



Appeal Decisions

Site visit made on 11 June 2024

By David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal A

Appeal Ref: APP/T0355/W/23/3318095

57-61 The Green and 1-3 Station Road, Wraysbury, Staines TW19 5NA

- 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 Mr & Mrs V Gamester against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/00217, dated 26 January 2022, was refused by notice dated 9 September 2022.
 - The development proposed is change of use of ground floor of No.57 from takeaway to office. External alterations to 59 The Green and change of use from car repairs to 2 x offices (ground floor) and 1 no. one bed flat (first floor). Two storey rear extension to 61 The Green and conversion of 3 bed dwelling to 1no. one bed and 1 no. two bedroom flats. Alterations and extensions to 1-3 Station Road and change of use from part ground floor retail and part domestic to form 4no. one bed, 1 no. two bed and 1no. three bed flats. Erection of 2no. semi-detached houses (1no. two bed and 1no. three bed) to rear of nos. 5-7 Station Road.
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Appeal B

Appeal Ref: APP/T0355/W/24/3337704

57-61 The Green and 1-3 Station Road, Wraysbury, Staines TW19 5NA

- 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 Mr & Mrs V Gamester against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 23/02040, dated 16 August 2023, was refused by notice dated 3 November 2023.
 - The development proposed is change of use of ground floor of No.57 The Green from takeaway to office. External alterations to 59 The Green and change of use from car repairs to 2x offices. Two storey rear extension to 61 The Green and conversion of 3 bed dwelling to 1no. one bed and 1no. two bedroom flats. Alterations and extensions to 1-3 Station Road and change of use from part ground floor retail and part domestic to form 5no. one bed flats. Associated parking and cycle storage.
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Decisions

1. The appeals are dismissed.

Preliminary Matters

2. As set out above, there are two appeals on the same site. Both proposals involve changes of use and alterations to existing buildings at the site. The principal differences relate to the scale of development, matters of design and the inclusion of two new dwellings in the Appeal A scheme. Although I have

considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

3. The development plan at the appeal location comprises the Royal Borough of Windsor and Maidenhead Borough Local Plan 2013-2033 (the BLP), adopted February 2022, and the Horton and Wraysbury Neighbourhood Plan 2018-2033 (the HWNP), which was subject to referendum and 'made' in late 2019.
4. In relation to both proposals, the Local Planning Authority's (LPAs) decision notices included reasons for refusal relating to affordable housing provision and achieving net zero carbon development. The appellant indicated that such matters could be addressed through planning obligations where necessary. On 24 May 2024, the appellant requested an extension of time to 19 July 2024 to conclude the S106 Agreements for both appeals. From the evidence before me, there appears to be a combination of factors including staff turnover and mislaid documents at the Council, together with the position of the appellants to largely deal with legal matters themselves (without email) and consequently hand delivered information has taken time to process and including any missing information.
5. Procedural Guidance on planning appeals¹ is clear that for planning appeals by way of written representations, an executed and certified copy of the planning obligation(s) must be provided within a period of 7 weeks from the start date of the appeal (Appeal A started on 11 August 2023 and Appeal B started on 4 March 2024). With this in mind and also having regard to paragraph 18.2.1 of the Procedural Guidance on exceptional circumstances, an overall extension of time until 12 June 2024 to resolve the matter was provided on 29 May 2024 (some 12 weeks after the start of the later Appeal B). Given the timeframe since the appeals were submitted, I consider this adequate for relevant planning obligations to have been submitted, including by way of a Unilateral Undertaking, if necessary. No executed mechanism for securing planning obligations has been provided to the Inspectorate and I have determined the appeals on that basis.
6. In relation to Appeal B, one of the LPAs reasons for refusal related to a difference in the 'red line' on the existing and proposed site plans. As part of the appeal, the appellant submitted revised plans to ensure consistency on the site boundary. The amended plans do not evolve the scheme. As there has been an opportunity for representations as part of the appeal, and having regard to the Wheatcroft Principles², I am satisfied that no one would be prejudiced by my consideration of the Appeal B proposal on the basis of the amended plans.
7. From the evidence before me there are various references by both the LPA and the appellant to adjacent properties on Station Road which do not reflect circumstances on the ground. For the avoidance of doubt, there is a short row of three properties immediately to the east of Nos.1-3 Station Road. These are clearly numbered 5, 7 and 9 Station Road. The next property to the east, set further back from the highway, is No.11 Station Road (also known as 'Willowbrook'). My decision reflects these observations.

¹ Procedural Guide: Planning Appeals – England (Updated 28 May 2024)

² Established Under *Bernard Wheatcroft Ltd v SSE* 1982

Main Issues

8. The main issues for both appeals are as follows:

- (i) The effect of the proposed developments on the character and appearance of the surrounding area;
- (ii) The effect of the proposals on the setting of 'The Perseverance' Public House, a Grade II listed building;
- (iii) Whether the proposed developments represent an acceptable form of development having regard to their flood zone location and the provisions of the NPPF;
- (iv) Whether the proposed developments would provide an appropriate mix of dwellings;
- (v) Whether the proposed developments make adequate provision for affordable housing in accordance with development plan policy; and
- (vi) Whether the proposed developments would appropriately minimise carbon emissions.

