

**TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES  
2000**

**APPEAL BY OAKHILL GROUP LTD**

**FORMER HARTWELL GARAGE, NEWBRIDGE ROAD, BATH, BA1 2PP**

**PINS Reference: APP/F0114/W/20/3258121**

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**CLOSING SUBMISSIONS  
ON BEHALF OF BATH & NORTH EAST SOMERSET COUNCIL**

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## A. INTRODUCTION

1. By an application submitted on 18 April 2019 (Ref: 19/01854/OUT, the “**Application**”), the appellant sought outline planning permission for the following description of development (the “**Appeal Proposal**”):

*“Outline application with all matters reserved except for access and layout comprising the demolition of the existing buildings on the site; construction of replacement buildings ranging in height from 3 to 5 storeys providing a mixed use development comprising up to 104 residential units (Class C3 Use), up to 186 student bedrooms (Sui Generis Use), and a commercial retail unit (flexible A1/A3 Use); formation of new vehicular access from Newbridge Road, construction of new access ramp, and provision of vehicle parking spaces; provision of new shared bicycle and pedestrian sustainable transport route through the site and formation of new access and linkages on the eastern and western boundary; and provision of hard and soft landscaping scheme across entire site.”*

2. The Application went to the Council’s Planning Committee with an officer recommendation to grant permission, subject to the imposition of planning conditions.
3. The Application was unanimously refused by the Council’s Planning Committee by Decision Notice dated 16 March 2020, with six reasons for refusal, which are set out in full at paragraph 1.6 of the Council’s Statement of Case.
4. The Council has presented evidence at this Inquiry in relation to the four remaining reasons for refusal.

## **B. OUTLINE VS RESERVED MATTERS**

5. As a general point, it is to be noted that, considerable care must be exercised at outline stage; not least because if outline permission is granted, then i) access will be set; and ii) layout, including residential / student accommodation numbers will be set as the parameters of the scheme. It must be demonstrated that the Appeal Proposal<sup>1</sup> is capable of being accommodated on the Site in amenity and other terms.
6. All of which must be considered in the context of Mr Brown's evidence<sup>2</sup>, which was to the effect that:
  - a. Based on his experience, if outline permission is granted, the Appellant will pursue the 'double loaded' corridor approach (i.e. single aspect dwellings along a central corridor), hence why it requires "careful consideration now".
  - b. With regards to Brown PoE, para 5.15, his professional advice to the Inspector would be that i) these things, particular item 2 (scale) cannot realistically be addressed later because they are inherently related to the layout; and ii) scale "cannot ever truly be reserved", given that it creates a volume, and that volume would be fixed if the application were approved as it is.
7. Further to the above, the Council submits that if the Inspector considers that height is an issue, then it should be lowered at outline stage, with an actual roof included in capacity measurements, rather than a 'treatment' on walls later on to mitigate for poor layout.
8. By the same token, the Council invites the Inspector to give no weight whatsoever to Mr Krassowski's (belated and entirely unevidenced) 'roof terrace proposal'. Such proposal is riddled with flaws, including:
  - a. It has never been mentioned before, still less is it capable of being considered and/or tested with reference to issues such as design, amenity, etc.

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<sup>1</sup> i.e. in accordance with the non-reserved parameters of the outline application.

<sup>2</sup> Brown XX.

- b. There are no roof terraces depicted on drawings or referred to in the DAS [CD 8] or in Mr Brown's BfL assessment: see Proposed roof plan level 003; Proposed site plan drawing 0110 rev P4; see also illustrative elevations 01 from Newbridge Road and 02 from Sustainable Transport Route that depict roof height figures to be above the top storey and not above the stair core (which would presumably host a door if access to the roof came from there).
- c. If a door would be presented off the stair core, then the heights depicted are misleading and there would actually be an element some 2.5m higher than the height suggested on the elevations.
- d. The site sections clearly depict pitched roofs for Block B (see site sections 03 and 04); block D (see section 04); Block A and Block C (see site section 01). No boundary or access to any flat roof terrace is annotated or depicted on any of these drawings.
- e. It is also highly unlikely that students residences (which commonly condition the opening of windows for occupier safety), would be permitted to provide roof terraces on the top of 5 storey buildings.

## C. POLICY CONTEXT

9. The Council's Development Plan comprises:
  - a. Bath & North East Somerset Core Strategy (July 2014)
  - b. Bath & North East Somerset Placemaking Plan (July 2017)
  - c. West of England Joint Waste Core Strategy (2011)
  - d. Bath & North East Somerset saved Local Plan (2007) Policy GDS1 (K2; NR2; V3 & V8) only.
10. The Council's Statement of Case (at Section 3) and the Statement of Common Ground (at Section 3) summarise what is largely an agreed, relevant, policy context.
11. The policies cited in the reasons for refusal are Policies SB15, CP6, CP10, D1, D2 and LCR6.
12. For the purposes of the design evidence in particular, it is also relevant to note<sup>3</sup> Policy BD1, National Design Guide [CD 47], City-Wide Character Appraisal SPD [CD 48], Building for Life 12 (as required by CP6) [CD 51], and Building heights strategy [CD 52].

### **Policy SB15**

13. Policy SB15 is directly relevant to the Site. Policy SB15 cites several Development Requirements and Design Principles which development proposals should accord with. The policy outlines the development that it envisages will come forward, including the type of accommodation and its form. Point 2 states that on the upper part of the site, the Newbridge Road street frontage should be defined by an active frontage (dwellings could be arranged as houses or flats inside) and the articulation of facades and roofs should help these buildings integrate with the surrounding context. As Ms Kemal indicated, active frontages would include front doors and windows to habitable rooms to provide natural

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<sup>3</sup> Brown XX.

surveillance such as kitchens and living rooms, whilst facades and roofs would be expected to respond to the surrounding context. Point 3 of SB15 states that an apartment typology would be appropriate for the lower part of the site and enable efficient use of it. As Mr Brown confirmed, the policy wording is clear that such a typology should have a comfortable scale with the surroundings, both existing and proposed<sup>4</sup>.

14. Therefore, in considering the quantum of development that is expected to be delivered (i.e. 80 – 100 dwellings), it is clearly not solely a numerical exercise – you do not simply aim to achieve that figure + whatever else you can fit on site / deem profitable on top. Moreover, Policy SB15 explains that student development would not be acceptable where it would prejudice the objectives of the Development Plan in relation to boosting housing supply.

### **Policy CP6**

15. Policy CP6 relates to environmental quality. It covers a range of matters including the protection, conservation and enhancement of the district's environmental assets through high quality and inclusive design which reinforces and contributes towards its specific local context. It also seeks to conserve and enhance both the historic environment (including the setting of heritage assets) and the distinctive character and quality of the district's landscapes.
16. In section 1, Policy CP6 requires the use of BfL12 tool to assess facilitate designing quality into major housing schemes. Policy CP6 also reflects the BfL approach of seeking to achieve a score of no 'reds', design out all 'ambers' and achieve a majority of 'greens'. The Inspector will also note that Policy CP6 encourages that a BfL12 assessment should be included within the DAS [CD 8], which is again entirely in line with the BfL approach in terms of using that document as a tool for discussion that enables proposals to be evolved appropriately. As accepted by Mr Brown<sup>5</sup>, this did not occur here as no BfL assessment was completed for the original submission. There is, therefore, an issue of compliance with Policy CP6 in that regard<sup>6</sup>.

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<sup>4</sup> Brown XX

<sup>5</sup> See BfL 'rebuttal'.

<sup>6</sup> Brown XX.

## **Policies D1 and D2**

17. Policies D1 and D2 form part of a wider suite of design policies. Policy D1 relates to urban design principles for large scale proposals such as for the appeal site. Various design requirements are embodied in a number of sub-paragraphs (a. to g.). Policy D2 relates to Local Character and Distinctiveness. Again, it sets out a number of criteria against which development proposals will be assessed.
18. With regards to the policy framework, the Inspector can note the manner in which both Mr Brown<sup>7</sup> and Mr Krassowski<sup>8</sup> invited him to apply the same, which was that:
- a. Policy SB15 is the site allocation policy, which sets broad parameters.
  - b. Policy SB15 is also about more than ‘just’ the numbers. It is also about integration with context, and finding a comfortable scale.
  - c. Policies D1 and D2 form two of a suite of design policies, which set a series of criteria against which the design of proposed development will be assessed. Those design policies enable proposals to be refined with reference to specific points and/or concerns – e.g. character and appearance, integration with context, etc.
  - d. Within that framework, it is conceivable that an applicant could propose something within the parameters of Policy SB15, but which breaches the specific criteria of the suite of design policies.

## **Policy CP10**

19. Policy CP10 Policy CP10 deals with the mix/nature of housing provided on residential developments. The policy aims to ensure that developments incorporate a variety of housing types and sizes so that a range of different households are provided for. As Krassowski PoE, para 10.10 recognises, Policy CP10 “purposefully avoids being

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<sup>7</sup> Brown XX.

<sup>8</sup> Krassowski XX.



prescriptive and specifying a unit mix requirement in order for development proposals to be assessed on their own merits on a site by site basis”, which the Council says is precisely the point – it would be impractical for a general district wide policy to cover the variety of types of sites and proposals that present themselves. Indeed, Mr Krassowski endorsed that policy approach as “perfectly legitimate”, with the assessment of what mix may be acceptable being a “paradigm” planning judgement<sup>9</sup>.

## **Policy LCR6**

20. PMP Policy LCR6 relates to new replacement sport and recreational facilities. The supporting text explains that all new residential development will be required to contribute to the provision of new recreational facilities to a level at least commensurate with the additional population generated by that development and in accordance with the standards in the Green Space Strategy, which provides details on how the prescribed standards should be applied.

## **Other**

21. To the extent that the City wide character appraisal SPD [CD 48] assists in understanding the context, it notes that: *“7.7.8 There is considerable coherence of building heights despite the diversity of uses. “By far the most common is one or two storeys, commercial and residential respectively...”*

22. Although there was something of a difference between the Appellant and Council as to how to approach the Bath Building Heights Strategy [CD 52]<sup>10</sup>, there is little practical importance of that difference given that it was agreed that the zoning in the document would suggest that the character at the north is different to that of the south of the Site<sup>11</sup>, with the implication that such a character change ought to be responded to in terms of the design layout.

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<sup>9</sup> Krassowski XX.

<sup>10</sup> With Brown PoE, para 5.51 suggesting that the area is defined as ‘Valley Floor’, whilst the Council considers that pages 54-55 suggest that the front of the Site is in Z4 ‘Hill Slopes’.

<sup>11</sup> Brown XX.

23. The National Design Guide [CD 47] promotes the value in understanding the features of a Site and the surrounding context, with paragraphs 37 to 48 setting out an enormous amount of details as to context; for example, taking page 10 as an example, it is noted that well-designed places are: based on a sound understanding of the features of the site and surrounding context; integrated into their surrounding so they relate well to them; influenced by and influence their context positively; responsive to local history, culture and heritage.
24. Against that background, it is clear that Brown's selective referencing from that section<sup>12</sup> must be handled with considerable caution, given that he has selected a reference, but failed to note and/or discuss any of the other paragraphs, despite i) all of those being relevant; and ii) despite all of those paragraphs referring to the need to identify, respond to and enhance local context.

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<sup>12</sup> Brown PoE, para 5.23 refers to NDG, para 43

#### **D. SITE CONTEXT**

25. With regards to the site and context, the Inspector will have noted the residential character to the north, east and west, with some industrial character to the south. To the extent that the existing buildings may detract from the existing townscape, it is agreed that is primarily because of their scale, layout and form<sup>13</sup>. They are out of context with the surrounding residential context and built form because they are incongruous in terms of scale, size, bulk, massing and layout. They also break the continuity of the Newbridge Road (they are a fragmented collection of utilitarian commercial buildings with flat/shallow mono-pitch roofs<sup>14</sup>), with a deeper plan than those neighbouring the site to the north, east and west. In considering the Appeal Proposal, the Council urges the Inspector to be mindful of the dangers of replacing one detractor with another.
26. The primary approach to the site is from Newbridge Road, with the Site generally being experienced by movement along that E / W axis<sup>15</sup>.
27. During XIC, Ms Kemal's set out a number of notable features for the Inspector's benefit (with reference to her PoE and appendices), including:
- a. Fig 1 and 6, Appendix A: The prevailing character of Newbridge Road is wide with residential buildings to either side. These have front gardens that are usually vegetated. Many are large enough to accommodate more than two vehicles. The front windows of homes overlook the front gardens, usually with living rooms at ground level.
  - b. Fig 1-12, Appendix A: Both terraces and semi-detached homes are generally laid out with primary active frontages on the main road. Privacy is achieved through provision of enclosed rear gardens, and generous front gardens. Eaves lines are well defined in the residential areas surrounding the site. Eaves lines tend to follow the same height. Buildings are 2-2.5 storeys high

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<sup>13</sup> Brown XX.

<sup>14</sup> Brown XX.

<sup>15</sup> Brown XX.

- c. Fig 3, Appendix A: Two storey semi-detached homes can be seen in the foreground, middle distance and further away on Rudmore Park. They all largely follow the topography, without increasing in scale.
- d. Fig 4, Appendix A: As an apparent response to topography, some semi-detached homes on the south side of Newbridge Road, west of the site, are constructed at a lower level than the road. Buildings further south can also be seen in the gaps between homes on Newbridge Road, with these descending towards the former railway line without increasing in scale or height.
- e. Fig 3 and Fig 8, Appendix A: Glimpsed views between buildings across the valley to the south are prevalent along the whole of Newbridge Road. This landscape setting, and the visual connection to it, is a strong positive characteristic of Newbridge.
- f. Figs 4 and 10, Appendix A: Although houses are 3 or 3.5 storeys high on Newbridge Road to the east of the site, they appear 2 or 2.5 storeys high on the street frontage, because the lower floor is set below road level. Additional rooms in the roof are expressed as dormer windows or rooflights to create the additional 0.5 storey. Side profiles of homes neighbouring the site are relatively shallow and often contain detail such as side windows. All frontages to the pedestrian routes are active, with front doors and windows to multiple rooms facing them.
- g. Fig 11, Appendix A: There are several utilitarian buildings in the Maltings industrial estate, which appear like warehouses directly to the south of the site beyond the new pedestrian/cycle route on the former railway line.
- h. Fig 11, Appendix A (and aerial photograph on page 9 of the Design & Access Statement): Buildings in the Maltings industrial site are set within large spaces in between structures, with those structures appearing to be the equivalent of around 2- 3 storeys high<sup>16</sup>.

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<sup>16</sup> Brown XX.

28. Page 16 of the DAS [CD 8] (extract of plans from the City of Bath Morphological Study) indicates that most industrial areas in this locality fall south of the former railway line, with the Hartwells site an exception in that regard given that it is north of the former railway and bounded by residential areas to the north, east and west<sup>17</sup>.
29. It is agreed<sup>18</sup> that there are a number of constraints to be considered in seeking to develop the Site, including: i) the presence of the Hanson site to the west that remains occupied at lower level; and the level change which requires a considered design approach with regards to a) building designs and b) pedestrian and vehicular routes.
30. However, it is also agreed<sup>19</sup> that the Site presents a number of opportunities, including: i) continuation of the strong residential building line at the north of the Site; ii) repairing the fragmented street scene; iii) the presence of and access to the former railway line with its pedestrian and cycle route into the city centre; iv) incorporating views across the valley to the south from new homes; v) opportunities for existing homes to the north of the site to connect to the same views either through gaps in between blocks or over rooftops of the Site.

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<sup>17</sup> Brown XX.

<sup>18</sup> Brown XX.

<sup>19</sup> Brown XX.

## E. APPEAL PROPOSAL

31. The layout consists of five separate blocks labelled A to E. Blocks A and B appear to have a plan depth of approximately 16m; Blocks C and D appear to be approximately 14m; and Block E is approximately 10m deep<sup>20</sup>.
32. From the east, Block A extends back some 35m from the street frontage in the layout, all at the same height rather than descending south into the Site. Ms Kemal's evidence<sup>21</sup> was that this is at odds with the prevailing pattern of development in the locality (see Plan 000, Appendix B and Fig 3, Appendix A). With reference to Montage 9, Appendix C, the separation between the 7m deep section and the extension of the block towards the south in the layout depicted is slight and, based on those images, it is clear that this would not be read as a separate building to the frontage.
33. From the west on Newbridge Road, Blocks A and B extend their full depth of approximately 16m back into the site, with the drawings and montages showing that depth to be at full height. There is a narrow gap between Blocks A and E. Ms Kemal's evidence<sup>22</sup> was that the overall effect of this is that buildings will appear to have an increased massing compared to the surroundings: see Montage 14, Appendix C.
34. Block B has a section to the east side directly on Newbridge Road jutting out approximately 2m, with a depth of approximately 7m. The east elevation of the proposal then goes on to extend a further 38m south into the site. Ms Kemal's evidence<sup>23</sup> was that Block B's perceived overall depth from Newbridge Road to the east would be approximately 45m, over three storeys above Newbridge Road, and two storeys below Newbridge Road.
35. Blocks C and D are both 5-storey buildings, which would be located adjacent to the former railway line cycle and footpath. Ms Kemal's evidence<sup>24</sup> was that their orientation would also overshadow the public space north of Blocks C and D for much of the year.

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<sup>20</sup> Brown XX.

<sup>21</sup> Kemal XIC.

<sup>22</sup> Kemal XIC.

<sup>23</sup> Kemal XIC.

<sup>24</sup> Kemal XIC.

## F. REASON 1: STUDENT ACCOMMODATION

*“The application seeks outline consent for, amongst other things, the provision of up to 186 student bedrooms (Sui Generis) in addition to 104 residential units (Class C3). The application site is allocated for residential redevelopment by Policy SB15 of the Placemaking Plan. This policy, and its supporting text, is clear that the site (including the adjacent concrete batching plant) is allocated for 80-100 dwellings and that this cannot include student accommodation. By including student accommodation the proposal is therefore in direct conflict with Policy SB15 of the Bath & North East Somerset Placemaking Plan and as such is unacceptable in principle.”*

36. In terms of “Development Requirements”, Policy SB15 allocates this site for:

*“1 Residential development of around 80 - 100 of dwellings, which could include a variety of specialist older persons housing types but not student accommodation, where this would prejudice the achievement of Policy DW.1 and B1 in respect of boosting the supply of standard market and affordable housing”.*

37. PMP Policy B1 (Bath Spatial Strategy) seeks to enable the development of around 7,030 new homes in Bath, increasing the overall stock of housing from 40,000 to 47,000. Policy DW1 explains that the overarching strategy for BANES is to accommodate an increase in housing supply by around 13,000 homes. The provision of affordable housing clearly forms part of that strategy, with Policy DW1 point 9a referring to 5 yearly reviews with reference to the “objectives” that are “set out in Table 9 to ensure that there remains a flexible supply of deliverable and developable land”. Table 9, point 5 (meet housing need), refers the reader back to Policy DW1, with one of the indicators (5th bullet point) being “% affordable housing secured on qualifying sites”. The Council’s latest published housing trajectory figures (2021) demonstrate a land supply of 5.72 years, which includes the Site, assigning it 80 units. All of which links to the supporting text for Policy SB15, which advises that “this site is required to help deliver the city’s 7000 net additional dwellings and therefore the opportunity cost of developing for student accommodation is considered too great”.

38. The “Vision” that accompanies Policy SB15 is set out as follows:

*“203.*

*Residential redevelopment, not including student accommodation, that makes the most of the sites location on sustainable transport routes, is sympathetic to the Victorian context of terraced housing on the Upper Bristol Road and conscious of it’s appearance from higher ground.”*

39. It was agreed between Ms Hampden and Mr Krassowski that Policy SB15, when read together with its supporting text, anticipates that student accommodation on the site has

the potential to adversely affect the realisation of the Council's Vision and Spatial Strategy for the City of Bath, as well as for the Site.

40. Notwithstanding his written evidence (i.e. the assertion that the Application "by definition does not prejudice the delivery of around 80-100 dwellings because 104 flats are proposed (Krassowski PoE, para 5.12)), Mr Krassowski accepted that the application of Policy SB15 is not solely a numerical matter. Clearly, that must be correct. It is patently not as simple as assessing whether the Appeal Proposal delivers the allocated number of dwellings (i.e. it is not 80 - 100 dwellings + whatever else you can fit on site). Given the equal relative importance of all of the constituent parts of Policy SB15, the question is whether those dwellings (and anything else you propose on site) can be delivered in a manner that complies with the policy as a whole and with the relevant policies of the Development Plan<sup>25</sup>.
41. In allocating the Site for 80-100 dwellings, the Council and examining Inspector undertook an assessment of the Site and concluded that this was the level of accommodation that the Site could suitably accommodate whilst complying with the policies of the Development Plan. That range matters; not least because it creates a density.
42. In preparing the draft allocation, the Council had the benefit of an application for a Certificate of Appropriate Alternative Development (CAAD) for the potential future use of the Site for residential development, which was submitted to the Council in 2010 (Planning Reference 10/03384/CAAD). The council does not suggest that the CAAD itself is a material planning consideration for the purposes of this Appeal, but it clearly informed the background to the allocation and demonstrates that the 80 - 100 range was not 'plucked out of thin air'.
43. As part of this CAAD assessment, an officer undertook a detailed assessment of the site, with the final officer report stating the following:

*"It must be stressed that in determining this certificate, the content of the proposal put forward is disregarded; however, the concept has been used as evidence to refute the density of 118dph and help establish what would be an appropriate level of provision. Furthermore, in discussion and negotiation with the applicant in trying to find a resolution as to an acceptable density,*

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<sup>25</sup> Brown XX.



*they have also confirmed that 118dph would be too high and have suggested that 95dph would be more realistic."*

44. The Officer concluded:

*"Based on all of the above, which is a very crude calculation based on simple amendments to the site proposal submitted for guidance only, if the site were to be predominantly developed in four blocks of flats, with 16 additional units to the east and 20 houses fronting the main road, the reduction of 83 units over what was submitted with the application, leaves 96 units within the four blocks, totalling 132 units across the site, in other words a density of 78.5dph."*

45. A positive certificate was issued with three conditions. The first condition was as follows:

*"The maximum density of development on this site shall be no greater than 80 dwellings per hectare.*

*Reason: in the interest of ensuring the development does not harm the character of the surrounding area or the setting of the Bath World Heritage Site."*

46. Further to the above, the draft allocation was itself the subject of consultation and examination in the usual way. The Appellant was professionally represented throughout that process, but elected not to make submissions to the effect that the assessed capacity underestimated the Site's potential<sup>26</sup>. In this regard, it is relevant to note paragraph 129 of the Inspectors' Report into the Placemaking Plan [CD 38] states:

*"It was argued that in some cases, a restriction to prevent student accommodation would make sites such as Hartwell Garage unviable. There is a clear need to maximise the available sites for housing development given the constraints to development in Bath. To permit student accommodation on additional sites would undermine the Council's current strategy in Bath."*

47. Page 25 of the Bath and North East Somerset Local Plan Housing Land Supply Findings Report (April 2016), which forms part of the Placemaking Plan evidence, which states:

*"Hartwell's Garage, Newbridge (New 1) 2.59 This site is currently in active use. A pre-application enquiry was made April 2013 (13/00004/PADEV) for the provision of 150 dwellings. The HELAA assessment is a more conservative 80 dwellings based upon the conclusions of a Certificate of Appropriate Alternative Development (10/03384/CAAD) for a proposed use that was issued in 2010. An outline planning application (14/03977/OUT) for the erection of three blocks of student accommodation comprising 194 student bedrooms in studio/cluster flats and 70 bedrooms in a terrace of 14 two storey HMOs with access from Newbridge Road was submitted in September 2014 but withdrawn in November 2014. Student accommodation would not count to towards the housing requirement. Since the application was withdrawn the landowner has responded to the Options version of the Placemaking Plan which seeks to allocate for non-student residential development. The representation promotes older persons housing as part of the land use mix."*

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<sup>26</sup> Krassowski XX.

48. Therefore, the figure of 80 - 100 dwellings is a carefully considered figure that purposefully proposes a particular level of development in order to ensure that proposed redevelopment can harmonise effectively with the character of the Site and area<sup>27</sup> (i.e. this was considered to be the level of development that the Site could suitably accommodate whilst complying with the policies of the Development Plan).
49. However, the level of development now proposed exceeds the quantum that was envisaged for the Site by a considerable margin. Moreover, the site allocation includes the concrete batching plant, whereas the Appeal Proposal does not. Therefore, the Appeal Proposal relates to a smaller sized site, but with a considerably greater quantum of development to that envisaged in the allocation.
50. Set against that background, there is a recognised need to boost housing supply in Bath, with a clear and evidenced need for market and affordable housing. Given the background to the Site's allocation, it is reasonable to proceed on the basis that had the Site been assessed as having a greater capacity then it is far more likely than not that any additional capacity would have been taken by market/affordable housing, rather than student accommodation.
51. Given the above, the Council's case is that the proposed quantum of development on the Site i) not only far exceeds that which was outlined within the allocation, but also ii) gives rise to harm relating to the lack of an appropriate housing mix, the detrimental impact upon the character and appearance of the area, and the limited outdoor amenity/green space within the scheme. It would also appear that the Rule 6 objection is a symptom of that very same overdevelopment. In assessing the merits of that case, the Inspector is required to move beyond a simple consideration of whether 80 - 100 dwellings are proposed; for example, he must consider whether the introduction of student accommodation into the mix of uses reduces the opportunities to utilise more of the Site for a more appropriate mix of house types in the context of a well-designed scheme that would comply with the policies of the Development Plan, including - but not limited to - both Policy B1 and Policy DW1.

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<sup>27</sup> Hampden XIC.

52. By way of a further example, if the Inspector agrees with Ms Kemal as to the design issues that arise from the level of development on the Site, then he can also note that a reduced quantum of development would allow greater flexibility<sup>28</sup>, possibly enabling a scheme to come forward that sat more appropriately in its context, whilst respecting local character.
53. At the heart of reason 1 lies the concern that i) a policy compliant delivery of 80-100 units is compromised due to the nature of the proposed scheme; and ii) the Appeal Proposal directly prejudices the objectives of Policy DW1 and B1 in respect of boosting the supply of standard market and affordable housing; for example, to the extent that there is a shortfall as against policy with regards to affordable housing (13 units, with a 'shortfall' of 27), then Mr Reynolds is "perfectly correct"<sup>29</sup> that the shortfall in affordable housing would need to be delivered elsewhere, most likely through additional residential allocations.

### *Summary*

54. The Appeal Proposal would undermine the vision and spatial strategy for Bath and for the district as a whole therefore bringing it into conflict with Policies SB15, DW1, and B5 of the Development Plan.

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<sup>28</sup> Brown XX and Krassowski XX.

<sup>29</sup> Krassowski XX.

## **G. REASON 2: CHARACTER AND APPEARANCE (SEE ALSO APPENDIX 1)**

*“The proposed development by virtue of its inappropriate layout which comprises of 4 blocks of deep plan form with limited space around that is uncharacteristic and alien to the locality, and which is principally a consequence of the excessive quantum of development, fails to enrich the character and quality of Newbridge and fails to contribute positively to local distinctiveness, identity and history. The submitted illustrative scheme fails to demonstrate that a development of the quantum/uses proposed can be achieved on this site whilst also responding positively to the site’s context; the illustrative scheme fails to do so and accordingly is contrary to Policy CP6 of the Bath & North East Somerset Core Strategy and Policy D1 and D2 of the Bath & North East Somerset Placemaking Plan.”*

55. The Council’s key concerns in relation to reason for refusal 2 can be summarised as follows<sup>30</sup>:

- a. The Appeal Proposal fails to respond to the whole site context and does not reinforce local distinctiveness.
- b. The Appeal Proposal fails to respond appropriately to the fine grain residential character to the north, east and west of the site.
- c. The quantum of development results in the buildings proposed having very large footprints, with deep plans.
- d. The Appeal Proposal does not provide an appropriate quality or quantity of space around the large building blocks.
- e. There is inadequate separation between public and private areas
- f. Public and green spaces between buildings are disproportionately small and overshadowed, which is at odds with the surroundings both in residential areas and industrial areas.

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<sup>30</sup> Kemal XIC.

- g. Public spaces are further compromised with the location of servicing such as bin stores and car parking spaces that dominate the public realm to the south (with car park 4 in particular considered unsafe).
- h. The extent and siting of car parking has a direct correlation with the quantum of development.

#### *Layout and scale*

56. The buildings increase in scale the further south they go on the site in the Appeal Proposal, with student residences at the lower part of the site. Ms Kemal's evidence<sup>31</sup> was that:

- a. The quantum, heights and layout are not of an equivalent or comparable scale to the context.
- b. Many private homes and rooms are likely to have public areas bounding them, with little or no defensible space.
- c. In terms of a comparison, the proportion of space around the blocks is small when compared to the size of the blocks themselves, with the sense of space being as much about surrounding building heights and orientation as it is about simply the amount of space itself. The effect being that the height of buildings with this layout and quantum of development will make the spaces feel smaller than they are.

#### *Surrounding space*

57. Although Policy D2 does not stipulate a minimum level of space on site, there is "a clear expectation that proposals will respond to urban morphology and proportions"<sup>32</sup>. In this regard, the Council considers that it is mostly a matter of relating to context (including relative height of surrounding buildings), space between buildings, the number of users,

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<sup>31</sup> Kemal XIC.

<sup>32</sup> Brown XX.

as well as the amenity available to those users. Despite his extensive references to sq m coverage, this appears to be Mr Brown's position as well<sup>33</sup>.

58. In any event, those same site coverage calculations are revealing when one considers the recommended proportions for creation of space between buildings as detailed in BfL12 [CD 51], in which page 29 sets out a number of ratios of heights versus width of space, with the suggestion being that for squares, that ratio ought to be a maximum of 1:4. The Inspector can note that the Appeal Proposal does not meet that recommendation. In some instances, the proportion proposed in courtyards appears to be roughly 1:1, with Mr Brown suggesting that it may be 1:1.7. Either way, many spaces are disproportionately small related to the height and layout of buildings around them, with that height and layout resulting in overshadowed spaces.

59. Given the range of variables that influence quality of space, Mr Brown's bare numerical comparisons with different developments are of very limited assistance – it is about the proportions of space to scale, massing, height and layout, as well as the number of people that are intended to use those spaces. Unless those details are known, crude comparisons with sq m coverage or amount of space provided on other developments are entirely unhelpful and potentially misleading. Indeed, Mr Brown's amenity space comparisons<sup>34</sup> are completely flawed given that he repeatedly fails to provide any full and proper context for those comparisons, including as follows:

- a. Horstmann Close: Mr Brown states 450m<sup>2</sup>, without any mention of the number of people this is intended to serve. In any event, this is – as Mr Moran's written submission points out – the fenced garden area in the middle of a much larger space. The area that Mr Brown referenced is a small landscaped square, but directly to its North there is a further larger open space at the frontage of the 4-storey terrace. Moreover, other than the flatted block, the remaining properties in that development all also benefit from private amenity spaces.
- b. Western Terrace / Albert Crescent: Mr Brown states 186m<sup>2</sup>, without any mention of the number of people this is intended to serve. In any event, this area relates to

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<sup>33</sup> Brown PoE, paras 5.55 and 5.57 "there is no correlation between the size of spaces and their quality".

<sup>34</sup> Brown PoE, para 5.34.

a landscaped area in the middle, rather than the area of the courtyard, which actually equates to 860m<sup>2</sup>. There is also a much larger area of public open space directly to the west on the other side of Western Terrace itself, of approximately 2,300m<sup>2</sup>.

- c. Twerton Mill: This is an entirely student-led development, which does not include any permanent residential occupants. It is located in a different part of Bath, with few residential neighbours.
- d. Waterside Court: As with Twerton Mill – this is another student-led development. Mr Brown’s calculation again excludes a similarly sized amenity space at the frontage of the site.
- e. Plumb Center (also referenced at Brown, para 5.42): Plumb Center creates a street frontage, rather than internal courtyards to host front doors and pedestrian routes, with its immediate context also including very large buildings on three out of four sides. On the Plumb Center site there was a requirement to replace industrial floorspace being lost following the demolition of the Plumb Center. Therefore, the ability to provide amenity space was significantly constrained because the entire ground floor footprint was required for industrial purposes<sup>35</sup>.

60. With regards to car parking, the National Design Guide [CD 47] - Section M3 (at page 24) encourages parking to be well landscaped and sensitively integrated, so it does not dominate. The reason being that parking can be obtrusive within developments and its proximity can diminish the quality of the public realm<sup>36</sup>. However, the Appeal Proposal has been designed so as that “car parking is peripheral to the scheme... it is simply to store residents’ cars”<sup>37</sup>.

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<sup>35</sup> All of which is also highly relevant (and directly at odds) with Mr Krassowski’s repeated attempts to draw comparisons between that development and the Appeal Proposal.

<sup>36</sup> Brown XX.

<sup>37</sup> Brown PoE, para 5.93.

61. Although perhaps an obvious point, it is the proposed quantum of development that drives the need to provide a particular quantum of parking (i.e. the more units proposed, the greater the required parking provision)<sup>38</sup>.
62. With that in mind, and as the Inquiry heard last week, the requirement for car park 2 arises as a result of the inclusion of 9 units (see Rule 6 PoE, para 4.29)<sup>39</sup>. It is correct to say, therefore, that if 9 fewer units were proposed, then i) there would be no need for car park 2; and (servicing aside) ii) no need for private vehicles to use the right of way across the Maltings<sup>40</sup>.
63. In design terms, Mr Brown accepted that:
- a. It would be preferable to avoid the use of that right of way for private vehicles and that had he been on board at the pre-application stage, then that is something that he may have looked to design out.
  - b. The allocation for 80 - 100 dwellings is a figure that the Council has arrived at further to an assessment of the site's capacity.
  - c. If he was being asked to design a scheme on this Site comprising 80 - 100 dwellings, then that would afford him with more design flexibility in terms of layout and access.
  - d. His design focus for such a scheme would be to use Newbridge Road for private vehicle access and (servicing aside) he would not approach the Site with a view to having private vehicles using the right of way across the Maltings.

### *Summary*

64. The Council's evidence demonstrated that:

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<sup>38</sup> Brown XX.

<sup>39</sup> Krassowski XX.

<sup>40</sup> Krassowski XX.



- a. The Appeal Proposal comprises aspects of poor design, with reference to the Council's design-related policies, Supplementary Planning Documents, the NPPF and guidance, including the National Design Guide;
  - b. The site context has not been responded to adequately in terms of layout and access, which results in a proposal that is incongruous in the townscape and thus contrary to Policies D1, D2, SB15 and CP6, as well as to national guidance relating to design.
  - c. The Appellant's approach to accommodate the desired quantum of development has led to a layout that is incongruous with its surroundings by being of a deeper plan and larger block size with poor quality public realm in between. The Council considers that approval of this layout would prejudice developing a design response that ties in with surroundings successfully at later design stages.
  - d. The quantum of development contributes to a lack of sufficient space to create a high quality public realm that provides adequate separation between public and private areas, good overlooking for natural surveillance and space to locate hard landscaping for cars away from pedestrian areas to the south of the Site.
  - e. The overriding constraint to achieving a successful design is the proposed quantum of development, which prevents the buildings in the layout having an appropriate height, scale and massing or being sited, orientated, accessed and served with high quality public space around them that is proportionate to their size and that reinforces local distinctiveness.
65. Overall, the Appeal Proposal has failed to demonstrate how the quantum of development could be delivered whilst responding appropriately to the Site's context. The harm that would be caused by the Appeal Proposal would outweigh the benefits resulting from removal of the existing buildings.

## H. REASON 3: HOUSING MIX

*“The proposed development fails to provide an appropriate mix of housing. The non-student element of the scheme comprises one and two bedroom flats only, alongside the purpose built student accommodation. The housing mix put forward is therefore contrary to the objectives of Policy CP10 of the Bath & North East Somerset Core Strategy which requires new housing development to provide a variety of housing types and sizes.”*

66. A key objective of the NPPF [CD 42] (para 91) is to create mixed and balanced communities to promote inclusion and social interaction. With that in mind, providing a range of house types and tenures is important to meet local need but also to contribute to well-designed places<sup>41</sup>. Various paragraphs of the National Design Guide echo this view; for example paragraph 111 explains that well-designed places have an integrated mix of housing tenures and types to suit people at all stages of life.
67. The importance of providing a range of house types and tenures in meeting local need and contributing to well-designed places is reflected in Policy CP10 (Housing Mix) of the Core Strategy, with the supporting text explaining that the policy is aimed at ensuring that new residential development provides for a range of housing types and needs, to help support mixed and inclusive communities and to respond to demographic change. Policy CP10 explains that the mix of housing should contribute to providing choice in tenure and housing type, having regard to the existing mix of dwellings in the locality and the character and accessibility of the location. The text within Policy CP10 explains that order to comply with this policy, new housing development must provide for a variety of housing types and size to accommodate a range of different households, including families, single people and low-income households.
68. Members raised particular concerns that the non-student part of the development delivered solely one- and two-bedroom flats. Whilst small sites often struggle to deliver a wide variety of mix and tenures, the Appeal Site is a relatively large site, with opportunities to deliver a greater range of housing types. If the student element were reduced / removed from the scheme, there would be a much larger area that could be available for residential units of a wider mix of types within the scheme. If that wider mix

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<sup>41</sup> Krassowski XX.

were to be delivered, then such a scheme is likely to demonstrate greater compliance with Policy CP10.

*The application of Policy CP10*

69. Given the acknowledgement (Krassowski PoE, para 10.10) that Policy CP10 “purposefully avoids being prescriptive and specifying a unit mix requirement in order for development proposals to be assessed on their own merits on a site by site basis”, it was somewhat surprising that Mr Krassowski attempted to place such reliance upon the approach on the Plumb Center site [CD 61] during XIC. Yet more surprising was his continued reliance upon a set of examples (Krassowski PoE, para 6.9) that do not stand up to scrutiny as being relevant to anything other than merely identifying the inherent (and agreed) flexibility in Policy CP10.

70. Indeed, given the striking dissimilarities between those examples and the Appeal Proposal (and Site), the Council considers that very little (if any) weight can be given to the particular application of Policy CP10 in those markedly different circumstances. Those dissimilarities include:

- a. Bath City FC: This proposal introduced co-living, which was a new tenure within the city, with the report explicitly stating that the units were primarily aimed at single people and low-income households. Moreover, it was refused permission.
- b. Chivers House: The site area was much smaller than the application site and a number of features of the site mean that it was not suitable to deliver a wider mix of housing, including traditional housing.
- c. Food Machinery 2000 Ltd: The unit number there was considerably less. Therefore, it was much more difficult to achieve a wider mix.
- d. Co-op in Radstock town centre: This granted permission for 26 no 1 and 2 bed units, which are located above the replacement commercial unit. However, this permission also includes outline consent for a further 28 units with the illustrative layout including homes with gardens. Therefore, it is clearly more suitable for

wider range of occupiers than the appeal proposal, including lower incomes and families.

- e. Police Station, Bath Hill, Keynsham: This site is in a Town Centre location. It achieved 26% affordable housing. Again, therefore, it was clearly more suitable for a range of occupiers than the Appeal Proposal

#### *The mix proposed*

71. As identified within the Application, the residential element of the scheme proposes 104 dwellings which comprise: 24 x one-bed one-person flats; 40 x one-bed two-person flats; 5 x two-bed three-person flats; 35 x two-bedroom four-person flats. In reality, therefore, it is a scheme comprising solely of one and two bed flats, all of which are built for rent without any private amenity space. Moreover, contrary to the assertion (Krassowski PoE, para 6.15) that “it will be contributing to a better mix for the area and would be catering to a local and city-wide need for ‘starter homes’” - these are not for sale.

72. It was agreed that there are a number of factors that will limit the appeal / audience for the Appeal Proposal<sup>42</sup>.

#### *Size*

73. Although it has been suggested that the development is aimed at a wide range of potential occupiers (e.g. Krassowski PoE, paras 6.16 and 6.17), Mr Krassowski only identified three types during XX: 1) post-graduates; 2) those “that do not need a lot of space”; and 3) those “that cannot afford a lot of space”.

74. Either way, although the submitted plans are illustrative, it is clear that none of the units are generous in size. The limited size of these units clearly highlights the scheme’s limitations in terms of meeting a wide range of needs.

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<sup>42</sup> Krassowski XX.

75. Ms Hampden uses the Technical housing standards – nationally described space standard (March 2015) (Figure 1 on page 18 of Hampden PoE) as a starting point when assessing the merits of the new units. Whilst the overall quality of a residential unit will depend on a number of factors (such as layout, light to rooms etc.), Mr Krassowski agreed<sup>43</sup> that floor area is clearly relevant for the Inspector’s consideration.
76. By way of comparison, page 45 of the DAS [CD 8] provides typical internal layouts for the units. Although indicative at this stage, it is highly likely that this is the form that would come forward at reserved matters stage<sup>44</sup>. The Inspector can note that these fall below or at the lower end of the floor areas which are considered to be a minimum to ensure acceptable living conditions.

#### *Features of Appeal Proposal and Site*

77. On the Appellant’s own case, there are features of the Appeal Proposal and Site that will make the Appeal Proposal less attractive to families: MAK 8 - Carter Jonas letter, which also highlights the appeal to students and postgraduates. They state that the main ‘audience’ will be a mix of people moving from within Bath in addition to those coming into the area from outside to take up either new employment positions or university placements.
78. So, in reality, it is a development aimed at students and post-graduate students / young professionals. Moreover, although it is asserted (Krassowski PoE, para 6.17) that “the unit mix proposed... is in high demand”, the opinion expressed by Carter Jonas is more nuanced. Take, for example, the reference to Spring Wharf, which appears to suggest that the predominant demand there was for one bed units.
79. Within the Appellant’s Statement of Case, it is noted that: i) point 2 of PMP Policy SB15 explains that on the upper part of the site could be arranged as houses or flats; and ii) point 3 of this PMP Policy SB15 explains that an apartment typology would be appropriate form for the lower end. However, it is not part of the Appellant’s case to suggest that an alternative housing mix could not come forward whilst still achieving these Design

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<sup>43</sup> Krassowski XX.

<sup>44</sup> Brown XX and Krassowski XX.

Principles<sup>45</sup>. It clearly could; for example, houses at the upper level, or flats which were larger and had garden areas. Such an approach may well be more attractive to a wider cross-section of the community<sup>46</sup>. Similarly, a business model that included an element of smaller properties for sale rather than rent may also result in a more diverse mix<sup>47</sup>.

#### *Lack of amenity space*

80. Further to the above, Carter Jonas also express a view that appears in line with the Council's; namely that the lack of gardens or amenity space is also likely to dissuade families from occupying the development.

#### *Proximity of residential and student occupiers*

81. There is also an issue as to whether housing for families and older persons is perceived to be compatible with student accommodation. Certainly, a common perception of student accommodation is that there can be increased levels of noise and disturbance and certain groups may be deterred from living in such proximity to two large blocks of student residents<sup>48</sup>.

82. In this regard, the Officer Report [CD 34] summarises the representations received at the time of the application, which highlights the perception of some residents that family housing and student housing are not compatible.

#### *Tenure and cost*

83. The Build to Rent nature of the proposal further limits the groups that this development will be suitable for, and attractive to; not just in terms of the principle of renting, but also because of the high rents that are proposed.

84. The assumed rents (Hampden PoE, para 6.17) are taken from the Cushman and Wakefield Viability Report. They are as follows: 1B1P - £940 PCM; 1B2P - £1,120 PCM; 2B3P - £1,400

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<sup>45</sup> Krassowski XX.

<sup>46</sup> Krassowski XX.

<sup>47</sup> Krassowski XX.

<sup>48</sup> Krassowski XX.

PCM; 2B4P - £1,600 PCM. Although Mr Krassowski may take issue with whether those figures are agreed or not, they were generated as part of an objective 'moderation' exercise. Clearly, it is in a developer's interest (when arguing re viability) to assume lower rental values (e.g. [CD 17, page 5]). However, those were not accepted as reasonable by Cushman & Wakefield.

85. Ms Hampden's evidence (Hampden PoE, para 6.18) compares these to the data as to the average current market rents within Bath (Hampden PoE, Figure 2, page 20). That comparison exercise demonstrates that the assumed rental values fall above that of the average rent and are unlikely to be in reach of lower income households. Whilst the development will provide 12.5% units at a discount market rent, this only represents 13 units that would fall below the average rents for the City. They will simply be unaffordable for a large section of the community. In this regard, the fact that Carter Jonas may consider the development will be lettable is irrelevant to those who will be unable to afford to live there

### *Summary*

86. The Appeal Proposal fails to provide a suitable range of housing types, tenures and needs to help support mixed and inclusive communities and respond appropriately to demographic change. In particular, the Appeal Proposal fails to provide family and low income housing.

87. The site allocation as a whole is of a sufficient size to accommodate an appropriate mix, but the proposed provision of the student accommodation compromises the ability of the scheme to deliver a more appropriate wider housing mix. There is no adequate justification for the Appeal Proposal's failings in these regards.

88. The units are not suitable for a wider range of the community due to their limited size, lack of gardens, limited or poor quality communal space, and proximity to the student accommodation. All of which is likely to make them less desirable to families.

## I. REASON 5: GREEN SPACE PROVISION

*“The proposed development generates a need for additional recreational open space but fails to meet this need on site or off site. The application is therefore contrary to Policy LCR6 of the Bath & North East Somerset Placemaking Plan as well as the Council's ‘Green Space Strategy’ and the Council's ‘Planning Obligations’ Supplementary Planning Document (SPD).”*

89. PMP Policy LCR6 relates to new replacement sport and recreational facilities. It states:

*“Where new development generates a need for additional recreational open space and facilities which cannot not be met on site or by existing provision, the developer will be required to either provide for or contribute to the provision of accessible sport and recreation open space and facilities to meet the needs arising from the new development in accordance with the standards as set out in the Green Space Strategy, and Planning Obligations SPD or successor documents.”*

90. The supporting text to PMP LCR6 (paragraph 430 of the PMP) states:

*“All new residential development will be required to contribute to the provision of new additional sport and recreational facilities to a level at least commensurate with the additional population generated by that development and in accordance with the standards in the Green Space Strategy which provides details on how the prescribed standards should be applied.”*

91. Open space should be provided as part of new development in line with the Bath and North East Somerset standard as set out within the Council’s Green Space Strategy and the Council’s Planning Obligations SPD. Where it is not possible to provide open space on site (i.e. policy wording “cannot”), there should be new provision off site or enhancement to existing facilities. Consideration is required to be given to whether, and if so to what extent, such provision can be made on-site. It is not a straightforward ‘policy on / policy off’ situation<sup>49</sup>.

92. Moreover, despite the assertion (Krassowski PoE, para 7.9) that “the policy explicitly states that the ‘need does not have to be met on site’”, this is not a fair reflection of the wording itself, which does allow for contributions for off-site provision, but only where it cannot be met on site. It is not simply where is has not been provided on site. It is not a choice. It is where there is no other option<sup>50</sup>.

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<sup>49</sup> Krassowski XX.

<sup>50</sup> Krassowski XX.



93. The fact that off-site contributions are permissible in some circumstances, does not provide a justification for it to be omitted from a scheme to allow for additional built form to be accommodated.
94. It is agreed<sup>51</sup> that the decision-maker is required to take a sequential approach to PMP LCR6 in terms of interpretation and application. First, assess demand (which here is agreed as per the figures below). Second, provide the quantum and types of space required on site. Third, and only if circumstances dictate that this cannot be provided on site, then off site provision / financial contributions should be considered.

#### *Demand*

95. The development is located in the Newbridge ward, where there is a deficit of allotments (-1.60ha), Amenity Green Space (-0.07ha), Park & Recreation Ground (-4.18ha) and Youth Play Space (-0.13ha). The development of 104 residential dwellings and 186 student bedrooms is expected to be populated by 425 residents (186 students and 239 other residents). These residents will create a demand for greenspace as follows: Parks & Green Space 5,525m<sup>2</sup>; Amenity Green Space 1,275m<sup>2</sup>; Youth Play 128m<sup>2</sup>; and Allotments 1,275m<sup>2</sup>.
96. The Council has accepted that the Appellant's commitment to making a financial contribution of £25,000 towards allotments meets the additional need for this form of green space.

#### *Application of Policy LCR6*

97. Again, Mr Krassowski sought to draw a number of comparisons with other developments, without providing the full relevant context (Krassowski PoE, para 7.12). Once that context is recognised, it is clear that the comparisons are again inappropriate and potentially misleading, including as follows:

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<sup>51</sup> Krassowski XX.

- a. Chivers House: The delivery of that element of the STR was considerably more challenging than delivery associated with the Appeal Site; for example, it involved relocating an electrical sub-station and bus stop, as well as level changes. The financial costs would clearly have been greater.
- b. Bath City Football Club: These were contributions to upgrade an existing park. Furthermore, there is a particularly large area of amenity space close to that site at Innox Park.
- c. Englishcombe Lane: That site was subject to significant environmental constraints, with public access restricted to parts of the site due to the important habitats.

*On-site provision*

98. Why it is not practicable for an increased level of amenity green space to be provided on site? The answer, for the scheme as proposed, is that the site is being overdeveloped; for example, it is the provision of the student accommodation on the Site that limits the Appellant's ability to provide a policy compliant development in this regard. The built form is taking precedence over the provision of green space. Moreover, the high density of the development and the population generated also means that the figures are higher than would be for a lower density scheme, or a scheme with a wider housing mix.

*Amenity green space*

99. Ms Hampden expressed particular concerns with the lack of the amenity green space (Hampden PoE, para 7.12). Similar concerns were also voiced by Mr Reynolds during his questioning of Mr Krassowski.

100. As per the Council's Green Space Strategy [CD 41], the purpose of 'Amenity Green Space' within a development is highlighted at section 5.2.2, which explains that this space is considered to include those spaces open to free and spontaneous use by the public, but neither laid out nor managed as natural or semi natural habitat. These open spaces will vary in size but are likely to share characteristics. Examples include both small and larger informal grassed areas in housing estates.

101. The NPPF [CD 42] (para 96) explains that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities.
102. The need to provide recreational space within the development is critical particularly due to the lack of gardens for any occupiers and there being no green space immediately adjacent to the development.
103. Ms Kemal (PoE, section 12) commented on the quality of the public green spaces within the Site as this is linked to the overall design quality of the Appeal Proposal. She noted concerns with regards to: i) the limited amount of outside amenity space; ii) the fact that being dominated with servicing such as recycling, bins and bike lockers (for example, the green amenity spaces outside of Blocks A and E are dissected by recycling and bins and bike stores); and iii) public space north of Blocks C and D will be overshadowed by 5-storey buildings for much of the year, which limits the space available for users, and does not result in a pleasant environment.

#### *Sustainable Transport Route ("STR")*

104. It is agreed that the improved STR does not fall neatly into any typology of Green Space within the Green Space Strategy<sup>52</sup>. Although the delivery of the 'missing link' is an acknowledged benefit to the Appeal Proposal, it is also effectively a policy requirement – Policy SB15 notes that "the design response must recognise the importance of the disused railway line... as a protected sustainable transport route" and requires "ease of access to any upgrade of the disused railway line as a cycle route".
105. It is a planning judgment as to whether the provision of this negates the need for on-site provision of off-site contributions<sup>53</sup>. Officers at application stage considered that its benefits negated the needs for off-site provision. Members considered that this provision was insufficient to meet the needs generated by the increased population.

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<sup>52</sup> Krassowski XX.

<sup>53</sup> Krassowski XX.

106. Insofar as the Inspector has to make his own judgement:

- a. The Council's evidence is that this route is compromised by the layout of the scheme and does not override the need for on-site provision;
- b. The allocation doesn't make any reference to delivery of the STR removing the need for on-site provision for open space<sup>54</sup>;
- c. The existing elements of the STR would be accessible to those residents even without the link being made at the western and eastern ends of the site<sup>55</sup>;
- d. The provision of the STR cannot reasonably be considered to meet the needs of the future occupiers for green space<sup>56</sup>.

107. Whilst it is noted that the Ecological and Arboricultural objections to the scheme have been removed during the Appeal process due to increased planting adjacent to the STR, this does not necessarily mean that the STR now represents a high quality green infrastructure facility. For example, the route is still compromised by the provision of the large overflow car park directly adjacent to the north of the route, which comprises not only the size of space available but also the verdant and tranquil quality of this space.

108. A financial contribution would be secured in the s106 to improve off-site connections of the STR. Ms Hampden recognised that this would deliver public benefits, which she afforded moderate weight. Whilst this can contribute to meeting the requirements of policy LCR6 by allowing for improved access to off-site existing greenspace typologies, it has not been demonstrated that it is sufficient in meeting the full recreational needs of the residents.

### *Summary*

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<sup>54</sup> Krassowski XX.

<sup>55</sup> Krassowski XX.

<sup>56</sup> Hampden; Reynolds.

109. The lack of sufficient amenity green space within the scheme results in a development that fails to accord with PMP Policy LCR6.

110. Although a financial contribution would be secured in the s.106 to improve off-site connections of the STR, it has not been demonstrated that this is sufficient in meeting the full recreational needs of the residents. The Council considers that the need to provide recreational space within the development is particularly critical given the lack of gardens for any occupiers and the absence of any Green Space immediately adjacent to the development.

## J. BENEFITS AND BALANCE

111. The Appellant's Statement of Case lists 10 benefits, whilst Mr Krassowski's evidence relies upon 13. A summary table has been produced setting out the relative weight attributed to those benefits by the respective planning witnesses.
112. The Council considers that there is considerable overlap between the first 5 of the claimed benefits, as well as overlap between benefits (4) and (13). The Inspector must be mindful of that overlap when considering i) whether each truly represents a separate benefit; and also ii) the weight to be afforded to each.
113. With regards to identified benefits (6), (7) and (8), it must also be the case that whilst the fact of provision equates to a benefit, the amount / level of provision affects the weight to be afforded to that benefit.

### **(1) Recycling of PDL - substantial weight**

114. The efficient use of previously developed site is a planning benefit but it is not unique to this scheme. This is an allocated site and any redevelopment of the Site would result in this benefit. Nevertheless, Ms Hampden recognised the national policy imperative in this regard<sup>57</sup>.

### **(2) Ending of the status quo - limited weight**

115. This is a matter that has always been in the control of the Appellant.

### **(3) Redevelopment of underutilized land and buildings - limited weight**

116. Again, this is a matter that has always been in the control of the Appellant. It is not unique to this scheme. This is an allocated site and any redevelopment of the Site would result in this benefit.

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<sup>57</sup> Hampden XX.

#### **(4) Development of a Site in a sustainable location – limited weight**

117. Again, this is not unique to the development. It is applicable to multiple development sites within the City and would be a policy requirement for a development of this scale.

#### **(5) Maximisation and efficient use of land – limited weight**

118. The proposed quantum of development is significantly greater than envisaged by Policy SB15. A more appropriate development that sat more comfortably within its context could still make efficient use of land, but without the negative effects of overdevelopment.

119. The NPPF approach is about ‘optimising’ rather than ‘maximising’. The same is also true of Core Strategy Objective 2. There is a clear conceptual (and practical) difference. The clue is in the word ‘optimising’, which is clearly not the same as ‘maximising’ (despite what Mr Krassowski may have sought to suggest) and, when applied alongside the site allocation, implies that the proposed quantum of development must be carefully considered taking account of other factors, such as the need to achieve high quality design, local context and character.

120. Mr Krassowski’s blurring of the distinction is telling: the Appellant has sought to maximise use of the land resource and this has resulted in a quality of development that at several levels would not be satisfactory.

121. Further, and in any event, a desire to ‘optimise’ cannot be taken as *carte blanche* to exceed the 80 – 100 dwelling range where it results in harm. If that were not the case, it is not clear what the purpose of the range would be.

#### **(6) Provision of market housing – moderate weight**

122. If deemed to be acceptable, the provision of 104 additional residential units would count towards meeting the Core Strategy target of increasing the supply of housing by around 13,000 homes by the end of the plan period (2029).

123. However, the housing mix is limited. It is focussed on small apartments that fail to, or barely, meet minimum space standards. And which lack amenity spaces. And are packaged in a mono-tenure proposal.

**(7) Provision of affordable housing - moderate weight**

124. The Appeal Proposal only proposes 13 units that are solely discount market units. Putting viability issues aside, this is less than the policy objective (which would be 40%, so between 32 - 40 units). Given that is the case, any objective balancing exercise would recognise that the weight to be afforded this claimed benefit should be reduced for such a small level of provision.

**(8) Provision of PBSA - limited weight**

125. The provision of student accommodation on the site will contribute to meeting a recognised need. However, this does not override the objective of delivering market and affordable housing on this site.

**(9) Economic benefits through creation of employment opportunities - limited weight**

126. The proposed development will provide additional construction jobs whilst it is under construction, and longer-term jobs in the commercial unit. However, the majority of this benefit will only last for the duration of the construction of the development and is therefore only considered to be a temporary benefit.

127. The proposed development, if permitted, will have to contribute a Community Infrastructure Levy payment to support local infrastructure. Whilst this can be considered a benefit of the scheme, it is a requirement for all new residential/student developments within the district. It is certainly not unique to this development.

128. The unit includes a convenience store which is likely to be the first choice for the occupiers. Therefore, the increase in use of the local shops may have been exaggerated. Plus the existing custom for these local shops may be displaced with customers using the new commercial unit.



129. Furthermore, in circumstances where i) the managing agent has been pursuing redevelopment of the Site since before the closure of the car dealership (i.e. 2014 as compared to 2019); and/or ii) it appears that the pursuit of development has influenced the decision to end that dealership use, the Council disputes the robustness of a comparison that only takes into account the present use of the Site (small-scale car repairs<sup>58</sup>), without any reference to (or consideration of) its earlier, more economically significant, use.

**(10) Social benefits - moderate weight**

130. The social benefits include the delivery of new homes, as well as increased access to public green infrastructure. The benefits can be given moderate weight but it should be noted that these could be delivered with any policy compliant scheme. Furthermore, the creation of a mixed community is of very limited weight given the limited house types/tenures within the scheme.

**(11) Provision of STR on and off site - moderate weight**

131. The development will facilitate improvements to the STR, both within the site and onward connections through a financial contribution of £260k. Whilst this is an acknowledged benefit to the scheme but it is also effectively a policy requirement - as noted above.

**(12) Landscape and biodiversity enhancement - limited weight**

132. It is unclear what ecological benefits are delivered that go above policy requirements. Such requirements would apply equally to any redevelopment scheme on this Site. Moreover, it is not accepted that substantial landscape and biodiversity enhancements are delivered.

**(13) Accessibility by alternative means of transport - limited weight**

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<sup>58</sup> Krassowski XIC.

133. This is linked to benefit 4. Limited benefits are actually being delivered as part of this scheme. Those that are (including improvements to bus stops) are necessary to make the development acceptable. The weight to this benefit has been exaggerated.

## **Balance**

134. Despite i) Members having unanimously refused the Appeal Proposal; ii) 4 remaining reasons for refusal; iii) unchallenged evidence with regards to policy conflict (e.g. Ms Kemal's evidence as to conflict with Policies D1 and D2); iv) the unresolved objection of the Rule 6 party; v) some 250+ objections from third parties, Mr Krassowski's balance identifies no harm and attaches no weight whatsoever to any of the Council's reasons for refusal. Moreover, Mr Krassowski's balance also relies upon a number of benefits that are simply repetitious, whilst lending significant weight to a number that would be delivered by any policy compliant redevelopment of the Site. It is entirely untenable.

135. The Council considers that i) the benefits of the Appeal Proposal are outweighed by the identified harms and the conflicts with the Development Plan policies; and ii) there are no material considerations that indicate otherwise.

136. There also clearly remains a 'live' issue as between the Appellant and the Rule 6 party, which requires resolution one way or the other. The Council reminds the Inspector as to the chronology of its historical consideration of that issue - see [CD 31 (xiii)] [CD 67], which noted the need for effective measures to be in place to ensure the appropriate use of the right of way.

## **K. CONCLUSIONS**

137. For the above and other reasons, which have been explored during the course of the Inquiry, the Council invites dismissal of the Appeal.

138. Should the Inspector choose to grant permission on appeal, then the Council submits that any such permission ought to be i) conditional upon imposition of the list of agreed conditions (as at 26 February 2021); and ii) subject to the planning obligations as set out in the agreed s.106 agreement.

## APPENDIX 1:

### BfL 12 DESIGN ASSESSMENT

117 It is common ground that BfL12 is not designed to be used in isolation as an assessment tool once a planning application has been submitted<sup>59</sup>. Likewise, if BfL12 has not been used by a developer at the inception stages of a proposed development and throughout the pre-application process, then it states on its face that it should not be used to support an application. It is inappropriate to use BfL12 to seek to justify a proposal at the appeal stage - to do so is plainly contrary to the intention of the document itself. The intention that lies behind the document is highly relevant in terms of how much weight can reasonably be afforded to Mr Brown's BfL assessment as a matter of principle.

118 Notwithstanding that 'in principle' objection to its inappropriate use, Ms Kemal provided her comments on the same in an attempt to assist the Inspector in relation to Mr Brown's analysis. In her doing so, it became clear that there were considerable differences between the two witnesses with regards to scoring, with those differences summarised in tabular form at the close of Day 4.

119 In considering the evidence heard with regards to the BfL assessment tool, the Inspector will note that there was agreement as to i) the main and secondary questions all being relevant and necessary considerations; ii) the series of recommendations also being relevant considerations for the purposes of conducting the assessment.

120 It is highly relevant to note that Ms Kemal's evidence in relation to the BfL assessment was entirely unchallenged through questioning. In combination with the propositions put to Mr Brown during XX, that evidence can be summarised as being to the following effect, with reference to the relevant BfL sections.

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<sup>59</sup> Brown XX; Brown BfL 'rebuttal', para 2.3.

## Overall

	Green	Amber	Red
Brown	10-11	1-2	0
Kemal	1	7	4

### (1) Connections (Brown: Green; Kemal: Amber)

117 With regards to private vehicles and deliveries, they are proposed to come in and out of the development via a dedicated vehicular access route. Deliveries and taxis are intended to pick up and drop off in the car park on Newbridge Road. The drop off point itself is indicatively shown on the landscape general arrangement plan [CD 11b], so as to be i) diagonally opposite to the entrance to the car park; ii) with a block of parking in between; and iii) immediately in front of the single aspect windows of apartments in block E. In those circumstances, it would not be clearly legible.

118 The access road is shown with a 1:10 gradient, which would be too steep for service vehicles and so it is likely to be gated. The access road also passes i) very close to the windows of some homes and ii) rises over others leaving them below road level, neither of which would be encouraged in a BfL12 assessment and so ought to be reflected as negative factors in any assessment, yet are entirely absent from Mr Brown's assessment(s).

119 With regards to pedestrian and cycle routes, these pass between the proposed buildings and along the pedestrian cycle route along the route of the former railway via a series of staircases and a tucked away lift link to Newbridge Road. Based on what is known of what is proposed: i) those with mobility difficulties and cyclists are unlikely to be able to access the vehicular access ramp to get to and from Newbridge Road; ii) with a 1:10 gradient and gated, the ramp is not available for those who cannot use the staircases or lift; iii) to the north west corner of block C, there is an alleyway that is not overlooked which is created by the footprint and siting of the building and adjacent boundary to the Hanson site, which is potentially unsafe and certainly contrary to BfL12's recommendation that all street, pedestrian and cycle only routes

pass in front of people's homes, rather than to the back of them; iv) if this had been discussed in the context of a pre-application BfL12 assessment, then it would have been considered to be unsatisfactory, with a view to designing it out; v) therefore, at least some of the pedestrian routes that pass through the site in between buildings and the edges of the site are also compromised by the layout. All of these aspects ought to be reflected as negative factors in any BfL12 assessment, yet are entirely absent from Mr Brown's assessment(s).

120 With regards to linkages, Mr Brown asserts that the new routes help to "create linkages across the scheme and beyond" (TDA, para 3.19 / 3). Ms Kemal's evidence was to the effect that the application documents, e.g. the Landscape Plan [CD 11b] reveal an inward looking development, which fails to connect the residential areas to the north of the Site to the STR. Despite Mr Brown's assertion (BfL 'rebuttal', para 2.17) that the "appeal scheme also transitions comfortably to the industrial estate to the south", this is not agreed by Ms Kemal, who considered that the visual montages (e.g. View 9 existing and proposed), shows an Appeal Proposal that bears no resemblance in footprint or layout or height, scale and massing to the industrial buildings to the south.

## **(2) Facilities and services (Brown: Green; Kemal: Amber)**

121 Whilst acknowledging that a number of facilities and services would be within reach of the Appeal Proposal, Ms Kemal noted a number of concerns, including that: i) the proposed new shop is located with its front door adjacent to single aspect new homes, with the illustrative scheme depicting these as windows; ii) the space to the west that would be away from the main road and receive south light, is shown as a car park and we know from experience that locating large car parks near to shops tends to encourage car use; iii) walkers/cyclists from the new pedestrian/cycle route to the south would also have to navigate steep stairs to get to the shop; and iv) the shop location is not legible from the south due to the proposed layout.

122 These are all relevant factors with regards to the BfL recommendation that designers avoid creating the potential for future conflict if residential uses and commercial premises are not combined thoughtfully, yet none feature in Mr Brown's assessment(s).

**(3) Public transport (Brown: Green; Kemal: Green)**

123 There is agreement as to the appropriate scoring.

**(4) Meeting Local Housing Requirements (Brown: Amber; Kemal: Red)**

124 The Council's concerns in relation to reason for refusal 3 are highly relevant here.

125 BfL recommends aiming to "create a broad-based community" and to design homes and streets to be "tenure blind". As a matter of principle, it is agreed that providing a range of house types and tenures is important to meet local need and also to contribute to well-designed places<sup>60</sup>. Paragraph 111 of the National Design Guide echoes this view and explains that well-designed places have an integrated mix of housing tenures and types to suit people at all stages of life.

126 Here, the Inspector will note that: i) a large section of the Site has a singular use (i.e. student residences at the southern edge of the site), which fails to achieve those design objectives; ii) student residence uses that have periods of vacancy at certain times of the year tend to contribute to periods of inactivity and a lack of natural surveillance of the public realm.

127 On tenure and mix, in reality, the Appeal Proposal provides only 1-bed and 2-bed flats, which are all built for rent and with no different forms of ownership. The student accommodation is provided in large, separate blocks, with no spatial integration between the residential and student blocks - the layout separates the two uses into different building blocks.

128 Although Mr Brown's assessment suggests that it is aimed at a wide range of potential occupiers, including small families, Mr Krassowski's evidence was to suggest that there are features of the Site that will make the Appeal Proposal less attractive to

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<sup>60</sup> Brown XX; Krassowski XX.

families (see also MAK 8 - Carter Jonas letter). In reality, therefore, it is mono-tenure development aimed at students and post-graduate students / young professionals.

129 Neither cost nor affordability features as part of Mr Brown's assessment(s)<sup>61</sup> – for that reason alone they are incomplete.

#### **(5) Character (Brown: Green; Kemal: Red)**

130 BfL12 recommends identifying whether there are any architectural, landscape or other features that give a place a distinctive sense of character as a starting point for design. It also recommends that: i) local traditions or character should be respected; and ii) where an area has a strong and positive local identity, this should be used as a cue to reinforce an area's overall character.

131 There is a difference between the parties as to terms of the local character, with the Council's case emphasising the residential context to the north, east and west of the site, including the fine grain and 2.5 storey heights of buildings to the north and provision of gardens as found in the north, east and west of the Site<sup>62</sup>.

132 Ms Kemal's evidence reviewed local traditions such as for building within a steep topography in Bath, whereas Mr Brown has entirely failed to provide any meaningful analysis and/or reasoned justification as to why the Appeal Proposal takes a different approach, save for repeatedly referencing the level change.

#### **(6) Working with the site and its context (Brown: Green; Kemal: Red)**

133 BfL12 recommends being a considerate neighbour by having regard to the height, layout, building line and form of existing development at the boundaries of the building site. It also recommends framing views of existing landmarks, which on this site would be the views to the south, and orientating homes so that as many residents as possible can see these features from within their homes.

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<sup>61</sup> Brown XX.

<sup>62</sup> Kemal XIC.



134 The Council agrees that long-distance views into the Site have been considered acceptable, however the near distance views into the Site have been identified by the Council as going against the prevailing positive characteristics of the immediate context. However, Mr Brown's assessment entirely omits any discussion of those near distance views into Site.

135 Ms Kemal's evidence was that there are a number of wide reaching views looking out of the Site to the south. Mr Brown agreed that those views present opportunities<sup>63</sup>, yet his assessment does not go on to consider them in any way. It is clear that those views have not been actively designed into the layout of homes and student residences to enhance their quality, which can be seen from the way that the blocks proposed to the south block views southwards from Blocks A and B. Moreover, the existing long distance vista distinct to Charmouth Road (that presumably prompted a gap to be left between Blocks A and B) is obstructed by Block D (see Montage 7, Appendix C), which negates the benefit of including this gap. There is no adjustment to the layout of rooms and homes or massing to exploit the views at upper levels

136 It is also relevant to note that Blocks C and D are proposed to be sited right up the pedestrian/cycle route to the south. Montage 11 demonstrates how these blocks tower over the path and the industrial buildings to the south, whilst space around them is filled with cars.

137 In terms of legibility and safety, straight routes enable users to enter a portion of a route safe in the knowledge of who or what is coming towards you in the opposite direction. Therefore, although the pedestrian route towards Newbridge Road is a positive aspect, the bend precludes users from seeing where it goes. Therefore, it lacks legibility and potentially gives rise to safety issues.

138 Other negative features that Ms Kemal noted (but which are entirely left out of account in Mr Brown's assessment(s)), included: i) the space next to Block C to the west being in close proximity to a bike/bin store; ii) the blank/inactive frontages to service buildings such as recycling, bins and bike storage as depicted on the layout plans; and

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<sup>63</sup> Brown XX.

iii) space adjacent to block D to the east is in close proximity to a private gated access ramp and parking. It is clear that a number of alternative approaches could have been taken to address and alleviate these issues; such as bike and bin stores being incorporated into the ground level of buildings near front doors, and/or recycling bins accessible from inside in order to i) encourage their use and ii) increase space in the public realm.

139 These are all factors that are relevant to any proper consideration or evaluation as against the recommendations of BfL12, yet none are considered in Mr Brown's assessment(s), still less are they factored into his scoring.

**(7) Creating well designed streets and spaces (Brown: Green; Kemal: Amber)**

140 BfL 12 recommends keeping to the well-proportioned height to width ratios relative to the type of street. For squares (i.e. the closest proportion to courtyards), this would be 1:4 as a minimum. Yet, as Mr Brown acknowledged, the Appeal Proposal adopts a very different approach (his suggestion being approximately 1:1.7), with buildings located very close to one another; for example, site sections 1 and 2 demonstrate that there is nearer to a 1:1 in most directions, with approximately 1:1.5 between Blocks A and C in the courtyard spaces (although the latter is interrupted with long stair structure).

141 In BfL terms, we know that the 1:1 proportions are those recommended for minor streets or mews, and in manual for Streets p53 (as referenced in BfL12), this is given a range of 7.5-12m. In other words, there is a working assumption that heights of buildings do not exceed this range in order to achieve the 1:1 ratio. Yet, again, the heights of buildings in the Appeal Proposal exceed these heights with a range of between 15.3 and 16.3m according to site section drawings.

142 As to whether the buildings turn corners well, there is a clear difference between the witnesses, with Ms Kemal noting that some buildings (such as Block B) turn and then continue for a distance of over 30m. Given that this is incongruous with the established grain of development in the immediate vicinity of the site, it is not agreed that this is an example of a building 'turning a corner' well.

143 With regards to active frontages, Ms Kemal's evidence was that indicative montages (such as Montage 7) indicate that the housing typology proposed would potentially lead to inactive frontages on the corners where opportunities to consider using windows that wrap around corners to maximise surveillance and bring generous amounts of light into people's homes does not appear to have been considered. Ms Kemal drew attention to Block B (as shown on level -001), which appears to straddle the ramped access route, identifying that there is a risk that the route here will become a tunnel that lacks natural surveillance. Similarly, there are alleyways proposed between Block A and Block E and to the north west of Block C. Indicative drawings show no natural surveillance is proposed for these areas. These are again all relevant factors that ought to have been designed out.

144 Bfl 12 recommends orientating doors to face the street rather than being tucked around the back or sides of buildings. With regards to access points, the Landscape General Arrangement Plan [CD 11b] indicates the access points that are proposed for each of the blocks within the Appeal Proposal. There are two access points proposed on Newbridge road: one for Block B and the other for the shop. All other entrances are indicated to be via courtyards away from the main street. The entrances to Block b to the south and Block c to the north-west are not visible from the routes that pass through the site and lack legibility.

145 As noted earlier, the requirement for car park 2 arises as a result of the inclusion of 9 units (see Rule 6 PoE, para 4.29). In design terms, Mr Brown and Mr Krassowski both accepted in XX that a modest reduction in development could avoid the private vehicular use of that right of way (save for servicing vehicles). The Council considers this issue to be a symptom of over-development and ought to be a negative factor in any BfL assessment.

**(8) Easy to find your way around (Brown: Green; Kemal: Red)**

146 BfL 12 recommends: i) avoiding blocking views to landmarks or notable landscape features; ii) creating a network of well-defined streets and spaces with clear routes, local landmarks and marker features; iii) providing views through to existing or new

landmarks help people understand where they are in relation to other places and find their way around; and iv) avoiding layouts that separate development from the car, unless the scheme incorporates secure underground parking. All of which become relevant factors for any BfL assessment.

147 Ms Kemal drew attention to a number of features in these regards, including that: i) a number of routes within the development have bends in them; ii) most access points are located away from the main street and secondary route; iii) pinch points are created in the layout which will narrow views – for example between Blocks A and D; iv) access to and from the former railway line is via a wide footpath that passes through the footprint of Blocks A, B C and D; and v) the path cranks in between Block A and D. When these factors are taken together with the height of the blocks, the end result are routes that lack legibility from the Newbridge Road or former railway line, which is a missed opportunity alongside the long distance views out of the site are not incorporated into the Appeal Proposal as legible features.

148 As to accessibility, Ms Kemal's evidence was that: i) there are steep stairs; ii) lifts that are tucked away; iii) a steep (possibly gated<sup>64</sup>) access ramp; with iv) a building layout that blocks clear views along routes. Overall, these features will make it more difficult for those with visual or mobility impairments to move around the Site, yet are entirely absent from Mr Brown's assessment(s).

#### **(9) Streets for all (Brown: Green; Kemal: Red)**

149 BfL12 recommends minimising steps and level changes to make them as easy as possible for pushchairs and wheelchairs, as well as affording particular attention to the space between the pavement and front doors. Such matters become relevant factors for any BfL assessment.

150 Ms Kemal's evidence was that: i) access between levels is indicated as being primarily via stairs; ii) the layout does not allow for very much defensible space between homes

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<sup>64</sup> As depicted in Landscape General Arrangement Plan drawing and annotated as 'vehicular access to car park'.

and routes; iii) which creates a risk that residents will cover their windows to maintain privacy from passers-by and may create potential for conflict.

**(10) Car parking (Brown: Amber; Kemal: Amber)**

151 Although there is agreement as to the Amber scoring, Ms Kemal noted that BfL12 recommends: i) avoiding large rear parking courts; ii) making sure people can see their car from their home; and iii) avoiding parking that is not well overlooked. Again, these are relevant factors for any BfL assessment.

152 Ms Kemal's evidence was that: i) in principle, when parking courts are less private and/or remote from people's homes, they offer greater opportunity for thieves, vandals and those who should not be parking there<sup>65</sup>; ii) here - parking is mostly positioned away from people's homes (for example - car parks on Newbridge Road and the overflow car park are remote from most people's homes); iii) the overflow car park 4 is not overlooked at all.

**(11) Public and private spaces (Brown: Green; Kemal: Amber)**

153 The Council's concerns with regards to reason for refusal 5 are highly relevant here.

154 BfL recommends: i) clearly defining public and private spaces; ii) creating spaces that are well overlooked by neighbouring properties; and iii) designing multi-functional spaces. Ms Kemal's evidence was that the courtyards are intended as amenity space for potentially 400+ residents, but they are also required to play a role in creating defensible space between public and private areas, which potentially gives rise to conflict in relation to the separation of public and private functions.

**(12) External storage and amenity space (Brown: Green; Kemal: Amber)**

155 BfL12 recommends: i) providing convenient, dedicated bin and recycling storage; ii) minimizing distance between storage and collection points; anticipating realistic

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<sup>65</sup> Agreed by Brown in XX.

external storage requirements of individual households; iii) avoiding locating bin and recycling stores where they would detract from the quality of the street scene; and iv) avoiding locating bin stores in places that are inconvenient for residents.

156 Storage for bins and recycling appears largely to be provided i) in the corner next to Block E (with single aspect homes facing it); ii) a store to the south west of the site (located to be close to the southern service vehicle collection point); and iii) the main bin store located in one of the courtyard spaces coming off the new pedestrian/cycle route. Therefore, the predominant provision is remote from the vast majority of homes/residents. Moreover, where located in a courtyard space, it is likely to detract from the quality of the street scene. Again, these are indicative of sub-optimal design.