



Appeal Decision

Site visit made on 7 February 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 MAY 2023

Appeal Ref: APP/T5720/W/22/3291219

81-83 Wimbledon Hill Road, Wimbledon, London SW19 7QS

- 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 Charterfield Homes Ltd against the decision of the Council of the London Borough of Merton.
 - The application Ref 21/P0119, dated 12 December 2020, was refused by notice dated 22 December 2021.
 - The development proposed is the demolition of buildings and erection of a five-storey residential block plus basement comprising 17 self-contained flats (7x3-bed, 6x2-bed & 4x1-bed) plus detached dwellinghouse arranged over 2 floors (ground floor and basement). Basement to accommodate 9 car parking spaces.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is taken from the appeal form. I have used it in preference to the form of words on the planning application form as it provides a more detailed description of the proposal.
3. The planning application consultation and the notification of this appeal prompted a large number of responses from interested parties. Most of these came from local residents, and most (though not all) were objecting to the proposed development on a range of grounds. The main issues identified below reflect interested parties' comments – to which the appellant has had the opportunity to consider and respond – as well as the reasons for refusal on the decision notice issued by the Council.
4. Some interested parties' evidence referred to other planning applications which have been submitted for the appeal site since the refusal of planning permission for the development in this appeal. I have not been provided with the details of those other proposals, and in any event, I have of course reached my decision solely on the basis of the planning considerations relating to this particular proposed development.
5. The appellant has submitted a signed and dated agreement under Section 106 of the Town and Country Planning Act 1990. This makes provisions in respect of parking permits, affordable housing, development viability assessments, and carbon offset contributions, as well as a management/monitoring fee. I return to the planning obligation below.

Main Issues

6. The main issues are:

- Whether or not the development would make an appropriate provision for affordable housing;
- The effect of the proposed development on living conditions for the occupiers of neighbouring houses and flats in Bluegates, Harrowdene Court, and Leeward Gardens, with particular regard to (i) loss of daylight and sunlight, (ii) loss of privacy through overlooking, and (iii) whether or not it would be overbearing;
- Whether or not the proposed amount of on-site car parking would be appropriate;
- Whether or not the development makes appropriate provision to prevent an unacceptable increase in demand for on-street car parking; and
- Whether or not the development makes appropriate provision for mitigating the effects of climate change and offsetting carbon emissions.

Reasons

7. The appeal property is a large redbrick Edwardian building, with two storeys plus basement, standing in a generous plot on the north-east side of Wimbledon Hill Road. It was originally built as a single dwelling, but at some distant point in the past has been subdivided; it now contains five flats. The site is entered by a gated drive from Wimbledon Hill Road; within the site there are areas of hardstanding which provide car parking space, as well as a group of three single garages. There is a garden at the back of the site which provides a communal amenity space for residents of the flats.
8. The site lies approximately equidistant between Wimbledon Village to the north-west, and Wimbledon town centre to the south-east. The area immediately around the appeal site is almost entirely residential in character; it includes numerous blocks of flats of varying ages and styles (many in purpose-built blocks), although there are also houses ranging in size from quite modest to very large.
9. The appeal site's nearest neighbours are Bluegates (a four-storey block of flats to the north-west), Harrowdene Court (a five-storey block of flats to the north), and Leeward Gardens (a development of two- and three-storey houses to the south-east). The topography of the area slopes from north-west to south-east, so that Bluegates and Harrowdene Court are in elevated positions above the appeal site, while Leeward Gardens is at a lower level.
10. The proposed development is the demolition of the existing buildings on the site, and the erection of a five-storey (plus basement) block providing 17 self-contained flats. A separate two-storey (including basement) dwelling would be built to the south; this would be connected to the basement of the main building, which would provide parking space for up to nine vehicles. Two of the flats would have their own gardens at the front of the block facing Wimbledon Hill Road, and all flats would have a balcony or terrace; there would also be a communal rear garden for the occupiers of the flats. The house would have its own separate private rear garden.