9. Separately in relation to Appeal A an additional main issue is:

- (vii) Whether the proposal would provide acceptable living conditions for the occupiers of No.11 Station Road and for future occupants of the proposed development.

Reasons

Character and Appearance

10. The appeal site comprises a range of buildings of various ages, styles and scales which extend along the short stub of The Green at this location and then wrap around into Station Road. Other than the car repair business, the appeal site is in a generally moribund condition, especially Nos. 1-3 Station Road. Both appeal proposals would alter and extend the existing buildings on the site, including a new roofscape to Nos. 1-3 Station Road. The Appeal A scheme would also include a pair of semi-detached houses on land at the rear of the appeal site. Both schemes would provide for off-street parking at the rear of the site via an existing entrance off The Green.

Scale and Massing at Nos.1-3 Station Road (Appeal Schemes A and B)

11. The appeal site is located in a part of Wraysbury designated as 'Victorian Villages' in the Windsor and Maidenhead Townscape Character Study 2010. This is generally characterised by well-built two storey housing of brick construction, with either slate or tile roofing. No.61 The Green and Nos.1-3 Station Road are representative of this Victorian phase of development.
12. Both schemes propose significantly altering the existing part retail and part residential buildings at Nos.1-3 Station Road at the corner of The Green and Station Road to accommodate flats. Currently, this part of the appeal site comprises a two storey structure angled into No.1 Station Road which has an uncharacteristic flat roof. The eaves line of this part of the building is moderately above that of the adjoining pair of properties at Nos. 1-3 Station Road. These buildings have a symmetrical hipped slate roof arrangement

meeting at a tall central chimney stack. The height and hipped style of this roof arrangement is then repeated at the adjacent short row of properties at Nos.5-9 Station Road immediately to the east.

13. On the other side of Nos.1-3 Station Road, within the appeal site, is the detached dwelling at No.61 The Green. This building has a strong pitched gable to the front elevation. The eaves height of No.61 is broadly consistent with the properties at Nos.1-9 Station Road albeit the ridgeline is moderately taller. There are two chimney stacks which project slightly higher than the ridge. Due to the history of the appeal site there is considerable variety in the appearance of the buildings described above, but there is a reasonable consistency in their height such that they assimilate into the two storey scale of this part of Wraysbury.
14. The Appeal Scheme A seeks to provide second floor accommodation within the roofscape of the altered building at Nos.1-3 Station Road. This would be achieved through a mansard roof arrangement across the entire width of the building. Whilst the height of the proposed roof would be similar to the ridgeline of the existing pitched gable of No.61, the overall effect of the extent of the mansard roof form would be to introduce a conspicuously bulky building. The bulkiness of the roof would be amplified by the number of proposed dormers on the front, rear and side. The overall result would be a scale, massing and form of building distinctly and harmfully at odds with the prevailing two storey character. Whilst it would replace the uncharacteristic flat roof element, it would also result in the loss of the hipped slate roof over Nos.1-3, which makes a modest but positive contribution to the host Victorian character described above.
15. The National Planning Policy Framework (NPPF) seeks to make effective use of land and specifically at paragraph 124 e) to support opportunities for upward extensions for new homes, including allowing for mansard roof extensions on suitable properties. The NPPF definition of 'mansard roof' explains that they are to be generally regarded as a suitable type of roof extension for buildings which are part of a terrace of at least three buildings and at least two storeys tall, with a parapet running the entire length of the front façade. In this particular case, the proposed mansard roof would atop a host building that would meet the NPPF definition. However, context and details are important here, particularly given the NPPF says that Mansard roofs are generally (not always) to be regarded as suitable.
16. Whilst the appeal site is in a sustainable location, in character terms it is not an obvious location for upwards intensification. The proposed Mansard roof with numerous dormers would result in a stark, solitary example of such a bulky form in this part of Wraysbury. Additionally, there would be no set back or parapet to soften or reduce the impact of the proposed Mansard arrangement, which would largely appear as a bulky additional flat-roofed storey to the building due to the proposed verticality and height upwards from a new eaves level slightly higher than the existing Victorian properties on the appeal site. Accordingly, I do not find the NPPF, as a material consideration, provides the justification for what would be a significantly harmful design response at the appeal location.
17. The Appeal B scheme seeks to similarly provide a second floor of accommodation for one unit within a new roofscape of an altered building at

Nos. 1-3. A hipped roof design has been deployed but again the overall effect, due to the proposed height of the eaves and ridgeline and the width of the new roofscape across the buildings would result in a particularly bulky building. Other than uncharacteristic flat roof dormers, there would no detailing to break up the scale and massing of the proposed roof. It would conspicuously appear as a tall, ungainly 2½ storey building at odds with the prevailing 2 storey Victorian character. Again, whilst there would be some benefit in replacing the existing flat roof element on the site, this would not outweigh the overall harm resulting from such a bulky form.

