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# **Statement of Common Ground between TRDC and BCL (Maple Cross) LLP**

## **Employment Land to the north of Maple Cross Lodge, Maple Cross, Rickmansworth**

Appeal against the non-determination of planning application Ref.  
21/0573/FUL

1 March 2022

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# 1. Introduction

1.1 This Statement of Common Ground (SOCG) has been prepared by Avison Young on behalf of BCL (Maple Cross) LLP (the Appellant) and Three Rivers District Council (Local Planning Authority) in connection with an appeal against the non-determination of planning application ref. 21/0573/FUL (the Application) for the proposed employment development at Employment Land to the north of Maple Cross Lodge, Maple Cross, Rickmansworth, (the Site).

1.2 The description of development for the Application is as follows:

*“Comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works.”*

1.3 The Application was submitted to Three Rivers District Council (TRDC) (the Council), as the Local Planning Authority (LPA), on 5<sup>th</sup> March 2021. The Council validated the Application on 5<sup>th</sup> March 2021. The statutory determination period was due to expire on 4<sup>th</sup> June 2021; however, the Appellant and the Council subsequently agreed to multiple extensions of time until 29<sup>th</sup> October 2021.

1.4 The Application was taken to Planning Committee on 21<sup>st</sup> October 2021 with a recommendation for approval. Members resolved to defer the determination of the application. The sole issue being the hydrological impact on the Maple Lodge nature reserve. The approved minutes cite the reason for the deferral being:

*“for the Council to instruct their own expert hydrologist or similar to review the application on the grounds that Members are not satisfied that the risks of development to the Maple Lodge Nature Reserve had been fully understood and the suggested conditions would meet the requirements.”*

1.5 The appeal is therefore lodged on the basis that the Council has not determined the Application within this agreed period and no further extension of time has been agreed. At the time the application was reported to Committee and at the time it was appealed, there was no outstanding request for further information from the Council regarding Hydrological or hydrogeological assessments from the applicant.

1.6 The Application was reported to Extraordinary Planning Committee on 8<sup>th</sup> February 2022 with a recommendation that it is confirmed to the Planning Inspectorate that in the absence of an appeal against non-determination, planning permission would have been granted subject to the conditions set out at section 8 below and subject to the completion of a S106 Agreement.

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## Statement Purpose and Structure

- 1.7 The purpose of this Statement is to set out the factual information agreed between the Appellant and the LPA about the appeal in order to narrow the areas of dispute at appeal. It is the intention that this is a working document with discussions to progress to find common ground, where possible, throughout the appeal process.
- 1.8 This Statement has been prepared in accordance with the guidance set out by the Planning Inspectorate (PINS).
- 1.9 This Statement is structured as follows:
- **Section 2** provides an overview of the site and surrounding context;
  - **Section 3** sets out the specification of the Application and the proposed development;
  - **Section 4** sets out the background to the appeal;
  - **Section 5** outlines the planning policy context relevant to the appeal;
  - **Section 6** sets out the factual elements of the Appeal Scheme that are not in dispute;
  - **Section 7** sets out the elements of the Appeal Scheme that are in dispute; and
  - **Section 8** provides a signed declaration that both the Appellant and LPA are in agreement with this Statement.

## 2. Site Description

### Site Location

- 2.1 The Appeal Site (the Site) is located in Maple Cross within the south west of the administrative area of Three Rivers District Council (TRDC). The Site is located immediately to the east of the existing employment uses and is within the Maple Cross/Maple Lodge Employment area in the secondary centre of Maple Cross.
- 2.2 The Site comprises an irregular shaped parcel of undeveloped land of approximately 3.4 hectares. It is currently unoccupied in nil use. The majority of the Site is covered by grass, with a mixture of shrubs and mature trees situated along the Site boundaries.
- 2.3 It is bound to the north/northwest by the Rivers Office Park and Hertford Place (subject to implemented planning permission for a hotel); to the south by open space (private Thames Water cricket pitch); to the east by the access road leading to the Thames Water Treatment Works site to the south; and west by the multi-storey car park of Maple Cross House (offices), and the residential properties of Longmore Close which are separated from the Appeal Site by a strip of land owned by TRDC.

