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

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

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

April 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 Maple Cross Residents Environment Group (the Rule 6 Party) 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 5th March 2021. The Council validated the Application on 5th March 2021. The statutory determination period was due to expire on 4th June 2021; however, the Appellant and the Council subsequently agreed to multiple extensions of time until 29th October 2021.

1.4 The Application was taken to Planning Committee on 21st 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 8th 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.

- 1.7 The Council's hydrogeological report, prepared by McCloy Consulting, was received on 8th March 2022 (CD5.13). The report confirms that subject to conditions, the proposed development's effect on the groundwater and Maple Lodge Nature Reserve can be managed and appropriately mitigated.
- 1.8 The Council issued an Addendum Statement of Case on 10th March 2022 (CD5.14) which confirms that the Council it does not intend to present any reasons for refusal in relation to the Appeal subject to conditions.

Statement Purpose and Structure

- 1.9 The purpose of this Statement is to set out the factual information agreed between the Appellant and the Rule 6 Party 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.
- 1.10 This Statement has been prepared in accordance with the guidance set out by the Planning Inspectorate (PINS).
- 1.11 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 the Rule 6 Party 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 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. To the north of the access road is a commercial yard (formerly owned and used by Thames Water). Further detail on these is provided in Table 2.2 below.
- 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. To the east of the access road is an area of land which comprises former landfill (sludge
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beds) /storage area which is bound by the River Colne/Springwell Lake and the Maple Lodge Marsh (MLM). Beyond this is open countryside.

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 north west of the site for northbound and southbound traffic direction respectively (Hertford Place). The stops are both sheltered. Additional sheltered bus stops are located approximately 800 metres to the south west of the site access (The Cross). The 321 and 724 provide an hourly service and the 951 and W1 provide a once daily service. The 821 is a school bus which operates morning and afternoon only. 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.

Planning History & Existing Lawful Use

Site Planning History

- 2.10 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 th November 2019
	19/1179/FUL		Refused: 19 th November 2019
	APP/P1940/W/19/3243565		Appeal Dismissed:

			21 st September 2020
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2.11 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 th 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

Former Thames Water Commercial Yard, Maple Lodge, Denham Way, Maple Cross, HERTS, WD3 9XD	20/2659/RSP	Retrospective: Change of use for open storage of builder's machinery, equipment and material MAPLE LODGE, DENHAM WAY, MAPLE CROSS, HERTS, WD3 9XD	Refused 28 October 2021
	20/2774/RSP	Retrospective: Change of use of the site for vehicle hire along with the processing of construction waste materials aggregates and soil at MAPLE LODGE, DENHAM WAY, MAPLE CROSS, HERTS, WD3 9XD	Refused 28 October 2021
	21/0424/RSP	Retrospective: Change of use of hanger for the maintenance and repair of lorries at MAPLE LODGE, DENHAM WAY, MAPLE CROSS, HERTS, WD3 9XD	Refused 28 October 2021
	20/2827/RSP (21/0015/REF)	Retrospective: Change of use to a concrete mixing demonstration facility including the display and exhibition of concrete making machinery and equipment.	Refused 31 March 2021 Appeal turned away by PINS 6 October 2021

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 26th March 2021;
- An updated Planning Noise Assessment (CD1.3.3) was submitted to the Council on 22nd 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 23rd 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 7th 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 19th May 2021 and a Hydrogeological impact assessment and GQRA (CD1.3.5) prepared by H Fraser Consulting dated 7th 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 17th 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 6th 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 20th 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 12th July 2021.

Transport

- A Transport Technical Note (CD2.3.6), prepared by BWB and dated 7th 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 6th 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 23rd 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 7th and 8th 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 19th 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.

- 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 21st 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 4th 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.
- 3.10 The Secretary of State has considered the application in accordance with Regulation 14 (1) of the above regulations and provided a direction that directs that the development is not Environmental Impact Assessment development (CD5.8).

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 14th 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 30th June – 3rd 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 21st 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 be unlikely to have a significant effect on water levels at the lakes, other than over a short period of time when the interceptor and attenuation tank are installed. The measures suggested by the appellant would ensure that even during this limited period there should not be a significant effect on the lakes as a consequence of the proposal. and the measures put forward by the appellant, including the planning obligation would combine to 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.
- 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 5th 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 4th June 2021 based on a submission date of 5th March 2021. The Appellant and Council agreed to extensions of time up to 29th 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 NPPF is a material consideration and should be read as one document.

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 (February 2022) targets November/December 2022 for Regulation 19 consultation and 2025 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)).

Presumption in Favour of Sustainable Development

5.19 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;’

5.20 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).

Environment Act 2021

5.21 The Environment Act 2021 was granted Royal Assent on 9th November 2021. The planning system plays an important role in environmental protection, with one of its three overarching objectives enshrined in national planning policy being to protect and enhance the environment.

5.22 The Act introduces new statutory requirements that will strengthen this objective. This includes the requirement for new local nature recovery strategies to be prepared by a ‘responsible authority’ to support plan-making and other measures by local planning authorities. The Act also introduces a statutory requirement for developments to deliver 10% biodiversity net gain. However, secondary legislation and amendments to the Town and Country Planning Act 1990 are required for this to be implemented.

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 Rule 6 Party.

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.

6.3 . The principle of development is consistent with the adopted development plan.

Principle of Land Use

6.4 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

6.5 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

6.6 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

6.7 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.

6.8 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.

- 6.9 It is agreed that the Application is in accordance with Core Strategy Policy CP11 and Development Management Policy DM2.

Character & Appearance

- 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 Application is in accordance with Development Management Policy DM6.

Heritage

- 6.13 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.
- 6.14 It is agreed that the Council's Heritage Officer confirmed that the Inspector found no harm to the listed buildings.
- 6.15 It is agreed that the Application is in accordance with Development Management Policy DM3.

Design

- 6.16 It is agreed that the layout and appearance of the buildings is acceptable and would result in a high-quality design solution.
- 6.17 It is agreed that it is reasonable and necessary to impose a condition requiring samples of the external materials to be submitted.
- 6.18 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.
- 6.19 It is agreed that the Application is in accordance with Core Strategy Policies CP1 and CP12.

Amenity

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

- 6.21 .
- 6.22 It is agreed that the Appeal Scheme does not result in overlooking of neighbouring properties and is acceptable in privacy terms.
- 6.23 It is agreed that the Application is in accordance with Core Strategy Policy CP12.

Lighting

- 6.24 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.
- 6.25 It is agreed that, in respect of lighting, the Application is in accordance with Development Management Policy DM9.

Air Quality

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

Wildlife/Biodiversity

- 6.27 It is agreed that full details of lighting control with respect to bats can be secured by way of planning condition.
- 6.28 It is agreed that the NPPF and Policy DM6 of the Development Management Policies LDD require the development to provide measurable net gain, but do not specify a % or quantum.
- 6.29 It is agreed that The Environment Act 2021 has now passed; however, secondary legislation is required for it to be implemented. It is agreed that the 10% biodiversity net gain requirement set out in the Act is not yet law.

Maple Lodge Nature Reserve and Maple Lodge Marsh

- 6.30 It is agreed that the Piling Method Statement (CD1.2.26) sets out a programme of monitoring in relation to groundwater monitoring.
- 6.31 It is agreed that the Council commissioned its own independent hydrogeological advice which included a review of the proposed development's effect on the groundwater and MLnr (CD 5.13).

- 6.32 It is agreed the report (CD 5.13) concluded that the proposed development's effect on the groundwater and MLnr can be managed and appropriately mitigated subject to conditions, with the monitoring of groundwater levels based on the monitoring programme stated within the Piling Method Statement (CD1.2.26).
- 6.33 It is agreed that this has been confirmed by the LPA in its Addendum Statement of Case (CD5.14).

Trees

- 6.34 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.
- 6.35 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.
- 6.36 It is agreed that, in respect of trees, the Application is in accordance with Development Management Policy DM6.

Transport

- 6.37 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.
- 6.38 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.
- 6.39 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.
- 6.40 It is agreed that the proposed highway works would improve the accessibility and safety for pedestrians and cyclists travelling between Maple Cross and the Reach Free School.
- 6.41 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.
- 6.42 It is agreed that the Application is in accordance with Core Strategy Policy CP10 Development Management Policy DM13.

Energy

- 6.43 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

- 6.44 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.
- 6.45 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.
- 6.46 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

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

Groundwater

- 6.50 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.
- 6.51 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.
- 6.52 It is agreed that the LPA has no objection to the proposed development subject to planning conditions.

6.53 It is agreed that the Section 41 habitats of the MLnr's should be protected from harm by condition as proposed by the Council (Condition 7) and agreed with the EA in its correspondence dated 29th March 2022 (CD2.1.27).

6.54 It is agreed that there would be no impact to the Maple Lodge Marsh.

Water Framework Directive

6.55 It is the overall responsibility of the EA to monitor and report on the Water Framework Directive (WFD) status of all waterbodies in England and Wales and to generate and revise the of River Basin Management Plans for each River Basin Districts on a six year cycle.

6.56 It is agreed that the EA has confirmed that a WFD assessment is not required. It is agreed that a WFD assessment is not required.

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 LPA Screening Opinion, dated 4th November 2019, and Secretary of State Screening Opinion dated 18th February 2022 (CD5.8), has confirmed that the scheme does not comprise EIA development and that this remains valid despite a slight reduction in total GIA.

6.61 It is agreed that the Secretary of State has considered the application in accordance with Regulation 14 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (Si 571/2017) and directs that this development is not Environmental Impact Assessment (EIA) development (CD5.8).

6.62 It is agreed that the development is not EIA development.

7. Matters in Dispute

Planning Conditions

7.1 The following conditions are not agreed:

- Condition 11 (Dust Management Plan)
- Condition 20 (Noise Assessment)
- Condition 28 (Lighting Design)
- Condition 37 (Hours of Use/Operation)

7.2 Condition 16 (Piling Method Statement) is also not agreed specifically in relation to noise only as per the following MCREG comments set out in CD2.5.23:

“Consistent noise monitoring, to check compliance with noise level limits and having regard to residents and the businesses to the north east. Should residents be affected, eg shift workers, young mothers, the elderly, sick or disabled, then temporary relocation should be offered. Reason: Residents livelihoods, health and well-being must be protected from the negative impacts of consistent loud noise, some of whom will be more susceptible than others.”

7.3 It is not agreed whether the Grampian fails the appropriate legal tests.

Biodiversity

7.4 It is not agreed whether Contribution A (agreed by the Appellant and LPA) or Contribution B (proposed by the Rule 6 Party) would provide 10% biodiversity net gain:

- Contribution A: a contribution of up to £142,800 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.
- Contribution B: a contribution of up to £425,098 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, in accordance with Development Management Policy DM6.

Noise

- 7.5 It is not agreed whether the proposed development would result in long-term adverse impact on the local residents' amenities and that impact is not sufficiently controlled by the proposed planning condition.

Economic Benefits



- 7.6 Whilst it is agreed that the development will result in the creation of jobs, the number of jobs to be created is not agreed.

Accessibility

- 7.7 It is not agreed whether the site is safely accessible to cyclists on the basis of the wider highway network.

8. Declaration

- 8.1 The Appellant and the Rule Six Party 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 the Rule 6 Party
	
Date: 27 th April 2022	Date: 27 th April 2022
Position: Tim Sturgess, Avison Young	Position: Carolyn Weston, Rule 6 Party