11. The main apartment block would effectively be split into two parts, one towards Wimbledon Hill Road and the other towards the rear of the site; these would be at a slight angle to one another and connected by a shared central access core. The development would be of a modern design, with a palette of materials primarily comprising red brick, reconstituted stone copings and cills, buff-coloured fibre cement cladding panels, metal window frames and timber entrance doors, with glass balustrades to balconies and terraces. The top (fourth) floor would be set back from the floors below at the east and west sides of the building.

Affordable Housing

12. Policy CS8 of the 2011 Merton Core Strategy ("the MCS") requires the provision of 40% affordable housing in developments of 10 or more residential units, of which 60% should be social rented and 40% intermediate housing; this mix requirement is also reiterated in Policy DM H3 of the 2014 Merton Sites and Policies Plan ("the SPP"). Policy H4 of the 2021 London Plan sets a strategic target of 50% of all new homes in London to be genuinely affordable, while Policy H5 requires all development not providing at least 35% of affordable housing to provide detailed supporting viability evidence. Both the MCS and London Plan policies require that affordable housing should be provided on-site, and state that off-site provision or "in lieu" cash contributions would only be acceptable in exceptional circumstances.
13. The appellant's Financial Viability Assessment ("FVA") concluded that the proposed development would generate a deficit of £3.89m, and thus would not be able to support the provision of affordable housing. A further assessment of the FVA carried out by the Council's independent viability consultants considered that the deficit would be considerably smaller, in the region of £0.15m to £0.19m. I was not provided with further detail of this second assessment, but in any event, it is common ground between the two main parties that it would not be viable to provide affordable housing on the site.
14. Many interested parties were not persuaded of this, questioning why a developer would enter into such an unviable scheme in the first place, and wondering if the scheme could be reconfigured so as to turn the deficit into a surplus. However, notwithstanding either local people's scepticism or the well-documented need for more affordable housing both within Merton and across the capital more widely, no substantive evidence has been put before me which demonstrates that the delivery of on-site affordable housing in the proposed development would be viable at the present time.
15. The submitted planning obligation provides for both early- and late-stage viability reviews to be carried out during the development phase. In the event of the development viability having improved to the point where affordable housing could be provided, it requires the provision of an appropriate number of on-site affordable housing units (the number to be calculated according to an agreed formula). In the event of the calculated affordable housing contribution being insufficient to provide a whole unit on the appeal site, the planning obligation provides for a financial contribution to off-site affordable housing instead. The planning obligation also provides for the transfer of on-site units, should any ultimately be required, to a Registered Provider.
16. In view of all the evidence put before me, I find that projected viability of the proposed development means that it would not be able to make a provision of

on-site affordable housing. However, the submitted planning obligation accords with the development plan policies which provide for review mechanisms to ensure that, in the event of the viability of the development improving, an appropriate affordable housing provision would be made. To that end, I conclude that the development would comply with the provisions of Policy CS8 of the MCS, Policy DM H3 of the SPP, and Policies H4 and H5 of the London Plan 2021, the principle relevant requirements of which I have set out above.

Living conditions

Daylight and sunlight

17. The appellant submitted a Daylight and Sunlight & Overshadowing Study ("DSOS")¹; this was based on the Building Research Establishment's guidance in *Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice* (2011) ("the BRE guidance"); I therefore give it significant weight as technical evidence, although for the reasons which follow, I do not accept some of the conclusions which have been drawn. I have also had regard to comments on this issue submitted by and on behalf of interested parties throughout the planning application and appeal process, as well as the "verification" of the DSOS ("the DSOS Review") which was carried out for the appellant by a specialist Chartered Building Surveyor.
18. While carrying out my site visit, I entered several of the flats within Bluegates and Harrowdene Court, as well as the grounds and gardens of those blocks; I also visited one of the houses on Leeward Gardens and saw the appeal site from its rear rooms and garden. My findings on this main issue are therefore informed by my understanding of the internal layout of the surrounding blocks and dwellings and those developments' spatial relationship with the appeal site, as well as the technical evidence which has been put before me.
19. In respect of daylight, the DSOS assessed the effect of the proposed development on the Vertical Sky Component ("VSC") values of – and therefore the daylight reaching – windows on adjoining properties. The BRE guidance advises at paragraph 2.2.7 that:

"If [the] VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight. The area lit by the window is likely to appear more gloomy, and electric lighting will be needed more of the time."