### Surrounding Context

- 2.4 The wider surrounding area comprises a mix of employment (office and industrial and storage), residential uses, open space and agricultural land.
- 2.5 Beyond the access road to the north is a large area occupied as storage. To the east of the access road is an area of land which comprises former landfill (sludge beds)/storage area which is bound by the River Colne/Springwell Lake. These areas are both designated as Green Belt. Beyond these to the south is the Thames Water Treatment Works which occupies significant land holding.
- 2.6 Adjacent to the north west of the site is a cluster of employment uses which form the principal employment area for Maple Cross. The residential area to the west of the site comprises low density two/three storey terrace houses. This residential area is accessed from the south of Maple Lodge Close. This area is separate from the main area of residential development within Maple Cross which is west of Denham Way (A412). Maple Lodge Nature Reserve is located 150m south of the site, beyond Maple Lodge Close.
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## Accessibility

- 2.7 The Appeal Site benefits from informal pedestrian access, but no formal vehicular crossover. An existing access road runs north/south along the eastern boundary accessed from Denham Way (A412) to the north which serves the Thames Water Waste Treatment site to the south. An existing pedestrian footpath runs along the northern part of the access road.
- 2.8 Denham Way (A412) runs north to south through Maple Cross connecting Rickmansworth to the north and West Hyde to the south. It also provides access to the M25 via Junction 17 (circa 1.5km from the Appeal Site).
- 2.9 The nearest bus stops are located approximately 500 and 550 metres to the northwest of the site for northbound and southbound traffic direction respectively. The stops are both sheltered and are served by the 520, 951, E21, E21B, R1, R2 & W1 services. There is an additional bus stop located approximately 800 metres to the south west of the site access, which is served by services 724 & 951. The closest rail station is Rickmansworth (circa 3km) to the north which provides London Underground (Metropolitan Line) and national rail (Chiltern Railways) services to London Marylebone.
- 2.10 It is agreed that the site is considered to be reasonably accessible to modes of transport other than the private car and complies with the NPPF in this regard.

## Planning History & Existing Lawful Use

### *Site Planning History*

- 2.11 The following planning history is relevant to the appeal site, as set out in **Table 2.1** below.

*Table 2.1 Planning History*

Address	Reference	Description	Decision/Date
Employment Land to the north of Maple Cross Lodge, Maple Cross, Rickmansworth	19/2106/EIA	Comprehensive redevelopment to provide 2 no. warehouse Class B1c/B2/B8 units comprising a total of 16,140 sqm including 1,986 sqm ancillary B1a office space, access, landscaping and associated works.	Screening Opinion: Non-EIA Development 4 <sup>th</sup> November 2019
	19/1179/FUL		Refused: 19 <sup>th</sup> November 2019
	APP/P1940/W/19/3243565		Appeal Dismissed: 21 <sup>st</sup> September 2020

2.12 The following planning history is relevant to the surrounding emerging context of the site, as set out within **Table 2.2** below:

*Table 2.2 Recent and Emerging Context*

Address	Reference	Description	Decision/Date
Witney Place Denham Way Maple Cross Hertfordshire WD3 9XD	07/1401/FUL	The erection of a four storey hotel building incorporating a foyer, lobby bar and lounge, restaurant, health club, office and staff area at ground floor level, with 207 bedrooms in the three floors above, was granted in March 2008	Approved: 19 March 2008  We understand that this planning permission has been implemented, as per the lawful development certificates identified below, but not built out.
	18/0401/CLPD	Established that a lawful material commencement of development occurred prior to 19 <sup>th</sup> March 2011, which included the laying of foundations and highway works.	Approved: 15 March 2018
	18/1424/CLPD	Confirmed that as a result of 18/0401/CLPD, the site can continue to be lawfully developed to completion.	Approved: 3 September 2018
Hertford Place Denham Way Maple Cross WD3 9AB	21/1834/PDND	Prior Notification Demolition: Demolition and removal of existing buildings and structures (Office building, car park and cycle shelter)	Approved: 20 August 2021
	22/0033/FUL	Proposed demolition of existing office block and multi-storey car park and redevelopment to provide 6 no. warehouses for a flexible range of employment uses (within Classes E(g)(iii), B2 and / or B8) with ancillary offices together with associated works.	Pending Consideration

### 3. The Proposed Development

3.1 The Proposed Development comprises the provision of two new warehouse buildings for employment use (Class E(giii)/B2/B8) with ancillary E(gi) office space and access, parking, landscaping works and associated works. The description of development is as follows:

*“Comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works.”*

3.2 The following revisions were made to the Application (the Revised Application):

- The Site Plan as Proposed was updated to refer to the correct number of car parking bays. The number of bays were correctly drawn on the plan, however, drawing 17019-C4P-AV-00-DR-A-0500 P17 (CD1.1.2) was amended so that the stated number of standard car parking bays for Unit 1 is 75. The Planning Statement was also updated to reflect this and submitted to the Council alongside the Site Plan as Proposed and Cover Letter on 26<sup>th</sup> March 2021;
- An updated Planning Noise Assessment (CD1.3.3) was submitted to the Council on 22<sup>nd</sup> April 2021 to clarify the position in respect of vehicle trips and the figures presented;
- An updated Air Quality Assessment (CD3.3.4) was submitted to the Council on 23<sup>rd</sup> April 2021. The Assessment was updated to correct the road naming within Figure 1.1 which incorrectly labelled the A412 as the M25; and
- A Maple Lodge Nature Reserve Hydrogeological Impact Assessment and GQRA (CD3.3.5) was prepared by H Fraser Consulting, dated 7<sup>th</sup> June 2021, and submitted to the Council.

