

Appeal Decision

Inquiry held on 18 November 2014 and on 20 – 23 January 2015

Site visits made on 17 November 2014 and 19 and 23 January 2015

by Roger Pritchard MA PhD MRTPI

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

Decision date: 9 February 2015

Appeal Ref: APP/A0665/A/14/2217039

Land adjacent to Telford's Warehouse, Tower Wharf, Chester, CH1 4EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miller Developments Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref 13/03922/FUL, dated 6 September 2013, was refused by notice dated 27 January 2014.
 - The development proposed is the erection of a 350 bedroom student accommodation development, 40 car parking spaces and associated hard and soft landscaping proposals.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 350 bedroom student accommodation development, 40 car parking spaces and associated hard and soft landscaping proposals at Land adjacent to Telford's Warehouse, Tower Wharf, Chester, CH1 4EZ in accordance with the terms of the application, Ref 13/03922/FUL, dated 6 September 2013, subject to the conditions attached as an Annex to this Decision.

Application for costs

2. At the Inquiry an application for costs was made by Miller Developments Ltd against Cheshire West and Chester Council. This application is the subject of a separate Decision.

Procedural Matters

3. The original application was for a development of 408 student units with 50 car parking spaces. Following public consultation and discussions between the appellants and the Council, revised proposals were submitted in November 2013 reducing the size of the development and the accompanying car parking. The Council decided the application on this basis and I have amended the description of development as above to 350 units and 40 car parking spaces.
4. Shortly before the opening of the Public Local Inquiry (PLI), the appellants submitted amended plans, which they also asked me to consider. These made small changes to the dimensions of the entrance to the car park in Block B and increased the width of the parking lanes to bring these into accordance with industry standards. At the beginning of the PLI, I asked whether any party considered the amended plans prejudiced their interests.

None considered they did so and I have incorporated these changes within the proposed development as I have considered it.

5. However, on opening the PLI, a member of the public asked why no notice advertising its time and place had been posted at the site. It appeared that the Council had only posted the notice on Tuesday 11 November, i.e. seven days before the PLI opened. In these circumstances, where there had been a clear breach of the 2000 Inquiry Procedure Rules and where there was some evidence that members of the public had their interests prejudiced, both parties asked me to adjourn the PLI. This I duly did. The appellants subsequently made a costs application against the Council as noted above.
6. The PLI reopened on Tuesday 20 January 2015 and lasted three and a half days. The appellants submitted further amended plans –making minor alterations to the parking arrangements for Block C. Again, I accepted these amendments.
7. I made three visits to the site. Two, on Monday 17 November 2014 and on Monday 19 January 2015 were unaccompanied. The third, on Friday 23 January 2015, was accompanied.

Main Issues

8. I consider the main issues to be whether the proposed development would –
 - a) Lead to an unacceptable loss of employment land in Chester;
 - b) Fail to preserve or enhance the character or appearance of the Chester Conservation Area; and
 - c) Result in unacceptable material harm to the living conditions of the residents of the surrounding area.

Reasons

Background

9. The appeal site, some ½ hectare in extent, is north-west of Chester city centre. It lies on the edge of the extensive Chester Conservation Area with the city walls a few hundred metres to the south. The site is part of a wider area, on the east side of the Shropshire Union Canal, known as Tower Wharf. Historically, Tower Wharf was associated with canal-side activities. There are reminders of these historic uses in the listed Grade II Telford's Warehouse to the south of the site and the, also listed, working Taylor's Boatyard on the west side of the canal. The site remains owned by the Canal and Rivers Trust (formerly British Waterways).
10. The appeal site was previously the subject of a planning permission for mixed residential and commercial development, including some 7,500m² of office floorspace. However, although the site was largely cleared, and the residential element of the permission has been carried out by Morris Homes, the office permission has never been implemented.
11. The revised, proposed development is for Purpose-Built Student Accommodation (PBSA) for the University of Chester. As amended during the consultations that followed the application, the development would take the form of three residential blocks. Block A, a part 4/part 5 storey building, would be orientated along the canal-side. Block B, a part 3/part

4/part 5 storey building, would be away from the canal-side, to the east of Block A and would front the existing access road into the site. Block C, a part 2/part 3/part 4 storey building, would also be away from the canal-side, sitting between the access road and Raymond Street and to the east of Telford's Warehouse and the also listed Grade II Diocesan House.

12. The main campus of the University – Parkgate - is around half a mile to the north and can be accessed from the appeal site by vehicle or foot through a residential area known as the Garden Quarter. Although there was some debate as to the exact extent of the Garden Quarter – which is one of the wards within the city and includes an area to the west of the canal – the core is bounded by Parkgate Road to the east, Cheyney Road (where the University campus is located) to the north, the canal to the west and the historic city centre and Ring Road to the south. The main north-south arteries, linking the University to the city centre, are Garden Lane and Bouverie Street.
13. The Garden Quarter largely dates from the second half of the 19th century and is predominantly residential. Properties are generally a mix of terraced dwellings with some, larger, semi-detached houses. A significant proportion of these residential properties have been converted to multiple occupation and are now occupied by students.

The need for student accommodation in Chester

14. Underpinning the case for the proposed development was a debate as to the future growth of the University and the consequent need for student accommodation. The removal in 2013 of the so-called 'cap' on individual University numbers has created a competitive 'market' in which each institution may be seeking to maintain or increase its attraction to potential student 'customers'. (The full effects may not be felt, however, until 2015/16¹ when the cap is completely removed.) The recent increase in the scale of fees may also be a factor, in restraining demand from UK students whilst encouraging universities to seek more overseas students, whose substantially higher fees may represent better 'value for money'.
15. The University of Chester has expanded rapidly in the last ten years and had nearly 14,500 students in 2012/13, of whom just over 8,000 were full time undergraduates. Not all study or live in Chester. A reasonable estimate appears to be that some 8,500 of all the University's students were based at a Chester campus, although only just over 5,000 of these (60%+) lived in the city in term time.
16. *A Review of the supply of and demand for student accommodation in Chester* (PSL Research Ltd, 2015), which was commissioned by the Council, reports that the University estimates that it adds some £300 million per annum to the local economy as well as contributing indirectly through advice and assistance to the local economy and community. Those benefits are reflected in the Council's positive attitude towards the expansion of the University as reflected, for example, in its non-statutory *One City Plan*.
17. Student numbers at the University of Chester increased by some 18% between 2008 and 2013 – twice the national average. Other measures,

¹ Throughout these dates are academic years, i.e. September to September.

including the numbers of new acceptances, as well more qualitative assessments such as *The Guardian* or *The Complete University Guide*, all point to the University proving attractive to potential applicants at both undergraduate and post-graduate level.