Six receptors – identified in the DSOS as windows 36, 37, 38, 43, 47a and 47b – were identified as failing to meet the BRE guidance.
20. The impact categories used in the DSOS are based on Appendix I of the BRE guidance, which provides advice on how to quantify whether a loss of light would have a minor, moderate or major adverse impact. While Appendix I is aimed at Environmental Impact Assessments (and this scheme is not EIA development) it nevertheless provides a pragmatic starting point for assessing harm.

¹ Revision 3.1, dated 3 November 2021

21. The DSOS concluded that the “majority of relevant window receptors... [on Bluegates, Harrowdene Court, and Leeward Gardens] ...retain over 80% of their former daylighting value [...] therefore meeting BRE guidelines”, but that the remaining receptors “may experience a ‘minor to moderate’ impact in terms of daylight”. Only window 36 was assessed as experiencing a moderate impact; the DSOS anticipated that the impact on the other five would be “minor”. It is apparent from my reading of the table of VSC analysis results that a seventh receptor, window 35, would also fail to meet the BRE guidance; the loss of daylight would put it into the “minor” impact grouping.
22. I accept the assessment of the DSOS on a window-by-window basis. However, in order to understand the likely impact of the proposed development on neighbours’ living conditions, in my view it is necessary to be clearer about how specific rooms and dwellings would be affected.
23. Altogether, the seven windows identified as not meeting the BRE guidance serve four separate flats at the south-eastern end of Bluegates closest to the boundary with the appeal site – for convenience in this decision I refer to them as Flats “A”, “B”, “C” and “D”². For “Flat A” on the ground floor, window 35 serving a kitchen would see its VSC reduced from 34.63% to 22.56%, 0.65 times its existing value³, and window 36 serving a bedroom would have its VSC reduced from 25.14% to 15.32%, 0.61 times its existing value. In the adjacent “Flat B”, kitchen window 37 would see its VSC reduced from 15.99% to 10.33%, 0.65 times its existing value; the VSC of window 47a, a full-height patio door opening from the main living room onto a terrace, would be reduced from 12.09% to 8.69%, 0.74 times its existing value.
24. In “Flat C” on the first floor, the VSC of window 37 (serving a bedroom) would be reduced from 28.09% to 19.99%, 0.71 times its existing value. In the adjacent “Flat D”, kitchen window 43 would have the VSC reduced from 17.64% to 12.35% (0.70 times the existing value) and the VSC of window 47b (the full-height patio door opening from the main living room onto the balcony terrace) would be reduced from 12.87% to 9.62%, 0.75 times its existing value.
25. As the appellant has pointed out, and as is evident from the data I have summarised in the preceding two paragraphs, some of the affected windows serve kitchens or second bedrooms. However, the BRE guidance advises (at paragraph 2.2.2) that these are still rooms where daylight is required. Indeed, it is likely that the perceived importance of daylight in bedrooms may have increased since the BRE guidance was published, given the large number which will have been pressed into use as home offices since the Covid-19 pandemic. A significant loss of daylight to such rooms would still therefore be likely to be noticeable for, and harmful to the living conditions of, occupiers of an affected dwelling.
26. Considering the affected flats as a whole, I am of the view that the impact of the loss of daylight would be minor or moderate in respect of Flats “A” and “C”; the affected rooms make up a relatively small part of each flat, and the main living rooms and bedrooms have south-facing windows towards Wimbledon Hill

² They are, respectively, the ground floor front (to Wimbledon Hill Road), ground floor rear (towards Bluegates car park), first floor front, and first floor rear flats.

³ The DSOS showed the changes compared to the existing position as percentages; I have expressed them here as decimal values simply for ease of comparison with the BRE guidance.

Road which would not be affected (although as windows 36 and 37 would see the greatest reduction in VSC of all those assessed in the DSOS, I consider that the impact on Flat A would be more moderate than minor).

27. In respect of Flats "B" and "D", however, I consider that the total adverse impact of the proposed development would be *at least* moderate and would tend towards being major. This is because in those two flats the affected rooms are the living room, which is the principal room in the dwelling, and the connected kitchen. The only other windows in those flats are in the north-facing bedrooms and bathrooms, which are separated from the living room by an internal hallway, so there would be no secondary light reaching what would normally be the most used areas of those flats.
28. The DSOS Review also briefly considered the daylight distribution within the affected rooms. It was concluded (based on a sample analysis) that the proposed development would not reduce the daylight distribution by more than 20%, and so would accord with the advice in paragraph C1 in Appendix C (interior daylighting recommendations) of the BRE guidance. None of the evidence before me casts doubt on that analysis. However, the summary in paragraph 2.2.21 of the BRE guidance states that daylighting of an existing building will be adversely affected if either the VSC *or* the daylight distribution guideline is not met⁴.
29. I acknowledge that that the BRE guidance is just that – guidance rather than policy – and should be interpreted flexibly. I also recognise that the "ideal" VSC of 27% may well be unlikely to be achieved in most urban situations, and indeed six of the eight affected windows in the four relevant flats (and all four affected windows in Flats "B" and "D") already have a VSC below that level. This is not, however, a justification for making what may already be relatively poor situation significantly worse. It also seems to me that, as the four properties which would face the greatest impact from the proposed development are flats, the occupiers would be much more likely to notice, and be affected by, the loss of daylight than would be the case if the properties were multi-level homes where they might have more opportunities to adapt their living arrangements to the changes.
30. The effects of a development on sunlight are considered in terms of the Annual Probable Sunlight Hours ("APSH"). The BRE guidance advises (at paragraph 3.2.3) that all main living rooms of a dwelling should be checked if they have a window facing within 90° of due south; it states that kitchens and bedrooms are less important. In terms of assessing the impacts, it goes on to say at paragraph 3.2.11 that:

"...sunlighting of an existing dwelling may be adversely affected [and this] will be the case if the centre of the window:

- *Receives less than 25% of annual probable sunlight hours **or** less than 5% of annual probable sunlight hours between 21 September and 21 March*

and

⁴ The actual word "or" is missing in the pdf of the BRE guidelines which I have to hand, for some reason, although it is clearly implied by the preceding "either".

- *Receives less than 0.8 times its former sunlight hours during either period*

and

- *Has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours."*

31. The DSOS indicates that the two affected living room windows 47a (Flat "B") and 47b (Flat "D") already receive less than 25% of the APSH (12.09% and 12.87% respectively), and this would be reduced further as a consequence of the proposed development (to 8.96% and 9.62% respectively). Sunlight reaching those windows would therefore be reduced to less than 0.8 times its present amount (0.74 times and 0.75 times respectively). However, the reduction in sunlight received over the year would be represent less than 4% of the APSH (3.13% and 3.25% respectively).
32. The effects of the proposed development on the sunlight reaching the living rooms of Flats "B" and "D" would not therefore fall within the definition of "adverse" as set out in the BRE guidance. While the effects on sunlight reaching flats within Bluegates would not be unacceptable, this would not of course mitigate or outweigh the harm caused by loss of daylight.
33. I note the representations made by the occupiers of other properties nearby, but there is no substantive evidence to indicate that the proposed development would lead to there being significant adverse effects on daylight or sunlight for the occupiers of either flats within Harrowdene Court or any of the dwellings on Leeward Gardens. The DSOS also showed that more than 50% of the assessed neighbouring gardens of dwellings on Leeward Gardens would continue to receive more than 2 hours of sunlight on 21 March, in line with the BRE guidance. Again though, a lack of harm in these respects would not outweigh or mitigate other harm which I have found elsewhere.

Overlooking and privacy

34. The windows serving the combined kitchen/living/dining rooms on the side of the proposed development facing towards Bluegates would be glazed with obscure glass. Bedroom windows would not have obscure glazing; however, although (as I have described above) the increase in the numbers of people may mean that bedrooms sometimes double up as offices during the day; even so they would still generally be less well-used than living rooms. The bedrooms of the flats in the rear part of the development would be facing the blank side wall of Bluegates; bedrooms in the front part of the development would be some 10m or so from the nearest facing windows in Bluegates, which serve kitchens and bedrooms. Based on my experience generally, I consider that this is an acceptable separation distance for a side-to-side relationship of this type.
35. In respect of the other surrounding buildings, there would be around 21m between the proposed main block of flats and the nearest rear windows on Harrowdene Court. Because of the angled relationship between the two buildings, the separation distance to most windows on Harrowdene Court would be greater than this. The main block of flats would be around 20m from the rear windows of dwellings on Leeward Gardens. In view of the suburban nature of the surroundings, I consider that these separation distances would be

adequate to ensure that there was no harmfully unacceptable loss of privacy for neighbouring occupiers.

36. The proposed standalone house would be, at its closest, a minimum of 1.7m from the end of the rear gardens of the houses on Leeward Gardens. Although this is a short distance, as it would have only a single storey above ground level there would, subject to the use of appropriate boundary treatments and obscure glazing, be unlikely to be significant overlooking arising from this arrangement.
37. Taking all of this together, I am satisfied that the proposed development would not lead to significantly harmful overlooking of, or loss of privacy for, occupiers of neighbouring dwellings.

Overbearing

38. The east-facing elevation of the proposed main block would be in approximately the same place as the existing east facing elevation of 81-83 Wimbledon Hill Road. It would therefore have more or less the same horizontal separation from the houses on Leeward Gardens as at present. However, the proposed block would be considerably deeper than the existing building on the site. The appellant has asserted that "the proposed building is not materially higher than the existing", though as I explain in a moment this is not borne out by the submitted drawings; as well as being taller, it would also be considerably bulkier.
39. At present, No 81-83 Wimbledon Hill Road has two storeys, with a pitched roof above. The rear part of the building towards the north-east corner of the site has only a single storey (plus "half-basement" level), and so does not rise above the main ground floor level. Even so, from some viewpoints within the rear rooms and gardens of the dwellings on Leeward Road, the existing building is already a somewhat overbearing and dominant neighbour, an effect exacerbated by the slope of the land.
40. The proposed main block would be four storeys high across more or less its full footprint – the submitted "Existing and Proposed Height/Mass Comparison Diagram – Section 1" drawing⁵ shows that these this would take it to approximately the same height as the main roof ridge of the existing building. The top storey (the fourth floor) would be set back from the edge closest to Leeward Gardens. Altogether though, there would be a much greater mass of building facing the Leeward Gardens dwellings than there is at present, and a considerable amount of this would also be at a greater height. This would make the proposed block an even more overbearing, dominant, and possibly even oppressive, neighbour for the occupiers of the nearest properties on Leeward Gardens. In my view, this would be to an extent which would be harmful to their living conditions.
41. Harrowdene Court is at a higher elevation than the appeal site; along with the way that block is angled away from the existing and proposed buildings on the appeal site, this spatial relationship helps (or would help) to increase the perception of spaciousness between the two sites. Notwithstanding the fact that the proposed block of flats would be closer to the gardens and rear windows of Harrowdene Court than the existing building on the appeal site, I

⁵ Drawing SK-100 Rev: PL3

am satisfied that it would not be harmfully overbearing for the occupiers of those flats. The proposed block of flats on the appeal site would come closer to Bluegates than to either of its other neighbours, but in view of the spatial relationship between the two sites (which I have described in the preceding “daylight and sunlight” and “overlooking” sub-sections) I am also satisfied that the proposed development would not be harmfully overbearing in respect of Bluegates. However, this does not mitigate or outweigh the harm I have found in respect of Leeward Drive.

Findings on this main issue

42. I have found that the proposed development would lead to a significant loss of daylight for the occupiers of flats within the neighbouring Bluegates development. It would also be overbearing for occupiers of the neighbouring houses on Leeward Gardens. Taking all of this together, the proposed development would cause significant harm to the living conditions of neighbouring occupiers.
43. The proposal therefore conflicts with Policy CS14 of the MCS, Policy DM D2 of the SPP, and with Policy D3 of the London Plan 2021. Together, and among other things, these policies seek to provide a high standard of amenity for occupiers by ensuring that new development provides appropriate levels of daylight and is not visually intrusive.

