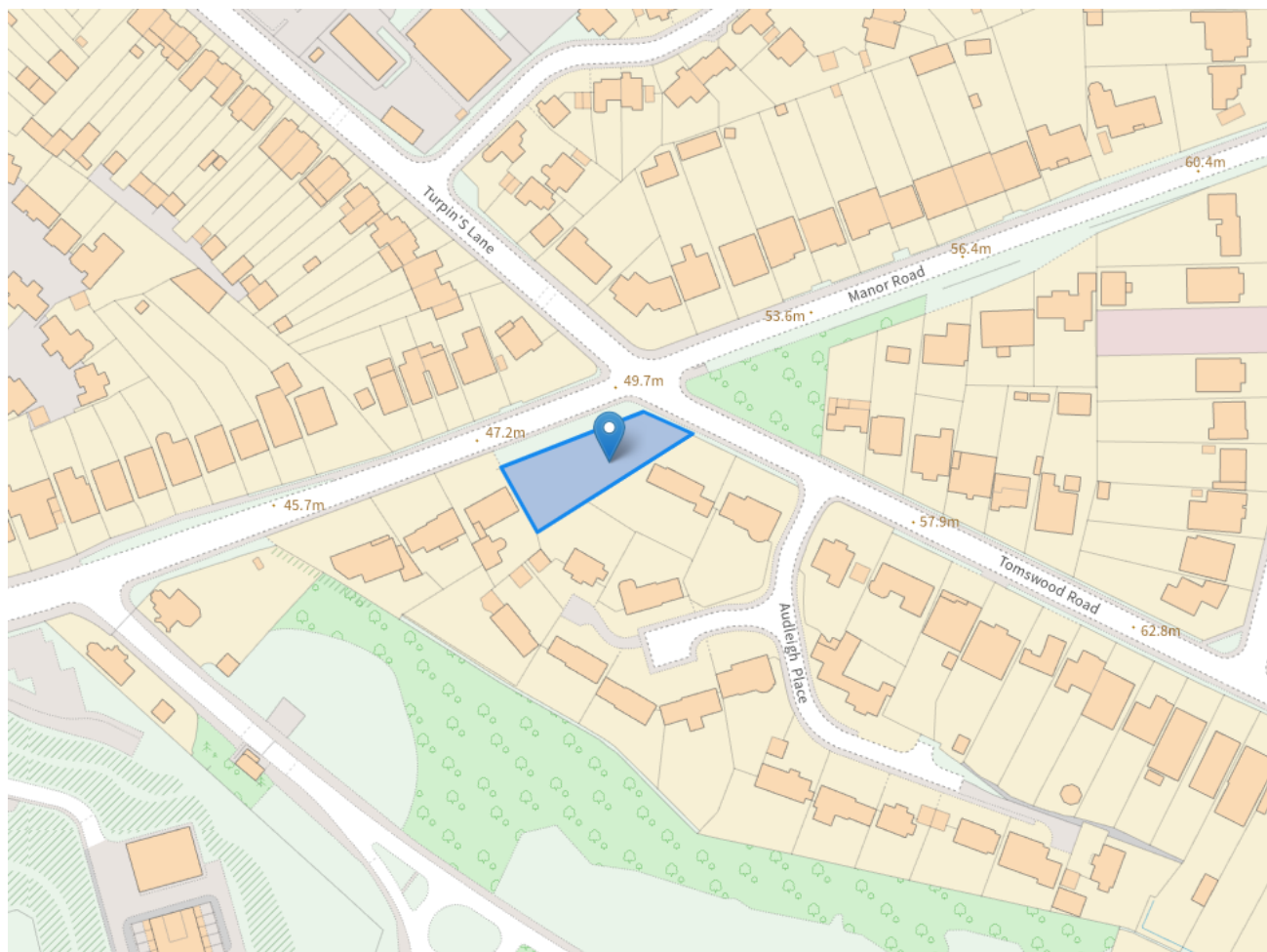




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Application Number:	EPF/2478/22
Site Name:	1, Tomswood Road, Chigwell, IG7 5QP

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OFFICER REPORT

Application Ref: EPF/2478/22
Application Type: Removal/variation of conditions
Applicant: c/o Agent
Case Officer: Ian Ansell
Site Address: 1, Tomswood Road, Chigwell, IG7 5QP
Proposal: Application for Variation of Condition 2 of EPF/0840/18 (Proposed apartment block (seven flats)).
Ward: Grange Hill
Parish: Chigwell
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000001UV2Q>
Recommendation: Approve with Conditions

This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council and at least one non-councillor resident, on planning grounds material to the application (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)).

Description of Site:

The application site comprises to a corner plot located on the west side of Tomswood Road with a longer return frontage to the south side of Manor Road, the road junction being signal controlled. Planning permission was granted by Area Plans South for redevelopment of the site as seven flats, and work on the development is at an advanced stage.

The surrounding area comprises a mix of residential properties, including bungalows and larger properties with rooms in the roof at second floor. There is a wide highway verge along the side boundary of the site containing a number of mature trees.

Changes in site levels across the site are evident with a fall from east to west of in excess of 2.5m.

Description of Proposal:

The current application amounts to a resubmission of an application for amendments to the approved layout. Members resolved in August 2022 to reject the previous application for the following reason:

By reason of excessive noise disturbance which would be caused to no.3 Tomswood Road by the proposed balcony on the south eastern corner of the upper ground floor, the proposal fails to ensure that the living conditions of the neighbour will be adequately maintained. The proposal is therefore contrary to policy DBE9 of the Adopted Local Plan and Alterations (2006), with policy DM9 of the Epping Forest District Local Plan Submission Version (2017) and with the NPPF.

Members do not object to any of the internal changes to the layout, and these works comprise:

- Reconfiguration of lower ground floor, removing lobby and residents gym and the lower level of a duplex flat. The lower ground floor will now comprise one x 2 bed flat and communal entrance hall, stair core and lift. The footprint is reduced, lower ground floor rear projections are removed to provide a squared off rear. A freestanding cycle store is now proposed to the side of the building.
- Upper ground floor layout is revised to form 1 x 2bed flat and 1 x 3 bed flat within the same footprint. Previously this floor comprised 2 x 2 bed flats and the upper floor of the duplex flat.

- The first floor retains the same basic layout comprising 2 x 2bed flats and 1 x 1 bed flat, minor internal changes are proposed to the internal layouts, window and door openings are unchanged
- The second floor is amended internally to a 2 bed flat, previously this was a 3 bed flat but the revisions provide a more spacious layout.

In terms of the proposed balcony, this is again included, but has been amended to include an additional acoustic barrier extending 10 metres along the boundary abutting the balcony. This comprises a 2m high acoustic fence located adjacent to the boundary inside the neighbours existing boundary fence, supplemented by a 2m high glass(or similar) screen to the side of the balcony. The applicants submission is that the introduction of this double barrier will reduce noise levels in the neighbouring garden by around 20dB(A).

Policies Applied:

Adopted Local Plan:

CP1	Achieving sustainable development objectives
CP7	Urban form and quality
NC1	SPA's, SAC's and SSSI's
U3B	Sustainable drainage systems
DBE1	Design of new buildings
DBE2	Effect on neighbouring properties
DBE3	Design in urban areas
DBE9	Loss of Amenity
DBE10	Design of Residential Extensions
LL7	Planting protection and care of trees
LL11	Landscaping schemes

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

NPPF:

The revised NPPF is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either; (a) approving development proposals that accord with an up-to-date development plan without delay; or (b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

- 2 Achieving sustainable development – paragraphs 7, 8, 10, 11, 12
- 5 Delivering sufficient supply of homes – paragraphs 60, 66, 69, 74, 75, 79
- 8 Promoting healthy and safe communities – paragraphs 92, 97

- 9 Providing sustainable transport – paragraphs 104, 107, 108, 110, 111,112
- 11 Making effective use of land – paragraphs 119, 122, 123, 124
- 12 Achieving well designed places – paragraphs 126, 130, 131, 132, 135
- 14 Meeting the challenge of climate change, flooding and coastal change – paragraphs 154, 159 – 169
- 15 Conserving and enhancing the natural environment – paragraphs 174, 175, 179 - 182, 183, 185, 186