18. In these circumstances, the University of Chester is optimistic about future growth. It produced two reports, in March and August 2014, that looked at its prospects – and their consequences for student accommodation. The August report, which reflects the University's estimate of the consequences of the removal of the 'cap', puts forward substantially higher forecasts of student numbers than had been estimated even only six months before. Some of the changes reflect adjustments to the method of calculation, e.g. the inclusion of post-graduate students, but the August forecasts suggest that there will be a 33% increase in total undergraduate numbers and a 31% increase in first year undergraduates in the three year period from 2013/14 to 2016/17.
19. On the basis of these substantial increases, it is hardly surprising that the University anticipates an equally substantial growth in the demand for student accommodation. A gross need of 5,422 units of additional accommodation by 2016/17 is forecast. The anticipated supply, however, is only 1,668 units – a shortfall in provision of no less than 3,754 units. Moreover, both the March and August 2014 Reports concluded that the additional need should be entirely met by PBSA.
20. The PSL Report criticises the University's estimates of the demand for PBSA on a number of grounds, including placing too much reliance on an April 2013 survey, which produced only a 7% return rate, and underestimating the proportion of students who would wish to live at home. Cumulatively, these criticisms, if all well founded, would substantially reduce the demand forecast by the University. Nevertheless, the foundation of the forecasts is the assumption that the University of Chester will continue to expand at a rate significantly greater than the national average. As PSL comment, this is an ambitious target that would probably require the University to '*...gain students at the expense of other universities*'. PSL produced three alternative scenarios, A, B and C. Both Scenarios A and B envisage lower growth than the estimates of the University, but all three envisage some growth in student numbers.
21. In circumstances where the removal of the cap is creating a competitive market place to attract students, I find it unsurprising that a university like Chester, which has grown rapidly in the recent past, should pursue a strategy of 'dynamic growth'. It is equally unsurprising that a critical element in the University's strategy should be increasing its attraction to potential students by improving the quality of accommodation available to them.
22. The appellants described the last as a 'flight to quality'. The implication is that with students having to pay substantially more for a university education, they will demand better accommodation. It is also the implication of this comment that, although expansion of the University must remain the most significant driver in the demand for accommodation, even were that expansion to be substantially lower than the University currently

- anticipates, there would still be an increase in demand for good quality PBSA.
23. I am in no position to comment on the future relative attractiveness of the University of Chester – other than to observe that its past record suggests good prospects. However, whilst growth in the size of the University must be the fundamental element in the need for future student accommodation in the city, there are other issues that could influence the demand for PBSA. In 2010, 21% of University of Chester full-time students lived in University owned accommodation, although by no means all of this was PBSA, as the University owns significant numbers of converted, multiple occupied properties, many in the Garden Quarter. Furthermore, in 2010, only 2% of students lived in privately-owned PBSA. The University is thereby unable to house all first year undergraduates in PBSA.
24. Nevertheless, recent expansion in student numbers has driven an increase in the provision of accommodation and much of this has been newly constructed PBSA. The PSL Report quotes an increase of some 600 units owned by the University alone between 2010 and 2014/15 (though not all of this was PBSA; some were conversions). Privately owned PBSA has also increased and, although still a small proportion of the student accommodation market, an additional 450 units are expected to become available in 2015, thereby providing a total of around 700 PBSA units by the beginning of the 2015/2016 academic year. Furthermore, some 760 PBSA units have planning permission but have not yet commenced construction. (It should be emphasised that almost three-quarters of these units are on a single development, the Linenhall site.) If nothing else, these recent developments demonstrate the considerable interest by private developers in PBSA in Chester, no doubt reflecting the assessment that there has previously been an under-supply in the market.
25. The scale of demand for PBSA is related to the supply of alternative forms of accommodation. One is, obviously, living at home. For some groups, e.g. sandwich course students, that option may remain the most attractive, economic and feasible option, though I also note that, so far, forecasts that increased fees would lead to a surge in the numbers of full-time undergraduates living at home do not seem to have been fulfilled.
26. The other option, and the alternative with which the PLI was most concerned, is for students to live together in existing dwellings, whilst sharing common facilities. The increase in student numbers in Chester over the past fifteen years has largely been accommodated in this way. How far, however, the prevalence of 'student houses' (for want of a better term) represents an economic or life-style choice on the part of students is unclear. Second- and third-year undergraduates may well prefer this form of accommodation: first-year undergraduates, overseas students and possibly some post-graduates may favour PBSA because they, as yet, lack the nexus of friendships that are the basis of 'student houses'.
27. I shall look at the issue of 'student houses' in the Garden Quarter later in this decision. Suffice it to say at this stage that the Council's policies, both in Policies HO16 and HO17 of the 2006 Local Plan and its willingness to serve Article 4 Directions in areas like the Garden Quarter, where it perceives there is an excessive concentration of such properties, suggest an

unwillingness to countenance a continued growth in 'student houses' at the rate that seems to have happened in recent years. (It should also be emphasised that the 2006 Local Plan was silent on the issue of PBSA provision.)

28. The Council does not explicitly identify a lack of need for PBSA in its reasons for refusal, but its appeal statement comments that there is '*...no proven need for this amount and type of student accommodation to be provided at this location and at this time*'. Putting aside for the moment the issue as to whether Tower Wharf is an appropriate location for PBSA, I find it difficult to subscribe to the Council's general view on need.
29. The University of Chester's forecasts of growth may be aggressively optimistic. However, the on-going consequences of past growth, current accommodation provision, controls over student houses and the likelihood that PBSA will remain a preference for some groups of students in particular, i.e. first year undergraduates, overseas students and post-graduates, all point to a demand for PBSA that I consider is not yet being fully met. Moreover, although the respective advisors of the Council and the appellants radically disagreed about the University's assumptions and forecasts of growth, paragraph 10 of the PSL Report's Executive Summary concludes that there remains a need, implied to be required before the 2016/17 academic year, for some 540 units of PBSA beyond those schemes with planning permission.
30. I therefore conclude that there remains a need for PBSA that goes beyond current firm commitments and that lack of need cannot in itself be a reason for dismissing the proposed development.

An unacceptable loss of employment land in Chester?

31. The adopted development plan at the time of the application and the PLI was the 2006 Chester District Local Plan. Although there was considerable discussion at the PLI about the employment policies of the Local Plan, as applied to the appeal site, these seem to me to be straightforward in meaning and interrelationships.
32. Policy EC3 sets out the general position with regard to employment land. It identifies the 'canal corridor', including Tower Wharf, as a location where '*...a range of employment purposes....will be permitted*'. Employment is widely defined and specifically includes heritage and tourism developments, but obviously excludes PBSA. Policy EC3 is essentially permissive but is reinforced by Policy EC14 which applies to heritage-related tourism attractions and which specifically '*allocates*' Tower Wharf as one of the areas for such uses. Policy EC14 seems to me to establish a priority for the use of Tower Wharf even if it does not preclude other uses. The permission granted in 2007 is not contrary to Policies EC3 and EC14, although it obviously does not meet the priority established by the latter for heritage-related tourism attractions.
33. The conditions under which there might be a loss of employment land is anticipated by Policy EC6. Again, there was substantial discussion about this policy at the PLI but its meaning is clear to me. Policy EC6 sets three criteria, the meeting of any of which could provide justification for the loss of employment land. In summary, the three criteria are i) that any