On-site car parking

44. The appeal site has a Public Transport Accessibility Level (PTAL) of 6a, signifying that it has very high good public transport connectivity. Policies DM T1 and DM T3 of the SPP seek to support the use of sustainable transport modes and active travel, and to ensure that development only provides the level of car parking needed to serve the site. This is to be assessed taking into account the site’s accessibility by public transport and local circumstances in accordance with London Plan standards, unless a clear need can be demonstrated. Policy T6 of the London Plan 2021 state that car-free development should be the starting point for all development proposals in places that are well-connected by public transport (though disabled persons’ parking still needs to be provided), and T6.1 reiterates that residential development in an area with a PTAL of 5 or 6 should be car-free.
45. The proposed development would include nine off-street parking spaces. Of these, it is intended that two would be for disabled persons; this would be in line with the requirement of Policy T6.1 to meet current and possible future need for such parking. Two further spaces would be for private car club vehicles, to be operated by the development freeholder or management company; it may well be that this would displace some use, and perhaps even the ownership of, private cars, thereby making some contribution to reducing congestion and overall parking demand in the local area and more widely. These elements of the proposal would therefore be acceptable.
46. The remaining five spaces would be for general use between future occupiers of the development. The appellant suggests that this would support families, as “the schools and amenities supporting Wimbledon as a town are spread widely including down the A3”. However, in view of the very good public transport and the wide range of services available practically on the site’s doorstep, this

seems to be very much an expression of preferences rather than a clear demonstration of need.

47. All nine spaces would have charging facilities for electric vehicles but, while this would make some contribution to encouraging the uptake of such vehicles in preference to those with more polluting combustion engines, it would not address problems such as congestion (and, indeed, forms of atmospheric pollution other than those related to exhaust emissions) which arise from the use of private cars in busy cities. This is at best therefore a neutral consideration, rather than a factor which weighs in favour of the scheme.
48. I accept that there is already some level of car parking provision on the appeal site in its current form, and that the overall increase in the number of parking spaces as a result of the development would be small or even zero. However, given that the proposal would represent a complete ground-up redevelopment of the site, this is not a consideration which would justify setting aside the policy requirements in this case.
49. I therefore conclude that, because of an overprovision of private car parking space, the development would conflict with Policy CS20 of the MCS, which seeks to provide car parking in accordance with the Councils current standards, and with Policies DM T1 and DM T3 of the SPP and Policies T6 and T6.1 of the London Plan 2021 which set those standards as I have summarised above.

On-street car parking

50. As I have just described, the site is within an area with very good public transport connectivity, and within the W2 Controlled Parking Zone ("CPZ"). Policy CS20 of the MCS and Policy DM T3 of the SPP support the provision of development which does not have access to residential parking permits for CPZs. The submitted planning obligation includes provisions to ensure that any residential occupier of the proposed development would not be eligible for a CPZ permit, other than if they were entitled to a Disabled Person's Badge.
51. To this end I conclude that the development would make appropriate provision to prevent an unacceptable increase in demand for on-street car parking. It would therefore comply with Policy CS20 of the MCS, Policies DM T1 and DM T3 of the SPP, and Policies T6 and T6.1 of the London Plan 2021. Among other things, these policies seek to manage and control demand for on-street parking by supporting the provision of car-free and permit-free development and encouraging the use of more sustainable means of transport.

Climate change and carbon emissions

52. Policy CS 15 of the MCS seeks to ensure that all minor and major development makes effective use of resources and materials and minimises water use and CO₂ emissions. Policy SI2 of the London Plan 2021 seeks to ensure that major development achieves at least a 35% reduction in CO₂ emissions, uses less energy and, in addition, offsets the remaining regulated carbon dioxide emissions.
53. The planning application was accompanied by a Sustainable Design and Construction report, which identified a solar photovoltaic (PV) system as the most feasible solution to meet the policy requirement. It also indicated that the proposed use of a communal ground source heat pump system would, in

combination with the PV system and other measures, lead to a 71.63% reduction in CO₂ emissions, exceeding the policy requirements.

54. The submitted planning obligation provides for the payment of a financial contribution to offset the remaining carbon shortfall. To this end, I conclude that the proposed development would comply with the requirements of Policy CS15 of the MCS and Policy SI2 of the London Plan 2021 which I have set out above.
55. The Council's decision notice also referred to conflict with Policy SI4 of the London Plan 2021, which deals with the management of heat risk. However, none of the evidence put before me explained substantively why the reference to that policy had been included. Accordingly, I find no conflict with Policy SI4.