Epping Forest District Local Plan (Submission Version) 2017:

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 216 of the NPPF.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

In general terms it is considered that the Submission Version of the Plan is at an advanced stage of preparation and the policies are considered to be consistent with the NPPF. As regards unresolved objections, some policies within the Submission Version have more unresolved objections than others. All of these factors have been taken into consideration in arriving at the weight accorded to each of the relevant policies in the context of the proposed development listed below:

No.	POLICY
SP1	Presumption in favour of sustainable development
SP2	Spatial Development Strategy
SP7	The Natural Environment, landscape character and green infrastructure
T1	Sustainable transport choices
DM1	Habitat protection and improving biodiversity
DM2	Epping Forest SAC and Lee Valley SPA
DM3	Landscape Character, Ancient Landscapes and Geodiversity
DM5	Green and Blue Infrastructure
DM9	High Quality Design
DM10	Housing design and quality
DM15	Managing and reducing flood risk
DM16	Sustainable Drainage Systems
DM19	Sustainable water use
DM21	Local environmental impacts, pollution and land contamination
DM22	Air quality

Consultation Carried Out and Summary of Representations Received

Date of site visit: 09 May 2022

Number of neighbours consulted: 14

Site notice posted: Not required

Responses received: Neighbour comments have been received from 3 and 5 TOMSWOOD ROAD, and 4 and 7 AUDLEIGH PLACE.

Residents in Tomswood Road remain concerned about potential noise disturbance from the balcony. Their comments indicate they do not consider the noise screening to be adequate. One resident also comments on the appearance.

Objectors from Audleigh Place comment on potential overlooking from the terrace.

Parish Council – Chigwell Parish Council have objected, citing noise and overlooking issues.

Main Issues and Considerations:

The alterations to the internal configuration of the building and the relocation of the cycle stores were considered acceptable in the previous decision by Members and nothing has changed in relation to this aspect of the works.

Further, while both the Parish Council and the Audleigh Place neighbours refer to overlooking, this was addressed previously and did not form part of the reason for refusal. The balcony is set comfortably below the garden level of 3 Tomswood Road and levels ascend beyond this property such that overlooking is not an issue in this case.

The proposed balcony is a modest space of around 20 sq.m. It is substantially smaller than the garden area at no 3 Tomswood Road. Historically, the house that was demolished also had a significantly larger garden than the terrace proposed. Although the balcony is elevated in the sense it sits above the lower level of the car park created by the development, it does not sit higher than the adjoining gardens of the houses in Tomswood Road. In recognition of the concerns expressed previously however, the application proposes increased noise protection which goes considerably beyond what would usually be provided between two domestic curtilages adjacent to each other.

Conclusion:

The amendments provide additional sound insulation to address the substantive issue which led to the refusal of the previous application. Subject to conditions that reflect reserved matters previously dealt with, officers recommend that the application be approved.

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the Monday preceding the meeting at the latest:

Planning Application Case Officer: Ian Ansell

Direct Line Telephone Number: 01992 564481

or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

Conditions: (24)

1 Commencement of development – no longer required

2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1793.001.00, 200B, 202B, 203A, 208.B, 301.02, 304.02, 305.00 and 308.B

Reason: To ensure the proposal is built in accordance with the approved drawings.

3 All works shall be undertaken in accordance with the Construction Method Statement approved under application reference EPF/2808/21, unless an alternative scheme is approved by way of a further application.

Reason:- To limit the impact of the construction work on the living conditions of residents living in close proximity to the site, in accordance with the guidance contained within the National Planning Policy Framework and policies RP5A and DBE9 of the adopted Local Plan and Alterations, policy DM9 of the Local Plan Submission Version 2017 , and the NPPF 2021.

4 All site levels, including ground floor slab levels, roadways and accessways, shall accord with the details approved under application reference EPF/2808/21

Reason:- To ensure the impact of the intended development upon adjacent properties and the street scene is acceptable, in accordance with the guidance contained within the National Planning Policy Framework and policies CP2, DBE1 and DBE9 of the adopted Local Plan and Alterations, policies DM9 and DM10 of the Local Plan Submission Version 2017 , and the NPPF 2021.

5 The disposal of surface water measures approved under application reference EPF/2808/21 shall be implemented fully in accordance with the agreed details.

Reason:- To ensure satisfactory provision and disposal of surface water in the interests of public health, in accordance with the guidance contained within the National Planning Policy Framework and policy RP3 and U3B of the adopted Local Plan and Alterations, policies DM15 and DM16 of the Local Plan Submission Version 2017 , and the NPPF 2021.

6 Tree protection measures in relation to the oak tree on the highway verge(TPO/EPF/08/09 T2) shall be retained for the duration of building works in accordance with details approved under application reference EPF/2808/21.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to preserve the amenity value of the tree(s) and to preserve its / their health, in accordance with the guidance contained within the National Planning Policy Framework and policy LL08 of the adopted Local Plan and Alterations, policies DM3 and DM5 of the Local Plan Submission Version 2017 , and the NPPF 2021

7 Measures for general tree protection across the site shall be retained for the duration of building works in accordance with details approved under application reference EPF/2808/21.

Reason:- To comply with the duties indicated in Section 197 of the Town & Country Planning Act 1990 so as to ensure that the amenity value of the existing trees are safeguarded, in accordance with the guidance contained within the National Planning Policy Framework and policy LL10 of the adopted Local Plan and Alterations, policy DM3 of the Local Plan Submission Version 2017 , and the NPPF 2021 .

- 8 Hard and soft landscaping works shall be undertaken in full accordance with the details approved under application reference EPF/2808/21. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with the guidance contained within the National Planning Policy Framework and policies CP2 and LL11 of the adopted Local Plan and Alterations, policies DM3 and DM5 of the Local Plan Submission Version 2017 , and the NPPF 2021.

- 9 External materials used in the construction of the development shall fully accord with details approved under application reference EPF/2808/21.

Reason:- To ensure a satisfactory appearance in the interests of visual amenity, in accordance with the guidance contained within the National Planning Policy Framework and policy DBE1 of the adopted Local Plan and Alterations, policies DM9 and DM10 of the Local Plan Submission Version 2017 , and the NPPF 2021.

- 10 Fencing and means of access for service vehicles to the refuse storage area shall be installed in accordance with details approved under application reference EPF/2808/21 and be available for use prior to the first occupation of any of the residential units hereby approved.

Reason: To ensure adequate provision for refuse and recycling is provided in a suitable enclosure in the interests of general and visual amenity, in accordance with policies DBE2 and DBE9 of the adopted Local Plan and Alterations, policies DM9 and DM10 of the Local Plan Submission Version 2017 , and the NPPF 2021

- 11 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 as well as to safeguard the amenity of the existing trees, shrubs or hedges and to ensure a satisfactory appearance to the development in accordance with policy LL10 of the adopted Local Plan and Alterations, policies DM3 and DM5 of the Local Plan Submission Version 2017 , and the NPPF 2021.

- 12 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the recommencement of development works. Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

Reason:- It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the guidance contained within the National Planning Policy Framework and policy RP4 of the adopted Local Plan and Alterations and policy DM21 of the Local Plan Submission Version 2017.

- 13 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason- In the interests of the amenities of noise sensitive properties, in accordance with the guidance contained within the National Planning Policy Framework and policies RP5A and DBE9 of the adopted Local Plan and Alterations, and policies DM9 and DM21 of the Local Plan Submission Version 2017.

- 14 No development shall take place without wheel washing or other cleaning facilities for vehicles leaving the site during construction works having been installed at the site. The installed cleaning facilities shall be used to clean vehicles wheels immediately before leaving the site.

Reason:- To avoid the deposit of material on the public highway in the interests of highway safety, in accordance with the guidance contained within the National Planning Policy

Framework and policy ST4 of the adopted Local Plan and Alterations, and policies DM9 and DM21 of the Local Plan Submission Version 2017.

- 15 Prior to the first occupation of the development the access arrangements, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in perpetuity for their intended purpose.

Reason: To ensure that appropriate access, parking and turning is provided in accordance with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, policies ST4 & ST6 of the adopted Local Plan and Alterations, policies T1, DM9 and DM10 of the Local Plan Submission Version 2017, and the NPPF

- 16 Prior to the first occupation of the development the existing vehicular accesses off of Tomswood Road shall be fully reinstated to include full height kerb, footway construction and any amendments to the road lining as considered necessary.

Reason: To ensure that appropriate access, parking and turning is provided in accordance with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, policies ST4 & ST6 of the adopted Local Plan and Alterations, policies T1, DM9 and DM10 of the Local Plan Submission Version 2017, and the NPPF

- 17 Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation, per dwelling, of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: To ensure that appropriate access, parking and turning is provided in accordance with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, policies ST4 & ST6 of the adopted Local Plan and Alterations, policies T1, DM9 and DM10 of the Local Plan Submission Version 2017, and the NPPF

- 18 The cycle store indicated on the approved plan shall be fully installed in accordance with the details shown on the approved plans prior to first occupation of any of the residential units hereby permitted, and shall thereafter be retained and maintained for the storage of residents cycles.

Reason: In order to promote sustainable development objectives to reduce reliance on car travel, in accordance with policies CP1, CP9 and ST2 of the adopted Local Plan and Alterations, policies T1 and DM22 of the Local Plan Submission Version 2017, and the NPPF.

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety, in accordance with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, policies ST4 & ST6 of the adopted Local Plan and Alterations, policies T1 and T2 of the Local Plan Submission Version 2017 , and the NPPF 2021.

- 20 Windows above ground floor level in the south facing side elevation of the building hereby permitted (abutting 3 Tomswood Road) shall be fixed and completed in obscure glass below 1.8m above floor levels in the rooms they serve. The said windows shall thereafter be retained in that form, and no additional windows shall be inserted above ground floor in the said side elevation without prior consent from the Local Planning Authority.

Reason To protect the amenities of adjoining occupiers in accordance with policy DBE 9 of the adopted Local Plan and Alterations, policies DM9 and DM10 of the Local Plan Submission Version 2017 and the NPPF.

- 21 Other than as set out in the application hereby approved, no part of any flat roof area to the building shall be used as a balcony, roof terrace or other amenity area without prior consent from the Local Planning Authority.

Reason: To protect the amenities of adjoining occupiers in accordance with policy DBE 9 of the adopted Local Plan and Alterations, policies DM9 and DM10 of the Local Plan Submission Version 2017 and the NPPF.

- 22 Electric vehicle charging points shall be installed fully in accordance with the details approved under application reference EPF/0034/22 fully operational and available for use prior to first occupation of any dwelling in the building.

Reason: To help support improvements to air quality in accordance with policy CP1 of the adopted Local Plan 1998 & 2006, Policies SP1, T1 & DM22 of the Local Plan Submission Version 2017, and the NPPF 2019.

- 23 Superfast broadband connections approved under application reference EPF/0034/22 shall be fully installed, operational and available to residents from first occupation of any dwelling in the building.

Reason: To ensure the development contributes to supporting improved digital connectivity throughout the District and supports the wider aims and objectives for reducing car-led air pollution, improving the health and wellbeing of residents and visitors including the EFSAC, in accordance with policy CP1 of the adopted Local Plan 1998 & 2006, Policies SP1, D5, DM2, DM9, DM10 & DM22 of the Local Plan Submission Version 2017, and the NPPF 2019.

- 24 The acoustic barrier shown on the plans hereby approved, along with a 2m screen to the side elevation of the balcony hereby approved, shall be installed in full accordance with the submitted details prior to the first occupation of any residential unit.

Reason: To protect the amenities of adjoining residents in accordance with policies DBE2 and DBE9 of the adopted Local Plan and Alterations, policies DM9 and DM10 of the Local Plan Submission Version 2017, and the NPPF 2021.

Informatives: (1)

- 25 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.