18. Only one additional unit would be achieved through the new roofscapes in either of the appeal schemes. I do not consider the modest social benefit of providing this dwelling would outweigh the significant environmental harm identified to the local character and appearance.

Proposed Layout (Appeal Scheme A)

19. Proposed Plots 11 and 12 would be positioned in the north-east corner of the appeal site, to the rear of Nos. 5-9 Station Road. It is not a verdant back-land area, being characterised by various outbuildings and hardstanding. The proposed dwellings would align with the position of the directly adjacent large two storey dwelling at No.11 Station Road to the east. More widely, there is no consistent development line in this part of Station Road. Due to surrounding vegetation and development, the proposed two storey dwellings on Plots 11 and 12 would not be conspicuous from Station Road. Whilst the depth of the pedestrian access between Nos.9 and 11 Station Road would not be characteristic in the area it would nonetheless be a subtle feature. To a limited extent, it would mirror the existing side access arrangement between Nos. 3 and 5 Station Road. Overall, the proposed layout of Plots 11 and 12 would not be harmful to the character and appearance of this part of Wraysbury.
20. The proposed off-street parking and turning area would cover an extensive area to the rear of the appeal site, including parts close to the existing watercourse. Whilst there are some areas of existing hardstanding, the appeal proposal would notably enlarge and formalise this. There would be limited separation between the rear of the proposed properties on The Green and Station Road and these parking areas. Moreover, there would be negligible scope for planting and landscaping to soften what would be a large area of hard surfacing and a car dominated environment. This overtly urbanised layout would be perceptible from The Green and would result in a pattern of development at odds with the general spaciousness and verdancy of this part of Wraysbury. On this aspect, I find the Appeal Scheme A proposal would result in further significant harm to the character and appearance of the area.

Conclusion on Character and Appearance

21. I therefore conclude that both appeal schemes would result in significant harm to the character and appearance of the surrounding area due to the proposed scale and massing of the upwards extension and re-profiled roofscape at Nos. 1-3 Station Road. Whilst there would be no harm to the character appearance of the area from the proposed positioning of plots 11 and 12 in the Appeal A scheme, this proposed development would result in further significant harm due to its urbanised layout at the rear of the site and the dominance of hard-surfacing and car parking. Accordingly, both appeal proposals, would conflict with BLP Policy QP3 and HWNP Policies NP/HOU1 and NP/HOU2. These policies

seek to achieve high quality design, including amongst other things, respecting local context, responding to local distinctiveness and creating attractive new places by paying particular regard to the density, scale, bulk, massing and proportions. Policy QP3 also seeks to secure high quality soft landscaping where appropriate. These policies are consistent with the NPPF which states that achieving well-designed places is fundamental to what the planning and development process should achieve. As such, the proposals would fail to accord with NPPF paragraph 135(a)-(c) in terms of ensuring developments add to the overall quality of the area, are visually attractive as a result of good architecture and layout and are sympathetic to local character.

Setting of the Perseverance Public House

22. The Perseverance Public House is a Grade II listed building. The heritage significance of the building is its architectural quality as a late Seventeenth Century building, including various detailing such as its form, openings and roofscape. This is the principal heritage significance of the asset, and it would remain unaffected by the appeal proposals.
23. The building is slightly set back from the public highway in the High Street and is generally of a lower form compared to nearby buildings. It is not a particularly prominent building in the wider streetscape and only becomes apparent in relatively close views. It is now enveloped in the built fabric of Wraysbury including Twentieth Century housing directly opposite and Victorian era development on High Street and Station Road, including at the appeal site.
24. The appeal site is separated from the built form of the public house by the width of the highway at The Green and by tarmacked vehicle parking bays adjacent to the pub. The flank elevation of the pub facing towards the appeal site has no evident original openings and has been altered with the addition of a Twentieth Century single storey extension. In my assessment, the original Perseverance building was not conceived to have an outlook towards the appeal site. If it was intended to be experienced from The Green, potentially as a rural building, the ability to appreciate the significance of the asset from this perspective has been eroded over time, as described above.
25. There are some limited views to the west within the High Street where The Perseverance would be seen against the backdrop of the appeal proposal. Notwithstanding my concerns regarding the impact of the proposed roofscapes at Nos.1-3 on the wider character and appearance of the area, they would be sufficiently set back from the Listed building such that they would not harmfully dominate or affect the ability to appreciate the significance of the public housing building in these limited views. Similarly, there are some views to the east in Station Road and from within The Green, where the appeal proposal and The Perseverance would be experienced together. Again, the degree of separation means that there would be negligible impact, if any, on the ability to appreciate the heritage significance of the asset, which as described above is now largely surrounded by later residential development.
26. I therefore conclude that the appeal proposals would not result in harm to the setting of The Perseverance public house. There would be no conflict with Policies HE1 and QP3 of the BLP which seek to conserve and enhance the historic environment of the Borough. The proposals would also accord with the NPPF which states that heritage assets should be conserved in a manner appropriate to their significance.