Other Matters

Planning obligation

56. The submitted s106 agreement is dated 20 October 2022 and is signed and executed as a deed. The Framework sets out policy tests for planning obligations; they must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The same tests are enshrined in the statutory tests set out in Regulation 122 of the CIL Regulations⁶.
57. The s106 agreement makes various provisions in respect of the proposed development. The operation of the Viability Assessments and Affordable Housing obligations is described in paragraph 15 of this decision, the Restriction on applying for Parking Permits obligation in paragraph 50, and the Carbon Off-Set Contribution obligation (which would result in a financial contribution of £30,612, plus any indexation increase) in paragraph 54. For the reasons which I have already set out, I find that all of those obligations are required by (and in accordance with) development plan policies.
58. The s106 agreement also provides for payments to the Council of £3,000 for legal costs in the preparation and completion of the planning obligation, and a management monitoring fee of £2,000. In my view these administration costs would be proportionate, reasonable, and would reflect the actual cost of monitoring and administering the s106 agreement, in line with the advice in the Planning Practice Guidance.
59. Based on the evidence before me, I am satisfied that all of the provisions set out in the obligation would be necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. All therefore meet the statutory tests.

Other representations

60. I was not able to see inside 81-83 Wimbledon Hill Road during my site visit. However, several representations indicated that the building is not in the best of condition; I saw for myself that some of the extensions and alterations which have been made over the years are not especially sympathetic. I also recognise that economic realities mean that the redevelopment of the site, rather than a

⁶ Community Infrastructure Levy Regulations 2010 (as amended)

refurbishment of the existing building, may be the most likely way that the site's appearance, and its contribution to the character and appearance of the surrounding area, could be substantially improved. I note that the Council did not have any "in principle" objections to the redevelopment, nor in fact did several (at least a sizeable minority) of those interested parties who otherwise objected to this scheme. However, these are not considerations which would outweigh the harm I have found in relation to this specific proposal.

61. Various other matters were raised by interested parties but, to the extent that they are material, they have been addressed in my consideration of the main issues above. Other issues such as the potential effect of the scheme on property values are not planning concerns. None of the other matters raised has altered my overall decision.

Planning Balance and Conclusion

62. The proposed development would provide 17 new flats and one new house, a net increase of 13 housing units over the current situation; it would therefore make a contribution to increasing the supply of housing locally. The appeal site is in an area which is well-located for access to shops, other services and transport links. There would be some additional benefits in terms of employment and use of local businesses during the construction phase, and Council Tax payments would be due to the Council from the new dwelling. In my view these would, in total, amount to a moderate benefit of the scheme.
63. The development would also result in the payment of Community Infrastructure Levy to the Council. By definition though, this would largely be to mitigate the effects of the proposed development in planning terms, so I consider that it is a neutral factor.
64. The submitted planning obligation would address the concerns about on-street car parking demand and the need for a carbon off-setting contribution. The obligation would therefore serve to mitigate the effects of the proposed development. The mechanism which it provides for early- and late-stage viability reassessment of the proposed development is also necessary to ensure compliance with the development plan, although in view of the viability evidence submitted by the appellant it appears unlikely that this would lead to the provision of any on-site affordable housing which might otherwise be considered a material benefit of the scheme.
65. The development would cause significant harm to living conditions for nearby residents; for the occupiers of the nearest flats on the ground and first floors of Bluegates this would arise from a loss of daylight, while for the occupiers of the nearest houses on Leeward Gardens it would stem from the overbearing form and bulk of the proposed block of flats. There would also be an unjustified overprovision of on-site car parking, which would undermine the development plan's aims of reducing dependence on the private car and encouraging the use of more sustainable means of transport. The proposal would therefore conflict with the development plan taken as a whole.
66. The significant harm which I have found would not be outweighed by the benefits of the scheme. There are no material considerations, including the Framework, which indicate that the decision should be made other than in accordance with the development plan.

67. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector