



Appeal Decision

Hearing held on 27 April 2010
Site visit made on 27 April 2010

by **C J Ball** RIBA IHBC FRSA

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

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Decision date:
24 May 2010

Appeal Ref: APP/D1780/A/10/2120788 468-480 Portswood Road, Southampton SO17 3SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Max Holmes of Madison Properties Ltd against the decision of Southampton Council.
- The application Ref 09/00409/OUT, dated 21 April 2009, was refused by notice dated 21 July 2009.
- The development proposed is described as the mixed redevelopment of the site providing student accommodation (50 units) and retail shop in a 2, 3 and 4 storey building with cycle and car parking.

Decision

1. I allow the appeal and grant outline planning permission for the mixed redevelopment of the site providing student accommodation (50 units) and retail shop in a 2, 3 and 4 storey building with cycle and car parking at 468-480 Portswood Road, Southampton in accordance with the terms of the application ref: 09/00409/OUT, dated 21 April 2009, and the plans submitted with it, subject to the conditions set out in Annex A.

Preliminary matters

2. The application is made in outline with the matters of access, appearance, layout and scale to be considered. Landscaping is reserved for future consideration.
3. During the application process the Council considered amended courtyard level and ground floor plans. The amendments consist mainly of minor internal rearrangements and I have taken these plans into account.
4. The appellant also submitted plans with the appeal showing an alternative layout of the southern wing of the proposed building, where habitable rooms would face inwards into a courtyard rather than outwards onto the street. I consider that these alterations represent a material change to the scheme. The amended scheme is intended to overcome the first reason for refusal of the application. At the hearing the appellant confirmed that it is not put forward as a substitute scheme but as an option should I find the original scheme unacceptable.
5. I note that, in accordance with appeal guidelines, the appellant has submitted a fresh planning application for the amended scheme. The Council confirms that that scheme has been approved, subject only to the receipt of a satisfactory s106 undertaking. The further consideration of the amended plans in this appeal would therefore serve no planning purpose. At the hearing, the appellant confirmed that the scheme as originally submitted is his preferred scheme.

6. In these circumstances, notwithstanding the arguments around the *Wheatcroft Principles*, I see no real need for me to formally consider the amended scheme. The appellant already has confirmation that it is acceptable. While I shall have regard to what has been approved, I shall consider this appeal on the basis of the original scheme as considered by the Council. Both schemes are subject to the completion of similar s106 planning obligations. I shall go on to consider the obligations necessary to this scheme which will no doubt inform the undertaking for the amended scheme. I see no disadvantage to the appellant in this approach.

Planning obligations

7. Just prior to the hearing the appellant submitted in draft 3 unilateral undertakings as planning obligations under s106 of the Act. At the hearing it was explained that these were alternatives, representing in B1, the obligations required by the Council; in B2, the omission of the required strategic transport contribution (the 'compromise offer'); and in B3, the omission and reduction of other requirements (the 'reasonably related in scale' offer).
8. At the hearing the appellant submitted a supplemental undertaking as a deed of variation, intended to correct the omission of an acknowledged fundamental requirement for the dedication of highway land, and other matters. Since a deed of variation has to be made by agreement, and the Council was not party to it, the appellant accepted that this supplemental undertaking was invalid and that, without this particular provision, all 3 alternative undertakings were unacceptable.
9. In the event, and in the light of other concerns about accuracy and drafting errors pointed out by the Council, I gave the appellant additional time to submit an amended undertaking. That final signed document was received by the due date. The Council confirmed that the undertaking is now satisfactory. The undertaking is an important material consideration and I shall consider its provisions later in this decision.

Applications for costs

10. At the hearing applications for costs were made by the appellant against the Council and by the Council against the appellant. These applications are the subject of a separate Decision.

Main issues

11. The main issues in this appeal, arising from the reasons for refusal, are:
1. whether acceptable living conditions would be provided in the 10 flats in the southern wing of the proposed development, with particular regard to size, noise and ventilation;
 2. the impact of the proposal on the safe and convenient use of the local highway network; and
 3. the effect the proposed development would have on local infrastructure, with particular regard to sustainable transport, local parking and public open space and whether any objections would be overcome by planning obligation.

