



Appeal Decision

Site visit made on 28 February 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Appeal Ref: APP/Z5630/W/22/3298545

35-37 Old London Road, Kingston Upon Thames KT2 6ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by BMK Constructions Ltd against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/03191/FUL, dated 30 September 2021, was refused by notice dated 12 April 2022.
 - The development proposed is 'change of use of existing retail units from sui generis to Class E. Erection of extensions and alterations to 35-37 Old London Road and the erection of a new three-storey building to the rear to provide 11 (net) residential dwellings (12 in total) and a replacement 125 sqm of Class E commercial space.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Planning permission has previously been granted at the site under application ref 21/00418/FUL for development comprising 'change of use of existing retail units from Sui Generis to Class E and the erection of new three-storey building to the rear to provide 8no. self-contained residential units (nine in total) and replacement 125 sqm of Class E commercial floorspace' ('the Previous Permission'). From the information before me, I consider that there is a realistic prospect that the Previous Permission would be implemented should the current appeal fail, and I have taken it into account as a fallback. I have however determined the appeal having regard to the individual merits of the development that is now proposed.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the character and appearance of the host buildings and on the Old London Road Local Area of Special Character, all of which are non-designated heritage assets;
 - ii) whether or not living conditions for occupiers of the development would be satisfactory with regard to the provision of internal space, external amenity space and sunlight;
 - iii) the effect of the proposal on the safe and efficient operation of the highway network in the vicinity of the appeal site with regard to provision for parking;
 - iv) whether or not the dwellings would be adequately accessible and inclusive, including with regard to provision of disabled persons' parking;

- v) whether or not the proposal would make adequate provision for affordable housing;
- vi) whether or not the proposal would make adequate provision for urban greening and to reduce carbon emissions;
- vii) whether or not the proposal would make adequate provision for cycle storage;
- viii) the effect of the proposal on the supply of employment floorspace; and
- ix) whether or not the proposal would make adequate provision for dwellings of an appropriate mix of sizes.

Reasons

Character and Appearance

4. The appeal site is located within the Old London Road Local Area of Special Character ('LASC'). Many of the buildings within this area are terraced or closely-spaced properties with shopfronts which adjoin the street edge. Heights are generally between two and four storeys, and while the buildings do not typically display significant variation in their overall scale, they accommodate a mix of uses, and vary in type, form and architecture. As a result, there is a rich diversity to the street scene which is distinctive. I consider that the significance of the LASC as a non-designated heritage asset is largely derived from this diversity, as well as the age and architectural features including shopfronts to many of the buildings.
5. The appeal buildings occupy a mid-terrace position within a run of buildings of mostly two and three-storey height, and include two shopfronts to either side of a door. As it fronts the street, 35 Old London Road is a two-storey building with a flat roof behind a parapet. 37 Old London Road is of similar total height, but is a three-storey building with a pitched roof. To the rear, both buildings have single-storey projections which extend across a significant proportion of the site area.
6. The shopfront to No 35 is mostly glazed within a metal frame with stallrisers. At the time of my visit, there was no fascia in place and a strip of exposed brickwork was instead visible. Above this, the building has two arched windows at first-floor level which are set beneath arches with projecting central keystone details. No 37 has a projecting timber shopfront which is lower than that of No 35, but which extends above part of its first-floor windows, one of which is bricked up. These first-floor windows are set below the height of the first-floor windows to No 35, and all of the window openings to the front of the building are of notably lesser height in comparison to those to No 35.
7. Both Nos 35 and 37 are identified as Locally Listed Buildings ('LLBs'), and therefore also comprise non-designated heritage assets in their own right. In my view, the significance of No 35 lies predominantly in its form and architectural features. The significance of No 37 similarly derives in large part from its retained characteristic features and the shopfront which the appellant's Heritage Assessment notes contribute to its status, as well as its unusually squat proportions which contrast with those of No 35 and many others on the street. Furthermore, and irrespective of their current relatively poor condition, the appeal buildings add to the variety and visual interest of the area both individually and together. This contributes to the significance of the LLBs, and

with the retained architectural features to their frontages, I consider that the buildings also make a positive contribution to the significance of the LASC.