- proposals for alternative use would not limit the range and quantity of land and buildings for employment use '*...in the locality*'; ii) that no tenant or purchaser has been found despite reasonable attempts to market the site for employment purposes; and iii) that employment use of the site is no longer commercially viable or environmentally acceptable.
34. Of these three criteria, little convincing evidence was presented to support the second and third. The appellants submitted a letter from the previous developers, Northgate, on their unsuccessful efforts to market the site for office development. As the Council pointed out, however, the letter gives very limited information as to the manner in which the site has been marketed, the rents expected etc. I appreciate that the appellants, themselves, have limited information in this respect. It is a fact, moreover, that the office development has not been implemented. I also note that the Diocesan House as yet remains unlet for office use. Nevertheless, I was not persuaded that enough had been done in terms of realistic marketing to persuade me that the terms of the second criterion had been met.
 35. The lack of sufficient and satisfactory marketing information reinforces my substantial doubts as to whether the third criterion, the unsuitability of the site for employment purposes, has been met. No one has seriously questioned that the site is environmentally unacceptable for a range of employment uses. The appellants did suggest that the appeal site was unlikely to have a high priority for office development – of which more below – but no evidence was given to me that a heritage-related tourism development in line with Policy EC14 would be unsuitable or not commercially viable.
 36. Only the first criterion thereby remains relevant. The position is, however, complicated by the emerging Local Plan. The Inspector's Report following the Examination into the Local Plan was received on 15 December 2014. It finds the Local Plan 'sound', subject to modifications that the Council has accepted, and I was told at the PLI that it was anticipated that the new Local Plan would be formally adopted in the week beginning 26 January. The Council subsequently confirmed that the new Local Plan had been so adopted on 27 January.
 37. The Inspector's Report deals with overall provision for employment in its paragraphs 49 to 54. The Local Plan's proposals for employment land rely on the findings of the Employment Land Study Update (ELSU) 2013. The Local Plan Inspector concluded that this formed '*...a robust evidence base...*' However, the Inspector's findings in respect of overall provision of employment land are not especially helpful as Policy STRAT2 of the new Local Plan simply seeks to deliver some 300 hectares of employment land throughout Cheshire West and Chester between 2010 and 2030. However, paragraph 98 of the Inspector's Report deals specifically with Chester and concludes that the Local Plan's '*...approach towards business and employment in Chester is justified and effective. There is no need for additional employment land to be allocated to make the plan sound*'.
 38. The appellants sought to demonstrate that the consequence of the Inspector's comment quoted in the previous paragraph was, when the detailed conclusions of the 2013 ELSU were taken into account, that the loss of the appeal site for employment purposes would be acceptable. In doing

so, the appellants concentrated on the uncompetitive priority that the Tower Wharf site would have for future office development in comparison with other sites in Chester. In particular, they placed emphasis on the concentration of new office development in the so-called Chester Business Quarter to the north east of the city centre. When taken in combination with the higher densities that could be expected for future office developments, it was argued that the site scoring system (Appendix D) of the 2013 ELSU pointed to Tower Wharf ranking relatively poorly and thereby being less likely to secure office development. The appellants also highlighted the Local Plan Inspector's comment, in his paragraph 53, that the Local Plan Part Two (essentially the site allocation element) would give the opportunity to review and '*...potentially replace...*' existing employment land allocations. The clear implication was the expectation that the Tower Wharf site might be one of those '*replaced*'.

39. In respect of the new Local Plan, existing Policies EC3 and EC14 will be retained, at least until the Local Plan Part Two is adopted. However, Policy ECON1, as modified, deals with the issues previously covered by Policy EC6. The second, marketing criterion has been dropped, but the first and third criteria remain – if with slightly amended wording – and I see no reason why they should alter my findings as set out in this decision.
40. Whilst inherently sceptical about all forecasting exercises in the face of manifold uncertainty, I accept that the available evidence suggests that Tower Wharf will not be a prime site in terms of its attractiveness for office development. The Council's main argument in its favour appears to be that it may be one of the sites in Chester where larger scale, office developments, i.e. in excess of a footprint of 1,000m², could be accommodated. Opportunities of this scale are said to be particularly needed in the city. Nevertheless, other sites in the city are available, even for this scale of office development, and initiatives outside the development plan like the *One City Plan* seem likely to lead to the directing of new office development towards the city centre itself and/or the Chester Business Quarter.
41. The appellants presented, however, virtually no evidence in respect of the sort of mixed-use development founded on a heritage-related tourism attraction. Not only was this the use originally promoted for Tower Wharf by the 1993 Development Brief for the site, but it is clearly the priority use of Policy EC14 of the 2006 Local Plan. The specific allocation of this locality for this use reflects its historic, canal-side character. Moreover, in a city with such a strong tourism economy as Chester there would seem to be an on-going potential for such uses. Moreover, both the Canal Heritage Trust and the Chester Civic Society, although criticising details of the proposed development and its impact on the Conservation Area and adjacent listed buildings, have at the heart of their opposition to it the loss of the opportunity presented by Tower Wharf for heritage-based tourism development.
42. Nevertheless, my own observations were that the area shows little signs of attracting this form of development. Telford's Warehouse's successful conversion some years ago to a pub/restaurant is an exception. The lack of an anchor visitor attraction in the immediate vicinity and the separation from the city's historic heart, emphasised by the intervening Ring Road,

may be factors in the absence of such development. Furthermore, this could also be reflected in the apparently poor take-up so far of the retail/commercial elements on the ground floor of the adjacent Morris Homes development. I can also appreciate why opponents of the proposed development consider that it would permanently sterilise the prospects for further heritage-based tourism development in the area.

43. I have no substantive evidence of how far, if at all, the site may have been actively marketed for heritage-related tourism development. Nor is it any part of my task to relegate the proposed development in favour of the promotion of a hypothetical, heritage-related proposal. Moreover, both the Council and local residents accept that a mixed use development could include a residential element. The Council's Statement of Case concedes that this might incorporate student housing.
44. The newly adopted Local Plan remedies the omission of any policy in the 2006 Local Plan that applies specifically to the quantum or location of PBSA in part through its Policy SOC3. This deals with the mix and type of housing but confines itself to the statement that, *'The Council will support the provision of specialised student accommodation within Chester in appropriate, accessible locations, convenient for the facilities of the University of Chester'*. It is generally agreed that the appeal site is an accessible location, convenient for the University. The argument remains whether it is *'...appropriate...'*
45. The Council presented me at the PLI with a Supplementary Planning Document (SPD) on *Student Housing* that I shall address when discussing the possible impact of the proposed development on the Garden Quarter. However, I am clear that neither the 2006 Local Plan nor the Local Plan recently adopted identifies Tower Wharf as a site that should be used exclusively or even principally for student housing.
46. My conclusion in respect of this first issue is therefore that, so far as office development is concerned, the loss of the appeal site would not have the effect of limiting the range and quantity of land and buildings available for this use in the locality – whether the locality is defined as either Chester as a whole or Chester city centre in particular. In respect of Policy EC14, however, which gives priority to Tower Wharf for heritage-related tourism attractions, a proposal solely for PBSA would be contrary to the adopted development plan.

The preservation or enhancement of the character or appearance of the Chester Conservation Area

47. Policy ENV37 of the 2006 Local Plan reflects the statutory position that development in Conservation Areas should only be permitted where it will preserve or enhance the character or appearance of the Area. Located at the extreme north-western corner of the Chester Conservation Area, Tower Wharf has a significantly different character from that of the historic city centre that lies to the south and which represents the Conservation Area's core. Tower Wharf's conservation value principally lies in its association with the historic 'canal port' and the surviving built elements that reflect that use. Furthermore, the construction in the 1960s of the Ring Road that lies between the appeal site and the city centre has, to some extent,

isolated the former physically and visually from the heart of the Conservation Area.