Flood Risk

27. The appeal site is entirely within Flood Zones (FZs) 2 and 3. Policy NR1 of the BLP states that within designated FZs 2 and 3 development proposals will only be supported where an appropriate flood risk assessment (FRA) has been carried out. This is consistent with NPPF paragraph 173 (footnote 59).

Sequential test

28. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, it should be made safe during its lifetime without increasing flood risk elsewhere. The NPPF at paragraph 168 states that the aim of the sequential test is to steer new development to the areas of lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
29. The Appeal Scheme A was accompanied by an FRA and a separate document called 'Sequential and Exception Tests' by GeoSmart, dated February 2021 (report reference 71906.02). The Appeal Scheme B was accompanied by a FRA report from GeoSmart dated August 2023, which did not include a sequential test.
30. In terms of the sequential test, the area of search for reasonably available sites should cover the Borough, as this is the area in which housing needs should be met. For the Appeal A scheme, the appellant has looked at the Council's Housing and Economic Land Availability Assessment (HELAA) 2019. The Planning Practice Guidance (PPG) on Housing and Economic Land Availability Assessment states that the purpose of HELAAs is to identify a future supply of land which is suitable, available and achievable for housing and economic development uses over the plan period. The LPA says the HELAA is only one source of information but has not referred me to any other sources that the appellant should have considered. By considering the HELAA, which should be a comprehensive document, I find the appellant's scope of search was sufficient for the purposes of the Sequential Test.
31. 13 sites from the HELAA have been identified as being of a comparable size to accommodate the Appeal A development. All sites were discounted by the appellant. Two of the sites are disputed between the parties, in terms of whether this was reasonable.
32. The first is 25-27 Braywick Road, Maidenhead, a site of 0.16ha, where the appellant's sequential test assessment says the proposed yield for the site is less than Station Road and therefore considered unsuitable. It is not clear what this means or what has been calculated given that the appellant's site size range criteria for the sequential test was 0.14ha to 0.21ha. Nonetheless, as part of the appeal, the appellant submits that the site has been allowed on appeal and the LPA has subsequently granted the discharge of all pre-commencement conditions on the site (under reference 18/02644). The LPAs appeal statement does not rebut this evidence. As such, I consider it is now appropriate to discount the site for the purposes of the sequential test as it no longer appears to be genuinely available.

33. The second site is Berkshire House, High Street, Ascot. This site was initially discounted as having planning permission for another use, with the appellant's position evolving to submit that the site is of a substantially greater scale than the appeal site. The LPA assert that the site remains available after a recent prior approval proposal (Class O) was recently dismissed at appeal³. Whilst this was for a scheme of 30 units, the site size at 0.18ha is within the appellant's criteria. It is unclear, from the limited details before me, whether the site could acceptably accommodate a different configuration of residential development that would better align with the scale of the Appeal A scheme. On this basis I find that the discounting of this site has not been adequately justified.
34. Accordingly, in relation to the Appeal A scheme, I find on the evidence before me that a suitable alternative site exists in the Borough in an area of lower flood risk for the scale of development proposed. As such the sequential test has not been passed.
35. Turning to the Appeal B scheme, the appellant submits that the sequential test for this smaller scheme is not required. Paragraph 174 of the NPPF states that applications for some minor development and changes of use should not be subject to the sequential or exception tests. Footnote 60 to paragraph 174 of the NPPF says this includes householder development, small non-residential extensions (footprint less than 250sqm) and changes of use. This is confirmed in the PPG on Flood Risk at paragraph 027.
36. The Appeal B scheme would, however, comprise more than a straightforward conversion or change of use of existing buildings. It would involve extensions at ground floor level to No.61 The Green and Nos.1-3 Station Road to enable the extent of subdivision required to create the proposed increase in the number of residential units at the site. Whilst the footprint of these extensions may only amount to some 16 sqm in total, the extension to No.61 would be in Flood Zone 3⁴ and the extension to Nos 1-3 would be within Flood Zone 2. The reference to the 250sqm in Footnote 60 in the NPPF is to non-residential uses. Subdivision to create new residential developments is not householder development⁵. Additionally, the proposal would formalise access and create communal parking areas to serve the net increase in housing within an area with a high probability of flood risk. Accordingly, I consider a precautionary approach of a sequential test was warranted for the Appeal B scheme.
37. Overall, for the reasons given above, the sequential test for the appeal schemes has not been passed. As such it is not necessary for me to go onto consider the exception test or the Environment Agency's concerns that the Appeal A scheme proposal would result in an increase in the risk of flooding elsewhere due to loss of volumetric storage capacity within the floodplain.
38. I therefore conclude that the appeal proposals have not satisfied the required sequential test on flood risk. As such they would be contrary to Policy NR1 of the BLP which at part 2 requires the sequential test including amongst other things, having regard to the availability of suitable alternative sites in areas of lower flood risk and the vulnerability of the proposed use and the Flood Zone

³ Decision reference 3294385

⁴ Figure 6, GeoSmart Flood Risk Assessment for Appeal B scheme (Report Reference 71906.00.01R2) and confirmed on page 9 of Appeal A Scheme Sequential Test report (Plots 4 & 5 within Flood Zone 3)

⁵ The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

designation. The proposals would also be contrary to HWNP Policy NP/SUSTDEV 02 which seeks to resist further residential development within Flood Zones 2 and 3 in the Neighbourhood Plan Area unless it comprises a replacement dwelling or an extension to existing houses up to limits allowed under permitted development rights. On the second of these limbs, the Appeal B scheme goes further in terms of the proposed vehicular access and communal parking area being principally located in Flood Zone 3. It therefore follows that the appeal proposals, in failing the sequential test, would not accord with national planning policy on flood risk at NPPF paragraphs 165-168 and 174 and the associated PPG on Flood Risk at paragraphs 023 and 027.

Mix of Dwellings

39. Both appeal schemes would retain the studio flat at No.57 The Green. In addition to this the Appeal A would include a mix of 11 new dwellings, 6 of which would be one bedroomed, 3 would be two bedroomed and 2 would be 3 bedroomed. Policy HO2 of the BLP says that the provision of new homes should have regard to various principles, including providing an appropriate mix of dwelling types and sizes, reflecting the most up to date evidence as set out in the Berkshire Strategic Housing Market Assessment (SHMA) 2016, or successor documents. The policy goes on to say, where evidence of local circumstances / market conditions demonstrates an alternative housing mix would be more appropriate, this will be taken into account.
40. The Appeal A proposal would not accord with the suggested housing mix identified by the 2016 SHMA at Table 106. It would significantly exceed the suggested proportion of 1 bed properties, moderately under provide 2 bed properties and notably under provide against larger properties including 3 bed dwellings. The appellant seeks to disaggregate the scheme such that were 3 of the 1 bedroom units assigned for affordable housing provision, the residual mix of private housing would be closer to the SHMA tenure mix. The issue remains that any proposed affordable housing mix at 100% 1 bedroom would be at odds with the 43.5% identified for this tenure in the SHMA. Moreover, the residual mix of private housing remains significantly at variance with the SHMA in over-providing one bedroom properties and under providing 3 bedroom units.
41. In terms of the provision of smaller one bed properties, Policy NP/HOU3 in the HWNP states that all proposals of five or more units should deliver at least 20% as one or two bed properties. The HWNP says that providing smaller homes for both first time buyers and for those wishing to downsize was one of the key themes identified through consultation for the Plan to address. Policy NP/HOU3 is expressed as a minimum such that the scheme would technically accord with it. Nonetheless, Appeal Scheme A would be significantly in excess of the 20% figure in Policy NP/HOU3 (on the figures above it would appear to be closer to 80%) and it would be at appreciable variance with the SHMA, which seeks 45% of the overall housing mix as 1 and 2 bed properties.
42. Ultimately, there would be a significant over-provision of 1 bedroom properties and an under-provision of other dwelling sizes, resulting in a harmfully unbalanced housing proposal. I do not consider the HWNP in and of itself to be evidence of local circumstances or market conditions to justify such a significant deviation from the requirements of Policy HO2 in the BLP, which is

the more recently adopted development plan document, and as such takes precedence.

43. Turning to Appeal B Scheme, of the 7 new dwellings proposed, 6 would be 1 bedroom and 1 would be 2 bedroomed. Whilst, again, technically in accordance with the minimum 20% for smaller properties in HWNP Policy NP/HOU.3, the proposed mix (at 100% smaller 1 or 2 bedroomed properties) would be far removed from the 20% starting point sought in the HWNP policy. Whilst I understand the local objective for more smaller properties as set out in the HWNP, the appeal proposal would fall significantly short of the identified needs in the SHMA for 2 and 3 bedroom properties within the Borough. Consequently, the Appeal Scheme B would also result in a harmfully unbalanced mix of housing for which there are no persuasive local circumstances or market conditions evidence supporting it.
44. In conclusion, the substantial over-provision of one and two bedroomed properties would conflict with the more recent requirements set out at Policy HO2 of the BLP to secure an appropriate housing mix for the Borough based on the latest strategic assessment of the house types and sizes needed. As such, the proposal would also not accord with the NPPF at paragraph 60 which refers to an appropriate mix of housing types for the local community and at paragraph 63 which states that the size of housing, amongst other things, needed for different groups in the community should be assessed and reflected in planning policies.