8. The proposal includes extensions and alterations to the frontage buildings and the construction of a new building to the rear of the site to provide 3 commercial units and 12 dwellings in total. The Council has not raised objections to the demolition of the single storey sections to the rear of the appeal buildings or to the alterations to the front part of No 35. From the information before me and having regard to the Previous Permission which also included the removal of the rear projections and a two-storey extension above No 35 to a similar height, I see no firm reason to find differently in respect of these elements of the development taken in isolation.
9. The building to the rear part of the site would be altered from that proposed under the Previous Permission including through an additional storey within a mansard roof. This would increase the height and scale of the building in comparison to the pitched roof that was approved under the Previous Permission. However, it would remain lower than development that has been permitted adjacent to the site at 33 Old London Road. The section closest to the two-storey building at the rear of No 39 would also be of lesser depth, and would step down in height with a pitched roof that would not be significantly taller than the neighbouring building. This would provide for a visual connection between the development to either side of the rear of the site, and would also help to break up the overall bulk and mass of the building. Furthermore, there would be limited opportunities for public views of the building, and where it would be visible, it would be seen in the context of other large buildings near to the site. In my judgement, the scale and bulk of the building would not stand out as excessive or inappropriate in this location, and I am satisfied that the transition across the site between Nos 33 and 39 would not be discordant or visually jarring. I find that this element of the proposal would not therefore detract meaningfully from the character or appearance of the area, nor from the significance of the LLBs or LASC.
10. However, the appeal also proposes more extensive alterations to No 37 than the Previous Permission. Rather than regrading of the existing pitched roof, there would be a new mansard roof with front dormers of similar form and height to the development proposed at No 35. In addition, the first and second floor windows to the front of the building would be shifted upwards to sit at a similar height to the windows to No 35.
11. As a consequence, the distinctive squat proportions of the building would be lost. Moreover, the matching mansard roof forms with a regular arrangement of dormers and the comparable height of the windows, parapets and mansard roofs to each of Nos 35 and 37 would result in a high degree of uniformity in the appearance of the buildings. I appreciate that there would be some differences in the detailing of the buildings and in the size of the windows, but these would be of modest visual impact in the context of Nos 35 and 37 as a whole, and I find that the existing individuality of the building would be considerably diminished.
12. The appellant asserts that the Previous Permission would result in an awkward frontage and inconsistent street scene, but the variety in form and architecture of the buildings is an important feature which contributes to the diverse character and visual interest of the area. The appellant's Heritage Assessment

also identifies this variety as an element of the significance of the LLBs and LASC. Notwithstanding that No 37 would be appreciably higher than 39 Old London Road maintaining some contrast in the scale of development around the site, this variety would be harmfully eroded by the proposal.

13. I acknowledge that the proposal would retain shopfronts to Old London Road. I also agree with the main parties that the new shopfronts of appropriate materials and replacement of uPVC windows with timber sash windows would be sympathetic to the host buildings and would offer some enhancement to their character and appearance. However, the existing materials are not unduly conspicuous in the street scene and so the visual impact of these alterations would be relatively modest. The change to the proportions of No 37 and the similarity in appearance of the appeal buildings would be much more readily apparent, and the suggested enhancements would not in my judgement be sufficient to fully offset or mitigate the adverse effects of the proposal in these regards. I find overall that the proposal would diminish the character, appearance and significance of each of No 37 and of the LASC.
14. The appellant advises that No 39 which is also a LLB has been significantly altered in the past, and has provided partial elevations which indicate a clear change in its appearance. However, limited details have been provided, and it has not been demonstrated that the considerations that applied in that case were directly comparable to the current proposal. In any event, it does not alter my view that the appeal scheme would harm the significance of No 37 and of the LASC.
15. Notwithstanding my findings that the works to the rear of the site would be acceptable, I conclude for these reasons that the proposal would cause harm to the character and appearance of No 37 and of the LASC, eroding the significance of each of these non-designated heritage assets. In this respect, it would conflict with the requirement within Policy DM 10 of the Core Strategy 2012 ('the CS') for development to respect, maintain or enhance the character and local distinctiveness of a street or area. It would also be contrary to Policy DM 12 of the CS which seeks to preserve or enhance existing heritage assets of the Borough. Given the harm that I have found to non-designated heritage assets, the National Planning Policy Framework ('the Framework') outlines that a balanced judgement is required having regard to the scale of any harm and the significance of the asset, and I return to consider this further as part of the planning balance below.