48. The original use of the appeal site was apparently as a timber yard, with some stables. The clearance of the site has left an open area, which, nevertheless, has no substantial conservation value. Moreover, the entrance to the site is currently dominated by a three storey telephone exchange, a particularly utilitarian building that detracts rather than adds to the site's conservation interest.
49. The Council's predecessor authority published a development brief for Tower Wharf as long ago as 1993. It made clear then, and it has remained the intention ever since, that whilst Tower Wharf is a landmark area in Chester's history, redevelopment for high-quality, mixed use must be the priority. Substantial new build on the site was always therefore to have been expected - and has already taken place through the Morris Homes development. I note, furthermore, that the Chester Characterisation Study comments that, *'Although the area has undergone considerable redevelopment, this has been sympathetic to local heritage....The area is fast developing an identity of its own, but one which respects its past'*.
50. In practice, the Council's objections to the proposed development in terms of its impact on the Conservation Area appear to be limited. In its statement of case, they amount to a comment about the scale of the proposed buildings and their lack of active frontage. (The Council's reference to single points of entry appears to be inaccurate and many of their other criticisms reflect comments about the concentration of students on the site that I shall deal with under the effect of the proposed development on the living conditions of the residents of the surrounding area.)
51. So far as scale is concerned, the footprint and height of the proposed buildings is acknowledged to be very similar to that which the Council found acceptable in granting the 2007 permission. Furthermore, the design iterations through which the appeal scheme has gone has produced amendments in its heights, roof orientations, building lines and the materials used on facades so as to break up the visual impact of the development. Not only has the interest of the development thereby been significantly increased but any suggestion of three slab-like buildings has been reduced in my view to the point where the criticism of scale is unjustified.
52. The scheme lays emphasis on the canal-side walk, with restoration of a through tow-path being an important, incidental benefit. In these circumstances, the suggestion of a lack of active frontage seems to me to ignore the importance of encouraging pedestrians to use the tow path with the provision of a lively environment that must also benefit the commercial elements of the Morris Homes' development to the north.
53. I also recognise that the proposed development would produce some benefits. I have already referred to the canal-side tow path but the provision of a working slipway that would allow the only access to the canal from the waterside for many miles is also to be welcomed. Nevertheless, I appreciate that these benefits do not stem directly from the nature of the proposed development and could result from any proposal for the

- redevelopment of the site. I therefore give them only very limited weight in my consideration of the proposed development.
54. Nevertheless, I take the view that the proposed development as a whole would not result in significant material harm as would cause it to fail to preserve the character or appearance of the surrounding Conservation Area.
55. In respect of the proposed development's effects on the setting of the adjacent listed buildings, Policy ENV45 of the 2006 Local Plan reiterates the statutory position that special regard should be had to the desirability of preserving the setting of any listed building that is affected by a proposed development.
56. In applying this test, I largely discount the impact on Taylor's Boatyard. The context of this site, which is on the west side of the canal, has already been substantially altered by the Morris Homes development, which is directly opposite. Even Block A of the proposed development, aligned as it would be along the canal-side, would sit some distance to the south and would be partially screened by the existing footbridge. I conclude that the impact of the proposed development on the setting of Taylor's Boatyard would be minimal and would not represent any material harm.
57. For the reasons I have already set out above with regard to the nature of this part of the Conservation Area, I also discount the impact of the proposed development on the historic city walls and views north from these. Design iterations have resulted in a reduction in the height of the proposed buildings. Furthermore, visually, the Ring Road is a dominating feature separating the appeal site from the historic city centre. The viewpoint into the site westwards along Canal Street especially illustrates this. The proposed buildings would only appear in the distance above the intervening, elevated section of the Ring Road. Similar perspectives would occur where the appeal site could only be glimpsed from those sections of the city walls west of Northgate. The effect of the proposed development on the setting of the city walls would be minimal.
58. The major impact of the proposed development is more likely to be on the listed Telford's Warehouse and Diocesan House, both of which lie immediately to the south. However, as I have already noted in this context, the design of the proposed development went through a substantial number of iterations in order to ensure that its impact on both listed buildings would be acceptable. In my view, that process has succeeded, for example, by stepping down the height of Block A as one goes from north to south. The proposed development would not adversely affect the setting of either of these two, listed buildings. Moreover, their context would be substantially enhanced compared to their current relationship to the vacant site and the unattractive telephone exchange.
59. Moreover, I note that whilst the reason for refusal makes reference to the proposed development leading to '*...unacceptable damage to the Conservation Area...*', no harmful impact on the adjacent listed buildings was mentioned there or in the Council's statement of case. On the contrary, the Council's conservation officer at the time that the original application was considered, concluded that he had no objection to the proposals as they had been amended, subject to the approval of materials and design details. I agree. I also note that English Heritage who had objected to the proposed

development as originally submitted, withdrew that objection in respect of the final scheme before me.

60. I therefore conclude that, having had special regard to the impact of the proposed development on those listed buildings in its vicinity, the minimal material harm that would occur to their setting would neither breach Policy ENV45 of the adopted Local Plan nor cause the proposed development to fail the statutory test.

The living conditions of the residents of the surrounding area

61. Policy GE3 of the 2006 Local Plan simply states that development will be permitted only if does not have '*...a significantly detrimental effect on the amenities of people living nearby.*'
62. There is no serious suggestion that the proposed development would lead to harm to the living conditions of the occupants of neighbouring dwellings by way of overbearing or overlooking. The Chester Civic Trust did make a suggestion of such material harm in relation to the original application but I conclude that their objections have been largely overcome by the design iterations. The layout and orientation of Block A has been designed to minimise the impact on the existing Morris Homes flats to the north whilst the older properties to the east are too far away to be affected and changes to Blocks B and C should also have an ameliorating effect. Furthermore, I note that this criticism was not repeated in the Trust's statement put before the PLI.
63. Rather it is the impact of an additional 350 students on the wider residential area of the Garden Quarter that is the principal concern of the Council and the substantial numbers of local residents who have objected to the proposed development.
64. That the Garden Quarter houses substantial numbers of students is unsurprising. Lying between the main University campus to the north and the city centre to the south, it is an attractive location, especially when there is a significant amount of housing that might prove suitable for student accommodation. That attraction is reflected in the 2011 estimate that students equalled almost two-thirds of the usually resident population around the Parkgate campus.
65. However, there is currently no PBSA in the Garden Quarter. Students live in converted properties that I have previously described as 'student houses' and which the Council and others brigade under the heading of Houses in Multiple Occupation (HMOs)². I have no doubt that the numbers of such HMOs have increased substantially in the Garden Quarter since the turn of the century and that this growth has been associated with the greater student numbers as the University of Chester has expanded.
66. Many of the current and past issues in the Garden Quarter are typical of areas that have high numbers of HMOs, irrespective of whether these are occupied by students – anti-social behaviour, especially noise and nuisance;

² There is a formal definition of an HMO and it may be that not all the properties in the Garden Quarter occupied by students meet that definition. Moreover, persons other than students can and do live in HMOs in the Garden Quarter and HMOs may be owned by the University as well as by private landlords. Nevertheless, HMO is a convenient umbrella under which to include all the existing student accommodation in the Garden Quarter and I shall so use it here.

negative impacts on the physical environment; pressure on parking; refuse collection; and the general growth of an unbalanced community characterised by a transient population with minimal commitment to the area.

67. The Council has recently sought to deal with the concentration of HMOs in the Garden Quarter by introducing an Article 4 Direction throughout the area that removes the conversion to HMOs of smaller family houses from permitted development³. It readily admits, however, that the Article 4 Direction will do nothing to resolve problems with existing HMOs in the Garden Quarter and, at best, may only serve as a brake to slow their growth in the area rather than preventing any further expansion in numbers whatsoever.
68. Moreover, there may be an element of '*...shutting the stable door ...*' The area covered by the Article 4 Direction is slightly larger than the definition I have used for the Garden Quarter but it contained, in 2010/11, 63% of all the students in the city. Most lived in converted properties, whether privately- or University-owned. Furthermore, the PSL Report found little suggestion that the growth in student numbers was leading to dispersal into other areas of the city. Rather the evidence seemed to be of a growing concentration in the area between the main campus and the city centre, i.e. predominantly within the Garden Quarter. There is no agreed explanation for this but a range of factors could be responsible – concentration of suitable properties at an affordable price, the wish to live near other students but perhaps most significantly, the locational benefits of the area.
69. The appellants set great store by, and I give significant weight to, the fact that the proposed development is PBSA. As such, it will be subject to management arrangements – enforced by planning conditions – that should prevent a repetition of many of the problems specifically associated with HMOs. The Council seemed to suggest that there could be a degree of noise and disturbance within the grounds of the proposed development. However, I am confident that sufficient controls can be imposed to ensure that there would be no significant material harm to local residents arising from behaviour within the proposed development.
70. I am sceptical, however, of claims that increased PBSA in the Garden Quarter and the proposed development, in particular, would lead to a move away from existing HMOs. Both the appellants' expert witness and the PSL Report see PBSA as part of the answer to the HMO problem. (The Council witness at the PLI, however, appeared to disagree.) I agree in the long-term. More PBSA should reduce the pressure to increase the number of student-occupied HMOs. In the short term, however, I see little prospect of this, especially if the growth in student numbers proves to be anything like that forecast by the University. The Council obviously hope that the Article 4 Direction will constrain further growth in HMOs in the Garden Quarter. However, if student numbers do continue to grow, that growth may only be feasible if there is greater dispersal of student accommodation – most likely into areas immediately adjacent to that covered by the Article 4 Direction.

³ The conversion of larger properties, i.e. above, is not permitted development and has always required planning permission. The Article 4 Direction extends that requirement to smaller properties.

71. Furthermore, it is obvious that the concerns of local residents go well beyond the problems associated with the occupation of HMOs. They consider that a PBSA development would do nothing to prevent the problems that they consider have grown in the area in recent years. On the contrary, these would be exacerbated by the additional numbers of students it would bring into the Garden Quarter.
72. There may be wider social issues around community balance and the perceived failure of a transient student population to integrate with the resident community. I understand these but no one can be forced to integrate with the local community.
73. I visited the Garden Quarter three times on a working day and, although I saw many students passing through, I saw nothing that could be characterised as rowdy behaviour or a nuisance. The problems claimed do not generally occur during normal working hours. Rather it is claims of the incidence of what might best be described as anti-social behaviour late at night – often associated with the consumption of alcohol – that cause greatest concern to local residents. I do not dismiss these claims. The reports are, inevitably, largely anecdotal but that does not mean they are unfounded. The scale of comments from residents of the Garden Quarter both at application and appeal stages clearly reflects a widespread concern in the area.
74. Notwithstanding this evidence, I am extremely cautious in assigning a decisive weight to it. Whilst I have no doubt that examples of anti-social behaviour have occurred, I have no knowledge of their frequency. The Police offered no evidence to the PLI and, although claims were made about matters being reported to them, no evidence of their concern or subsequent action taken by them was given to me.
75. The appellants suggested that there was usually no firm proof that where anti-social behaviour had occurred, students were always to blame. That is correct, although the demographics of the Garden Quarter suggest that students are the most likely culprits. Nevertheless, it would be wrong to tar all students with the same brush of anti-social behaviour. Only a small minority may be involved and in these cases, I would look to the Police or the University authorities to take action. Moreover, anti-social behaviour on the streets may not be caused by students who live in the immediately surrounding area. An increase in PBSA in the city centre will, inevitably, lead to increased traffic by students through the Garden Quarter. With bars and other social attractions on the main campus, not all of that traffic would be to go to lectures etc. Some would be late at night.
76. The Council's concerns with the wider issues of student behaviour and its impact on areas like the Garden Quarter are reflected in the publication, only a few days before the PLI reconvened, of a draft SPD on *Houses in Multiple Occupation and Student Accommodation in the Chester area*.
77. Although the SPD sets out a range of policies for HMOs, it also now provides, for the first time in the city, a framework for the consideration of proposals for PBSA. In particular, the SPD proposes seven criteria against which proposals should be assessed. I consider, and the Council seemed to concede, if a little reluctantly, that six of the criteria would be met by the proposal before me. Indeed, in respect of two of the criteria, B and C, the

use of previously developed land and being within reasonable walking distance of the University campus, the proposed development would appear to be especially suitable. I also note that Criterion F focuses on the need for an appropriate management plan for any new PBSA to *'...mitigate...'* any potential negative impacts. The appellants have committed themselves to such a plan to be enforced through a planning condition and I have already commented that I would expect it to be broadly effective in terms of behaviour on site.

78. However, Criterion E is that which the Council most obviously directs against the proposed development. This states that, *'Development must not unacceptably harm the amenity of surrounding residents taking into account cumulative impacts when considered with existing or planned student housing provision in the locality'*. Unacceptable cumulative impact will be judged against the amount of PBSA in the area, the number of 'student houses'/HMOs, and whether there is an existing community imbalance or unacceptable strain on local amenity or facilities. The draft SPD is at an early stage, has not been subject to public consultation and, I understand, is to be subject to revision before consultation is carried out. I can therefore afford it only very limited weight, although it reflects the Council's stance at the PLI.
79. Notwithstanding the status of the SPD, I recognise a potential conflict between an emphasis on locations within walking distance and the cumulative impacts of harm to local amenity, if that is interpreted as meaning concentrations of the student population. The Council might have to pursue a policy of dispersal if the quantum of PBSA is to increase to meet the continuing expansion of the University.
80. More fundamentally in respect of the proposed development's impact on the amenity of neighbouring residents, I am wary of assigning blame to the occupants of a particular development for behaviour that occurs away from that development and which may not be their direct responsibility.
81. Both the appellants and the Council put before me examples of appeals where colleagues had addressed similar issues. The Council quoted an appeal (Ref. APP/A0665/C/10/2132842) in Liverpool Road on the eastern side of the Garden Quarter where the Inspector concluded that the *'...influx of students into the area, and the growth in the number of HMOs...'* had had a significant deleterious impact on living conditions. The appeal, which was for the conversion of a commercial property to an HMO, was dismissed.
82. By contrast, the appellants quoted appeals, both in Chester and elsewhere, where in dealing with proposals for PBSA, Inspectors had come to different conclusions. In Coventry, (Ref. APP/U4610/A/11/2157779), the Inspector concluded that issues relating to behaviour on the streets *'...are a matter for the police'*: in Chester, itself, (Ref. APP/A0665/A/13/2208513), the Inspector found no evidence to demonstrate that *'...students are more likely to exhibit tendencies to commit crime and anti-social behaviour...'* than other groups. In a slightly earlier appeal in the city centre (Ref. APP/A0665/A/12/2174751), the Inspector commented that the proposed student accommodation would not *'...significantly alter the existing situation with regard to noise and disturbance'*.