3.3 In addition to this, the following clarification and responses were provided following submission of the Application:

#### *Groundwater*

- A Letter (CD2.1.15), prepared by Tier Consult and dated 19<sup>th</sup> May 2021 and a Hydrogeological impact assessment and GQRA (CD1.3.5) prepared by H Fraser Consulting dated 7<sup>th</sup> June 2021, responding to comments raised by the Environment Agency was submitted to the Council.
- A Maple Lodge nature reserve Hydrogeological impact assessment (CD1.3.7) was submitted to the Council, the Environment Agency and Affinity Water on 17<sup>th</sup> December 2021.



### *Biodiversity*

- A letter including an NVC Survey (CD2.2.7) and a Species List (2.2.8) was submitted to the Council on 6<sup>th</sup> July 2021, as requested by Hertfordshire Ecology in their response dated 13th April 2021 (CD2.2.2).
- A letter, prepared by Greengage, (CD2.2.18) dated 20<sup>th</sup> August 2021 was submitted to the Council setting out the approach to addressing the presence of the Forester moth, as recorded by Martin Parr of the Maple Lodge Conservation Society on the 12<sup>th</sup> July 2021.

### *Transport*

- A Transport Technical Note (CD2.3.6), prepared by BWB and dated 7<sup>th</sup> May 2021, was submitted to the Council in response to comments raised by Hertfordshire County Council Highways Authority.

### *Noise*

- A Response to Cass Allen Report (CD2.4.7), prepared by RSK Acoustics, was submitted to the Council on 6<sup>th</sup> July 2021 to provide commentary in respect to a letter submitted by Cass Allen (On behalf of The Maple Cross and West Hyde Residents Association) regarding the Noise Assessment.

### *Air Quality*

- A revised Air Quality Assessment (CD1.3.4) dated 23<sup>rd</sup> April 2021 prepared by BWB to update minor labelling errors was submitted to the Council.

### *Trees*

- Clarification on tree removals was provided by Avison Young to the Council on 7<sup>th</sup> and 8<sup>th</sup> September 2021 (CD2.6.2 and CD 2.6.3).

### *Other*

- An email from the Agent (CD2.8.11) was sent to the Council on 19<sup>th</sup> April 2021 to provide further information regarding the Construction Phase and Piling.

## **Application Specification**

- 3.4 The Application is submitted in detail (full planning permission).

## **Planning Application Package**

- 3.5 A comprehensive package of plans and supporting documentation has been submitted as part of the planning Application. A full list of Application documents is set out within the draft Core Documents list included at **Appendix I**.
- 3.6 **Table 3.1** provides a list of drawings as submitted to the LPA for determination (i.e. including revisions made during the life of the application) as stated within Condition 2 within the LPA's committee report for the 21<sup>st</sup> October 2021 committee:

*Table 3.1 Proposed Drawings*

Drawing Number	Title
17019-C4P-AV-00-DR-A-0100 REV P5	Site Location Plan
17019-C4P-AV-00-DR-A-0500_P17	Site Plan as Proposed
17019-C4P-AV-00-DR-A-0101 REV P4	Site Plan as Existing
17019-C4P-AV-ZZ-DR-A-0700 REV P4	Site Elevations as Proposed
17019-C4P-B1-R-DR-A-2001 REV P4	Unit 1 – Proposed Roof Plan
17019-C4P-B1-ZZ-DR-A-2000 REV P4	Unit 1 – Proposed GA Floor Plans
17019-C4P-B1-ZZ-DR-A-2100 REV P5	Unit 1 – Elevations as Proposed
17019-C4P-B2-R-DR-A-2001 REV P4	Unit 2 – Proposed Roof Plan
17019-C4P-B2-ZZ-DR-A-2000 REV P4	Unit 2 – Proposed GA Floor Plans
17019-C4P-B2-ZZ-DR-A-2100 REV P4	Unit 2 – Elevations as Proposed
55-01 REV P17	Proposed Drainage Layout
65-03 REV P16	Plan Showing Ex. Access Road Widening, Repairs
65-04 REV P6	Sections Showing Proposed Widening to Ex. Access Road
05-885-700 REV H	Landscape Strategy

## Environmental Impact Assessment (EIA) Regulations

- 3.7 The Council adopted a Screening Opinion in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 on 4<sup>th</sup> November 2019 (ref. 19/2106/EIA).
- 3.8 This was based on a proposal for the development of two Warehouse Units (Class B1c / B2 / B8), comprising a total Gross Internal Area (GIA) of 16,140 square metres (including 1,986 square metres ancillary B1c office space), access, landscaping and associated works, at Development Site, Maple Lodge, Maple Lodge Close, Maple Cross.
- 3.9 The Council had regard to the information submitted and concluded that an Environmental Impact Assessment was not required for the development, and that the conclusions of the Screening Opinion remained valid in relation to the Application ref. 21/0573/FUL, the subject of this appeal.