Living Conditions

16. Policy D6 of the London Plan 2021 ('the LP') includes a requirement that new housing development should provide adequately-sized rooms, and refers to minimum internal space standards for dwellings which vary according to the number of bedrooms, bedspaces and storeys.
17. The appellant indicates that all of the dwellings would meet minimum internal space standards, but the Council considers that 3 of the dwellings would each have an additional bedspace over the number stated by the appellant. On that basis, the applicable minimum internal space standards would be increased, and the dwellings would not meet these higher requirements.
18. However, while the single bedrooms to Units 3 and 8 would exceed the minimum area of 11.5sqm that Policy D6 states is required for a two bedspace

bedroom, a reasonable proportion of their area closest to the doors would comprise relatively narrow spaces running alongside bathrooms. These areas would allow access from the hallway into the main room, and in my view would effectively function as corridors rather than providing usable space. The appellant indicates that the remaining area of the rooms would be around 10sqm, and I consider having regard to their layout and size that they would not suitably accommodate 2 bedspaces. On that basis, I find the description of these dwellings as 2-bedroom three-person dwellings to be appropriate, and I am satisfied that they would accord with the relevant minimum internal space standard specified by LP Policy D6.

19. The single bedroom to Unit 12 would be only slightly larger than the minimum area for a two bedspace bedroom required by Policy D6, and I note that it would be within the mansard roof which would slope over part of the room. Nevertheless, the angle of the roof slope would be fairly steep and there is little before me to show that the space beneath it would be of insufficient height to provide usable space. Despite the appellant's comments, it seems to me that the room could reasonably accommodate a double bed, and it would not be possible to control whether the dwelling was occupied as a one or two person dwelling. The internal area of the dwelling would be around 13sqm short of the standard for a two-person dwelling. I consider this would be a significant shortfall, and find that there would be inadequate internal space overall to meet the needs of future residents should this dwelling be occupied as a two person dwelling, causing some detriment to their living conditions.
20. I also note that while some of the dwellings would meet private amenity space requirements set out in the Council's Residential Design Supplementary Planning Document ('SPD') 2013, the majority, including Unit 12 which also has a shortfall in its internal area, would not. That said, all of the dwellings would meet the standards for private outdoor space specified by Policy D6 of the LP. I appreciate that these requirements are stated to apply where there are no higher local standards in Development Plan Documents, but while Policy DM 10 of the CS does refer to the SPD, the standards within the SPD are guidance rather than an absolute policy requirement. The provision of private amenity space in accordance with the LP standards is a factor that I consider would temper any harm to living conditions for occupiers of dwellings with private amenity spaces below SPD standards.
21. Nevertheless, there is an additional requirement under CS Policy DM 10 and the SPD for communal amenity space. The proposal includes a courtyard which the appellant asserts would exceed the minimum area sought by the SPD where there is no shortfall in private space. However, while I note that details of landscaping of the courtyard are not fixed and that a scheme could be sought by condition, the Design and Access Statement suggests that it could include native hedging and wild flower meadow in order to improve biodiversity. The courtyard would also need to accommodate access to the refuse store, bike store and commercial unit at the rear of the site which would be likely to affect a significant proportion of the available area. The access, and any areas of hedging or wildflower meadow would be unlikely to function as amenity space in any meaningful way, and I am not satisfied that the suggested courtyard would offer sufficient high quality, usable communal amenity space to meet the needs of occupiers' of the development. While Fairfield Park may be only a short walk away, it would not provide a substitute for amenity space for the exclusive enjoyment of occupiers of the site.

22. Shortfalls in amenity space provision may not be unusual in town centre locations, and the main parties indicate that the Previous Permission did not fully accord with standards for amenity space provision. Be that as it may, the Previous Permission would have resulted in fewer units, and I find irrespective of the provision of private amenity space that the failure to provide usable communal space would cause some, albeit modest, detriment to the quality of life of occupiers of the development.
23. Furthermore, Policy D6 of the LP includes a requirement for sufficient daylight and sunlight to new housing. The appellant's Daylight and Sunlight Assessment indicates that habitable rooms would meet or exceed guideline standards for internal daylight, but there is no assessment before me of sunlight within the development. Based on my observations at my visit, the close relationships of the buildings with surrounding development would be likely to have some effect on sunlight. While the dwellings would be dual aspect, I am concerned in the absence of an assessment to demonstrate otherwise that levels of sunlight to the dwellings and courtyard may not be adequate, causing further detriment to living conditions for occupiers of the site.
24. For these reasons, I conclude that the development would fail to provide satisfactory living conditions for future occupiers with regard to the provision of external amenity space and, in the case of Unit 12, to the provision of internal space. It has further not been demonstrated that there would be adequate sunlight, and I find that there would be conflict with Policy D6 of the LP and Policy DM 10 of the CS.

Parking

25. The development is proposed to be car free. This would accord with Policy T6.1 of the LP which indicates that residential development in areas such as this with a Public Transport Accessibility Level of 6 should be car free with the exception of disabled persons parking.
26. However, the site is within a Controlled Parking Zone where Policy DM 9 of the CS identifies that eligibility for on-street parking permits for residents of new developments will be restricted to ensure that development does not contribute to congestion or compromise highway safety.
27. The appellant has provided a draft planning agreement under section 106 of the Town and Country Planning Act 1990 (as amended) ('the Act') which purports to restrict occupiers of the development from applying for residential parking permits and to additionally provide for car club membership for residents. From the information before me, I am satisfied that these measures would be necessary to address the requirements of Policies T6 and T6.1 of the LP and DM 9 of the CS and to ensure that parking demand associated with the proposal would not exacerbate existing pressure for on-street parking to the detriment of highway safety and efficiency. However, I am concerned that the draft obligations seeking to restrict future occupiers' ability to apply for parking permits would not fall within the terms of section 106(1) of the Act which require that restrictive planning obligations relate to the development or use of 'land', and would not therefore be enforceable. In any event, there is no signed and completed legal agreement before me to secure these outcomes, even if I were satisfied that they were enforceable.

28. In the absence of a suitable mechanism as part of the appeal to ensure that the development would not lead to additional demand for on-street parking, I conclude that the proposal would be detrimental to the safe and efficient operation of the highway network. It would conflict with Policies T6 and T6.1 of the LP and Policy DM 9 of the CS, as well as with Policy DM 10 of the CS which includes a requirement that proposals have regard to local traffic conditions and highway safety and ensure they are not adversely affected.

Accessible and Inclusive

29. Policy D7 of the LP seeks to provide suitable housing and genuine choice for London's diverse population including disabled people, and includes a requirement that at least 10% of dwellings meet Building Regulation requirement M4(3) 'wheelchair user dwellings'. Unit 6 is suggested to meet the M4(3) requirement, equivalent to around 8.3% provision. The percentage shortfall would be small and I note that providing a second M4(3) dwelling would exceed the 10% sought by Policy D7 by a greater degree, although I appreciate that the requirement is for 'at least' 10% provision. Even if I were to find the level of provision to be reasonable though, the Design and Access Statement commented that lifts will not be provided. While the plans do show a lift within the front block of the development, this appears to be of limited size, and it is not clear from the information before me whether or not it would be suitable to provide M4(3) compliant step-free access to Unit 6 which would be on the second floor.
30. I have considered whether compliance with the requirements of Policy D7 could be secured by way of a planning condition to require an additional M4(3) dwelling and/or demonstration of suitable step-free access. However, there is no firm detail before me to indicate how this could be achieved. Accordingly, I cannot be sure that any changes which might be necessary to secure adherence would not raise fresh considerations, and I do not know that any conditions would be effective.
31. Moreover, and even if the lift were M4(3) compliant and the number of M4(3) dwellings satisfactory, Policies T6 and T6.1 of the LP indicate that disabled persons parking should be provided in accordance with standards, even where development is proposed to be car free. The specified standards seek to ensure that for 3% of dwellings, at least one designated disabled persons parking bay per dwelling is available from the outset. The appellant suggests that the resulting requirement should be rounded down to zero, but it is expressed as a minimum, and in any event there is a further requirement within Policy T6.1 for details to demonstrate that an additional 7% of dwellings could be provided with one designated disabled persons parking space per dwelling in future.
32. The appellant suggests that blue badge holders would be able to park on disabled restricted bays on Old London Road, but LP Policy T6.1 sets out that all disabled persons parking bays associated with residential development must be for use by residents of the scheme only. Furthermore, I saw that the on-street bays closest to the site were not restricted to disabled parking, and there were few spaces available in nearby bays of any type at the time of my visit. My visit was a snapshot, but I have not been provided with firm evidence demonstrating that the parking conditions were unusual, nor that disabled persons parking would be likely to be available to occupiers within reasonable distance of the site.

33. I accept that the site is constrained but for the reasons above, I am not satisfied that the development would be adequately accessible and inclusive, and I conclude that it would conflict with Policies D6, D7, T6 and T6.1 of the LP and Policies DM 9 and DM 10 of the CS. Together and amongst other things, these policies broadly seek high quality and accessible housing to provide genuine choice including for disabled people, and seek appropriate provision of disabled persons parking.

Affordable Housing

34. There is no dispute between the main parties that the proposal could not viably deliver 50% affordable housing as would be required by Policy DM 15 of the CS, nor the tenure split sought by LP Policy H6. From the evidence before me, I also have no firm reason to find that the provision of 4 shared ownership dwellings, which is the amount agreed by the main parties as viable, would be inappropriate to address requirements to maximise affordable housing delivery. However, while the appellant has indicated a willingness to provide the agreed level of affordable housing, albeit with a cascade mechanism to allow a financial contribution should it not be possible to secure a registered provider to take on on-site dwellings, there is no completed planning obligation or any other appropriate mechanism before me that would secure this provision.
35. I therefore conclude that the proposal would fail to make adequate provision for affordable housing, and it would conflict with Policy DM 15 of the CS and Policies H4 and H5 of the LP which together broadly seek delivery of the maximum reasonable level of affordable housing provision according to viability.

Carbon Emissions and Urban Greening

36. Policy SI 2 of the LP 2021 sets out that major development should be net zero-carbon, and should achieve a minimum on-site reduction in carbon emissions of at least 35% beyond Building Regulations.
37. The revised Energy Statement submitted with the appeal suggests that the development would achieve at least a 35% reduction in carbon emissions beyond Building Regulations. However, it indicates that the carbon savings would in part come from renewable energy, with a photovoltaic array suggested. This is not clearly illustrated on the submitted plans, and it is not apparent from the information provided that it would be possible to accommodate an array of the suggested capacity alongside the extent of intensive green roof/vegetation which the Design and Access Statement indicates would cover at least around 153sqm of the structure. In addition, while the appellant also indicates that a financial contribution would be provided towards carbon offsetting to make up the shortfall, there is no completed planning obligation, nor any other appropriate mechanism before me that would secure such a contribution. Given these factors, I am unable to find that the requirements of LP Policy SI2 would be met.
38. Furthermore, Policy G5 of the LP requires urban greening as part of major development. Until a borough Urban Greening Factor ('UGF') has been developed, it recommends an interim target score of 0.4 for predominantly residential developments. The Design and Access Statement indicates that the development would not meet this target, with a UGF of around 0.37. The shortfall would be modest, but a substantial element of the UGF score derives

from the intensive green roof/vegetation over structure, and I have already identified that there is insufficient detail before me to demonstrate that this could be accommodated alongside photovoltaics relied on by the Energy Statement. In addition, I have highlighted concerns that the suggested native hedging and wildflower meadow to the courtyard garden may be incompatible with use of this area as communal amenity space for residents. The appellant refers to permissions granted for other developments with similar or lower UGF scores to the appeal proposal, but given the above factors, I have little confidence that even the suggested UGF score could be delivered in this case.

39. I therefore conclude on this main issue that it has not been demonstrated that the proposal would make adequate provision for urban greening and to reduce carbon emissions. It would conflict with Policies SI 2 and G5 of the LP, and would also be contrary to Policies DM3 and DM10 of the CS insofar as they include requirements seeking climate change adaptation and incorporation of sustainable design as part of development.

Cycling

40. The appellant does not dispute that the 20 cycle parking spaces proposed to serve the flats would be insufficient to meet the standards specified in the LP for the residential element of the development. Although the shortfall against the long-stay requirement for 21.5 spaces would be small, the Transport Statement indicates that there is also a requirement for 2 additional short stay spaces, and I have no substantive evidence to show that these would be provided. Given the overall shortfall, I consider that the proposal would fail to make adequate provision for cycle storage to support use of sustainable modes of travel, resulting in conflict with Policy DM 8 of the CS which includes a requirement for provision of facilities for cyclists in accordance with minimum standards.

Employment Floorspace

41. The site is within Kingston Town Centre where Policy DM 17 of the CS seeks to protect employment land and premises. The proposal would result in a net loss of around 98sqm employment and retail floorspace from the site, and no marketing or other substantive evidence has been submitted to demonstrate that there is no quantitative or qualitative need for a range of employment uses on the appeal site. The proposal would therefore conflict with the requirements of Policy DM 17 which seeks such justification where alternative uses to employment are proposed.
42. However, the retail frontage to Old London Road would be retained, and I agree with the Council that the reduced size of the units fronting Old London Road would not threaten the predominance of uses in the centre so as to conflict with Policy DM 19 of the CS which seeks to retain shopping frontages.
43. Furthermore, I saw at my visit that the internal layouts of the commercial spaces are now somewhat convoluted, and in seemingly poor condition. The Council acknowledges that the majority of the space that would be lost appears to be ancillary storage rather than tradeable floorspace, and given the very large size of the existing storage relative to the associated frontage units, I consider it unlikely it would generate significant employment opportunities. In my judgement, the commercial units now proposed would be of more practical layout and size. As space in Use Class E (commercial, business and service),

the units would also provide greater flexibility for a wider range of potential occupiers, and I find that the proposal would offer higher quality and more flexible spaces that would be likely to better support retail and employment uses in the longer term, and a similar or greater number of jobs overall.

44. Moreover, the Previous Permission would also reduce the area of employment and retail floorspace on the site. I acknowledge that the appeal scheme would result in a greater reduction in floorspace than the Previous Permission, but the difference would be modest, and I consider the effect on provision of employment and retail space would not be significantly changed.
45. Given these factors and the evidence before me, I find that the proposal would support retail and employment functions on the site overall. This is a material consideration that would outweigh the conflict with Policy DM 17 of the CS on account of the failure to demonstrate that there is no quantitative or qualitative need for a range of employment uses on the appeal site. I therefore conclude that the effect of the proposal on the supply of employment floorspace would be acceptable.

Mix of Dwellings

46. One 3-bedroom dwelling is proposed as part of the development. This would be equivalent to around 8.3% provision, significantly below the 30% 3 or more bedroom dwellings that Policy DM 13 of the CS requires unless it is robustly demonstrated that this would be unsuitable or unviable.
47. The appellant's Viability Study highlights that the 3-bedroom dwelling would have a lower value per square foot than the smaller units. I accept that increasing the number of units could therefore reduce the overall development value, and may affect the ability of the scheme to contribute to affordable housing. However, appraisals to robustly demonstrate that an alternative mix could not viably be achieved have not been provided.
48. That said, pre-application advice given by the Council under application reference 20/01302/PRE raised concerns over whether suitable and usable outdoor amenity space to meet the needs of a greater number of 3-bedroom units could be provided on the site. This advice related to a different scheme and is not in any event binding, but given the constrained nature of the site and surrounding development, I share these concerns. I further note that there was also a shortfall in the provision of 3 or more bedroom dwellings under the Previous Permission where provision was around 11%, albeit that I recognise that the appeal scheme provides for a greater number of dwellings overall.
49. The Council refers to the Strategic Housing Market Assessment 2016 which indicates that 3 or more bedroom dwellings account for around 70% of the total dwelling requirement to meet objectively assessed needs in the borough to 2035. Be that as it may, the site is in a constrained town centre location. In my assessment, the proposed dwelling mix would strike an appropriate balance between making efficient use of a highly accessible site while also making some contribution towards the supply of larger dwellings.
50. On this basis, I conclude that the proposal would make adequate provision for dwellings of an appropriate mix of sizes, and I find that the shortfall in 3 or more bedroom dwellings against the general requirement within Policy DM 13 would not weigh against the proposal.

Planning Balance

51. The Council has not disputed the appellant's evidence which suggests that its housing land supply has been reduced to less than 2.7 years. In the absence of a five-year supply of housing, the Framework indicates that the policies which are most important for determining the application are deemed to be out-of-date, and the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework is engaged. There are no policies in the Framework that protect areas or assets of particular importance which would provide a clear reason for refusing the development, and the presumption therefore provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
52. The proposal would make efficient and effective use of a previously developed site in an accessible location which is well served by local services and public transport. The delivery of a net gain of 11 dwellings here would align with objectives within the CS and LP seeking to provide housing to address requirements in the most sustainable locations and to optimise housing delivery, and particularly delivery from small sites. In addition, the Framework refers to boosting significantly the supply of housing, and highlights that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. It further promotes the effective use of land, and indicates that development of windfall sites should be supported, giving great weight to the benefits of using suitable sites within existing settlements for homes.
53. In this context and noting the significant indicated shortfall in supply, the delivery of housing is an important benefit of the proposal, and I note that the development would enable standard floor to ceiling heights for dwellings at No 37 which would not be the case under the Previous Permission. However, there is little before me to suggest that the Previous Permission would have resulted in uninhabitable dwellings. The contribution to the supply of housing would also be limited by the relatively small scale of the development, and the proposal would deliver only a small increase in the number of dwellings above the Previous Permission. I have further found that the development would not offer a high quality living environment for future occupiers which moderates the weight that I afford to the benefit of the additional dwellings.
54. I have found that the proposal would not have an unacceptable effect on the supply of employment floorspace, and would offer higher quality commercial space that would be likely to better support long-term occupation. This would help to maintain the mix of uses on Old London Road which contribute to its character, and would also contribute to the vitality and vibrancy of the town centre with resulting economic and social benefits. I afford significant weight to these benefits, but they would be limited in magnitude given the scale of the development. There would also be likely to be economic and social benefits associated with the development, both short-term during construction and longer-term on occupation. However, these benefits would similarly be limited by the small scale of the proposal, and I give them modest weight.
55. The appellant highlights that the Borough is one of the least affordable in the country, but there is no mechanism before me to secure affordable housing as

part of the current appeal, and therefore this is not a factor that could weigh in favour of the proposal.

56. Conversely, the proposal would harm the character, appearance and significance of the LASC and No 37, a LLB. These are not designated heritage assets, but the Framework notes that heritage assets are an irreplaceable resource and the LASC and LLB form an important part of the Borough's historic environment. It further seeks development that is sympathetic to local character. Overall and taking a balanced judgement, I consider that the degree of harm to heritage assets and the character and appearance of the area would outweigh the totality of the benefits, albeit marginally.
57. In addition, the proposal would not be adequately accessible and inclusive and would fail to make adequate provision for affordable housing contrary to requirements within the Framework seeking to address the needs of groups with specific housing requirements. There would also be inadequate provision for parking causing detriment to the safe and efficient operation of the highway network at odds with the Framework's requirement for places that are safe. These are significant shortcomings of the proposal, and I afford significant weight to each. I give further moderate weight to the failure to demonstrate adequate provision for urban greening and to reduce carbon emissions which would be contrary to requirements in the Framework seeking to support the transition to a low carbon future in a changing climate.
58. The proposal would also fail to provide suitable living conditions for occupiers and adequate cycle storage contrary to objectives in the Framework for a high standard of amenity for users of development and the promotion of sustainable transport modes. In each case though, I consider that the adverse effects of the shortfalls would be relatively modest, and I give them limited weight.
59. From the information before me, the Previous Permission did not fully accord with relevant standards including in respect of the proportion of 3-bedroom dwellings and provision of external amenity space. However, the current appeal is for a different scheme, and I have found that there would be multiple areas of conflict with the development plan, and greater conflict in some areas.
60. I have had regard to support for the proposal from an interested party, but I find in the context of paragraph 11(d) of the Framework that the cumulative adverse impacts of the development would together significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development within the Framework.
61. Given also the degree of conflict with a range of policies, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached.

Conclusion

62. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR