-01 REV P17 Proposed Drainage Layout, 65-03 REV P16 Plan Showing Ex. Access Road Widening, Repairs, 65-04 REV P6 Sections Showing Proposed Widening to Ex. Access Road, 05-885-700 REV H Landscape Strategy
- 3) No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall provide for:
 - i) Construction vehicle numbers, type, routing to avoid use of Maple Lodge Close;
 - ii) Expected frequency of vehicles during construction and size and weight of these vehicles;
 - iii) Access arrangements to the site;
 - iv) Traffic management requirements;
 - v) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
 - vi) Siting and details of wheel washing facilities;
 - vii) Cleaning of site entrances, site tracks and the adjacent public highway;
 - viii) Timing of construction activities (including delivery times and removal of waste); and
 - ix) Post construction reinstatement of the working areas and/or temporary access to the highway.

The approved Construction Traffic Management Plan shall be adhered to throughout the construction period for the development.
- 4) No development shall take place until details of the existing site levels and the proposed finished floor levels and sections of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until the final design of the drainage scheme is submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall be based on the Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth,

Issue 1.6, dated 25 February 2021, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T_17_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. The scheme shall also include:

- i) Detailed engineered drawings of the proposed SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs;
- ii) All corresponding detailed calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + climate change event;
- iii) Details of half drain down times of the surface water attenuation;
- iv) Clarification on the volumes of water to be stored within each SuDS attenuation feature / permeable paving sub-base;
- v) Detailed engineering drawings, calculations and evidence to secure and safeguard the SuDS features from groundwater infiltration;
- vi) Detailed engineering drawings and evidence of the proposed surface water pump including details of safeguarding and a management and maintenance plan;
- vii) Detailed management and maintenance plan for the Maple Lodge Ditch Main River and a timetable for implementing maintenance and the removal of any blockages;
- viii) The design of above ground SuDS, to include the provision of filter strips / filter trenches to support effective and sustainable management and treatment of surface water;
- ix) Silt traps for the protection of any tanked elements;
- x) A demonstration of appropriate SuDS management and treatment and inclusion of above ground features such as permeable paving and the minimization of any requirement for any underground storage, to include details of products and maintenance; and
- xi) An implementation schedule for the drainage scheme.

The development hereby permitted shall be carried out in accordance with the approved drainage scheme and shall thereafter be maintained.

- 6) No development shall take place until a monitoring and maintenance plan (OEMP) in respect of groundwater levels across the site has been submitted to and approved in writing by the Local Planning Authority. The OEMP shall include:
 - i) Provision for short and long-term monitoring of the groundwater and surface water to demonstrate that there is no likely material impact on the groundwater or surface water of the site or that of Maple Lodge Nature Reserve from post construction phases and operational phases compared to baseline values;
 - ii) A monitoring programme as stated with the Pilling Method Statement and Risk Assessment;
 - iii) Instructions on management of run-off and drainage, management of stockpiles, management of storage and use of hazardous fluids and

substances; and a plan for the mitigation of the impact of all operational activities to be established and approved by the Local Planning Authority including the fulfilment of the requirements of the Hydrological Impact Assessment and GQRA (ref. 30422R3, dated 07.06.2021); and

iv) A timetable of monitoring and submission of reports on the operation of the OEMP to the Local Planning Authority.

Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

The development hereby permitted shall be carried out in accordance with the approved OEMP.

7) No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:

i) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potential risks arising from contamination at the site.

ii) A site investigation scheme, based on i) to provide information for a detailed assessment of the risk of contamination to all receptors that may be affected, including those off site.

iii) The results of the site investigation and the detailed risk assessment referred to in ii) 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.

iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of 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.

The contamination remediation strategy shall be implemented as approved.

- 8) No development shall take place until a long-term monitoring and maintenance plan in respect of contamination, including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.
- 9) No development shall take place until a Site Waste Management Plan (SWMP) has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall aim to reduce the amount of waste being produced on site and shall contain information including types of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.
- 10) No development shall take place until a Dust Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Dust Management Plan shall include best practicable means to be employed to minimise dust caused by the permitted construction and operation of the development and to prevent the emission of dust from the site. The development shall be carried out in accordance with the approved Dust Management Plan.
- 11) No development shall take place until an arboricultural method statement (prepared in accordance with BS: 5837 (2012) 'Trees in relation to design, demolition and construction') has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include details of any development works with the potential to impact retained trees including demolition, ground level changes, the installation of services, drainage, hard surfaces, foundations, contamination investigation/remediation works, archaeological investigations, site facilities/accommodation works, contractor parking areas and equipment/material storage. Any necessary encroachment into the Root Protection Area of a retained tree by the proposed development shall be undertaken only in accordance with a detailed design and working specification demonstrating how the works will be carried out to minimise any adverse impact upon the tree. The detailed design and working specifications shall include full details of all tree protection and mitigation works and include a timetable of site monitoring and arboricultural supervision of works to be carried out.

The construction methods to be used shall ensure the retention and protection of trees, shrubs and hedges growing on or adjacent to the site in accordance with the approved plans. The development shall be implemented in accordance with the approved detailed design and working specification.

The protective measures, including fencing, shall be undertaken in full accordance with the approved detailed design and working specification prior to any equipment, machinery or materials being brought on to the site for the purposes of carrying out the development, and shall be maintained during the construction of the development and until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition; and the ground levels within those areas shall not be altered, nor shall any excavation be made unless in accordance with the approved detailed design and working specification. No fires shall be lit or liquids disposed of within 10.0 metres of an area designated as being fenced off or otherwise protected in accordance with the approved detailed design and working specification.

The development hereby permitted shall be carried out in accordance with the approved arboricultural method statement.

- 12) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include instructions on management of run-off and drainage, management of stockpiles, management of storage and use of hazardous fluids and substances; and a plan for the mitigation of the impact of all construction activities to be established and approved by the Local Planning Authority including the fulfilment of the requirements of the Hydrological Impact Assessment and GQRA (ref. 30422R3, dated 07.06.2021). The approved CEMP shall be adhered to throughout the construction period for the development.
- 13) Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used in the construction of the development hereby permitted other than those approved.
- 14) A. Offsite (Design Approval)
Notwithstanding the details indicated on the drawings accompanying the application no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on submitted drawing number MLC-BWB-GEN- XX-DR-TR-0001 S2 rev. P3 have been submitted to and approved in writing by the Local Planning Authority.
B. Offsite (Implementation / Construction)
Prior to the first use of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.
- 15) No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

- 16) A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected (and details of the consultation undertaken with Affinity Water). The scheme as approved shall be implemented prior to the occupation of any part of the development hereby permitted.
- 17) No dewatering shall take place save that should dewatering be necessary, no dewatering shall occur until a Dewatering Method Statement (detailing the dewatering method and predicted impact on groundwater flow and details of the consultation undertaken with Affinity Water) has been submitted to and approved in writing by the Local Planning Authority. Any dewatering must be undertaken in accordance with the terms of the approved dewatering method statement.
- 18) A copy of all conditions addressing groundwater protection, foundation design and site drainage, and any other groundwork or surface water matters and details submitted during the discharge of conditions, and approved as part of and pursuant and subsequent to this consent, shall be displayed at the site office at all times.

The Site Manager will ensure that the contents and intent of each are known to any persons given responsibility for operational management or control of the site, or carrying out works on that site.

- 19) The rated noise level from any fixed or mobile mechanical plant in or on the buildings and from the commercial activity, including all noise associated with deliveries and vehicle movements (including parking within the car park and lorry park) and service yards, hereby permitted shall not at any time exceed 5 dB above the background sound level representative of any period being assessed applying the methodology within BS4142:2014+A1:2019 or 45dB L_{Ar, 1hour} during the day (07.00-23.00) and 40dB L_{Ar, 15min} at night (23.00-0700) whichever is the higher calculated at assessment position AP1 (Maple Lodge Farm) and assessment position AP2 (19 Longmore Close) – as identified in the Cole Jarman Planning Noise Assessment Ref. 19/0333/R2 (paragraphs 3.4.1, 3.4.2 and figure 19/0333/SP2) and assessment position AP3 (Springwell Barn) using a suitably calibrated noise meter for the purpose. The 'rated' noise level shall be determined as in accordance with BS4142:2014+A1:2019.
- 20) Prior to the first use of the development hereby permitted the proposed access road, on-site car parking, electric vehicle charging provision, cycle parking and turning areas shall be installed, laid out, demarcated, surfaced and drained as appropriate in accordance with the plans set out at Condition 2 and retained thereafter available for that specific use.
- 21) Prior to the first use of the development hereby permitted detailed designs for the parking of cycles shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied (or brought into use) and thereafter retained for this purpose.

- 22) Prior to the first use of the development hereby permitted the details and design of Electric Vehicle Charging Points (EVCPs) shall be submitted to and approved in writing by the Local Planning Authority. All EVCPs shall be installed in accordance with the approved details prior to occupation of the units and maintained and retained thereafter.
- 23) Prior to first use of the development a scheme for the separate storage and collection of waste shall be submitted to and approved in writing by the Local Planning Authority. Details shall include siting, size and appearance of refuse and recycling facilities on the premises. The development hereby permitted shall not be brought into use until the approved scheme has been implemented and these facilities shall be retained thereafter.
- 24) Prior to the first use of the development hereby permitted a scheme of hard and soft landscaping, which shall include the location and details of all existing trees and hedgerows to be retained, and the recommendations of Greengage Preliminary Ecological Appraisal (REF550987dpJan21FV02_PEA), together with a scheme detailing measures for their protection in the course of development shall be submitted to and approved in writing by the Local Planning Authority.
- All hard landscaping works required by the approved scheme shall be carried out and completed prior to the first use of the development hereby permitted.
- All soft landscaping works required by the approved scheme shall be carried out before the end of the first planting and seeding season following first occupation of any part of the development or the completion of the development, whichever is sooner.
- If any of the proposed soft landscaping is removed, dies, becomes severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (i.e. November to March inclusive).
- 25) Prior to the first use of the development hereby permitted a landscape and ecology management plan, including long term design objectives, management responsibilities, timescales and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority. The landscape and ecology management plan shall include details for the management and maintenance of the 8 metres buffer zone between Unit 2 and the Maple Lodge Ditch main river for 25 years and include details for replacement in this location if any of the proposed soft landscaping within this zone is removed, dies or becomes severely damaged or diseased. The landscape and ecology management plan shall be carried out as approved.
- 26) Prior to first use of the development hereby permitted a "lighting design strategy" in accordance with current guidance from the Bat Conservation Trust and Institution of Lighting Professionals, for features or areas to be lit, shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
- i) identify those areas/features on site that are particularly sensitive for nocturnal species and that are likely to cause disturbance in or around

their breeding sites and resting places or along important routes used to access key areas of their territory, including for foraging; and

ii) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specification) so that it can be clearly demonstrated that areas to be lit shall not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy. Under no circumstances shall any other external lighting be installed without prior consent from the Local Planning Authority.

- 27) Prior to first use of the development hereby permitted a scheme for external lighting including details of the position, height, design and intensity of lights shall be submitted to and approved in writing by the Local Planning Authority. The approved external lighting details shall be designed in accordance with CIBSE external lighting guidelines, BS 5489 and BS 5266. The lighting shall be installed in accordance with the approved details prior to the use of the site for the development hereby permitted.
- 28) Prior to first use of the development hereby permitted a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected in accordance with the approved details prior to the use of the site for the development hereby permitted and shall be maintained thereafter.
- 29) Prior to first use of the development hereby permitted the measures detailed in Section 5 within the KGA (UK) Ltd Energy Statement (ref. 5000 rev 4, dated February 2021) shall be incorporated into the approved development and as provided for by these conditions and be maintained thereafter.
- 30) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T_17_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. This shall include the following mitigation measures:
 1. Provide attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
 2. Restrict surface water discharge into Maple Lodge Ditch (via pump) to the QBAR Greenfield run-off rate (6.5l/s).
 3. Implement drainage strategy including lined permeable paving, lined cellular attenuation and discharge via surface water pump into the nearest watercourse, Maple Lodge Ditch, which is a Main River.

- 31) Upon completion of the drainage works referred to in condition 30 for the site and in accordance with the timing / phasing arrangement, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
1. Provision of a complete set of as built drawings for site drainage.
 2. Maintenance and operational activities.
 3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.
- The development hereby permitted shall be carried out in accordance with the approved management and maintenance plan.
- 32) If, during development, contamination not previously identified is found to be present in or on the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how the unforeseen contamination shall be dealt with and has obtained written approval of the remediation strategy from the Local Planning Authority. The remediation strategy shall be implemented as approved.
- 33) In the construction and operation of the development hereby permitted no drainage systems for the infiltration of surface water to the ground from the site shall be installed or permitted other than with the approval in writing of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details of such proposals.
- 34) In the construction and operation of the development hereby permitted there shall be no operation of refrigerated HGVs or of tug units without prior details of such operations being submitted to and approved in writing by the Local Planning Authority which demonstrate that the proposed operation would not give rise to unacceptable noise levels.