Reasons

12. The site, currently operated as a car sales lot, lies at the junction of Portswood Road, a busy arterial road and bus corridor, and Belgrave Road, which leads to an industrial estate. Carwork, a vehicle repair workshop, adjoins the eastern boundary of the site, with LS Commercials, a heavy vehicle repair shop, beyond that. Across Belgrave road to the south, on the corner plot, is The Brook, a late night music venue. The proposed development would take the form of a hollow square extending effectively to the site's perimeter and enclosing a courtyard garden. The retail unit would be located on the Portswood Road frontage, serviced from a new lay-by on Belgrave Road adjacent to the shared entrance to the student flats. Extensive cycle parking, including visitor stands, would be provided and there would be 3 car parking spaces, 2 for disabled occupiers of the building and 1 for a pool car club.
13. The Council has no objections to the proposal either in land use terms or, in general terms, to the design, appearance and scale of the proposed building. The site is in a sustainable location, close to public transport, shops and other facilities.

Whether acceptable living conditions would be provided in the 10 flats in the southern wing of the proposed development

14. The layout includes a 3-storey block along Belgrave Road, consisting of 2 floors each of 5 small studio flats above the entrance and parking area, known as the southern wing. The single window to each of these 10 flats would be in a projecting bay, canted to face towards Portswood Road. The Council's principal concern is that noise from the nearby commercial premises, particularly late night noise from The Brook, could prompt complaints from the occupiers of the 10 flats which might lead to unwanted restrictions on those business activities. That would be an unacceptable burden on existing established uses and, unless properly addressed, could mean that the site is unsuitable for residential development.
15. An appropriate condition can be imposed to ensure adequate noise insulation, thereby protecting the new residents from existing noise sources. The decision hinges on whether it is acceptable to have opening windows in these circumstances. The canted bay arrangement is intended to ensure that, as far as possible, the windows face away from the sources of noise. The parties agree that noise insulated windows, providing a noise reduction of 38dB, would provide acceptable noise levels in the flats when the windows are closed. However, the Council considers that a requirement for the windows to be fixed closed to provide the necessary level of noise insulation, given the small size of the flats and the angled outlook, would result in claustrophobic living conditions. Although the Council refers to the findings of Appeal Decision APP/D1780/A/08/2088525 in support of its case, that decision relates to obscured glazing, an entirely different restriction, which in my view provides no justification for the Council's stance, The Council prefers the amended scheme where the flats face into the courtyard, albeit retaining the canted bay windows because of the limited face to face distance across the courtyard.
16. I consider that a small flat with a single non-opening window arranged in this way would be poor design, providing unsatisfactory living conditions. I agree that some might find it claustrophobic. However, I note that the corresponding flats in the acceptable amended scheme would be of exactly the same size and layout, so

that size is not a major consideration. In that case openable windows would face a relatively blank east-facing 5-storey high courtyard wall, some from no more than 3.5 metres away. I am not convinced that that is entirely preferable. It seems to me that the flats in the scheme I am considering, while they would be no different in size or layout, would have a far better outlook onto a lively street scene.

17. Furthermore, I see no convincing reason why the windows should not be openable. That would overcome any claustrophobic effect, providing more normal living conditions and allowing natural ventilation. The noise from nearby commercial activities is not continuous so there would be times when there would be no problem with disturbance. As I understand it, the principal objectionable noise sources are occasional evening and early morning work at Carwork or LS Commercials and late night/early morning disturbance as, for example, a performer's entourage loads up and leaves The Brook. I heard that there is no problem during the performances themselves as The Brook has been well insulated against noise transmission. The windows would be canted to face away from these potential noise sources but, with mechanical ventilation, the occupiers of these flats would have the option of keeping the windows closed at night or indeed at all times if they so wished. As managed rented student accommodation, the occupiers could be made aware of the potential for disturbance and their options for controlling it. In this respect I note that the permitted scheme in Bevois Valley Road (07/00203/OUT) is conditional upon mechanical ventilation (for air quality reasons) but does not appear to require fixed windows.
18. On that basis I consider that, in compliance with LPR policy SDP16, there would be no unacceptably adverse effect from significant noise on the occupiers of the flats if the windows were to be openable and that the amenity of the occupiers on the adjoining land would not be prejudiced, as required by policy H2. I consider that overall the proposal would result in a design of high environmental quality, as sought by part (ii) of policy H7, and that there would be no seriously detrimental impact on the quality of life of the occupiers of the flats, in accordance with the aims of policy SDP1. I therefore find that the 10 flats in the southern wing of the proposed development would provide acceptable living conditions consistent with the aims of national policy guidance and LPR policies.

The impact of the proposal on the safe and convenient use of the local highway network

19. The Council's concerns in this respect centre on the amount of traffic that could be generated by the occupiers of the student flats, particularly at the beginning and end of tenancies, where there would be very limited provision on site in an area already suffering from congestion due to indiscriminate parking. Parking space on site would be provided for 2 disabled person's cars, with 1 additional space reserved for a pool car sharing club vehicle.
20. At the hearing it was confirmed that the Council's concerns could be overcome by:
- A commitment to providing and maintaining a pool car sharing club to reduce the likelihood of cars being brought to the site and the consequent demand for parking space with the increased pressure on kerbside parking;
 - A restrictive covenant in each student tenancy to prevent private cars from being brought onto the land;

- The implementation of a site management plan to manage the staggered arrival and departure of students at the beginning and end of tenancies; and
 - Payment for a Traffic Regulation Order (TRO) to control parking on Belgrave Road and to ensure that the proposed lay-by is used for loading only.
21. All these provisions are included as planning obligations in the final s106 undertaking, together with an undertaking to restrict occupation to full-time students and the dedication of highway land as footway. I consider that they are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly related in scale to the development. These obligations therefore meet the tests of CIL Regulation 122 and would resolve the identified travel demand problems in accordance with LPR policy SDP3. The undertaking to control and manage student occupation and parking would meet the requirements of Policy H13 and, together with the on-street parking restrictions of the TRO, would encourage sustainable transport choices in line with key national policy objectives. With all that in place I consider that the proposal would have no significantly adverse impact on the safe and convenient use of the local highway network.

The effect the proposed development would have on local infrastructure and whether any objections would be overcome by planning obligation

22. LPR policy IMP1, supported by adopted SPG on planning obligations, makes it clear that all new development will be expected to meet the additional costs of increased community infrastructure provision where the need for that arises as a direct result of the development. In this case the proposal would increase the City's population by about 50. The Council identifies a consequent need for contributions towards site specific measures to support sustainable forms of transport, measures to support strategic transport initiatives and the increased provision of public open space, with a requirement to repair damage to the public highway attributable to the build process.
23. The method of calculating the costs of infrastructure improvement is set out in the SPG. At the hearing the Council detailed the site specific contribution of £18,000 as £14,000 towards the provision of Real Time Information (RTI) at 2 bus stops and £4,000 for the TRO. Given the restrictions on car use it is likely that the occupiers of the student flats would wish to make full use of the Uni-link buses, which run along Portswood Road, with nearby stops in both directions. In my view the likely increase in demand fully justifies the provision of RTI, thereby ensuring the efficient use of the bus system as a sustainable means of transport. I have already found the TRO contribution to be necessary.
24. The strategic contribution of £18,000 is based on a standard tariff for flats, reduced by 25% to reflect their single occupancy. The increase in population would have an impact on city-wide strategic transport infrastructure. This contribution is intended to be pooled towards meeting the shortfall in the estimated cost of providing necessary Local Transport Plan schemes. It was explained at the hearing that this would include improvements to the Portswood Road transport corridor. On that basis I consider that a pooled contribution towards strategic improvements is justified.
25. The contributions towards public open space provision are also based on standard tariffs. It is likely that the significant increase in the youthful population arising

from this development would result in increased pressure on Portswood Recreation Park, the nearest public amenity space, so I consider a contribution of £5,400 towards the improvement of the park to be necessary. It would directly benefit the occupiers of the development, in accordance with policy CLT5. However, I heard no evidence to show that there would be unacceptable pressure on local sports pitches, requiring a further contribution, as a direct result of this development. Students are more likely to use sports pitches provided by their educational establishment. As Circular 05/2005 makes clear, tariffs should not be applied in a blanket form regardless of actual impact. Without such justification I cannot be sure that there would be a specific impact on local sports infrastructure or that the required contribution would be fairly and reasonably related in scale and kind to the development. I therefore find that this part of the obligation would not meet the tests of CIL Regulation 122.