## 4. Background to the Appeal

4.1 This Application follows the refusal of a full application (ref: 19/1179/FUL) (the Refused Application) previously made by the Applicant on the Site for the following:

*“Comprehensive redevelopment to provide 2 no. warehouse Class B1c/B2/B8 units comprising a total of 16,140 sqm including 1,986 sqm ancillary B1a office space, access, landscaping and associated works.”*

4.2 The Refused Application was taken to the 14<sup>th</sup> November 2019 planning committee with a recommendation for refusal on the basis of five reasons as identified by the Committee Report and Addendum. Members resolved to refuse planning permission citing two additional reasons for refusal on design and heritage grounds.

4.3 The LPA's decision notice was issued on the 19th November 2019.

4.4 An appeal (ref. APP/P1940/W/19/3243565) was submitted by the Applicant to the Planning Inspectorate following the LPA's refusal of planning permission. The appeal proceeded by way of a Hearing, with the event held between 30<sup>th</sup> June – 3<sup>rd</sup> July 2020.

4.5 The following changes were made to the proposal during the appeal process. These included:

- A reduction in floorspace to 16,140 square metres including 1,986 square metres of ancillary B1 office floor space;
- A reduction in height of unit 2 from 12.5m at the eaves and 16m at the highest point to 10m and 12.5m respectively;
- Alterations to the access and parking arrangements;
- The retention of additional trees adjacent to the access road; and
- Alterations to the proposed drainage arrangements.

4.6 The Inspector concluded that these changes would not be prejudicial to any party and would accord with the Wheatcroft principles. The appeal was therefore determined on this basis (the Appeal Scheme).

4.7 Prior to the Hearing, the LPA confirmed its intention not to defend the third reason for refusal in relation to flood risk on the basis that this had been addressed through the additional information provided. The Applicant submitted a Unilateral Undertaking which covenanted to make a payment of £17,725 to offset the loss of biodiversity and a contribution of £6,000 towards the implementation and monitoring

of the travel plan. It was also agreed between the parties that these contributions addressed the second and fifth reasons for refusal.

4.8 The Planning Inspectorate determined the appeal on 21<sup>st</sup> September 2020.

4.9 The appeal was dismissed on a single ground on the basis that the Inspector found that there was insufficient evidence at that time to be certain that the potential effect on the public water supply could be satisfactorily addressed by way of conditions.

4.10 The Inspector identified 8 main issues and concluded that the appeal scheme was acceptable in respect of 7 of those main issues. The Appeal Scheme:

- Provided an appropriate use and the principle of development for employment is supported by planning policies CP6 of the Core Strategy and SA2 of the Site Allocations Local Development Document.
- Would not harm the living conditions of surrounding residents in terms of:
  - noise in accordance with planning policies DM9 of the Development Management Policies Document, the Noise Policy Statement for England, the NPPF and NPPG;
  - air quality in accordance with planning policy DM9 of the Development Management Policies Document; and
  - traffic, parking and highway safety in accordance with planning policies DM9 and DM13 of the Development Management Policies Document and the NPPF.
- Would not harm the living conditions of the occupants of 19 Longmore Close and would be of a high standard of design in accordance with planning policy CP12 of the Core Strategy.
- Would not result in an unacceptable effect on trees in accordance with planning policies DM6 of the Development Management Policies Document and CP12(b) of the Core Strategy.
- Would not have a significant effect on the lakes either in terms of de-watering or the introduction of contaminants and would provide a net biodiversity gain in accordance with planning policies DM6 of the Development Management Policies Document, CP9 of the Core Strategy and the NPPF.
- Would not be at risk from flooding or increase the risk of flooding elsewhere in accordance with planning policies DM8 of the Development Management Policies Document and CP12 of the Core Strategy.
- Would not give rise to any harm to the neighbouring heritage assets in accordance with planning policies DM3 of the Development Management Policies Document, CP10 of the Core Strategy and the NPPF.