83. In the appeals quoted in the previous paragraph, the Inspectors generally laid substantial emphasis on the ability to impose management plans on PBSA – as opposed to HMOs. They thereby concluded that the management of PBSA would significantly ameliorate the problems that could arise from student accommodation concentrated in HMOs. This is a view with which I agree and to which I give significant weight. Whatever its impact on the quantum and location of HMOs, I consider that PBSA represents a means of housing students that limits a significant number of the problems associated with the former type of accommodation.
84. More generally, whilst I appreciate the concerns of residents of the Garden Quarter, there seems to me to be a fundamental and perhaps irreconcilable conflict between the Council's firm wish to see the continuing expansion of the University, with all the benefits that will bring to the city, and the almost inevitable development of a 'student quarter', such as have existed in many other English cities for decades, close to the main campus. In a situation where I expect that there will be continuing growth in the University of Chester, even if not at the most optimistic rates forecast by the University itself, I cannot see any substantial lessening of the pressures on the Garden Quarter. In such circumstances, additional PBSA may well be the most suitable means to provide the additional accommodation that will be required in a manner that would mitigate against the possible harm that residents believe that expansion would bring.
85. I therefore conclude that a PBSA scheme such as the appeal scheme should not conflict with the general principles underpinning Policy GE3 of the 2006 Local Plan and that it would thereby represent both an accessible and appropriate location for PBSA as required by Policy SOC3 of the new Local Plan.

Other Matters

86. A range of other issues was raised by local residents, including the archaeological and ecological value of the site. I consider that the great majority of these matters could be satisfactorily dealt with by conditions.
87. A more significant issue is the highway implications of the proposed development, though the views put to me focused on different issues under this general head. The local highway authority had made no objection to the proposed development and I heard nothing to persuade me that it would raise serious issues of highway safety on the adjacent road network.
88. What most appeared to concern objectors were parking pressures. However, these were separately identified as those affecting the site and its access roads, the adjacent residential development, and the nearby streets. In respect of the last two, I see these issues as lying primarily in other hands. The proposed development would have its own parking controls and students living on the site would be discouraged from owning cars. The ratio of parking spaces to bed spaces in the proposed development is in line with other PBSA developments in Chester and elsewhere and reflects the highly sustainable nature of the appeal in locational terms. There could be some minimal increase in parking pressures on nearby streets but the problems here seem to me to be at present as much the responsibility of commuters and shoppers as students.

89. In respect of issues associated with parking on the access roads within the wider Tower Wharf site, I recognise that the issues are more complicated. I do not accept, however, the argument presented by Morris Homes that the fallback position of the 2007 office permission must be relevant. The parking provision for a PBSA is always likely to be different. This is a new application for an entirely different use and has to be considered on its own merits in all respects.
90. I include in that conclusion, the agreements made under section 106 of the Town and Country Planning Act 1990 that were associated with the 2007 permission. The Council has not sought an equivalent scale of financial contributions for highway purposes from the current appellant. (Indeed, it has chosen not to seek any agreement or undertaking under section 106 as a condition for the development to go ahead.) Moreover, whether there remain obligations on Miller Developments (inherited as successors to Northgate, the previous applicants for the 2007 proposal), Morris Homes, or the Canals and Rivers Trust as freeholders of the site is a matter of law for which there are alternative means to settle any dispute than this appeal.
91. Nevertheless, I appreciate the arguments put forward by Morris Homes about the potential problems associated with seeking to control parking on the access roads within the wider Tower Wharf site. These roads are and, I was advised at the PLI by the Council, would continue to be private roads with a right of public access. There appears to be no guarantee that the Council would seek to adopt them at some point in the future as public highways.
92. That would not, however, prevent the Council from controlling parking on the site access roads through an appropriately worded Traffic Regulation Order (TRO). Morris Homes rightly pointed out, however, that were arrangements to control parking on the site access roads by TRO to be proposed (and no alternative mechanism was put to me at the PLI), the procedures for consulting on and making a TRO could not guarantee success. I agree. However, equally I cannot anticipate what objections to a TRO might be made, by whom or what would be the outcome of the inevitable negotiations between the parties. With the Council choosing not to seek an agreement or unilateral undertaking under section 106, I have to accept that it considers the TRO route to be both feasible and acceptable
93. In these circumstances, the main parties agreed that, if the appeal were allowed, that would put to me an appropriately worded 'Grampian condition' could require parking controls to be imposed on the site access roads before the proposed development were first occupied. This they did. I do not dispute the feasibility of this approach. However, I also recognise the risks that the appellants run should the TRO route fail and it prove impossible to implement the proposed condition. Nevertheless, I consider that this matter should not weigh so heavily against the proposed development as to cause me to dismiss the appeal on these grounds alone.

Conclusions

94. In terms of the issues raised by the Council's reason for refusal, the objections by local residents and others and the overall context of the University of Chester's future, I conclude that the proposed development represents an appropriate response to the likely future growth of the

University and current levels of existing and prospective accommodation. The scheme has evolved in a manner that respects and reflects the neighbouring heritage assets represented by the Conservation Area and listed buildings. Moreover, though it cannot be expected to resolve amenity issues that already exist in the adjacent area, the proposed development would be in a form, PBSA, which can best be managed to minimise any exacerbation of those problems. It would be well located in relation to both the University campus and the city centre and would make use of a site that would benefit from regeneration. These are all positive factors in its favour.

95. Against this, I recognise that the proposed development would be contrary to Policy EC14 that allocates Tower Wharf for heritage-related tourism development. I also consider that the scale of the development would be likely to prejudice any future projects of this kind at Tower Wharf. That is seen by interests such as the Canal Trust as a serious argument against the proposed development. However, there is currently little apparent prospect of development of this form on the appeal site. Nothing has been put to me to suggest even a glimmer of a proposal of this type that would be viable and feasible. If the proposed development did not go ahead, it seems most likely to me that the alternative would be additional residential development. That might be more attractive to local residents but would no more meet Policy EC14 than the proposed development.
96. I therefore conclude that the immediate need for the proposed development and the advantages it would bring outweigh the prospect of an alternative form of development which, as yet, shows little signs of coming to pass.
97. For the reasons given above I conclude that the appeal should be allowed.

Conditions

98. I have considered the conditions put before me by the Council that it would wish me to impose were the appeal to be allowed in the light of policies towards conditions as now set out in the Government's recently published Planning Guidance and the model conditions included in the still extant Annex to Circular 11/95, *The Use of Conditions in Planning Permissions*.
99. In addition to the standard conditions that set a time limit for the permission to be implemented and ensure that it is carried out in accordance with the approved plans, given the nature of the site and its past uses, conditions are necessary to prepare for the development. These include a need for archaeological investigation – essential anywhere in or adjacent to the historic city – prior approval for necessary groundworks and conditions to deal with the possibility of pollution on a site with a long and complicated industrial history. It is also necessary to ensure that the arrangements for foul and surface water drainage from the site is satisfactory. I shall impose conditions in all these respects.
100. Because of the proximity of residential properties, conditions are needed to ensure that construction works are carried out in the most environmentally friendly manner, that they take place at appropriate times and that vehicle movements to and from the site are achieved in the way that best protects the interests of neighbouring residents. I shall impose conditions in all these respects.

101. Given the scale of the development, there are a range of detailed matters that require prior approval by the Council before development commences or the accommodation is first occupied. These include existing and proposed floor levels, internal and external sound insulation arrangements, the provision of refuse storage facilities, cycle and vehicle parking arrangements, a landscaping scheme, external materials and the details of building furniture, including doors and windows, drainpipes etc, and the provision of telecommunication facilities. I shall impose conditions in all these respects.
102. Both the site and the adjacent Canal have been identified as a site with potential wildlife interest and a range of conditions are necessary to protect the environment of the Canal, to provide appropriate mitigation measures to protect the site's ecological value and to make specific provisions for bird and bat boxes to be provided. I shall impose conditions in all these respects.
103. Two issues associated with the development are the replacement of the historic slipway and the need to control parking on the access roads within Tower Wharf, as discussed in paragraphs 88 - 93 above. I shall impose conditions in both these respects.
104. Finally, there are those issues specifically associated with the development's occupation by students. These include a restriction to prevent general residential occupation, the essential management plan for the occupation of the development that will be the best defence for the interests of neighbouring residents, and a Travel Plan that should seek to minimise any harmful effects on the local highway network and its users. I shall impose conditions in these respects.

Roger Pritchard

INSPECTOR

ANNEX: LIST OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

1000/101	Location Plan
1000/110	Existing Topographic Survey
1000/210 Rev D	Site Plan as Proposed
1000/211 Rev F	Site Master Plan as Proposed
1000/212	Slipway Proposals
1000/305 Rev E	Block A: Plans, Sections and Elevations
1000/306 Rev D	Block B: Plans, Sections and Elevations
1000/307 Rev D	Block C: Plans, Sections and Elevations
1000/500 Rev E	Contextual Sections as Proposed
- 3) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation that has been submitted to and approved in writing by the Local Planning Authority.
- 4) No development shall take place until a written detailed Methods Statement for all new groundworks has been submitted to and been approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved scheme.
- 5) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation shall not take place until conditions 5)(a) to (d) below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 5)(d) has been complied with in relation to that contamination.
 - (a) **Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme will be subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must 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, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - ground waters and surface waters,

- ecological systems, and
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options and the preferred option. The scheme must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

(b) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and will be subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with the approved terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (as referred to in Planning Policy Statement 23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and will be subject to the approval in writing of the Local Planning Authority.

(d) 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 must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 5)(a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 5)(b), which will be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5)(c).

(e) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the

monitoring and maintenance carried out must be produced and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

- 6) No development shall commence unless and until a scheme for the disposal of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. No land drainage run-off or surface water shall discharge, either directly or indirectly, into the public sewerage system and foul water and surface water discharges shall be drained separately from the site.
- 7) Prior to the commencement of demolition or development, a Construction Method Statement and Management Scheme shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place except in accordance with the approved Construction Method Statement and Management Scheme, unless otherwise approved in writing by the Local Planning Authority. For the avoidance of doubt the scheme shall include:
 - i) Measures to control dust, noise, vibration, light and odours and appropriate mitigation techniques that prevent unnecessary disturbance to neighbouring properties; detailed management and operations for the construction of the development (including details of the location of the site compound, the storage, loading and unloading of plant and materials used in demolition/construction works, the erection and maintenance of security fencing);
 - ii) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - iii) Full details of any proposed piling and details for the management/monitoring of vibration levels at neighbouring properties.
- 8) No demolition and/or construction works shall take place, and no deliveries shall be taken at or despatched from the site outside the following times:
 - i) 08.00 hours to 18.00 hours Mondays to Fridays; and
 - ii) 08.00 hours to 13.00 hours on Saturdays.No such activities shall take place at any time on Sundays or on Public Holidays. Any works which may be necessary outside these hours shall be submitted to, and approved in writing by, the Local Planning Authority prior to such operations taking place.
- 9) No development shall take place until full details of the management of demolition and construction traffic for the development, have been submitted to, and agreed in writing by, the Local Planning Authority. These details shall include:
 - i) HGV movement numbers and routeing (including signage) to and from the site;
 - ii) temporary highway vehicle and pedestrian routeing;
 - iii) times and days of large vehicle movements to/from the site;
 - iv) loading and unloading of plant and materials;
 - v) off-highway parking for all construction related vehicles (including site contractors/operatives and visitors); and

vi) vehicle wheel cleaning facilities.

The works shall only be carried out in accordance with the agreed details.

- 10) No development shall take place until details of the existing and proposed finished ground and floor levels (related to the nearest Ordnance Datum bench mark outside of the site) have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 11) Prior to the commencement of development a scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the following internal noise measurements are met:
 - (i) Maximum noise levels within habitable rooms during the day (07.00hrs -23.00hrs) of 35dB(A)LAeq, 16hrs.
 - (ii) Maximum noise levels within bedrooms during the night (23.00hrs — 07.00hrs) of 30dB(A)LAeq, 8hrs and 45dB(A)LAmx.The approved scheme shall be implemented and completed in full before any part of the building is occupied, shall be retained at all times thereafter and the equipment shall be maintained in accordance with the manufacturer's recommendations. The sound insulation scheme shall ensure that the rating of noise emitted from any plant associated with the development shall be 10dB(A) below the background noise level (as measured as a LA90) at any time as measured at the nearest noise sensitive receptor. The measurements shall be made according to BS 4142.1997 '*Method for rating industrial noise affecting mixed residential and industrial areas*'. Any variation to the approved scheme shall be agreed in writing with the local planning authority.
- 12) No development shall take place until details of the provision of refuse storage facilities have been submitted to, and agreed in writing by, the Local Planning Authority. Development shall be completed in accordance with the agreed details and the facilities shall be retained thereafter.
- 13) No part of the development hereby approved shall be occupied until the car parking spaces and cycle parking facilities shown on the approved Drawings Nos. 1000/305 Rev E, 1000/306 Rev D and 1000/307 Rev D to serve that part of the development have been constructed and made available for use. Thereafter, those car parking and cycle parking provisions shall be kept available for those purposes at all times.
- 14) No development shall take place until details of a scheme of landscaping have been submitted to and agreed in writing by the Local Planning Authority. The details shall include the following elements as appropriate to the site:
 - new hard surface areas and surfacing materials (including samples);
 - boundary treatments;
 - external lighting;
 - planting plans;
 - planting specifications (species, plant sizes, proposed numbers/density);
 - an implementation programme; and
 - a maintenance programme (including management responsibilities; and maintenance schedules).

The approved landscape works shall be implemented in accordance with the approved details in the first available planting season after work commences or as may otherwise be agreed in writing with the Local Planning Authority. Any trees or shrubs planted in accordance with the approved details that fail, die, are removed or become seriously damaged or diseased within a period of 5 years of initial planting shall be replaced with others of similar species in the next available planting season.

- 15) No development shall take place until details of samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted (including details of mortar mixes, the provision of a brickwork/mortar sample panel and colour schemes) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in complete accordance with the approved details.
- 16) No development shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - i) sections and elevations of doors and windows, and ground floor glazed frontages, including their reveals and setbacks;
 - ii) details and samples of curtain walling and cladding materials;
 - iii) rain water and foul water goods, balcony features, ventilation, extraction and air conditioning machinery, meters etc)The development shall be carried out wholly in accordance with the approved details.
- 17) No external communal television and satellite antenna equipment shall be installed otherwise than in accordance with details of the design and positioning of the equipment that have previously been submitted to and approved in writing by the Local Planning Authority. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no external television or satellite antenna equipment falling within Class H of Part 1, or Part 25, to Schedule 2 thereof, other than those approved by the Local Planning Authority under this condition, shall be erected or installed within the development hereby approved without the grant of planning permission by the Local Planning Authority.
- 18) No development shall take place until details of a statement detailing reasonable avoidance measures or mitigation measures to avoid harm to any protected wildlife species and to prevent any risk of pollution or harm to the adjacent Shropshire Union Canal (including from noise, dust, water run-off or debris entering the canal, or any existing drains discharging to the canal), both during demolition and construction of the development, have been submitted to and agreed in writing by the Local Planning Authority. The approved measures shall be implemented in full during the demolition and construction of the development.
- 19) No site clearance, demolition or building works shall take place otherwise than in strict accordance with the protection measures set out in paragraph 3.3.3 of the Ecology Survey submitted to the Council in September 2013.

- 20) No building demolition or clearance works shall be carried out on the site between the 1 March and 31 August inclusive in any year, unless the site is surveyed for breeding birds, and a scheme to protect breeding birds has been submitted to and approved in writing by the local planning authority. The development shall thereafter only be carried out in accordance with the approved scheme.
- 21) No part of the development shall be occupied until three bat boxes have been installed within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The bat boxes shall subsequently be retained thereafter in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.
- 22) No part of the development shall be occupied until bird boxes have been installed within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The bird boxes shall subsequently be retained thereafter in accordance with the approved details.
- 23) No part of the development shall be occupied until the replacement canal slipway has been provided in accordance with the details shown on the approved Drawings Nos. 1000_211 Rev F and 1000_212. The canal slipway shall thereafter be retained and shall be available for public use at all times.
- 24) No development shall take place until details of measures to control and manage car parking on the access roads linking the site to the public highway have been submitted to and approved in writing by the Local Planning Authority. The measures shall ensure that suitable access for all vehicles, including service and emergency vehicles, can be retained at all times. The development shall not be occupied until the approved measures have been implemented in full.
- 25) The development hereby approved shall only be occupied as student housing accommodation and shall not be used for any other purpose within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any change of use otherwise permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended), including any use as independent residential dwellings.
- 26) The development hereby approved shall not be occupied until a Student Management Plan (including details of night time supervision, car ownership, parking allocation, servicing, deliveries, waste disposal and waste management measures, any CCTV or similar equipment for the monitoring of the external areas) has been submitted to and approved in writing by the local planning authority. The student accommodation hereby approved shall only be occupied in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.
- 27) No development shall commence until a Travel Plan has been submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall include objectives, targets, measures to achieve targets, monitoring, monitoring reporting to the Local Planning Authority, implementation timescales for delivery, the appointment of a Travel Plan

Co-ordinator, and measures to review and update the Travel Plan delivery measures to achieve the targets (where not met). The approved Travel Plan shall be implemented and monitored in accordance with the approved details.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Martin Carter	Of Counsel
Instructed by Daniel Dickinson, Cheshire West and Chester Council	
He called	
Nicholas Howard BSc(Hons) MRTPI	Senior Planner, Cheshire West & Chester Council
Cllr Bob Rudd	Ward Councillor, Garden Quarter Ward, Cheshire West and Chester Council

FOR THE APPELLANT:

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He called	
Nicola Rigby BA(Hons) MTPL MRTPI	GVA Grimley Ltd
Roger Lown MRICS	GVA Grimley Ltd
Katy Lightbody MA(Hons) PGDipCHE MRTPI	Turley Heritage
Andrew Bell BA MSc MCILT MIHT	Axis
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INTERESTED PERSONS:

Peter Emery BA(Hons) MA MRTPI	Emery Planning Partnership Ltd on behalf of Morris Homes
John Herson	Chester Canal Heritage Trust & Inland Waterways Association
Andrew Pannell	Chester Civic Trust
Rachel Dyson	Local Resident
Keith Jones	Local Resident
Joan Patten	Local Resident
Charles Warwood	Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Statement of Common Ground
2. Register of final submitted plans as prepared by the appellants and agreed by the Council
3. Review of the supply of and demand for student accommodation in Chester by PSL Research Ltd, January 2015, submitted by the Council
4. Statement on behalf of Chester Civic Trust by Andrew Pannell BA(Hons)
5. Statement by John Herson, Chair, Chester Canal Heritage Trust, on behalf of the Trust and the Inland Waterways Association (Chester & Merseyside Branch)
6. Rebuttal Statement by Peter Emery BA(Hons) MA MRTPI, Emery Planning, on behalf of Morris Developments Ltd, plus Appendices
7. Proposed site masterplan, Drawing 1000_211, Rev. F
8. Block C Plans, Sections and Elevations, Drawing 1000/307, Rev. D
9. Block B Plans, Sections and Elevations, Drawing 1000/306, Rev.D

10. Letter of 15 December 2014 informing parties of the time and place of the reconvened Inquiry
11. Opening Statement by Mr Gill on behalf of the Appellants
12. Extracts from Report of 15 December 2014 by Kevin Ward BA(Hons) MRTPI, Inspector examining Cheshire West and Chester Local Plan (Part One), Strategic Policies
13. Extracts from Appendices to the Employment Land Study, as updated in 2013, submitted by the Council
14. Draft conditions put forward by the Council and agreed by the appellants
15. Map forming Appendix A of the Proof of Katy Lightbody (Omitted in error from the proof). Submitted by the appellants
16. Revised draft Condition 29 put forward by the Council and agreed by the appellants
17. Closing statement on behalf of the Council
18. Closing statement on behalf of the appellants
19. Skeleton response by the Council to the costs application by the appellants

Revised Proofs of Evidence Submitted by the Appellant before the Inquiry Reconvened

- A. Christopher Gardner
 - a. Summary Proof of Evidence
 - b. Main Proof of Evidence
 - c. Appendices
- B. Nicola H Rigby
 - a. Summary Proof of Evidence
 - b. Main Proof of Evidence
 - c. Appendices
- C. Roger Lown
 - a. Summary Proof of Evidence
 - b. Main Proof of Evidence
 - c. Appendices
- D. Katy Lightbody
 - a. Summary Proof of Evidence
 - b. Main Proof of Evidence
 - c. Appendices
- E. Andrew Bell
 - a. Highways Rebuttal Note in Response to Emery Planning Partnership, Third Party Appeal Statement

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