26. While I understand the Council's concerns about the difficulties of securing repairs to damage to the public highway, any damage caused by the developer would clearly be his responsibility. That could be enforced if necessary through other powers. I do not see that an undertaking to repair damage is necessary to make the development acceptable in planning terms so this part of the obligation would also not meet the tests of CIL Regulation 122.
27. I find that the obligations to make financial contributions towards site specific and strategic transport initiatives and the contribution towards improving the local park would meet the 3 tests of CIL Regulation 122. I consider that these contributions towards increased community infrastructure provision are necessary since they would arise as a direct result of the development. However, the obligations to make contributions towards sports pitches and highway repairs do not meet the relevant tests, as they are not necessary to make the development acceptable in planning terms. It is therefore unlawful for me to take them into account and I have not done so in reaching my decision.
28. I therefore consider that the development would have an adverse effect on local infrastructure to the extent that I have identified and that, in accordance with policy IMP1 and the supporting guidance, this could be overcome by the relevant planning obligations outlined above. The final signed s106 unilateral undertaking includes the required obligations.

Conclusions

29. It is therefore my intention to allow the appeal and grant planning permission subject to appropriate conditions. The Council's suggested conditions were discussed at the hearing. Although an application in outline, the matters considered were akin to a full application. Given my view on the amended scheme proposed, and having regard to the guidance in *Greater Flexibility for Planning Permissions* (DCLG, 2009), to avoid confusion and in order to simplify any application for a minor material amendment I consider it necessary to impose a condition requiring compliance with a list of approved drawings. That will mean that suggested condition 27, proposing a limit on development, will not be necessary. I shall add the required time limits for commencement and submission of reserved matters.
30. The principal reserved matter is landscaping. This condition needs to be fairly prescriptive because of the detailed nature of the submitted layout. The

suggested condition includes a requirement for the submission of a feasibility study for a green roof. Such a roof would help to maximise sustainability and mitigate the impact on climate change, in accordance with both local and national key planning objectives, so I consider it reasonable to impose such a condition. For reasons of clarity and precision I consider it preferable to make it a separate condition. Other matters not detailed in the application plans include the shopfront to the retail unit and the internal courtyard elevations. Since they are both important elements of the design I shall add conditions requiring further details, including details of external materials, as part of the reserved matters submission.

31. A number of suggested highway, parking and servicing conditions are a necessary and reasonable means of ensuring highway safety and adequate provision. Bicycle parking provision is necessary, with some clarification of the security arrangements, but I see no compelling justification for motor-cycle parking. Because of the limited space, this would be at the expense of pedal cycles, the more sustainable option. Should it be sensible and appropriate to do so, the scheme could readily be adapted in the future.
32. Since construction work could impinge on neighbours it is necessary to require a construction method statement in order to minimise that impact, including restrictions on working hours. It is appropriate to include wheel cleaning, the disposal of demolition waste and other construction matters within this statement.
33. To minimise the demand for resources, and to accord with LDF Core Strategy policy CS20 adopted in January 2010, the scheme is required to achieve a minimum rating of 'very good' against the BREEAM Multi-residential standard, the appropriate standard for this development. Compliance can only be certified by an accredited assessor. While I understand the appellant's concerns about the loss of credits for elements not under his control, such an event must be a subject for negotiation if it occurs. In that respect, to avoid delaying occupation, it would be prudent to achieve more than the absolute minimum number of credits required.
34. For similar policy reasons, in accordance with RSS policy NRM11, policy CS20 and national policy objectives, I consider it necessary and reasonable to require renewable energy technologies to be incorporated into the scheme to provide a minimum of 15% reduction in CO2 emissions.
35. It is appropriate to require by condition the implementation of the crime prevention measures referred to in the submitted Design and Access statement to ensure that they are carried out.
36. There is some indication that, because of its previous use, there might be site contamination so investigation and, if necessary, remediation is required. As explained, in the interests of clarity and precision, I shall impose the conditions set out in the CLG letter of 30 May 2008 to Chief Planning Officers as they will more thoroughly ensure that any risks from contamination are minimised. I shall adjust them as necessary to meet site conditions.
37. The site is in a noisy location and a degree of sound attenuation is required for all windows to outward-facing flats. The 10 flats in the southern wing should include the whole canted bay window construction. These 10 flats require an acoustically attenuated mechanical ventilation system to provide sufficient ventilation should the occupiers choose to keep those windows closed. The flats facing Portswood

Road require soundproofing against traffic noise, with a similar ventilation requirement. I shall require the submission of details for approval.

38. The safety of operation of the nearby Southampton Airport is an important consideration. The building's flat roofs, whether green/brown or not, could be an attractive nesting or roosting spot so its attractiveness to birds needs to be minimised. I shall require a bird hazard management plan to be submitted for approval. Similarly, external lighting schemes should be controlled to prevent confusion with landing lights.
39. I consider it necessary for acceptable living conditions that the common amenities are provided ready for use before the flats are occupied.
40. The Council suggests that the retail unit shall only operate between 0700 and 2300 on a daily basis. I shall include the standard condition in Circular 11/95 restricting these hours to customer use, allowing servicing at other times.
41. There is some evidence of archaeological remains below the site so I shall add a condition requiring the implementation and completion of a programme of investigation and any necessary work.
42. I have to an extent amalgamated some of the suggested conditions and have reworded some to accord more with the Circular and other relevant policy advice. I have also reordered the conditions into a more logical sequence.

Colin Ball

Inspector

APPEARANCES

FOR THE APPELLANT:

Neil Holmes	Quayside Architects.
Max Holmes	Madison Property Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

S R Lawrence BSc(Hons) DipTP DipUD MRTPI	Site Development Team Leader, Planning Department, Southampton Council.
Vanessa White	Highways Development Management Team Leader, Southampton Council.
Simon Mackie	Planning Department, Southampton Council.
Steffan Thomas	Planning Department, Southampton Council.
Melanie Robertson	Planning and Sustainability, Southampton Council.
Ann Greaves	Legal Practice Manager, Planning, Property and Procurement, Southampton Council.

INTERESTED PERSONS:

Philip White	Carwork, neighbouring business.
Dylan Clarke	The Brook, neighbouring business.

FURTHER DOCUMENTS SUBMITTED AT THE HEARING:

- 1 Copies of revised application plans considered by the Council.
- 2 Written submission by Cllr Jane Odgers.
- 3 Ms White's statement in relation to the 3rd reason for refusal.
- 4 Copy of RSS Policy NRM11.
- 5 Copy of Local Plan Review Policy CLT5.
- 6 Copy of LDF Core Strategy Policy CS13.
- 7 Copy of LDF Core Strategy Policy CS20.
- 8 Extract from draft SE Plan (RSS) indicating omissions from Policy SH14.
- 9 Bundle of correspondence regarding the Inspector's views on the acceptability of the amended plans.
- 10 Counsel's advice on this matter.
- 11 Plans indicating differences in plan and elevation of the 2 schemes.
- 12 Plan showing correct distances from 'Carwork' to surrounding buildings.
- 13 Bundle of correspondence relating to tracked changes to the appellant's proposed s106 undertaking.
- 14 Undated supplemental deed of planning obligation.
- 15 Suggested condition relating to secure bicycle parking.
- 16 Details of application ref 07/00203/OUT.
- 17 Copy of appeal decision APP/D1780/A/08/2088525.
- 18 Council's rebuttal of the appellant's costs claim.
- 19 Council's costs application.
- 20 Amended unilateral undertaking, received by agreement after the close of the hearing.
- 21 Plan 031-PLN-024A showing building footprint overlaid on site survey.
- 22 Council's confirmation (by email) of satisfaction with the amended undertaking.

ANNEX A

Conditions to be attached to the grant of planning permission for the mixed redevelopment of the site providing student accommodation (50 units) and retail shop in a 2, 3 and 4 storey building with cycle and car parking at 468-480 Portswood Road, Southampton in accordance with the terms of the application ref: 09/00409/OUT, dated 21 April 2009:

- 1) Details of landscaping and other matters (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters set out in conditions 5, 6, 7 and 8 below shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: PLN_021, PLN_022, PLN_022, PLN_023, PLN_025A, PLN_026B, PLN_027, PLN_028, PLN_029, PLN_030, PLN_031, PLN_032, PLN_033, PLN_034, PLN_035 & PLN_036.
- 5) Reserved matter: details of hard and soft landscaping scheme, including the internal courtyard, the curtilage margins and the forecourt to the retail unit, with details of surface water drainage. The scheme shall include all hard surface treatments, soft landscaping, plant and tree species, their density of planting and a maintenance schedule for a minimum period of 10 years, including details of the arrangements for its implementation. A minimum of 2 trees shall be planted in each of the courtyard and the shop forecourt. Any trees, shrubs, seeded or turfed areas which, within a period of 5 years from the date of planting, die, fail to establish, are removed or become damaged or diseased shall be replaced by the developer in the next planting season with others of a similar size and species. All hard surfacing works, including new footways, and all soft landscape works shall be carried out prior to the occupation of any part of the development or in accordance with an alternative programme agreed in writing by the local planning authority and thereafter maintained in accordance with the maintenance schedule.
- 6) Reserved matter: a feasibility study for a green/brown roof; if the study demonstrates that the site has the viable capacity for a green/brown roof, before development begins a detailed specification shall be submitted to and approved in writing by the local planning authority. The specification shall include a maintenance schedule for a minimum period of 10 years, with details of the arrangements for its implementation. The green/brown roof shall be installed in accordance with the approved specification prior to the occupation of any part of the development or in accordance with an alternative programme agreed in writing by the local planning authority and thereafter maintained in accordance with the maintenance schedule.
- 7) Reserved matter: design details of the shopfront to the retail unit, whose customer entrance shall have a flush threshold. The shopfront shall be fitted prior to the occupation of any part of the development.

- 8) Reserved matter: detailed elevations of the walls facing into the internal courtyard and details of the materials to be used in the external surfaces of the development, including bricks, mortar, roof finish, cladding and fenestration. This shall include the new shopfront, any stall riser or fascia, and any paint or stain finish to timber joinery or cladding.
- 9) Notwithstanding the submitted investigation, no development, other than that required to be carried out as part of an approved scheme of remediation, shall take place until conditions 1 to 3 below have been complied with. If unexpected contamination is found after development has begun, development shall be halted on that part of the site affected by the unexpected contamination until condition 4 below has been complied with in relation to that contamination.

1. Site Characterisation

Development shall not commence until an investigation and risk assessment report, in addition to any assessment provided with the planning application, has been submitted to, and approved in writing by, the local planning authority. The investigation and assessment shall be carried out in accordance with a scheme, to assess the nature and extent of any contamination on the site, which has been submitted to, and approved in writing by, the local planning authority. The investigation and risk assessment shall be undertaken by competent persons. The report shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to
- human health,
 - property (existing or proposed) including buildings, pets, service lines and pipes,
 - adjoining land,
 - ground and surface water,
 - ecological systems and
 - archaeological sites and ancient monuments; and
- (iii) an appraisal of remediation options and preferred option(s).

The investigation and assessment shall be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

2. Submission of Remediation Scheme

A remediation scheme, to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings, other property and the natural and historical environment, shall be submitted to the local planning authority for approval in writing. The scheme shall include all works to be undertaken, proposed remediation objectives and criteria, timetable of works and site management procedures. The scheme shall 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.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme shall be carried out prior to the commencement of development, other than that required to carry out remediation. The local planning authority shall be given 2 weeks prior written notification of commencement of the scheme.

The building hereby permitted shall not be occupied until a verification report, referred to in PPS23 as a validation report and that demonstrates the effectiveness of the remediation carried out, has been submitted to, and approved in writing by, the local planning authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition 9) 1. Where remediation is necessary, a remediation scheme shall be prepared in relation to the areas of the site affected by the unexpected contamination and in accordance with the requirements of condition 9) 2. The approved remediation scheme shall be carried out in accordance with condition 9) 3 in relation to the areas of the site affected by the unexpected contamination.

5. Long Term Monitoring and Maintenance

The buildings hereby permitted shall not be occupied until a monitoring and maintenance scheme, to include monitoring the long-term effectiveness of the proposed remediation over a period of 10 years and the provision of reports on the same, has been submitted to, and approved in writing by, the local planning authority. The reports shall also demonstrate the effectiveness of the monitoring and maintenance carried out.

The long term monitoring and maintenance shall be carried out in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

- 10) Only clean uncontaminated soil, subsoil, rock, aggregate, brick rubble crushed concrete or ceramic shall be permitted for use on the site for infilling and landscaping. Any such materials imported onto the site shall be accompanied by documentation to validate their quality and such documentation shall be submitted to the local planning authority for approval prior to the first occupation of the building.
- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:
 - i) controls on site working hours
 - ii) the parking of vehicles of site operatives and visitors
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development, including notification of and prior approval for the use of cranes
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - vi) controls on site and construction lighting
 - vii) wheel washing facilities
 - viii) measures to control the emission of dust and dirt during construction
 - ix) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - x) details of a complaints procedure.

- 12) No development shall take place on the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The scheme shall include a timetable for the works and the archaeological works shall be completed in accordance with the approved timetable.
- 13) No development shall take place until a Bird Hazard Management Plan has been submitted to, and approved in writing by, the local planning authority. The Plan shall include details of the management of the flat roofs of the building which may be attractive to nesting, roosting or loafing birds. The Bird Hazard Management Plan shall be implemented as approved and shall remain in force for the life of the building.
- 14) Lighting schemes required during construction and on completion shall be of a flat glass, full cut-off design, mounted horizontally, to ensure there is no light spill above the horizontal.
- 15) No development shall take place until:
 - (i) a specification for the type of construction proposed for the lay-by in Belgrave Road and the 2 metre wide footway behind it, including all relevant horizontal cross-sections and longitudinal sections showing existing and proposed levels together with details of street lighting and the method of disposing of surface water; and
 - (ii) a programme for the making up of the lay-by and footwayhave been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved specification and timetable before the building is first occupied.
- 16) No development shall take place until details of how the retail unit's basement stockroom shall be made secure from the common bicycle store and vice versa have been submitted to and approved in writing by the local planning authority. Bicycle parking facilities for a minimum of 60 allocated bicycles shall be provided as shown on the approved plans together with at least 2 Sheffield stands set into the forecourt of the retail unit. Bicycle parking shall be provided in accordance with the approved details before the first occupation of the building and retained in operation thereafter.
- 17) At least a 15% reduction in CO2 emissions shall be achieved through decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)). No development shall take place until details and a timetable of how this is to be achieved, including details of physical works on site, has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and retained in operation thereafter.
- 18) The development shall achieve a rating of 'Very Good' against the BREEAM Multi-residential Standard. The building shall not be occupied until a final certificate has been issued by an accredited assessor certifying that the 'Very Good' rating has been achieved.

- 19) No development shall take place until details of the proposed noise-attenuating outward-facing windows of the building have been submitted to and approved in writing by the local planning authority. The construction shall achieve a minimum of Rw 38 dB to all habitable rooms. The details shall include the construction of the canted bays on the southern wing, the soundproofing of the windows facing Portswood Road and the method of acoustically attenuated mechanical ventilation to allow for the windows to be kept closed. The work shall be carried out in accordance with the approved details before the flats are first occupied and the ventilation systems shall be retained in operation thereafter.
- 20) No more than 3 car parking spaces shall be provided on the site; 2 spaces shall be reserved for use by disabled persons and the 3rd space shall be reserved for a pool car club vehicle all as shown on the approved drawings. Occasional use may be made of the spaces and courtyard for temporary parking when tenants are moving into or leaving the accommodation at the beginning or end of their tenancies. The parking spaces shall be provided before the building is first occupied and shall be kept available for parking use thereafter.
- 21) The refuse and waste recycling facilities shown on the approved plans shall be provided before the building is first occupied and shall be retained in operation thereafter.
- 22) Details of the gates to be fitted to the undercroft entrance shall be submitted to and approved in writing by the local planning authority before installation. The gates shall not open over the public highway and shall allow a car to pull off the carriageway. The gates shall be installed in accordance with the approved details before the building is first occupied.
- 23) The crime prevention measures referred to in section 5.2 of the design and access statement shall be implemented before the building is first occupied and shall be retained in operation thereafter.
- 24) Before any of the flats are first occupied, the central courtyard space, communal lounge, laundry room and all other shared facilities shall be made available for use and shall be retained for use by the occupants of the flats thereafter.
- 25) The retail unit hereby permitted shall not be open to customers outside the hours of 0700-2300 daily.