- 4.11 In addition, the Inspector concluded the appeal scheme would result in significant planning benefits.
- 4.12 The Inspector was “not persuaded that sufficient evidence has been submitted to demonstrate that the risk to the public water supply could be adequately mitigated” and therefore concluded that the proposed piling works “would have an unacceptable effect on groundwater and the quality of the public water supply and would fail to comply with Policy DM9”. (CD3.9: paragraph 153) and dismissed the appeal. This was the sole basis for the dismissal of the Appeal. The previous appeal decision is agreed to be a material consideration of significant weight.
- 4.13 The LPA’s original reason for refusal on this matter in relation to the previous application was substantiated by the third-party objection raised by Affinity Water.
- 4.14 The Appellant, accordingly, undertook an extensive programme of engagement with Affinity Water and the Environment Agency and liaison with the LPA prior to the submission of the planning application subject to this appeal, following the principles set out in Section 4 of the NPPF.
- 4.15 The Application was submitted and validated on the Council on 5<sup>th</sup> March 2021. This included further evidence including a Piling Method Statement and Risk Assessment (CD1.2.26). The scope, method and results of the further hydrological and hydrogeological assessments are agreed with the EA and AW. Further, the modelling and its results are also agreed. At the time of the Appeal, neither the EA nor AW had any criticism of the submitted assessments nor were there any outstanding requests for further information.
- 4.16 The Appellant has remained in contact with the Council in the period since, including attendance at meetings and provision of further information in response to queries raised on numerous matters and agreed extensions of time for determination of the application.
- 4.17 The Application was set a target determination date of 4<sup>th</sup> June 2021 based on a submission date of 5<sup>th</sup> March 2021. The Appellant and Council agreed to extensions of time up to 29<sup>th</sup> October 2021.

## 5. Planning Policy Context and Material Considerations

5.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004), planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

### National Planning Policy Framework (NPPF)

5.2 The principal parts of the NPPF relevant to the Appeal Scheme include:

- Achieving sustainable development includes seeking to attain the economic objective of ensuring sufficient land of the right types is available in the right places and at the right time to support growth; and the environmental objective of protecting and enhancing the natural environment **(Paragraph 8)**;
- This establishes a 'presumption in favour of sustainable development' where development proposals that accord with the development plan should be approved without delay **(Paragraph 11)**;
- The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed **(Paragraph 12)**;
- LPA's should identify broad locations for development, including planning for and allocating sufficient sites to deliver the strategic priorities of the area **(Paragraph 23)**;
- Local Planning Authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area **(Paragraph 38)**;
- Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development **(Paragraph 81)**;
- There is a requirement to proactively drive and support sustainable economic development to deliver homes, businesses and infrastructure and thriving places that the country needs; encourage the effective use of land by reusing land that has been previously developed (brownfield land) **(Paragraph 119)**;

- Local Planning Authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs (**Paragraph 121**);
- The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities...(Paragraph 126);
- Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (**Paragraph 130**);
- Permission should be refused for development of poor design where it fails to reflect local design policies and government guidance on design (**Paragraph 134**);
- The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence (**Paragraph 137**);
- Where development is necessary in areas at risk of flooding it should be made safe for its lifetime without increasing flood risk elsewhere (**Paragraph 164**);
- Policies relating to flood risk should take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards (**Paragraph 156**);
- Where appropriate, applications should be supported by a site-specific flood-risk assessment (**Paragraph 163**);
- Major developments should incorporate sustainable drainage systems which take account of advice from the lead local flood authority (**Paragraph 169**);
- The planning system should contribute to and enhance the natural and local environment by: protecting and enhancing valued landscapes; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate (**Paragraph 174**);
- The planning system should contribute to and enhance the natural and local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Development should, wherever possible, help to improve local environmental conditions such as water quality. (**Paragraph 174**);

- In order to protect and enhance biodiversity and geodiversity, plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity (**Paragraph 179**);
- If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused (**Paragraph 180**); and
- The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes) (**Paragraph 188**).

## Adopted Planning Policy

5.3 The planning policy framework affecting the Site comprises the National Planning Policy Framework and the TRDC Local Plan.

5.4 The Local Plan comprises the following documents:

- Three Rivers Core Strategy 2011-2026 (2011);
- Development Management Policies (2013); and
- Site Allocations Local Development Document (2014).

## Planning Policy Designations

5.5 The Site is subject to the following policy designations:

- The adopted Policies Map (2014) identifies the site as within an Employment Area (**Site Allocation SA2 E(d)**). “Comments” included in the allocation note that “Part of the site is adjacent to a Wildlife site. Measures to avoid adverse impacts and to enhance biodiversity will need to be provided by developers; applications would need to be supported by an adequate ecological survey”. **Policy SA2** safeguards allocated employment sites for business, industrial and storage or distribution uses (Classes B1c/B2/B8) (B1c now E(g)(iii)).

5.6 The Site is subject to a Tree Preservation Order (TPO) (ref. 493).



- 5.7 The Appeal Site does not include any statutory or locally Listed Buildings, nor is it located within a conservation area.
- 5.8 The majority of the Appeal site is located within Flood Zone 1. A narrow strip to the eastern and southern boundary is within Flood Zone 2.
- 5.9 The Appeal Site is within Groundwater Source Protection Zone 1.
- 5.10 Whilst the majority of the site lies outside of the Green Belt, a small area of land near the eastern boundary comes within it, but no development is proposed in this area.
- 5.11 The surrounding area is subject to the following planning policy designations:
- Land to the east of the site is designated as Green Belt (**Policy CP11**);
  - Grade II Listed Maple Lodge Farm and Maple Lodge Barn are located approximately 100m south of the site (**Policy DM3**); and
  - The site is within part of the wider Colne Valley Park. The AONB and Central River Valleys Landscape Area is located to the east (**Policy CP9**).

## Key Local Plan Policies

- 5.12 The principal development plan policies (over and above those referred to above) relevant to considering the appeal are listed below (note that the Appellant and Council may refer to additional policies in their evidence).

### *Core Strategy (2011)*

- Policy PSP3 (Development in Secondary Centres (Kings Langley, Carpenders Park, Eastbury, Maple Cross, Moor Park, Oxhey Hall))
- CP1 (Overarching Policy on Sustainable Development)
- CP6 (Employment and Economic Development)
- CP8 (Infrastructure and Planning Obligations)
- CP9 (Green Infrastructure)
- CP10 (Transport and Travel)
- CP11 (Green Belt)
- CP12 (Design of Development)

*Development Management Policies (2013)*

- Policy DM2 (Green Belt)
- Policy DM3 (The Historic Built Environment)
- Policy DM4 (Carbon Dioxide Emissions and On-Site Renewable Energy)
- Policy DM6 (Biodiversity, Trees, Woodlands, Watercourses and Landscaping)
- Policy DM8 (Flood Risk And Water Resources)
- Policy DM9 (Contamination and Pollution Control)
- Policy DM10 (Waste Management)
- Policy DM13 (Parking)
- Appendix 5 (Parking Standards)

*Site Allocations Local Development Document (2014)*

- Policy SA2 (Employment Site Allocations)
  - Site Ref. E(d) (Maple Cross/Maple Lodge)

## Emerging Planning Policy

- 5.13 TRDC is currently progressing a Local Plan which will provide the planning policies and proposals for growth in the District up to 2032. The first stage (Issues and Options and Call for Sites Consultation Document) underwent consultation ending in September 2017.
- 5.14 This was followed by a Potential Site Consultation ending in December 2018. The Site is identified within the Local Plan Potential Sites for Consultation document (October 2018) as CFS33 (Land at Maple Cross, Maple Lodge). The Site is shown forming part of a wider area of mixed-use development, with potential uses including business, industry/warehousing, residential, retail and hotel.
- 5.15 The Local Plan Regulation 18 Preferred Policy Options and Sites for Potential Allocation underwent consultation from 11 June 2021 to 20 August 2021.
- 5.16 The Local Development Scheme (November 2020) targets November/December 2021 for Regulation 19 consultation and May 2023 for adoption.
- 5.17 TRDC announced (5th October 2021) that the Regulation 19 consultation is likely to be delayed by 12 months to November/December 2022 as a result of the level of response to the Regulation 18

consultation. Therefore, the overall timetable for adoption of the local plan is likely to be at earliest, mid-2024.

- 5.18 The draft Local Plan is at very early stages and therefore the weight which can be attached to it is limited in accordance with NPPF para. 48. Notwithstanding this, the Regulation 19 document proposes to retain the employment allocation covering the site (ref. E(d)).

## Other Material Considerations

- 5.19 The Appellant and the Council may also refer to the following in their evidence:

- Relevant Ministerial Statements and Government publications; and
- The South West Herts Economic Study (2018).

## Presumption in Favour of Sustainable Development

- 5.20 NPPF paragraph 11 sets out that plans and decisions should apply a presumption in favour of sustainable development. Part c) of paragraph 11 is worded as follows:

‘approving development proposals that accord with an up-to-date development plan without delay;’

- 5.21 NPPF Annex 1 (para. 219) confirms that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

## 6. Matters Not in Dispute

- 6.1 This section of the Statement sets out the particulars of the application that are considered areas of common ground between the Appellant and the LPA.

### Principle of Development

- 6.2 It is agreed that the Appeal Site is allocated for development within the Site Allocations LDD (2014) and therefore the principle of development is not in dispute.

### Principle of Land Use

- 6.3 It is agreed the proposed E(g)(iii)/B2/B8 and ancillary E(g)(i) land use of the Appeal Site is supported by Policy SA2d(e) of the Site Allocations LDD (2014) and not in dispute.

### Development Need

- 6.4 It is agreed that there is an identified need for Class E(g)(i), E(g)(iii), B2 and B8 floorspace within the district as identified by the South West Herts Economic Study (2018) and the Appeal Scheme would contribute to meeting this need.

### Economic Benefits

- 6.5 It is agreed that as a result of meeting the identified need the Appeal Scheme would result in economic benefits for the local economy including investment, construction and operational job creation, and revenue from business rates.

### Green Belt

- 6.6 It is agreed that the majority of the site is outside of the Metropolitan Green Belt, however, the Green Belt overlaps the eastern site boundary in the form of a narrow strip. It is agreed that no buildings, parking or service yards are proposed within the part of the site which is designated as Green Belt.
- 6.7 It is agreed that the Green Belt adjoins the eastern boundary of the Appeal Site but that the Appeal Scheme would not result in harm to the openness of the Green Belt.
- 6.8 It is agreed that the Application is in accordance with Core Strategy Policy CP11 and Development Management Policy DM2.

## Character & Appearance

- 6.9 It is agreed that the Appeal Scheme is in keeping with and not harmful to the character, pattern and form of development of the surrounding area.
- 6.10 It is agreed that the Application is in accordance with Core Strategy Policy CP1 and CP12.

## Landscape Visual Impact

- 6.11 It is agreed the Site does not form part of a valued landscape. It forms part of a landscape where employment development is considered to be acceptable
- 6.12 It is agreed that the Appeal Scheme is acceptable in terms of its visual impact on the landscape and on the character of the landscape.
- 6.13 It is agreed that the Application is in accordance with Development Management Policy DM6.

## Heritage

- 6.14 It is agreed that the appeal (ref. APP/P1940/W/19/3243565) Inspector found that the development would not harm the heritage assets and therefore the weighing of harm against public benefits was not required.
- 6.15 It is agreed that the proposals in terms of their impact on heritage assets have not changed materially and that the heritage conclusions of the Inspector in respect of the previous appeal are wholly relevant.
- 6.16 It is agreed that the Council's Heritage Officer confirmed that the Inspector found no harm to the listed buildings and therefore the Council has no objection to the Appeal Scheme on heritage grounds.
- 6.17 It is agreed that the Application is in accordance with Development Management Policy DM3.

## Design

- 6.18 It is agreed that the layout and appearance of the buildings is acceptable and would result in a high-quality design solution.
- 6.19 It is agreed that it is reasonable and necessary to impose a condition requiring samples of the external materials to be submitted.
- 6.20 It is agreed that it is appropriate to impose a condition to control the installation of means of enclosure across the site so as to safeguard the ongoing external appearance of the development.

6.21 It is agreed that the Application is in accordance with Core Strategy Policies CP1 and CP12.

## Amenity

6.22 It is agreed that there is no right to a private view in planning terms.

6.23 It is agreed that the Appeal Scheme is acceptable in terms of light and overshadowing and does not result in overshadowing, material loss of prospect/outlook or loss of light to neighbouring properties.

6.24 It is agreed that the Appeal Scheme does not result in overlooking of neighbouring properties and is acceptable in privacy terms.

6.25 It is agreed that the Application is in accordance with Core Strategy Policy CP12.

## Noise

6.26 It is agreed that the Appeal Scheme is acceptable in terms of noise, subject to the inclusion of appropriate planning conditions including in relation to preventing refrigerating HGVs and the operation of tug units.

6.27 It is agreed that, in respect of noise, the Application is in accordance with Development Management Policy DM9.

## Lighting

6.28 It is agreed that the Appeal Scheme is acceptable in terms of lighting. It is agreed that full details of lighting can be provided by way of planning condition.

6.29 It is agreed that, in respect of lighting, the Application is in accordance with Development Management Policy DM9.

## Air Quality

6.30 It is agreed that the Appeal Scheme is acceptable in terms of air quality.

6.31 It is agreed that, in respect of air quality, the Application is in accordance with Development Management Policy DM9.

## Wildlife/Biodiversity

- 6.32 It is agreed that there are no adverse impacts on bats as a result of the Appeal Scheme. It is agreed that full details of lighting control with respect to bats can be secured by way of planning condition.
- 6.33 It is agreed that the Appeal Scheme is acceptable in terms of all other wildlife including protected species on the Appeal Site.
- 6.34 It is agreed that appropriate measures and mitigation in relation to badgers can be secured via condition.
- 6.35 It is agreed that a contribution of up to £142,800 is to be secured by way of a S106 Agreement to achieve 10% biodiversity net gain and provide for the creation and management over a 25-year period of an appropriate species rich grassland, suitable for the Forester moth, in a location within close proximity of the Site, which in the opinion of the Council, will deliver 11.90 Biodiversity Units (BU) applying the NE Metric V2 in accordance with Development Management Policy DM6.

## Trees

- 6.36 It is agreed that the development would result in the loss of a small number of poor-quality trees and that the loss would be mitigated by the additional planting of 46 new trees to supplement the retained trees.
- 6.37 It is agreed that it has been demonstrated that the existing trees to be retained can be adequately protected and that the development is acceptable in terms of trees.
- 6.38 It is agreed that, in respect of trees, the Application is in accordance with Development Management Policy DM6.

## Transport

- 6.39 It is agreed that the Appeal Scheme is acceptable in terms of highways operation and there are no safety impacts.
- 6.40 It is agreed that the proposed car/HGV parking provision accords with policy and is acceptable. It is agreed that the provision of cycle parking is capable of being addressed by a condition.
- 6.41 It is agreed that Hertfordshire County Council Highways Authority consider the vehicular trip rates to be robust and that the baseline data, assessment years and growth factors used are sufficient and acceptable.
- 6.42 It is agreed that the number of additional trips from the application site would not be severe.

- 6.43 It is agreed that conditions are required to secure the submission of a Construction Traffic Management Plan and a Travel Plan to avoid the use of Maple Lodge Close.
- 6.44 It is agreed that the proposed highway works would improve the accessibility and safety for pedestrians and cyclists travelling between Maple Cross and Rickmansworth (including to and from the Reach Free School) and therefore onto and from the wider highway network.
- 6.45 It is agreed that a financial contribution of £6,000 is to be secured by way of a S106 Agreement to support the implementation, processing and monitoring of a full travel plan in order to maximise sustainable travel options.
- 6.46 It is agreed that the Application is in accordance with Core Strategy Policy CP10 Development Management Policy DM13.

## Energy

- 6.47 It is agreed that the proposed energy strategy accords with policy and would exceed the requirements of Policy DM4 of the Development Management Policies LDD (2013) and is acceptable.

## Flood Risk/Drainage

- 6.48 It is agreed that the proposed buildings are located wholly within Flood Zone 1 and that there is a 'low probability' of fluvial flooding, with less than a 1 in 1000 annual probability of river or sea flooding in any year.
- 6.49 It is agreed with the Lead Local Flood Authority and LPA that the application has demonstrated a policy compliant discharge mechanism and management of the volume of surface water.
- 6.50 It is agreed that, in respect of flood risk/drainage, the Application is in accordance with Core Strategy Policy CP1 and Development Management Policy DM8.

## Contaminated Land

- 6.51 It is agreed that the Appeal Scheme is acceptable in terms of land contamination, subject to conditions.
- 6.52 It is agreed that remediation of the Appeal Site will remove contamination risks to future occupiers and adjacent users.
- 6.53 It is agreed that, in respect of land contamination issues, the Application is in accordance with Development Management Policy DM9.



## Groundwater

- 6.54 It is agreed that the Environment Agency has no objection to the proposed development subject to conditions being imposed on any planning permission in respect of the control of impacts on groundwater.
- 6.55 It is agreed that Affinity Water has no objection to the proposed development, and whilst they state that a “risk to public water supply still remains”, as the Statutory Undertaker, they have confirmed that the risks to public water supply can be managed by the imposition of planning conditions.
- 6.56 It is therefore agreed that there would be no adverse impact on the quality of local groundwater and that the quantity and quality of groundwater resource is protected from pollution in respect of the public water supply in accordance with Development Management Policies DM8 and DM9.

## Refuse/Recycling

- 6.57 It is agreed that the Appeal Scheme is acceptable in terms of refuse and recycling.
- 6.58 It is agreed that a Site Waste Management Plan and elevational details of the storage area will be secured via condition.
- 6.59 It is agreed that, in this regard, the Application is in accordance with Development Management Policy DM10.

## EIA

- 6.60 It is agreed that the Screening Opinion, dated 4<sup>th</sup> November 2019, has confirmed that the scheme does not comprise EIA development and that this remains valid despite a slight reduction in total GIA.

## 7. Matters in Dispute

- 7.1 It is not agreed whether the hydrogeological impacts of the development on the Maple Lodge Nature Reserve have been fully understood or that the suggested conditions to control such impacts would meet the requirements of the NPPF (paragraph 174) and Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).
- 7.2 The draft conditions set out within the committee report are not agreed.
- 7.3 It is not agreed that draft condition 7 (Groundwater Levels), as drafted by the LPA in the planning committee report (CD3.1) meets the test of Paragraph 55 of the NPPF.

## 8. Declaration

- 8.1 The Appellant and Local Planning Authority hereby declare that we are in agreement with this Statement of Common Ground prior to attendance at appeal.

Signed on behalf of the Appellant	Signed on behalf of Local Planning Authority
	
Date: 01/03/2022	Date: 01/03/2022
Position: Tim Sturgess, Director on behalf of Avison Young	Position: Head of Regulatory Services, Three Rivers District Council