

The Kennet Centre, Newbury, RG14 5EN

Statement of Case

Eagle Quarter II,

Newbury

23/02094/FULMAJ

IN SUPPORT OF:

Full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema and multi storey car park.

PLANNING APPLICATION REFERENCE: 23/02094/FULMAJ

ON BEHALF OF:

LOCHAILORT NEWBURY LTD

31 January 2025

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Appendix 1 – Affected heritage assets

1. INTRODUCTION

- 1.1 This appeal is submitted by Lochailort Newbury Ltd (the Appellant) following the refusal of planning application reference: 23/02094/FULMAJ by West Berkshire Council (WBC) on 30th January 2025 for a Build to Rent development of up to 427 dwellings and residents' ancillary facilities; commercial, business and service floorspace including office (Use Class E (a, b, c, d, e, f and g)); access, parking and cycle parking; landscaping and open space; sustainable energy installations; and associated works. The Appellant is the applicant for planning permission.
- 1.2 This Statement of Case ("SOC") is submitted pursuant to Section 78 of the Town and Country Planning Act 1990 (as amended).
- 1.3 The SoC is structured as follows:
- Section 2 – Site and Surroundings
 - Section 3 – The Proposed Development
 - Section 4 – Scheme Benefits
 - Section 5 – Planning History
 - Section 6 – Planning Policy Framework
 - Section 7 – Appellant's Case
 - Section 8 – Summary and Conclusions
- 1.4 The SoC should be read in conjunction with the application drawings and reports which form the appeal submission.
- 1.5 A draft Statement of Common Ground ("SoCG") has been prepared and submitted with the Appeal. The SoCG will be agreed with WBC. A Core Documents schedule of the planning application documents and drawings is provided with the SOCG. It is also in a draft format at this stage and it is the intention that both the Council and the Appellant will add to this list during the course of the appeal.

2. SITE AND SURROUNDINGS

- 2.1 The site falls within the administrative area of West Berkshire Council (WBC) and is located within the centre of Newbury. It comprises a purpose built 1970s shopping centre with associated car parking in a multistorey car park and is trapezoidal in shape adjoining Market Street to the south, Bartholomew Street to the west, and Market Place and Cheap Street to the east (Figure 2). The northernmost part of the Site lies adjacent to the denser and historic development including The Arcade and Newbury Town Hall, bound to the north by Mansion House Street.
- 2.2 The site currently comprises a run down shopping centre developed in the 1970s and 1980s and now past its sell by date and in need of redevelopment.



Figure 2: Aerial Photograph of Site

- 2.3 The site extends to approximately 2.2 hectares in size. The centre comprises the main shopping mall which is accessed from both Bartholomew Street and Market Place/ Cheap Street and consists of a number of retail units within a covered walkway. North of the shopping centre are a number of commercial and office units with associated parking and delivery facilities on the roof, accessed from a ramp via Market Street. This part of the site is to be demolished in its entirety.
- 2.4 The south-eastern part of the shopping centre comprises a later addition to the shopping centre which incorporates the Vue cinema at first and second floor with restaurant/ retail uses at ground level. This part of the Kennet Centre is accessed via Market Street and Cheap Street and includes a link to the main shopping mall. This part of the building is to be retained.
- 2.5 A multi-storey car park (MSCP) is located on the southwest corner of the Site. This is currently operated by WBC and is to be retained.
- 2.6 Figure 3 below shows the parts of the Site which are to be retained in blue.



Figure 3: Map showing buildings to be retained in blue

- 2.7 The site boundary is directly adjacent to but excludes several existing Grade II listed buildings including Catherine Wheel Inn, The Newbury, 33-34 Cheap Street (former Save the Children).
- 2.8 The site presents as a mass of building with much of the outer facing facades offering very little by way of quality for the streetscape of Newbury. The site has poor legibility with the only permeability being internal via the main retail mall. This route is only accessible during the opening hours of the mall and as such, the site is entirely impermeable between 6pm and 8am on a daily basis.
- 2.9 Further details of the existing site including photographs are included within the Design and Access Statement (DAS) (CD1.168).

Surrounding Area

- 2.10 The surrounding area is predominantly characterised by retail uses, cafes, pubs, restaurants and other commercial uses. To the north of the site is the primary shopping area of Newbury comprising Northbrook Street and the Parkway Shopping Centre. To the south of the site is the Weavers Yard development and Council offices, with the mainline station beyond.

- 2.11 The Site is in a highly sustainable location being within a 2-minute walk from Newbury Railway Station, serviced by Great Western Railway, providing frequent and direct services to London Paddington (40-minute journey) and Reading (15-minute journey), along with other places such as Paignton, Bedwyn, and Exeter St Davids.
- 2.12 There are a number of bus stops directly adjacent to the Site including stops on Market Street and Cheap Street, and bus station within a 5 minute walk of the site, providing access to Greenham Common, Greenham Business Park, Vodaphone HQ, Burghclere Common, Basingstoke and Hungerford. In addition to the range of public transport options available to the site, it is within easy walking and cycle distance to a range of services, promoting walking and cycling as forms of transport and reducing the need for and dependency on private vehicle.
- 2.13 Further details of the surrounding area including the architectural context of Newbury and photographs of the surrounding area are provided in the DAS (CD1.168).

Planning Designations

- 2.14 According to the adopted Core Strategy Policy Map (2012) (Figure 4), the Site is subject to the following planning designations:
- Newbury Settlement Boundary;
 - Conservation Area (Newbury Town Centre);
 - Town Centre Commercial Area: Newbury TC;
 - Drift Geology: Valley Gravel;
 - Landscape Character Assessment: Urban; and
 - Primary Shopping Frontages.
- 2.15 Further details of the surrounding area including the architectural context of Newbury and photographs of the surrounding area are provided in the DAS (CD1.168).

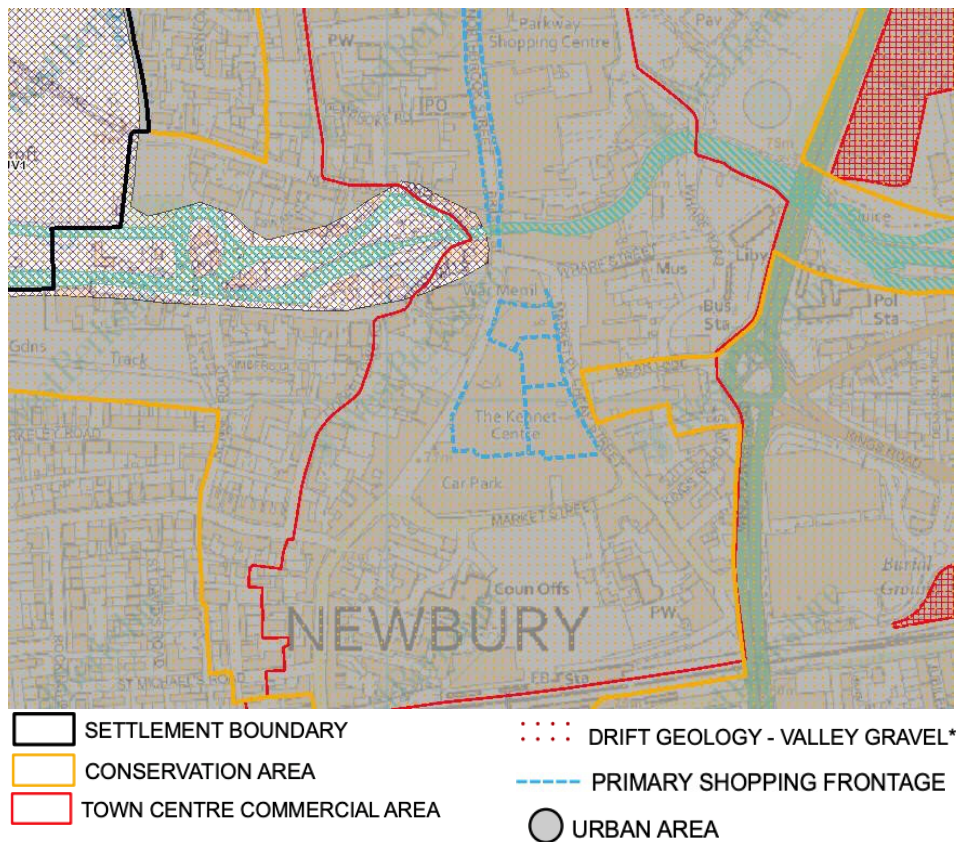


Figure 4: Extract of Core Strategy Policy Map (2012)

2.16 The site is located within Newbury Town Centre Conservation Area and there are a number of listed buildings that adjoin or are within close proximity to the Site as shown in Figure 5. A list of the buildings immediately adjacent to the site below with further details provided in the DAS (CD1.168) and the HTVIA CD1.75):

- Bricklayers Arms (now named The Newbury) (Grade II Listed);
- 149 Bartholomew Street (Grade II Listed);
- 150 and 151 Bartholomew Street (Grade II Listed);
- 152 and 153 Bartholomew Street (Grade II Listed);
- 154 Bartholomew Street (Grade II Listed);
- Town Hall and Municipal Buildings (Grade II Listed);
- 27 Market Place (Grade II Listed);
- 21-25 Market Place (Grade II Listed);
- Catherine Wheel Inn (Grade II Listed);

- 33 and 34 Cheap Street (Grade II Listed);
- 16, 17, 28A, 29A and 29 Bartholomew Street (Grade II Listed);
- 28 Bartholomew Street (Grade II* Listed);
- South Gateway to Churchyard of St Nicholas' Church adjoining Bartholomew Street (Grade II* Listed);
- Parish Church of St Nicholas (Grade I Listed);
- 24 Market Place (Grade II Listed);
- The Hatchet (Grade II Listed);
- Corn Exchange (Grade II Listed);
- Queen's Hotel (Grade II Listed);
- Newbury Post Office (Grade II Listed); and
- 41, 48, 49 & 50 Cheap Street (Grade II Listed).



Figure 5: Extract from Historic England Map showing statutorily listed buildings
 Appellant's Statement of Case
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- 2.17 Parts of the site are within Flood Zone 2 as shown in Figure 6 below with further details provided in the Flood Risk Assessment (CD1.89) that accompanied the planning application.

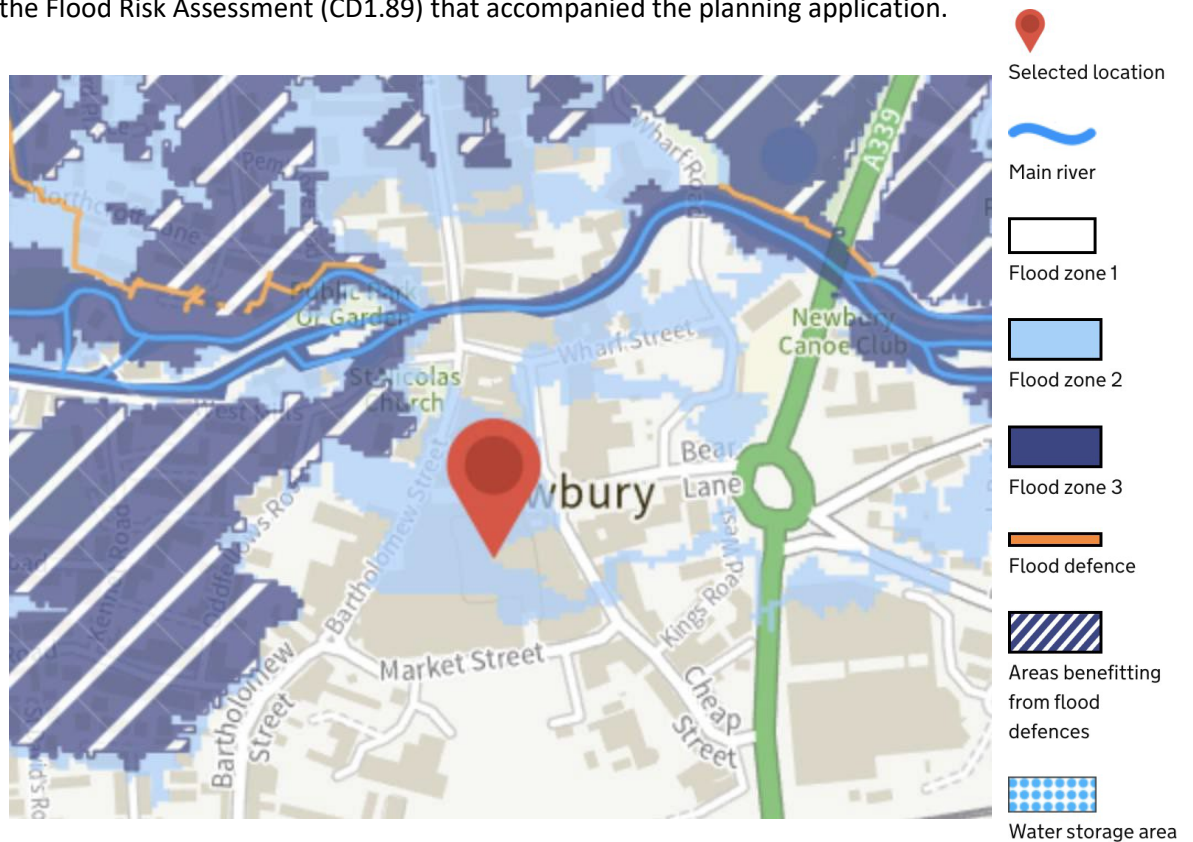


Figure 6: Extract from environment Agency showing the Flood Map for Planning

Summary

- 2.18 The site is located in Newbury Town Centre in a highly sustainable location in close proximity to Newbury railway station, bus stops with an excellent range of local bus services and a number of shops, cafes, restaurants, public houses, offices and other commercial buildings.
- 2.19 The site is also within the Newbury Town Centre Conservation Area with a number of listed buildings either immediately adjoining the site or in close proximity.
- 2.20 The existing shopping centre is outdated and in need of significant investment and repurposing. As such the centre is unattractive to new retailers.

3.0 THE PROPOSED DEVELOPMENT

- 3.1 The planning appeal is for:

“Full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents’ ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping

and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema and multi storey car park.”

3.2 Key details of the scheme are listed below.

Residential Use

3.3 A total of 427 residential units and associated facilities including:

1. Reception and concierge, with associated back of house facilities;
2. Residents' lounge;
3. Residents' gym, including squash court;
4. Dining/meeting rooms;
5. Workspace;
6. A variety of communal rooftop gardens and terraces;
7. Private balconies;
8. Cycle and car parking;
9. Back of house facilities for on site management and maintenance including post rooms and parcel lockers etc.

3.4 The proposed unit mix is shown in Table 2 below.

No. of bedrooms/dwelling type	No. of dwellings
Studio	44 (10.3%)
1 bedroom apartment	184 (43.1%)
2 bedroom apartment	186 (43.6%)
3 bedroom apartment	13 (3%)
Total	427

Table 1: Proposed Unit Mix

Non-residential Uses

3.5 A total of 3,116.87 sqm of new Use Class E (a, b, c, d, e, f and g) floorspace is proposed comprising:

1. New office floorspace;
2. Potential new GP surgery;
3. Flexible Ground floor retail, café, leisure, workshop, restaurant/ bar units fronting the new pedestrianised street and targeted at small, local and/ or artisan businesses.
4. Craft carts, market stalls, pop up stands and other similar 'retail incubator' commercial opportunities within the new pedestrian street;
5. A 'Library of Things'; and
6. A Cycle Workshop.

Proposed Floorspace

3.6 The overall proposed floor areas by use class are set out in the below table:

Table 3: Proposed Floorspace

Residential Floorspace	Proposed Floorspace Provided (sqm)
Residential (Class C3)	36,242.82
Residents' Amenity	1,103.69
Managers Office	121.34
Ancillary	4,985.84
Commercial Floorspace	Proposed Floorspace Provided (sqm)
Retail	2,467.91
Offices	555.49
Store	93.47
Library of Things	60.71
Ancillary	232.63
Plant	
Plant	1,069 sqm
Total Proposed	45,865.59 sqm

Proposed Amenity Space

3.7 The proposed amenity space on site is broken down as follows: Table 4:

Table 4: Proposed Amenity Space

Type of Amenity Space	Area Provided (sqm)
Communal Amenity Space	4,272.48
Private Terraces	902.58
Private Balconies	367.08
New Street	3,669.76
Residents' Amenity	1,103.69
Total External Amenity	9,211.9

- 3.8 Further details of the distribution of uses and location of amenity space is provided on the submitted drawings, the DAS (CD1.168) and Landscape DAS (CD1.173).

Other Infrastructure

- 3.9 The scheme proposes the following:
1. Sustainable energy installations including ground source heat pumps, resulting in a six-fold reduction in carbon emissions on site net when compared to the existing situation;
 2. A new pedestrianised street linking the railway station and the Weaver's Yard development to the town centre;
 3. Improvements to the Kennet Centre Multi-Storey Car Park including:
 - i. Brickwork cleaning,
 - ii. Isolated pointing repairs.
 - iii. Render external façade exposed following demolition.
 - iv. Repaint existing railing and protective barriers.
 - v. Lift facelift works, allowance for replacement floor coverings, cladding etc.
 - vi. Decoration to communal lobby and stair cores allowing for repaint of walls, floors, handrailing and isolated repairs.
 - vii. Resurfacing of parking areas and isolated repairs including repainting of road markings.
 - viii. Achieve dementia friendly car park status with required signage, symbols, and painting.
 - ix. Removal of overgrown planting and replacement landscaping works to perimeter beds.
 - x. Electric car chargers.
 - xi. Removal of existing ventilation system.
 4. Improvements to the existing Vue Cinema including a new pedestrian link into the development.
 5. Associated works including sustainable drainage and blue, green and brown roofs.
 6. Re-use of an under-used brownfield site in a highly sustainable location to provide much needed new homes, workspaces, retail and leisure opportunities within a development of the highest design quality.
 7. Promotion of sustainable transport modes with space for 685 cycles on site, 3 new car club cars, and 53 electric vehicle charging points.
- 3.10 The Design & Access Statement (**CD1.168**) provides an extensive overview of the proposed accommodation and living environment. The below provides a summary of key elements of the proposal.

Residential Layout

- 3.11 All residential units will be in compliance with the Nationally Described Space Standards, and Part M4(2) representing a high quality of internal design for future residents. 10% of proposed units have been designed to be Part M4(3) wheelchair user adaptable dwellings.

Amenity / Open Space and Landscaping

- 3.12 New public open space is proposed at ground floor level. New streets are proposed to link Market Street, Bartholomew Street and Cheap Street with open spaces and a new civic square (Eagle Square). These new streets and spaces provide the opportunity for cafes and other activities in the proposed commercial units to spill out onto the open spaces. The spaces will have new trees and planters along with benches and timber seating for members of the public to enjoy. The design of the new square will invite people into the space, with new trees and planting and spacious pavement in all areas for multiple events and activities. The new square (Eagle Square) includes a location for performing arts space and is directly connected to a courtyard with events space and seating. The public realm to the south responds to the development to the south and the connection with Newbury station.
- 3.13 Podium communal garden spaces are proposed on the 1st, 2nd, 3rd, 4th, 6th and 7th floors and are distributed across the site. The communal roof gardens provide shared space for residents and all spaces will be accessible to all residents. The majority of the units have access to a private balcony or terrace.
- 3.14 Internal amenity space is provided for the residents on site and includes dining rooms, meeting/ work spaces, a gym and squash court, and residents' lounge.

Building Height & Appearance

- 3.15 Key features of the scheme design are:
- i. The scheme is made up of 9 residential blocks, with Class E floorspace at ground floor including for retail and office uses. The tallest block is Block S which extends between 6 and 8 storeys. Block A and Block B are between 6 and 7 storeys. Block E is 4 and 5 storeys tall. Block C is between 2 and 5 storeys tall. Block D is 6 storeys tall. Block F is 3 and 4 storeys, and Blocks H is 2 storeys tall. Block G is between 2 and 4 storeys tall.
 - ii. The opening up of the site through the creation of new landscaped pedestrian routes, public spaces and new streets which provides new linkages between Market Street, Bartholomew Street and Cheap Street and that connect the main areas of pedestrian activity and interest such as the railway station, Market Place, the Corn Exchange, St Nicolas, the High Street and the River Kennet and countryside beyond in a manner that is vibrant, direct, legible, active and safe..
 - iii. The creation of new public spaces including a new square which will allow for cultural events.
 - iv. The introduction of active frontages on all existing and new streets to create additional ground floor activity and frontages overlooking new streets and squares.
 - v. The over-arching design concept is to create a collection of buildings of high quality that enhances the Conservation Area and reflects the industrial heritage of the site and town.
 - vi. A design that reflects and respects the character of this part of Newbury as a historic market town, the Newbury Town Centre Conservation Area and adjacent and nearby listed buildings. Where new buildings sit alongside listed or character buildings and towards the

more historical northern end of the site, the buildings are lower, fragmented, relate to the historical plot patterns and pay close attention to the forms of the existing buildings forming these street edges. The perimeter blocks have been designed to reflect the historic plot pattern, form, design and use of the perimeter streets.

- vii. Towards the southern and central area of the site where the existing buildings are newer, larger, and where the historical industrial uses were located, the texture of the design changes with buildings of a larger scale. The internal part of the site has been planned to allow permeability and the buildings reflect the past historic Eagle Iron Works' use of the site and draw on a local palette of materials.
- viii. The massing of the scheme has been carefully designed so the sensitive edges along the streets are respected with small scale buildings, fitting in with the existing context, and taller buildings are placed in the centre of the site where it is appropriate.
- ix. The tallest part of these proposals will be below the tallest existing buildings in Newbury – in particular below the height of the Town Hall clock tower and the BT Building.
- x. A palette of materials that is predominantly based on brickwork which is a widely used material in the area. The main brickwork has been chosen in several hues, examples of which can be found in the area and to enhance the character will be used in various bonds and patterns. To complement the brickwork, details such as canopies, balustrades and window frames and proposed in dark grey metal as a symbolic recognition of the ironworks heritage of the site. The proposed blue brick, tinted cement based material and bronze effect metal details are a reflection of the textile heritage of the area, and the colour of woad seeds and the dye hues they create. For the proposed buildings on parts of the more sensitive principal street elevations, materials have a traditional character that relates to their immediate surroundings such as stucco, render, brickwork, timber, hanging clay wall tiles, slate and stained or painted timber. 1 in 50 details of particular architectural elements have been prepared by Prof Robert Adam and included with this appeal.
- xi. A significant improvement to the public realm by providing high quality hard landscape in public areas with new trees and planting as well as places for people to sit.
- xii. The provision of hard and soft landscape in private communal residential gardens to create high quality amenity space.

Car Parking

- 3.16 It is intended that the proposal will be a low-car development given its highly sustainable location in the town centre, very close to the railway station and bus station and routes, as well as the services and facilities available within the centre of Newbury and the scheme itself noting that Built to Rent residential use provides a range of onsite facilities that reduces the need to travel by car. This will be supported by the on-site car club and the exceptional cycle facilities provided (685 spaces).
- 3.17 The proposed development incorporates 83 undercroft parking spaces for the residential element of the development. It is also proposed that the adjoining Multi Storey Car Club will be in dual use, serving the proposed development and users of the town centre.
- 3.18 The existing MSCP is to be reconfigured and will provide the following car parking spaces:

Parking Level	Existing MSCP	Eagle Quarter Proposals (427 BtR units)
Ground	62	86
First	85	100
Second	164	100
Third	104	106
Fourth	-	-
On-site	-	83
Total	415	475

3.19 It is proposed that there will be a total of 475 parking spaces on site.

Energy / Sustainability

3.20 The proposals will incorporate ground source heat pumps providing efficient and renewable heating and cooling throughout the development. The efficient, all electric system provides the scheme with a flexible and future proofed solution to meet with net zero in the future. The residential and commercial uses will incorporate measures to improve water efficiency, flood risk attenuation; measures to deliver a net gain in biodiversity; maximise the re-use of materials and limit end of life disposal in landfill; the procurement of sustainable materials; reduction in the need to travel by private means of transport through proximity to public transport and the town centre and the provision of a high number of cycle parking spaces and the incorporation of pollution prevention measures into the scheme design.

3.21 Furthermore, it is also material to note that the proposed development will replace an inefficient and outdated 1970's shopping centre. It has been estimated that, based on the size and use of the building, the existing Kennet Centre currently emits approximately 3,040 tonnes of CO2 per annum using CIBSE Guide F benchmark figures. The scheme put forward is targeted to emit 325 tonnes per year, a 90% reduction in emissions. Furthermore, the all-electric scheme will be futureproofed for future grid decarbonisation, which is in full accord with future homes standards helping to meet West Berkshire Energy Strategy policies and the declared Climate Emergency.

3.22 The development is projected to achieve a reduction in Carbon emissions of 48% from the adoption of the renewable and low carbon technologies, directly connected to the site. This is significantly higher than the requirements of Part L (2021).

Phasing & Delivery

3.23 The Proposed Development site is in single ownership, and the proposals can be delivered in a single phase. Should Planning Permission be granted, demolition and construction works are expected to take in the region of 64 months.

4.0 SCHEME BENEFITS

4.1 The scheme will result in a significant number of economic, environmental and social planning benefits to existing and future local businesses and residents, visitors and the vitality of the town centre which include the following:

Economic benefits

- The Kennet Centre is no longer fit for purpose and its comprehensive regeneration will provide a catalyst with wider regeneration benefits to the town centre.
- The rejuvenation and regeneration of Newbury Town Centre creating an expanded retail offer to attract more visitors to the town centre increasing footfall benefiting the wider town

centre.

- The creation of a new mixed-use quarter that will enhance the attractiveness of Newbury Town Centre as a destination, with new spaces for local, independent and artisan businesses that will help enhance Newbury's unique and special identity as a market town.
- New bespoke commercial units targeted to local, independent and artisan businesses offered on flexible size, terms and uses that will invigorate the retail and leisure offering in this part of the town centre, without prejudicing the viability of other retail offerings such as that at Parkway.
- The introduction of sustainable new homes in the town centre that will increase the population of the town centre and footfall increasing the vitality and viability of the town centre and the patronage of existing shops, services and businesses.
- The provision of new housing, workspace, health centre and retail floorspace for local and independent retailers.
- The provision of flexible workspaces.
- Retention and improvement of the Vue cinema and leisure facilities.
- The creation of 360 FTE jobs during the construction process and 134 net additional FTE jobs once the development is operational.
- Additional expenditure arising from 426 new build to rent households amounting to £7.5m per annum.
- £340.8m if indirect and induced economic impacts resulting from the construction process and circa £43.2m in additional tax receipts.
- New Homes Bonus to the Council and S106 and CIL payments to WBC.

Environmental benefits

- A reduction in carbon emissions when compared to the existing Kennet Centre by circa 90%.
- The redevelopment of the site and provision of new homes, retail units and office space in a highly sustainable location.
- The effective and optimal use of a brownfield site.
- Design of the highest quality, reflecting the historic centre of Newbury as well as creating a contemporary heart to the scheme.
- The provision of new high quality public squares and spaces.
- A significant enhancement to the setting of the listed buildings adjacent to and in the vicinity of the site.
- A significant enhancement to the character of the Newbury Town Conservation Area.
- Enhanced landscaping through the provision of new trees and shrubs assisting with the greening of the town centre.
- Biodiversity enhancements and gain.
- The provision of renewable energy through ground source heat pumps to provide hot

water, heating and cooling without the use of any on-site fossil fuels.

- The re-use and enhancement of the existing Multi-Storey Car Park on site including incorporating EVCPs.
- A total of 53 electric vehicle charging points provided in the MSCP and undercroft parking.
- An on-site car club (with 3 new car club spaces) that will provide flexible transport options to complement the scheme's close proximity to Newbury's railway station and bus station.
- On site cycle hire and workshop to encourage residents to cycle.
- Traffic free routes and spaces creating new links for the surrounding area.
- Co-working spaces and on-site residents amenity reducing the need for new residents to travel.
- A new direct pedestrian route from the town centre and bus station to the railway station through the site making sustainable modes more attractive.

5.0 PLANNING HISTORY

Previous History (not including individual units within or small areas of the site)

5.1 The site has the following historical planning applications for the wider site:

- i. 06/01674/COMIND (2006) – Approval of new 7 screen cinema, class A3/A4 retail floor space, new foyer/circulation, replacement public conveniences and sub-station.
- ii. 83/19101/ADD (1985)– Approval of final phase of Kennet Centre comprising new department store, enlarged supermarket, shops, car park and bus station alterations to existing multi storey car park.
- iii. 80/13824/ADD (1982) – Approval of phase two of town centre development comprising new department store and shops with ancillary accommodation, service road and operational car parking.
- iv. 79/10612/ADD (1979) – Approval of renewal of details consent for 26 shops and two storey department store.
- v. 301/67 (1968) – Approval of outline for 26 shops and two storey department store.

Recent Planning History

5.2 The below recent planning applications are of relevance to this application. 21/00379/FULMAJ

5.3 An application for the redevelopment of the Kennet Centre was submitted on the 16th of February 2021 (ref: 21/00379/FULMAJ) for the following development:

“Full: Phased redevelopment of the Kennet Centre comprising (i) partial demolition of existing building (ii) flexible-use commercial space (iii) headquarters office building (iv) 402 dwellings plus residents’ ancillary facilities (v) access, car parking and cycle parking (vi) landscaping & open space (vii) sustainable energy installations (viii) associated works.”

5.4 The application was subsequently refused on the 4th November 2022 with 9 reasons for refusal. 21/00380/FULMAJ

5.5 An application for the redevelopment of the Kennet Centre was submitted on the 16th of February 2021 (ref: 21/00380/FULMAJ) for the following development:

“Full: 91 retirement living apartments with ancillary residents amenities and associated works.”

5.6 The application proposed an alternative to the proposed office development which is part of application 21/00379/FULMAJ above and would also not implement the solar PV array associated with that permission.

5.7 The application was refused on the 4th of November 2022 with 7 reasons for refusal.

Appeal

- 5.8 Both applications identified above were subsequently submitted for appeal jointly (refs: APP/W- 340W/23/3321517 and APP/W0340/W/233321484). These appeals were withdrawn on the 1st of September 2023.
- 5.9 In the Statement of Common Ground as agreed with WBC ahead of the withdrawal of the appeals, the following issues were resolved with the WBC in respect of the reasons for refusal for the main application:
- i. The loss of the existing and outdated shopping centre and the principle of its replacement with a residential-led mixed use development was acceptable in principle.
 - ii. Mix of uses proposed was acceptable.
 - iii. The Sequential Test prepared by Savills (April 2023) demonstrates that there are no alternative sites for the residential element and therefore the Sequential Test is passed. The Savills Report also confirms that parts i and ii of the Exceptions Test have been passed for the site – all fully addressing Reason for Refusal 1.
 - iv. The proposal for build to rent and the mix of units was acceptable.
 - v. The Kennet Centre does not provide any positive contribution to the setting of various more distant assets.
 - vi. The amount of amenity space was agreed – fully addressing Reason for Refusals 3 and 5.
 - vii. A public open space contribution could be agreed with the council.

Pre-application Discussions

- 5.10 As part of the discussions between the Appellant and the Council in respect of withdrawing the appeal, a revised scheme was discussed with both officers and members at a series of meetings. These are listed in Table X below.

Meeting	Date
Meeting with officers	14 June 2023
In-person meeting WBC Leader, CEO, WBC Deputy Leader, Officers	22 June 2023
Meeting with Service Director Officer	5 July 2023
In-person meeting with WBC Service Director Officer	14 July 2023
In-person meeting with WBC Service Director Officer	20 July 2023
Meeting with WBC Service Director Officer	26 July 2023
In-person meeting with WBC CEO	27 July 2023

In-person meeting with Members	3 August 2023
Meeting with LLFA and Case Officer	14 August 2023
Meeting with Highways Officer and Case Officer	15 August 2023
In-person meeting with Chamber of Commerce	23 August 2023
In-person on-site meeting LLFA	23 August 2023
Meeting with Highways Officer and Case Officer	29 August 2023

Table X: List of Pre-application Discussions relating to both the appeal and the revised scheme.

- 5.11 Further details of the consultation process with the new scheme can be found in the Statement of Community Involvement.
- 5.12 Following significant discussions with the Council's planning officers, Newbury Town Council, and the Newbury Society, a number of amendments were made to address the concerns raised in relation to application ref 21/00379/FULMAJ in respect of a number of issues including height and massing, design and the historic environment. Key changes made to the previous application include:
- i. Increased the overall number of units (from 367 to 427 units) though various internal reconfigurations.
 - ii. Replacement of the office floorspace (or 91 retirement homes option) in Block S with residential units noting that Block S is no taller than the office block/retirement home block originally proposed;
 - iii. 2 storeys removed from Blocks A and B;
 - iv. A storey removed from Block E
 - v. New wing added to Block S;
 - vi. Removal of the additional proposed floor on the multi storey car park.
- 5.13 Following these extensive discussions with the Council, the full planning application, that is now the subject of this appeal, was submitted on 8th September 2023.

Planning Decision

- 5.14 Officers recommended the proposed development for approval and it was initially presented to the Western Area Planning Applications Committee on 3rd October 2024. Following the case officer's presentation, representations from the appellant, public and local ward councillors, and questions from members, a motion was proposed to refer the application to District Planning Applications Committee due to the strategic nature of the application. The motion was passed and the the application was deferred until the next available committee.
- 5.15 The application was then presented to the District Planning Applications Committee held on 13th November 2024. At this meeting members put forward a proposal to refuse the planning application. This was lost, as was a subsequent motion to approve the application. There was insufficient time to put forward an alternative proposals or undertake a further vote prior to the meeting end time of 10.30pm. Members were therefore unable to make a decision during this

meeting and it was necessary to schedule a further meeting.

- 5.16 The application was heard at District Planning Committee on 8th January where members resolved to refuse the planning application. The decision notice was issued on 30th January 2025 stating the following reasons for refusal:

Reasons for Refusal

1. The proposal would introduce an overpowering and dominant feature within the town centre. Although it is recognised that an industrial use previously occupied this site, the Eagle Works buildings were generally low-rise, with a height of no more than three storeys. The scale, height, and massing of the proposed development would significantly alter the character of Newbury's historic core. It would appear excessively tall and imposing in key views within the town centre, creating an oppressive backdrop to several listed buildings. The development would fail to provide a coherent continuation of the existing townscape and would not reflect the small-scale market town character of Newbury. As a result, the proposal would harm the significance of the conservation area and the setting of nearby listed buildings. Although the harm would be less than substantial under paragraph 215, it remains tangible, serious, and must be given considerable weight.

Paragraph 215 of the National Planning Policy Framework (NPPF) states that where harm to a designated heritage asset is considered less than substantial, that harm should be weighed against the public benefits of the proposal. While the proposal offers some public benefits, they are not enough, either individually or together, to outweigh the harm identified to the significance of the conservation area and the setting of nearby listed buildings.

At the time of this decision, the Council cannot demonstrate a five-year housing land supply, meaning paragraph 11d of the NPPF applies. This states that planning permission should be granted unless policies in the NPPF that protect areas or assets of particular importance provide a strong reason to refuse the development. Policies concerning designated heritage assets are such policies (footnote 7). In this case, since the public benefits of the proposal do not outweigh the less than substantial harm caused, there is a clear reason for refusal. Consequently, the 'tilted balance' outlined in paragraph 11d) ii is not engaged, and the development would not benefit from the presumption in favour of sustainable development as per paragraph 11 of the NPPF.

The proposal conflicts with the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990; the conservation objectives of Section 16 of the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, the Newbury Conservation Area Appraisal and Management Plan adopted December 2024, and the Newbury Town Design Statement 2018. These policies amongst other things seek to enhance local distinctiveness and conserve and enhance the historic environment.

2. The layout does not comply to the council's car parking standards and does not provide adequate car parking to enable use by both residents and visitors to the town centre, with the applicant failing to provide adequate mitigation to allow for when the proposed car park is full.

This could result in on street parking and additional traffic movements on the highway network, adversely affecting road safety and the flow of traffic. This would be contrary to Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026, Policy P1 of the Housing Site Allocations DPD 2017 and Policy ECON5 The West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

3. The application fails to provide appropriate planning obligations to deliver the necessary off-site infrastructure, namely improvement to local highways network, travel plan, public open space and primary healthcare facilities in the local area. In the absence of an appropriate planning obligation, the proposal is contrary to Policies CS5 and CS18 of the West Berkshire Core Strategy 2006-2026 and Policies RL.1 and RL.2 of the West Berkshire District Local Plan Saved Policies (2007), the Planning Obligations Supplementary Planning Document, and the National Planning Policy Framework.
4. The application fails to provide an appropriate planning obligation to deliver affordable housing. The district has a high affordable housing need and an affordability ratio above the national average. Compliance with Core Strategy Policy C6 through the provision of affordable housing is therefore necessary to make the development acceptable. In the absence of an appropriate planning obligation, the proposal is contrary to Policy CS6 of the West Berkshire Core Strategy 2006-2026, the Planning Obligations Supplementary Planning Document, and the National Planning Policy Framework.
5. The Council's Supplementary Planning Guidance Quality Design Part 2 document notes that the following provisions should be sought for development in regard to provision of outdoor space.

1 and 2 bedroom flats; from 25 sq.m communal open space per unit

3 or more bedroom flats; from 40 sq.m communal open space per unit

The proposed average outdoor amenity space per unit across the proposed development is 12.9 sqm. This is below the required level of the SPD.

As such the proposed development does not constitute quality design due to the lack of private amenity space and would not contribute to the quality of life of future occupants by providing them with adequate space outdoors. The development is therefore contrary to Policy CS14 of the West Berkshire Core Strategy 2006-2026, the SPD Quality Design Part 2, and the National Planning Policy Framework.

6. The proposed development is situated in close proximity to The Newbury Public House, which has a rear terrace that would be overlooked by residential properties. This terrace generates noise from music and patrons attending the public house. It is anticipated that live music and the use of the terrace would result in significant noise levels within the proposed development, which could make the residential units undesirable for future occupants.

The noise is likely to impact around 100 flats in blocks B, E, and F, either because they are in close proximity to the public house or because their facades face it directly. Noise mitigation measures necessary to ensure acceptable internal living conditions would likely prevent future occupants from

opening windows during periods of high noise. The outdoor amenity space near the Newbury Public House would also be subjected to high levels of noise during events and when the terrace is in use, which would detract from the quality of this space.

Therefore, the proposed development fails to meet the standards for quality design, given the adverse impacts on both internal and external amenity that the existing nighttime economy in the area would have on future residents. The development is thus contrary to Policy CS14 of the West Berkshire Core Strategy 2006-2026 and the objectives of the National Planning Policy Framework.

6.0 PLANNING POLICY FRAMEWORK

Introduction

- 6.1 This Section sets out planning policy and guidance which is of relevance to the Appeal and to which the Appellant will have regard to in evidence.

Planning Policy

- 6.2 Under Section 36(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.3 The Statutory Development Plan comprises the following:
- The West Berkshire Core Strategy 2006-206 (Adopted July 2012);
 - Housing Site Allocations Development Plan Document (Adopted May 2017); and
 - West Berkshire District Local Plan 1991 – 2006 (solely the policies Saved by Direction issued by the Secretary of State in September 2007)
- 6.4 For completeness, the following documents also form part of the statutory Development Plan but have no relevance to this application and are thus not explored in any detail in this Planning Statement:
- Replacement Minerals Local Plan for Berkshire (Adopted December 1997)
 - Waste Local Plan for Berkshire (Adopted December 1998)
 - The South East Plan – Regional Spatial Strategy for the South East (Adopted May 2009, only Policy 6 remaining extant)
 - Stratfield Mortimer Neighbourhood Plan (Made July 2012).

Adopted Local Plan Policies

- 6.5 The relevant policies within the Local Plan include the following:

Core Strategy

- NPPF Policy
- Area Delivery Plan Policy 1 Spatial Strategy
- Area Delivery Plan Policy 2 Newbury
- Policy CS1 “Delivering New Homes and Retaining the Housing Stock”
- Policy CS4 “Housing Type and Mix”

- Policy CS5 “Infrastructure Requirements and Delivery”
- Policy CS6 “Provision of Affordable Housing”
- Policy CS9 “Location and Type of Business Development”
- Policy CS11 “Hierarchy of Centres”
- Policy CS13 “Transport”
- Policy CS14 “Design Principles”
- Policy CS15 “Sustainable Construction and Energy Efficiency”
- Policy CS16 “Flooding”
- Policy CS17 “Biodiversity and Geodiversity”
- Policy CS19 “Historic Environment and Landscape Character”

Saved Policies

- Policy OVS5 “Environmental Nuisance and Pollution Control”
- Policy OVS6 “Noise Pollution”
- Policy ECON5 “Town Centre Commercial Areas”
- Policy SHOP1 “Non Retail Uses in Primary Shopping Frontages”
- Policy TRANS 1 “Meeting the Transport Needs of New Development”
- Policy RL1 “Public Open Space Provision in Residential Development Schemes”
- Policy RL2 “Provision of Public Open Space (Methods)”
- Policy RL3 “The Selection of Public Open and Recreation Sites”

Housing Site Allocations Development Plan

- Policy P 1 “Parking Standards for New Residential Development”.

Local Plan Review 2022-2029

- 6.6 The Local Plan Review was submitted to the Secretary of State on 31 March 2023 and is currently being examined by a Planning Inspector. The Council is currently consulting on the main modifications as required by the Inspector. It is anticipated that the LPR will be adopted in Summer 2025.

Other Material Considerations

6.7 Other material considerations include:

- National Planning Policy Framework (2024) (“NPPF”)
- National Planning Practice Guidance (“NPPG”)
- Quality Design – West Berkshire SPD (June 2006)
- Planning Obligations Supplementary Planning Document (December 2014)
- West Berkshire Community Infrastructure Levy Charging Schedule (2014)
- Newbury Conservation Area Appraisal and Management Plan (NCAAMP) (2024)
- National Design Guide (January 2021)
- Newbury Town Plan 2019-2036 (June 2018)
- Newbury Town Centre Masterplan (Draft Report) (2022)
- Historic England Tall Buildings Advice Note 4 (2015 and March 2020 Consultation Draft)
- Nationally Described Space Standards

6.8 The NPPF is an important material consideration particularly in regard as to how it requires the presumption in favour of sustainable development to be applied. The updated NPPF (2024) was published ahead of the 8th January 2025 planning committee and the changes resulting from this publication are dealt with below.

6.9 In addition, the Newbury Conservation Area Appraisal and Management Plan (NTCAAMP) was published ahead of the 8th January 2025 committee meeting and is dealt with below.

7.0 APPELLANT'S CASE

Form of Appeal

- 7.1 At this stage, the Appellant must assume that WBC will pursue each of the reasons for refusal. The range of matters raised necessitates the engagement of a range of expert witnesses, on both sides. It is considered necessary for the evidence of these witnesses to be properly tested through cross examination. Therefore, a public inquiry is required for the determination of this appeal. Moreover, the scale of development and the range of third party organisations who are anticipated to participate in the appeal indicates that a public inquiry is necessary.
- 7.2 The Appellant does however intend to seek to agree matters wherever possible prior to the inquiry via the Statement of Common Ground. The Appellant reserves the right to submit a costs application subject to the outcome of further discussion with the Council.

Appeal Issues

- 7.3 Appellant deals below with this scheme by reference to the following headings:
- i. Heritage and Townscape
 - ii. Car Parking
 - iii. Affordable Housing
 - iv. Residential Amenity Space
 - v. Noise
 - vi. S106 Contributions
 - vii. Five Year Housing Land Supply
- 7.4 The Appellant intends to call witnesses to support its appeal case on these matters covering the following topics:
- i. Heritage and Townscape
 - ii. Affordable Housing and Viability
 - iii. Public Open Space and Amenity
 - iv. Highways & Car Parking
 - v. Noise
 - vi. Planning

Appeal Issues - Introduction

- 6.10 The Appellant's evidence will demonstrate that the Site is in an accessible and highly sustainable town centre location. This is exactly the type of location the NPPF and West Berkshire Local Plan focuses on to achieve sustainable development.
- 6.11 The site comprises a rundown shopping centre, minutes away from the railway station, bus station and main high street. The proposed development will deliver new homes, workspace, shops and restaurants on this sustainable brownfield site in a scheme of exceptional architectural quality, bringing life and vitality back to this part of Newbury. The proposals have been designed so that they respond to the historic character of Newbury while vastly improving the street elevations and the relationships of the proposal site with adjacent and nearby listed

buildings and the conservation area.

- 6.12 The principle of development in this location therefore meets the overarching requirements of the NPPF and West Berkshire Local Plan in seeking to deliver development of the highest quality on previously developed land, and in the most sustainable locations, replacing a fading and out of date shopping centre, which relates poorly to its surroundings, with a bespoke residential-led redevelopment of the highest quality which will, in turn, act as a catalyst for the wider regeneration of Newbury town centre.
- 6.13 As outlined above, the proposal was presented at 3 Planning Applications Committee meetings on 3rd October 2024, 13th November 2024 and finally on 8th January 2025 when members voted against Officers recommendation that the application be approved, and refused the scheme as outlined above.
- 6.14 In the intervening period between the committee meeting on 13th November and 8th January, the revised NPPF (2024) was published. As set out in the Executive Update in the Committee Report (CD3.1) this was accompanied by the annual results of the Housing Delivery Test and updated housing requirements for each district. This takes immediate effect and the resulting calculations for West Berkshire Council sets out that the housing requirement is now 1,070 homes per annum, increased from 495 homes per annum under the previous standard method, and 515 under the proposed Local Plan.
- 6.15 This means that West Berkshire Council cannot currently demonstrate a five year supply of deliverable housing, pending the adoption of the Local Plan Review, expected later this year, and that currently paragraph 11 of the NPPF is engaged, and the 'tilted balance' applies. In the context of the committee report, the weight given to the delivery of housing on this brownfield site was upgraded in the final committee report from "significant positive weight" to "great positive weight."
- 6.16 Evidence will be prepared in respect of the Council's housing land supply, the extent of the shortfall, and effect of the tilted balance in this regard.

Design, Layout and Appearance

- 6.17 The Appellant's evidence will demonstrate that the design team has worked closely throughout the application process with each other and a wide range of advisors, in particular townscape and heritage, design, and public realm, and all of their input has informed our work.
- 6.18 Evidence will be prepared by both Roy Collado of Collado Collins, and Robert Adam of Robert Adam Architectural Consultancy.
- 6.19 Professor Robert Adam of Robert Adam Architectural Consultancy will set out how the proposed street buildings on Market Place, Cheap Street and Bartholomew Street have been coordinated with the designs of Collado Collins Architects on Market Street, the southern part of Bartholomew Street and the new streets through the centre of the site.
- 6.20 This evidence will explain that the existing Kennet Centre buildings which face onto the surrounding streets are not positive buildings within the Conservation Area and that the replacement buildings will restore the varied urban grain and building typology of the Conservation Area. While the proposed buildings, although different, are part of a single redevelopment, the evidence will demonstrate the variations in type and design are based on functional and plan differences and address their individual and particular context.
- 6.21 Further, the evidence will set out that the new street designs draw on a number of architectural traditions (but do not imitate directly any buildings, each being original and with modern details where appropriate).

- 6.22 Roy Collado of Collado Collins will, in his evidence, include an analysis of the existing site, the history of the site and town centre, and how different design options were explored pursuant to developing the current proposals and why it was resolved that a collaboration with Robert Adam Architects was a positive response to our analysis of Newbury Town Centre and its development across the ages.
- 6.23 The method of assessment based on an historical understanding of Newbury, what the redevelopment of the Kennet Centre can offer Newbury and how it is a chance to 'fix' many of the problems that it has itself created, will be set out alongside an explanation of the constraints of the existing site within and beyond the red line, how these might be responded to, what consultation feedback was, and how this information evolved toward the development of a new town centre plan and a series of new buildings that varied in form, scale, character and use.
- 6.24 In particular the evidence will set out the evolution of the proposals and how it has been a direct response to reconnecting Newbury Town Centre, so that there is a restored and logical relationship with transport and high street, new and old developments, cultural and historical spaces and places, and how the new routes through the site have been carefully modelled to be active, well lit, safe, legible, and how they offer a new experience to enjoy the town centre in response to a declining trend across many town centres as the nature of how residents experience them is evolving.
- 6.25 It will then be set out how this evolutionary process has informed the built environment strategy. How buildings have been placed, their individual and collective character and relationship with one another and the existing town centre, and in particular how the three dimensional composition has emerged, been tested, and been resolved. The evidence will then set out and demonstrate that each element has been carefully considered and how the various parts of the site support and demand a different architectural response. As one moves to the north of the site, it will be illustrated how the conservation area character is more immediate as context, and how the historical development of Newbury around the Kennet and High Street emerged, and how, as one moves south, it becomes more recent in both form, style, massing and character toward the station. It will be illustrated how this spatial assessment has informed each part of the master plan.
- 6.26 It will be illustrated that the residential and public realm quality knits all of this together and how that has been defined, measured, and ensured through design.
- 6.27 The evidence will demonstrate that the proposals represent design of the highest quality that fully meets the requirements and objections of Policies CS14 and CS19 of the Core Strategy, and Chapter 16 of the NPPF.

Heritage/ Townscape

- 6.28 The Appellant's evidence will address the planning authority's allegations that the significance of Designated Heritage Assets, will be harmed by the proposed development.
- 6.29 Aside from the conservation area, the Reason for Refusal does not specify which assets are harmed by the Proposed Development other than alleging harm to 'nearby listed buildings' as a result of introducing an, overpowering and dominant feature in the town centre' and that the proposals would 'alter the character of Newbury's historic core' and 'would appear excessively tall and imposing in key views within the town centre.'
- 6.0 The Committee Report provides a detailed assessment of the proposals prepared by the Council's Conservation Officer, in the context of local and national planning policies in respect of heritage and design, as well as a detailed assessment of the proposals against the guidance and recommendations set out in the newly adopted NTCAAMP.

- 6.1 The Committee Report identifies in broad terms that the site is located within the Newbury Town Conservation Area; and that there are a number of grade II listed buildings, and the Grade I listed St Nicholas Church lie in the immediate setting of the Site, whilst grade II* and grade I listed buildings lie in the wider context.
- 6.2 It also states that the site is considered to have a negative contribution to the Conservation Area and setting of nearby listed buildings and that the redevelopment of the site offers an opportunity to create a development that is more sympathetic to the historic character and appearance of Newbury's town centre, and ties in more successfully, to the surrounding historic development.
- 6.3 In respect of the proposed development, officers consider there to be clear and convincing justification for the scale of development proposed (paras 13.33 and 13.34). In assessing the harm to significance, officers conclude that the scale of the proposals within the centre of the site would harm the significance of the conservation area but that the reduction in scale from the previously refused scheme means that *'while the proposed development is still considered to harm the significance of the conservation area, and a number of listed buildings within it, the harm has been meaningfully reduced through a reduction in height of Blocks A and B and improvements to the facades of the blocks, to a low to moderate level of less than substantial harm.'* (Para13.30).
- 6.4 The report goes on to identify the level of less than substantial harm to each asset that adjoins or is within proximity to the site. The Conservation Officer concludes that,
- "The proposed development is considered to incur less than substantial harm to the significance of the conservation area and setting proximate listed buildings. If the decision maker considers that the less than substantial harm incurred by the proposed development can be outweighed by the public benefits of the proposal then subject to conditions, the Conservation Officer would raise no objection on balance."* (Para 13.47).
- 6.5 Officers then go on to assess the weight to be applied in Part 23 of the committee report, concluding that (para 23.19), *'there is clear and convincing justification for the scheme. Officers have given great weight and importance to the desirability of preserving or enhancing the character and appearance of the conservation area, setting of listed buildings and other non-designated heritage assets. It is considered that the less than substantial harm that would be caused by the proposed development has been adequately mitigated by quality design, detailing and materiality and is justified, and the harm would be outweighed by the high level of public*

Approach to Assessment

- 6.6 The Appellant will set out in their evidence (and will seek to agree in advance with the planning authority) which assets they consider will be affected by the development either directly, or indirectly (by virtue of developing within their setting). These are set out in **Appendix 1** of this Statement of Case.
- 6.7 The Appellant will adopt the following approach to assessment, which the Appellant believes can be agreed by the parties and avoids any need to cite the relevant case law. The Appellant will take that body of law as read. The Development Plan policies relating to heritage will form a second basis for analysis.
- The significance of any designated heritage asset affected by a proposal should be identified and assessed (NPPF paragraph 194). Heritage interest – or significance - may be archaeological, architectural, artistic or historic (Glossary to the NPPF). The setting of a heritage asset may contribute to that significance or an appreciation thereof.

- Hence a change to setting can harm significance. The contribution made to significance will be established in accordance with Historic England Advice Note 3 (HEAN 3: The Setting of Heritage Assets (2017))
- The impact of the proposed development on the significance of the identified asset is then to be considered;
- If, on balance, the proposed development is held to cause harm to the significance of a designated heritage asset, such harm should be categorised as either less than substantial or substantial (NPPF paragraphs 202 and 201 respectively), and within each category the extent of harm should be clearly articulated (Planning Practice Guidance or 'PPG' paragraph 18). The nature and extent of harm is important to ascertain because that analysis informs the balancing out of any harm under the terms of paragraph 202. Underpinning this approach is the principle of proportionality. Whilst any harm to a designated asset is 'weighted harm', it is important for the decision maker to assess the extent, nature or degree of harm in order to undertake a balancing exercise;
- In either case, if a proposal would result in harm to the significance of a designated heritage asset, great weight should be given to the asset's conservation (NPPF paragraph 199), meaning managing change to an asset in a way that sustains that asset's significance and the delivery of enhancement where appropriate. What matters, then, is the nature and extent of any harmful impact.
- In coming to a view as to the overall effect of proposed development on a designated heritage asset, benefits to heritage assets likewise attract great weight in the planning balance;
- Any harm to the significance of a designated heritage asset should require 'clear and convincing justification', as per NPPF paragraph 200. A clear and convincing justification does not create a freestanding test requiring the demonstration of less damaging alternatives. To the extent that there is a test it is to be found in NPPF paragraphs 201 (in the case of substantial harm) and 202 (in the case of less than substantial harm); and
- In either case, and particularly looking at less than substantial harm, the clear and convincing justification the Framework requires is thus made out through no more than the countervailing public benefits delivered by a proposal. Public benefits can include heritage benefits and can also include benefits to the way an area appears or functions or land use planning benefits.

Significance of Assets and Contribution made by setting

6.8 The appellant is not aware of any criticism of the Statements of Significance for the relevant assets provided with the planning application, so will seek to agree with the planning authority the relevant history and significance of relevant assets along with the contribution made to that significance by setting. The Appellant will rely on the application Heritage, Townscape and Visual Impact Assessment in this regard.

6.9 The Appellant will demonstrate:

- The Existing Kennet Centre is a significantly negative feature within the conservation area.
- In turn, the Kennet Centre is a negative component of the settings of several listed buildings, 'enveloped' by the Kennet Centre, namely the Grade II listed former Bricklayers Arms (now The Newbury); the Grade II listed Catherine Wheel Inn; Grade II listed 33 and 34 Cheap Street; and Grade II listed 21-25 Market Place.

- The Kennet Centre is also a negative component of the setting of various more distant assets.

Demolition within the conservation area

- 6.10 The Planning Authority has not alleged that there is any harm arising from any demolition of the Kennet Centre, nor that any aspect of the Kennet Centre to be demolished should be considered a positive contributor to the Conservation Area. We note that Historic England as consultee has alleged that 17-19 Market Place makes positive contribution to the conservation area and that therefore harm arises from its loss.
- 6.11 The appellant will demonstrate that the late 20th century building makes no more than a neutral contribution to the conservation area and that there is no harmful effect on the conservation area from its loss.

The Proposed New Buildings

- 6.12 With regards to the proposed redevelopment, the Appellant will demonstrate that there are benefits arising from:
- The perimeter blocks which have been designed in a manner appropriate to their context in terms of the form, design, grain and character of the surrounding streets;
 - The design of the internal blocks is of high quality and contextually appropriate;
 - The internal layout of the site creates new streets of considerable townscape value and is planned to allow permeability and allow additional views of local landmarks;
 - The introduction of the Proposed uses themselves enhances the character of this part of the conservation area;
 - The use of appropriate materials and architectural detailing, with visual interest through the use of varied material and detailing which take cue from the positive contributors to the existing streetscapes, with additional detailing requested by Historic England;
 - Improvements to the public realm in and around the Site.
- 6.13 The Appellant's evidence will demonstrate that the heritage and townscape effects of the Proposal as a whole are acceptable.
- 6.14 The Appellant's case will be that the high standard of design achieved will comprise an enhancement to designated assets which are directly or indirectly impacted by the proposals.
- 6.15 This analysis will be aided by reference to the National Design Guide and the principles of good design contained therein, along with HEAN3.
- 6.16 The design evidence proceeds on the basis that a townscape or urban enhancement, including through good quality design, is on the facts of this case both a freestanding planning benefit and one of potentially great weight, as per NPPF 134 parts a) and b).
- 6.17 The Appellant will demonstrate that the heritage and townscape effects of the proposed development will at least preserve or in some cases enhance the significance of each heritage asset.

- 6.36 Should the Inspector arrive at a different conclusion with regards to the effect of the proposed development and identify any element of harm to the significance of any heritage asset, then this must be 'less than substantial' and so would fall to be treated in the terms set out in paragraph 215 of the NPPF.
- 6.37 If paragraph 215 is engaged, the Appellant's evidence will demonstrate significant planning benefits which must also be accorded great weight in the balancing process.
- 6.38 While the balance must be applied to each designated asset to determine the extent and nature of harm on an individual basis, an overarching planning balance must be struck on the merits of the scheme as a whole, accounting for effects on heritage assets and the overarching planning benefits of the scheme.
- 6.39 The Council cannot currently demonstrate a 5 year housing land supply, and the reason for refusal claims that the 'tilted balance' set out in paragraph 11 of the NPPF is not engaged because it is considered that the public benefits of the scheme do not outweigh the less than substantial harm arising from the proposals. This is disputed by the appellant.
- 6.40 In this respect, the evidence will demonstrate that the development is wholly in accordance with Policies CS14 and CS19 of the Core Strategy and the NPPF, NPPG.
- 6.41 The Appellant will demonstrate that this judgement can be reached with account of the duties expressed in Sections 66 and 72 of the Town Planning (Listed Buildings and Conservation Areas) Act 1990 with the decision maker taking account of the scale of change, and so the extent of impact, as well as the relevance to its significance, and the importance of each asset.
- 6.42 With specific reference to the height of the proposals, the appellant will demonstrate in evidence that:
- i. The height of blocks A, B and S are perceptible from limited locations within the town centre;
 - ii. That the potential impact of the development cannot be considered solely in terms of height but also along with the considerable (and acknowledged) heritage and townscape benefits of the development (especially in close range views which should be accorded considerable weight);
 - iii. The Appellant will demonstrate that Blocks A, B and S are not dominant or excessive on account of their height and are of the highest design quality, and appropriate in character to the context of Newbury;
 - iv. The proposed development does not adversely affect the significance of the conservation area or any Listed Buildings by virtue of visibility within any aspect of their setting;
- 6.43 Accordingly, it is the Appellant's case that the development enhances the character and appearance of the conservation area in a number of important regards. The Appellant's case is that the development will be similarly beneficial to listed buildings where the Site forms part of that setting. If that conclusion is not accepted, the Appellant will demonstrate that the proposed development at least preserves the character and appearance of the conservation area and the significance of listed buildings (in so far as setting contributes to that significance).

Car Parking

- 6.44 The proposed level of car parking on site has been the subject of extensive discussion between the appellant and the Council's Highways Officers. The agreed position is set out in the Committee

Report (CD3.1) (Paras 16.16 to 16.33) and includes the necessary mitigation measures to offset any perceived issues. It is proposed that the 83 undercroft spaces are for residents only, and that the existing Multi Storey Car Park (MSCP) is used for both residents and public car parking.

- 6.45 It is the appellant's case that the parking needs of the proposed development can be adequately accommodated on site, alongside public car parking requirements, and that exceptional circumstances exist whereby the provision of parking for residential developments in this location, does not need to meet the minimum parking standards as required by Policy P1 of the Housing Site Allocations DPD. In any event, there is ample parking capacity in nearby car parks within the town centre to accommodate any overspill. The appellant will prepare evidence to this effect.
- 6.46 The Highways Authority, in the Committee Report (CD3.1), set out their position in regard to the parking proposals on site and recommend approval. The parking strategy agreed by the Highways Authority is that should demand for the MSCP exceed the number of spaces provided, then consideration should be given to the capacity of the town centre car parks, particularly at weekends. Surveys undertaken by both the appellant and the Council indicate significant parking capacity in the town centre car parks. The Council specifically identified the Market Street/ Station MSCP as having significant capacity as well as being located close to the Kennet Centre MSCP and therefore a suitable location for any overspill at the Kennet Centre MSCP
- 6.47 In order to ensure that this option would be successful, officers recommended the following specific parking related mitigation measures which were agreed by the appellant. These comprise:
- i. A financial contribution of £500,000 towards upgrading/ replacing the town centre Visual Messaging Signing (VMS) in order to direct visitors to the Station car park when the Kennet Centre MSCP is full; and
 - ii. A financial contribution of £70,000 towards improvements to the Market Street/ Station MSCP and pedestrian links from the car park to Market Street as this car park was not designed for and is not attractive for use by visitors such as shoppers. The improvements agreed are as follows:
 - 1. Improvements to doors to enable easier use and opening
 - 2. Improvements to directional signage within the car park
 - 3. Improvements to the surface marking of pedestrian routes through the car park to the lift area and to the car park vehicle entrance with coloured surfacing and markings
 - 4. Improvement to the footway on the western side of Market Street fronting alongside the council office building with footway widening, a raised crossover across the grasscrete access area and a marked and coloured surface route to the car park vehicle entrance
 - 5. Associated works.
- 6.48 Evidence will be prepared to demonstrate that the scheme fully meets the requirements of Policies CS13 (Transport) of the WBC Core Strategy and *Policy P1 of the Housing Site Allocations DPD 2006-2026 and the National Planning Policy Framework*.
- 6.49 In respect of the layout of the car park, this is considered to meet the relevant requirements, and no criticism of the layout has been made by the Council's Highways Officers. It is unclear what the issue with the layout of the car park is, as stated in the reason for refusal, and evidence will be prepared to demonstrate its suitability once this issue is made clear in the Council's Statement of Case.

Affordable Housing

- 6.50 The proposals comprise a Build to Rent scheme for 427 units. WBC does not have a specific policy for Affordable Housing provision for Build to Rent schemes. Policy CS6 of the Core Strategy sets out provision requirements for market housing developments and seeks 30% provision, subject to viability, by negotiation. The policy states that where the proposed provision is below the levels set out in the policy, this should be fully justified by the applicant through clear evidence set out in a viability assessment (using an agreed toolkit) which will be used to inform the negotiated process.
- 6.51 The NPPF and PPG outline requirements for BtR schemes and set out that affordable housing for such schemes should take the form of a percentage of 20% of the units with a rent of 20% lower than the benchmark level for the site.
- 6.52 A Financial Viability Assessment (FVA) was submitted with the planning submission that is the subject of this appeal and was independently assessed by the Council's viability consultants, Dixon Searle who concluded, in their report that the scheme would not be capable of delivering affordable housing.
- 6.53 The proposals involve the redevelopment of a large and complex brownfield site within a Conservation Area. This was noted by officers in the committee report, who also acknowledged the benefits of BtR housing stating at para 12.18 (CD3.1) that they are, *'encouraged by the Government due to the fact they offer increased housing choice for people priced out of the open market (referred to as the mobile intermediate market); people who are not eligible for social housing, yet cannot afford to own their own home). They also result in rapid and high volume delivery of quality new housing; boosting flexibility, choice and affordability.'*
- 6.54 In addition, the following matters were agreed between the Council and the appellant, to be secured as part of the S106 Agreement:
- The development will be retained as a BtR development for 10 years;
 - A later stage viability review so that should the viability of the scheme improve, additional on-site units or a financial contribution would be secured.
- 6.55 It will be demonstrated, in evidence, that the scheme cannot deliver affordable housing on site and that the proposal fully accords with Policy CS6 (Provision of Affordable Housing) of the WBC Core Strategy (2012) and NPPF (2024).

Residential Amenity Space

- 6.56 The Appellant's evidence will demonstrate that the level of amenity space proposed is entirely appropriate for the proposed dwellings on site, and the quality of the amenity space is of a high standard. The amenity space proposed is for a Build to Rent scheme and comprises private and communal amenity space as well as significant levels of internal amenity space (as befitting a Build to Rent scheme) of 1,103.69sqm, all of which contribute to the overall level of amenity space for future residents.
- 6.57 In terms of the provision of residential outdoor amenity space, the reason for refusal sets out that the Council's Quality Design SPD (2006) requires 25sqm of communal space for 1 or 2 bedroom flats and 40sqm for 3+ bedroom flats, and that the proposal would deliver 12.9sqm per unit.
- 6.58 The Council's committee report acknowledges that this is not an absolute requirement, and the SPD guidance states that provision will vary depending on character and location.

6.59 The proposed development delivers the following outdoor amenity provision:

Outdoor Amenity Space	Sqm
Communal Amenity	4272.48
Private Terraces	902.58
Private Balconies	367.08
New Street	3669.76
Total	9211.90
Total without New Street	5542.14

6.60 The Committee Report considers that the new street, while providing amenity space, does not comprise amenity space exclusively for use by residents and have as such not included it within their assessment of residents' amenity space. On this basis, the report concludes that around half of the amount of amenity space within the proposed development compared to the SPG requirement, and that this amounts to 12.9sqm per unit.

6.61 This is considered to be acceptable by the Council given the constrained nature of the site, the availability of nearby parks and open spaces including Victoria Park, Goldwell Park, the Kennet and Avon canal and Northcroft Park, and the agreement by the appellant to a contribution towards open space of £52,738.56.

6.62 Therefore, while not meeting the 25sqm per unit guidance, the average communal amenity space per would be 12.9sqm. The Appellant's evidence will set out that this is entirely appropriate for a site that is located in a sustainable town centre and for a build to rent development in particular. Evidence will also be prepared to demonstrate the quality of the amenity space proposed.

6.63 In addition, evidence will be prepared that sets out the level of private and communal amenity space for the two most comparable schemes in Newbury, and it will be demonstrated that officers were satisfied with much lower provision on these centrally located sites.

6.64 The Sterling Cables development of 167 flats (application reference:15/00319/FULEXT) which provides approximately 1,200sqm of communal amenity space amounting to circa 7sqm per unit. Private amenity space is also provided in the form of balconies only. This is below the level proposed on the appeal site, yet the committee report concluded:

"Officers have some concerns about the actual value of the amenity space in the courtyard between the 6 blocks noted above, since given their proximity, height, mass and scale, and orientation, the courtyard will receive little natural light particularly during the winter months. However, once again, any purchasers will be aware of this factor before buying..... On the other hand, the applicants have noted that all of the flats will have a balcony, so each will have a small degree of private external amenity space. Given the clear need to allow a relatively high density on the site in order to facilitate the redevelopment, this slight reduction in acknowledged standards is considered, on balance, to be acceptable."

6.65 The Weavers Yard development which is located opposite the site on Market Street (application reference: 16/00547/FULEXT) contains no communal amenity space, and not all the units have access to private amenity space. Yet the committee report concludes:

"All houses are provided with private amenity space, whilst most apartments above ground

floor level have access to a private balcony. The site is located within a highly sustainable central location, where access to a wide range of amenities is available. Furthermore, a Residents' 'Hub' is proposed which will provide internal community space for the residents. It is therefore considered that the proposed level of private amenity space is acceptable within this town centre location."

- 6.66 Aside from the residents' 'hub', no communal amenity space is provided within this development.
- 6.67 It will be demonstrated in evidence that the proposals, on balance, meet the requirements of planning policy CS14 of the Core Strategy and the guidance set out in the Quality Design SPD.

Noise

- 6.68 With regard to the impact of noise from The Newbury Public House adjacent to the site, evidence will be prepared to demonstrate the level of noise, which units and communal and private spaces are impacted and when this occurs, and the mitigation proposed to address this.
- 6.69 Details of mitigation measures for the individual units forms part of the submission at CD 1.196 and CD1.197 and include winter gardens, glazing solutions and mechanical ventilation, as well as how the external amenity spaces could be managed. This was proposed to be dealt with via condition in the officers Committee Report however it was agreed that the noise could be successfully mitigated and managed on site.
- 6.70 The Committee Report (CD3.1) concludes in respect of this matter (para 15.35),
- "The impact on external areas would be reduced given the unlikely coincidence of these outdoor areas being used at the same time as music being played from the Newbury. Furthermore, the development is designed in such a way as to be a 'campus' for future occupiers, they could utilise alternative amenity spaces in the development. Furthermore, the expectation of town centre living increases occupiers expected acceptable levels of noise. Furthermore, there are unresolved questions over the current nighttime economy license arrangements."*
- 6.71 It will be demonstrated in evidence that the proposals, on balance, meet the requirements of planning policy CS14 of the Core Strategy and the guidance set out in the Quality Design SPD.

Planning Obligations

- 6.72 The Appellant has agreed to the following planning obligations, as set out in para 25.4 of the Committee Report (CD3.1):
1. Build to rent – 10 years
 2. Viability review
 3. Public Open Space contribution -£52,738.56
 4. Highways
 - £500,000 – Visual Message Signing contribution
 - £15,000 TRO
 - £70,000 toward Station Car Park improvements
 5. Travel Plan - £256,200
 6. Travel Plan Monitoring - £5,000
 7. Car club contribution -£150,000
 8. Healthcare - £262,872
 9. Sustainable Travel and Wayfinding - £15,000

6.72 In addition a Section 278 Agreement under the Town and Country Planning Act 1980 to provide the following is agreed:

1. Closure of the existing Market Street vehicle access and reinstatement of footway
2. Footway resurfacing along the frontage of Market Street
3. Resurfacing of Bartholomew Street from Market Street to the proposed new vehicular access to enable the provision of a two-way traffic section
4. Relocation of rising bollards within Bartholomew Street
5. Reconfiguration of the Bartholomew Street / Market Street traffic signal junction including replacing signal equipment when required
6. Provision of vehicle access onto Cheap Street
7. Associated works

6.73 These matters will be secured within a legal agreement.

Other Issues

6.74 The Appellant reserves the right to respond to WBC's putative reasons for refusal in due course and any issues raised by third parties and consultees as they are made during the appeal process.

7.0 SUMMARY & CONCLUSIONS

7.1 The Appellant's evidence will demonstrate that the Proposed Development is fully in compliance with the Development Plan and material considerations including the NPPF.

7.2 The Proposed Development clearly represents sustainable development for the purposes of the NPPF and should benefit from the presumption in favour of development. The Proposed Development also has a number of substantial Economic, Social and Environmental benefits for the Site, Town Centre and wider Newbury area which weigh in its favour.

7.3 The evidence will demonstrate that there are no adverse impacts arising from the Proposed Development. Any impacts that have been identified through this Application are also capable of being secured and mitigated via planning conditions or obligations. There are no impacts that outweigh the substantial benefits and due to the Proposed Development's compliance with the policies of the NPPF as a whole (as well as those of the development plan) it should be granted Planning Permission without delay.

7.4 The Appellant will therefore conclude that the Appeal should be allowed.

Appendix 1 - affected heritage assets

Mindful of the duties set out in Sections 16 and 66 of the Act, the Appellant considers the following assets to those potentially affected by the development.

Direct Impacts:

- The Newbury Town Centre Conservation Area

Setting Impacts

- Buildings enveloped by the Kennet Centre (all Grade II):
 - o Bricklayers Arms;
 - o Catherine Wheel Inn;
 - o 33 and 34 Cheap Street

Buildings Located on Bartholomew Street

Grade I Listed:

- Parish Church of St Nicolas;

Grade II* Listed:

- South and North Gateways to Church of St Nicolas
- 28 Bartholomew Street;

Grade II Listed

- 149, 150 and 151 Bartholomew Street;
- 152, 153 and 154 Bartholomew Street;
- 16 Bartholomew Street;
- 17 Bartholomew Street;
- 28a, 29a and 29 Bartholomew Street;
- Town Hall Municipal Buildings;

Buildings Located within Market Place

Grade II Listed:

- 27 Market Place
- 21-25 Market Place
- Queen's Hotel
- Corn Exchange
- The Hatchet

Buildings Located on Cheap Street

- Newbury Post Office
- 41 Cheap Street
- 53 Cheap Street
- 48, 49 and 50 Cheap Street
- King Charles Tavern

Buildings Located at Newbury Wharf:

Grade I Listed:

- Museum Wharf Street

Grade II* listed:

- Corn Stores

Grade II Listed

- The Stone Building
- The Corner House and Surgery