Affordable Housing Provision

45. Policy HO3 of the BLP requires all developments of 10 dwellings gross or more to provide on-site affordable housing. The site falls within category 1b. of the policy and so the requirement for Appeal Scheme A would be 30% of the total number of units. Policy HO3 states at part 2 of the policy that within designated rural areas, 40% affordable housing will be sought from all developments between 5 and 9 dwellings. Footnote 14 to Policy HO3 identifies that Wraysbury parish is a designated rural area. Accordingly, Appeal Scheme B would be required to deliver 40% affordable housing.
46. The appellant has not contested the need to provide affordable housing on both appeal schemes. In relation to the Appeal A scheme the appellant has indicated that 3 of the proposed 1 bedroom units could be secured as affordable units, together with a financial contribution to bridge any shortfall. I have relatively few details that this proposal would be acceptable, such that it could be practicably transferred or managed within the proposed layout. The LPA assert that any on-site provision should be rounded up to 4 units given that Policy HO3 is clear that on-site provision is the starting point. In the absence of any S106 document, there is very little before me regarding what exactly would be provided and whether this would be acceptable to the Council.
47. Ultimately, there is no mechanism before me to secure affordable housing, by way of planning obligations for either the Appeal A or Appeal B schemes. I therefore conclude both appeal schemes would be contrary to Policy HO3 of the BLP. They would also fail to accord with the NPPF at paragraph 63 which states that housing needs of different groups in the community should be reflected in planning policies including those who require affordable housing.

Net Zero Carbon

48. Policy SP2 of the BLP requires all development to demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change. The policy does not specifically seek to secure net zero carbon development and it does not set specific targets for energy efficiency, including any proportions to be secured through on-site renewables. The policy principally seeks various design measures to ensure development would be resilient to anticipated changes in climate, including increased heat and intensified precipitation.
49. It is understood that the Council has declared a climate emergency and that the Environment and Climate Strategy seeks to secure radical reductions in carbon emissions. In this regard the LPA refer to the Council's Interim Position Statement (IPS) on Sustainability and Energy Efficiency Design (March 2021). This does not have the status of a development plan, and I have scant information on how and when the IPS was consulted on.
50. The IPS seeks to require all developments (except householder residential extensions and non-residential below 100sqm) to be net-zero carbon unless it is demonstrated that this would not be feasible. The IPS states that there is "... an expectation that developments maximise renewable energy generation regardless of whether minimum standards are met through other measures, as such there is an expectation 12% of the total energy demand will be met by on-site renewables, unless this is demonstrated to be unfeasible." The Position Statement also refers to achieving at least a 20% reduction in the Dwelling Emission Rate/Buildings Emission rate based on the Building Regulations Part L 2013 and defined within the Standard Assessment Procedure (SAP) calculation model.
51. Part 1.E of the IPS advises that where net zero cannot be fully achieved on site any shortfall may be provided through a financial in lieu contribution to the Boroughs Carbon Offset Fund unless this is demonstrated to impact viability. The position statement sets out that Carbon Offset Fund is predicated on £69 per tonne of CO² from building emissions over a 30 year lifetime of development (£2,070 per tonne). Additionally, a sum of £1,144 is identified per residential unit to cover lifestyle choices (transport and waste), amounting to 16.58 tonnes of CO² over a 30 year period. These figures are now of some date, with little before me to demonstrate that they remain valid. Fundamentally, the requirements sought in the 2021 IPS are not contributions expected from development that were embedded within policies in the BLP.
52. Moreover, the 'interim' nature of the 2021 IPS appears to reflect anticipated changes in Building Regulations coming into force in 2022⁶. To some extent this has happened, with updates to Part L in June 2022 as part of the progression to Future Homes Standard with new homes being zero-carbon ready by 2025.
53. Furthermore, the recent Written Ministerial Statement (WMS) of 13 December 2023 which deals with local energy efficiency standards cautions against plan-making setting local energy efficiency standards for buildings that go beyond

⁶ Page 2 of the March 2021 Position Statement recognises that Part L of Building Regulations unlikely to be 'uplifted' until July 2022. As such Page 3 of the Position Statement states that it is introducing higher local standards in advance of an uplift in national standards.

current or planned building regulations. It warns that the proliferation of multiple, local standards by local authority area can add further costs and complexity and should be rejected at plan examination if they do not have a well-reasoned and robustly costed rationale. It is clear from the WMS that a requirement for local energy efficiency standards should be set out in a Local Plan, where it can be subject to examination and tested in terms of whole-plan viability. Whilst I understand the Council's objective and intentions to secure net zero development, it is now the case that the IPS does not accord with the recent WMS. As such I give the IPS negligible weight as a material consideration. Overall, I cannot be assured, on the limited evidence before me, that any financial contribution through a planning obligation for emissions, lifestyle choices or any potential shortfall in the terms sought by the IPS would be necessary to make the development acceptable in planning terms.

54. The LPA refer me to various appeal decisions, that have dealt with the IPS and where financial contributions were accepted as meeting the necessary tests. I have very limited information on the context and background to these appeal decisions which generally date from Autumn 2022 through to January 2023. None of these decisions deal with the detail in the IPS, any interrelationship with the later adopted BLP, and all pre-date the recent WMS. As such I have come to an alternative conclusion to these earlier decisions.
55. Both appeal proposals would be required to meet the energy efficiency standards set out in the latest Building Regulations. As part of the Appeal A scheme, the appellant submitted an Energy Statement⁷ after the LPA made its decision. This refers to the provision of Air Source Heat Pumps and Solar PV Panels enabling the development to meet the 12% of energy demand through on-site renewables, as well as achieving a 20% reduction in emission rates. An energy statement was also submitted with the Appeal B scheme which concludes along similar lines. Precise details on matters related to climate change (the remit of BLP Policy SP2) such as energy efficiency measures, electric vehicle charging points, cycle parking and surface water drainage could all be secured by condition if necessary.
56. In conclusion, I find any conflict with IPS should be given no weight for the reasons given above. As such the absence of a planning obligation to secure financial contributions towards any shortfall in meeting net zero, including lifestyle choices, would not be a reason to withhold the planning permissions sought in these appeals. Overall, I find the appeal proposals would accord with Policy SP2 of the BLP on climate change.

Living Conditions - Appeal Scheme A

57. The LPA raise concern regarding overlooking from the ground floor side windows on plot 12 serving the proposed kitchen and dining room towards the neighbouring property, which would be No.11 Station Road ('Willowbrook'). The degree of separation would be very small (the LPA measure it as 1.6 metres) but these proposed openings would face directly towards the blank side elevation of a tall, single storage garage structure to the side of No.11. From observations on the appeal site it is difficult to see any openings on the side elevation of the main house at No.11 due to the height of the intervening garage structure. I note, however, from aerial photographs in the appellant's Planning and Heritage Statement that there is first floor window on the side

⁷ Energy Statement, TetraTech, March 2023

elevation of No.11 towards plots 11 and 12. Given the degree of angle between the respective openings and the position and scale of the intervening garage building, I am satisfied that there would be no harmful intervisibility.

58. At present there is a reasonably tall solid wooden fence between the appeal site and No.11, with some intervening boundary vegetation, such that there would be some screening from potential oblique views from the proposed ground floor openings in Plot 12. Overall, and taking into account the proposed finished floor levels, I am satisfied that there would be no harmful overlooking or loss of privacy at No.11 Station Road.
59. The appeal scheme seeks to optimise the residential capacity of the site through a particularly dense approach to the alteration and extension of the existing buildings along The Green and Station Road to create the number of dwellings proposed (plots 2-10). A consequence of this is that various habitable rooms within the proposed scheme would have limited openings. The appellant contests that kitchens / dining rooms should be regarded as habitable rooms, but they are spaces, particularly within smaller properties, where occupants would rely on a good standard of internal space for multiple activities, particularly where cooking areas also function for eating. In this regard, I share the LPAs concerns regarding the reliance on only a small roof window serving the kitchen / dining area of plot 2. This would result in a particularly gloomy and enclosed space harmful to the well-being of future occupiers.
60. The main window to the first floor bedroom to Plot 2 would directly look out onto the rear car parking area, with parked cars and vehicle movements directly beneath it. Similar, but worse, would apply to the proposed ground floor bedroom to Plot 5 which would directly face onto the vehicle turning area. As such these rooms would have a particularly poor outlook with harmful impacts on what should be quiet, restful rooms within the properties.
61. The proposed bedroom on the ground floor unit at Plot 3 would have a single opening. This would be orientated directly towards the single storey rear projection at Plot 5. The blank wall of this rear projection would be very close to the proposed bedroom opening, with insufficient buffering or separation. Consequently, the outlook in this habitable room would be very poor, being dominated by the proximity of the blank wall. Additionally, the intervening space between this bedroom window and the rear projection is shown on the proposed layout as functioning as a means of pedestrian access into Plot 5 from the rear car parking area. As such, there would be comings and goings directly outside this bedroom window, significantly detrimental to the privacy of this room. Similar harm would apply to the ground floor bedroom window for Plot 5 which would directly face onto the communal vehicle parking and turning area.
62. The proposed layout for Appeal Scheme A would provide no meaningful private amenity space for any of the proposed flats, with land to the rear of the proposed flats dominated by car parking and a large vehicular turning area. There are no proposed balcony areas for any of the flats. Whilst I observed that balconies are not a feature in this part of Wraysbury, the lack of any useable external amenity space provision within the design of appeal scheme A is symptomatic of an overly dense scheme. The lack of any suitable private space to simply sit outside on a warm day, occasionally dry clothing or grow a

few pot plants would result in unacceptably poor living conditions for future occupiers of the proposed flats.

63. The appellant refers to nearby public open space in Wraysbury. I observed the various sports pitches, an outdoor gym and a children's play area a short distance to the west on The Green. Whilst these are within walking distance, they would not compensate for the lack of immediate private amenity space for occupiers of the flats for the type of activities described above. These are reasonable expectations for modern living, including for smaller properties. Overall, the negative approach to amenity space provision for the proposed flats would be significantly harmful to the well-being of any future occupants.
64. Whilst Appeal Scheme A would not result in harm to the living conditions of neighbouring properties, the proposed layout would result in significant harm to the living conditions of future occupants of various proposed flats due to significantly poor outlook and lack of privacy to various habitable rooms. Moreover, the lack of any meaningful private amenity space to the proposed flats would result in significant harm to the well-being of the future occupiers. As such the appeal proposal would be contrary to Policy QP3 of the BLP which requires, amongst other things, for new development to achieve high quality design including sufficient levels of high quality private amenity space. It would also fail to accord with design principles set out in the Borough Wide Design Guide SPD (2020) on amenity and outdoor space provision (notably Principles 8.1, 8.2, 8.3 and 8.4). On this main issue, Appeal Scheme A would be contrary to the key objective in the NPPF to create high quality, beautiful buildings and places. This is fundamental to what the planning and development processes should achieve. Moreover, it would not promote health and well-being, with a high standard of amenity for future users, as sought by paragraph 135(f) of the NPPF.

Other Matters

65. At the time the Appeal A scheme was determined by the LPA there was insufficient evidence on the likely presence of bats at the appeal site. A bat survey report was prepared as part of the appeal, albeit the LPA maintained concerns over the timing of this survey. Subsequently, as part of the Appeal B scheme further Preliminary Ecological Appraisal and Bat Survey work has been undertaken, which was accepted by the LPA. As such the reason for refusal in Appeal A was not maintained for Appeal B. The latest bat survey work has not revealed any breeding roosts at the site. There is evidence of a couple of small day time roosts which were considered to be of low conservation value. I am satisfied that the issue of any mitigatory measures for bats at the appeal site could be addressed by condition, together with the separate legal obligation to obtain necessary licences from Natural England prior to any works commencing. On this basis the appeal proposals would accord with Policy NR2 of the BLP.
66. As part of their submissions, the LPA states that it cannot demonstrate a five years' supply of deliverable housing land and so considers the tilted balance to be engaged. The figure presented is 4.88 years, which the appellant does not dispute. The applications both pre-date the December 2023 NPPF and so the provisions at NPPF paragraph 76 do not apply. As such paragraph 11d) of the NPPF is a material consideration for decision-making.

Balance and Conclusion

67. Decisions are to be made in accordance with the development plan, unless material considerations indicate otherwise. The most recent development plan document is the BLP adopted in February 2022. This Plan was examined for consistency with national planning policy against a previous (but largely similar) iteration of the NPPF. The relevant BLP policies to these decisions are entirely consistent with the latest NPPF and so must carry full weight. There is no notable tension between the relevant BLP and HWNP policies, and so I also give full weight to the identified policies from the neighbourhood plan.
68. Both appeal proposals would conflict with the relevant development plan policies insofar as they relate to character and appearance, flood risk, housing mix and affordable housing provision. The Appeal A scheme would further conflict with relevant development plan policies on design quality in relation to residential amenity. Both schemes would not harm the heritage significance of the Perseverance and would accord with development plan policy on energy efficiency and biodiversity. However, the significant harms identified on fundamental matters of good design, flood risk and housing mix means the appeal proposals would conflict with the development plan when taken as a whole.
69. I am therefore required to consider whether there are other considerations that indicate decisions other than in accordance with the development plan. As set out above the LPA could not demonstrate a five year supply of deliverable housing land at the time the applications were considered and so the relevant development plan policies are out-of-date for the purposes of this appeal as set out at paragraph 11d) of the NPPF. Whilst they are out-of-date, the relevant policies remain entirely consistent with the NPPF and so I give them full weight.
70. Nonetheless, matters would be tilted to granting planning permission subject to the two limbs at NPPF paragraph 11d). The first limb states that the presumption to grant planning permission is disapplied where policies in the NPPF provide a clear reason for refusing the development proposed. Footnote 7 to this sub-paragraph provides a list including "areas at risk of flooding". As both appeals fail the sequential test articulated at NPPF paragraphs 165-168, this provides a clear reason for refusal and so the presumption in favour of sustainable development is disengaged.
71. Turning to a straightforward planning balance, the appeal proposals would be sustainably located close to services, facilities and choices of transport. This would be a moderate environmental and social benefit in favour of the proposals. Both schemes would deliver additional homes in the context of a small Borough-wide shortfall. The net numbers are relatively modest and so I ascribe only a modest social benefit in this regard. Both proposals would also give rise to moderate economic benefits in terms of new office floorspace (albeit this would be replacing existing commercial uses) and jobs during the construction phase. Both appeal proposals have garnered some local support, including from the Parish Council in terms of redeveloping what is currently a conspicuously moribund site and the removal of the vehicle repairs use at the site. I give these environmental benefits only limited weight as the garage business appears to be well-established and popular and it is unclear why the premises at Nos 1-3 Station Road have been allowed to deteriorate to their current condition.

72. Cumulatively, these benefits, as material considerations would not outweigh the conflict with the relevant development plan policies, particularly the social and environmental harms of development in an area of high to medium flood risk, the unbalanced housing mix including a lack of secured affordable housing and the detrimental impact on local character arising from a poor design approach to the redevelopment of Nos.1-3 The Green. Additionally for the Appeal A Scheme the identified significant harm to living conditions of future occupiers, and with the layout more generally, compounds the problems arising from the proposed over-development of the site. As such the appeal proposals would not comprise sustainable development.
73. I have had regard to all other matters raised, but there is nothing that leads me to conclude other than that the appeals should be dismissed for the reasons given.

David Spencer

Inspector.