



Appeal Decision

Site visit made on 15 May 2024

by A Veevers BA(Hons) PGDipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2024

Appeal Ref: APP/N5660/W/23/3331824

Site at corner 37 Hainthorpe Road and 1 Dodbrooke Road, London SE27 0PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Betts, Briarpath Properties Limited, against the decision of the Council of the London Borough of Lambeth.
- The application Ref is 23/00848/VOC.
- The application sought planning permission for the demolition of detached No.37 Hainthorpe Road and semi-detached No.1 Dodbrooke Road and construction of a new apartment block consisting of 8 no. residential units and a 4-bedroom terraced dwellinghouse without complying with conditions attached to planning permission Ref 21/00801/FUL, dated 12 October 2021.
- The conditions in dispute are Nos 2, 7, 11, 12, 13, 14, 15, 18, 19, and 20 which state that:
 - (2) *The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.*
 - (7) *Prior to the commencement of above ground level works of the development hereby permitted, a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall be thereafter carried out in accordance with the approved details within 6 months of the date of occupation. All tree, shrub and hedge planting included within the above specification shall accord with BS3936:1992, BS4043:1989 and BS4428:1989 (or subsequent superseding equivalent) and current Arboricultural best practice. The submitted details are expected to demonstrate the following:*
 - a) *The quantity, size, species, position and the proposed time of planting of all trees and shrubs to be planted.*
 - b) *An indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance and protection.*
 - c) *Specification of which shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape.*
 - d) *Details of the pond together with a maintenance plan;*
 - e) *Details of bat bricks and bird boxes;*
 - f) *Details of planters;*
 - g) *Evidence the proposed development would result in net-biodiversity gain on site. The development shall not be carried out otherwise than in accordance with the details and drawings thus approved.*
 - (11) *Prior to the commencement of the use hereby permitted, details of waste and recycling storage for the development shall be submitted to and approved in writing by the local planning authority. The waste and recycling storage shall be provided in accordance with the approved details prior to the commencement of the use hereby permitted and shall thereafter be retained solely for its designated use.*

(12) No demolition or development shall commence until the development hereby approved shall not commence until a Method of Demolition and Construction Statement has been submitted to and approved in writing by the local planning authority. The statement shall include details of the following relevant measures:

- a) The notification of neighbours with regard to specific works;*
- b) Advance notification of road closures;*
- c) Details regarding parking, deliveries, and storage;*
- d) Details regarding dust mitigation;*
- e) Details of measures to prevent the deposit of mud and debris on the public highway; and*
- f) Any other measures to mitigate the impact of construction upon the amenity of the area and the function and safety of the highway network.*

The construction shall thereafter be carried out in accordance with the details and measures approved in the Method of Demolition and Construction Statement for the related phase, unless the written consent of the Local Planning Authority is received for any variation.

(13) Prior to the commencement of the development hereby permitted, Sustainability Statement including an Energy Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Sustainability Statement shall demonstrate that sustainable design standards are integral to the design, construction and operation of the development. The development shall thereafter be implemented in accordance with the approved details.

(14) Prior to the first occupation of the development hereby approved, details shall be submitted to and approved in writing by the Local Planning Authority, demonstrating that internal water consumption of the development will not exceed 105 L/person/day in line with The Water Efficiency Calculator for new dwellings from the Department of Communities and Local Government. The development shall thereafter be implemented in accordance with the approved details.

(15) Prior to the commencement of above ground level works of the development hereby permitted, Design Stage calculations as an output of the National Calculation Method should be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will achieve a 19% reduction in carbon emissions over that required by Part L of the Building Regulations 2013. The development shall thereafter be implemented in accordance with the approved details.

(18) No development shall commence on site until a detailed Sustainable Drainage System (SuDS) Strategy document has been provided for approval by the Local Planning Authority, that demonstrates the technical feasibility/viability of the development's surface water drainage system through the use of SuDS to manage the flood risk to the site and elsewhere during and post construction; and the measures taken to manage the water quality for the lifetime of the development. The SuDS Strategy must include but not limited to:

- a) Confirmation of the method of surface water discharge/disposal and demonstration of its technical feasibility/viability*
- b) Detailed design and plan of the development's surface water management system and associated pipework.*
- c) A demonstration that the development's peak flow rate will be as close as reasonably practicable to the greenfield runoff rate for the same rainfall event*
- d) A demonstration of the surface water management system's capability to manage its 1% Annual Exceedance Percentage (AEP) event critical storm with an appropriate climate change factor.*

The approved scheme for the surface water drainage shall be carried out in accordance with the approved details before the development is first put in to use/occupied.

(19) No development shall be brought in to use/occupied until a management and maintenance plan of the final surface water management system (I.e. Sustainable Drainage System - SuDS) and associated pipework has been provided for approval by the Local Planning Authority. The plan must consider the management and maintenance for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure

the operation of the scheme throughout its lifetime. The approved plan shall be implemented in full in accordance with the agreed terms and conditions.

(20) No development shall take place (except for demolition and site clearance) until a Basement Method Statement has been submitted to and approved in writing by the Local Planning Authority. This statement shall include details regarding:

- a) Detailed site-specific analysis of hydrological and geotechnical local ground conditions;*
- b) Analysis of how the excavation of the basement may impact on the water table and any ground water floor, and whether water perched is present;*
- c) Details of measures proposed to mitigate any risks in relation to land instability;*
- e) Demonstration of how cumulative effects have been considered;*
- f) A comprehensive non- technical summary document of the assessments provided and information submitted against (a) to (e) of this condition.*

- The reasons given for the conditions are:

(2) For the avoidance of doubt and in the interests of proper planning.

(7) In order to ensure high quality soft landscaping in and around the site in the interests of the ecological value of the site and in the interests of visual amenity (policy Q2, Q9 and Q10 of the Lambeth Local 2021 and Policy G6 of the London Plan 2021).

(11) To ensure suitable provision for the occupiers of the development, to encourage the sustainable management of waste and to safeguard the visual amenities of the area (Policies EN7, Q2 and Q12 of the London Borough of Lambeth Local Plan 2021).

(12) Development must not commence before this condition is discharged to avoid hazard and obstruction being caused to users of the public highway and to safeguard residential amenity from the start of the construction process (policies Q2, T6 and T8 of the Lambeth Local Plan 2021).

(13) To ensure that the development contributes to an acceptable level of sustainability (Policy EN4 of the Lambeth Local Plan 2021).

(14) To reduce the consumption of potable water in the home from all sources, including borehole well water, through the use of water efficient fittings, appliances and water recycling systems in accordance with Policy EN4 of the Lambeth Local Plan 2021).

(15) To ensure that the development makes the fullest contribution to minimising carbon dioxide emissions (Policies EN3 and EN4 of the Lambeth Local Plan 2021).

(18) To ensure the development is provided with a satisfactory means of drainage and in the interests of securing a more sustainable development and to reduce the impact of flooding both to and from the development. It is important that these details are agreed prior to the commencement of development as any works on site could have implications on flood risk. Policies SI12 and SI13 of the London Plan (2021) and Policies EN5 and EN6 of the Lambeth Local Plan 2021.

(19) To ensure there are clear arrangements in place for ongoing maintenance over the lifetime of the development (Government ministerial statement HCWS161) and in accordance with the requirements of Lambeth Local Plan (2021) Policy EN6.

(20) Development must not commence before this condition is discharged to avoid hazard in relation to land instability caused by the basement excavation (Policy EN5 of the Lambeth Local Plan 2021).

Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. As part of the appeal documentation, the appellant submitted a ground water and land stability review by Earth Environmental & Geotechnical (Southern) Ltd, dated 2 October 2023 which includes a proposed basement level change plan; a Geotechnical Investigation Report by Soils Ltd, dated March 2023 (GIR); a Basement Impact Assessment by Ian Farmer Associates, dated 15 October 2019 (BIA); and a Basement Construction and Methodology Statement by Nevis Environmental Ltd, dated March 2022 (BCMS).

3. The Council and interested parties have previously seen the BIA and the BCMS and have had the opportunity to comment upon the GIR and land stability review. As the information provides a review of proposed underground works and does not significantly alter the technical aspects of basement excavation, I am satisfied that no prejudice would occur to any party as a result of my consideration of the content of these documents and have determined the appeal on that basis.
4. The proposal relates to a scheme to demolish No.37 Hainthorpe Road and No.1 Dodbrooke Road and replace them with a building to accommodate eight flats and a 4-bed dwelling, approved by planning permission Ref 21/00801/FUL (the original permission).
5. Planning application Ref 21/04486/VOC (the 2021 variation) was subsequently approved under section 73 of the Act¹ (s73) to vary conditions imposed on the original permission.
6. A s73 permission grants a new planning permission which stands alone from the original permission which remains extant and unaltered, along with the conditions attached to it. The practical effect of the approval of the 2021 variation was that a new, independent planning permission to carry out development with the same description as the original permission was created, subject to amended conditions. The 2021 variation therefore sits alongside the original permission, and, subject to approval of the relevant pre-commencement conditions, either permission could be implemented.
7. The details pertaining to pre-commencement and several other conditions imposed on the 2021 variation were approved by the Council in September 2022². Following this, the Council granted an application for a Certificate of Lawfulness for Existing Use or Development (the CLUED) to confirm the implementation of the 2021 variation permission³. However, as this appeal seeks to vary conditions imposed on the original permission. I sought clarification on this matter from the main parties.
8. Given the original permission remains extant and the below ground trench works undertaken thus far would be common to both permissions, I am satisfied, that I can proceed to determine the appeal on the basis that the appellant seeks to vary the original permission.
9. The original permission included Condition No.2 which specified the approved plans. The current proposal seeks removal of Condition No.2 and its replacement with a condition specifying the plans that reflect an amended internal layout and external design. The main amendments the appellant seeks are to excavate further below ground level across part of the site to increase ceiling heights within rooms, increase the height of a rooftop stairway, amend positions of balconies and amend the roof design and footprint of the apartment block.
10. The original permission also included Condition No.20 which required that a Basement Method Statement be approved by the Council to assess local hydrological and geotechnical ground conditions to ensure the proposed basement excavation would be structurally stable and not adversely affect

¹ Town and Country Planning Act 1990 (as amended)

² LPA Refs: 22/01939/DET and 22/02253/DET

³ LPA Ref: 23/02315/LDCE

ground water. The appellant seeks the removal of this condition and its replacement with a condition that requires the development to be carried out in accordance with a Basement Method Statement granted by a previous 'discharge of condition' approval related to the 2021 variation.

11. In addition to the two conditions above, the appellant also seeks to amend the wording relating to Condition Nos.7, 11, 12, 13, 14, 15, 18 and 19 as set out in the banner heading above. I am satisfied from the evidence, that the Council do not find the proposed amendments to the wording of these conditions to be unacceptable. I have no evidence before me to conclude differently on these elements as a result of the submissions before me or my site visit. The decision notice confirms that the refusal reasons are based upon proposed amendments in relation to Condition Nos.2 and 20 only. For the avoidance of doubt my deliberations and decision are therefore focused solely upon these conditions.

Main Issues

12. In light of the above, the main issues in this appeal are:

- The effect that varying Condition No.2 would have on the character and appearance of the area;
- Whether varying Condition No.2 would provide suitable living conditions for future occupants of apartment no.4, with particular regard to outdoor amenity space;
- Whether varying Condition No.2 would provide suitable living conditions for future occupants of apartment nos.1,2,3 and 4, with particular regard to daylight and sunlight; and,
- The effect that varying Condition No.20 would have on ground water and land stability.

Reasons

Character and appearance

13. The appeal site is on the corner of Hainthorpe Road and Dodbrooke Road. It comprises of No.1 Dodbrooke Road (No.1), a semi-detached property which accommodates 2no. flats, and No. 37 Hainthorpe Road, a detached property that also accommodates 2no. flats, together with their gardens. Planning permission has been granted to demolish these properties and erect a part three, four and five storey apartment block and an attached dwelling.
14. The proposed amendment to the roof form from a hip to a gable at the southern end of the proposed apartment block would result in an increase in the overall mass of the building, albeit to a limited extent, when viewed from Hainthorpe Road, the rear gardens of properties on the southern side of Dodbrooke Road. It would also unbalance the symmetry of the apartment block and would appear conspicuous in the context of its proximity to the traditional hip roof at 35 Hainthorpe Road (No.35). The additional bulk of the gable roof design would diminish the sense of spaciousness between the two buildings.
15. Whilst I observed at my site visit that residential buildings in the wider area were varied in their size, form and design, including gable roof forms and three storey properties, Hainthorpe Road is generally characterised by closely positioned traditional two storey bay fronted semi-detached properties sited

behind small front gardens. Dodbrooke Road is much shorter in length than Hainthorpe Road and also comprises of traditional two storey semi-detached properties. Although properties on the Hainthorpe Estate opposite the appeal site are somewhat at odds with the traditional appearance of surrounding streets, this estate is seen in a different context to the prevailing pattern of development in the area.

16. Even though a set back of the first floor on the Hainthorpe Road elevation would be retained at apartment nos.5 and 6, and the proposed extension to apartment nos.1 and 4 would not extend forward of the building line, the full distinction of the three storey projecting bays would be lessened by the loss of definition at the lower ground and ground floor. Bays on the front elevation, particularly at ground floor level, are a distinctive feature on properties along Hainthorpe Road and Dodbrooke Road.
17. The proposed amended plans would retain much of the overall design and detailing of the original permission. In terms of fenestration, while I recognise the horizontal banding and pronounced cornice and eaves height are important design features, the proposed alignment of the fenestration appears awkward. This is due to the gap between the banding and the brick headers above windows at ground and first floor. The overall effect would be that the vertical emphasis of the windows, particularly at ground floor level, would be diminished when viewed alongside the traditional appearance of window openings at No.35 and when apartment no.4 is seen alongside the proposed replacement No.1.
18. The proposed roof projection would accommodate access to the roof-top outdoor amenity area for future occupants of the apartments. However, as a consequence of its projection above the ridge line of the apartment block, it would result in a noticeable feature on a building that would already be of substantial height. Nevertheless, the punctuation of the ridge line would not be readily visible from street level with the exception of glimpsed views obtained from the gap between 5 Dodbrooke Road and 25 Selsdon Road. While it would be visible when viewed from the rear and side windows of properties surrounding the appeal site and their gardens, it would be seen in the context of a varied roofscape that includes chimneys and dormers.
19. Overall, despite the different design approach evident on properties at the Hainthorpe Estate opposite the site, the amended roof design, fenestration and forward projections at ground and lower ground floor level referred to above would unbalance the symmetry of the building and would not harmonise well with the adjacent buildings. The proposed variation would thus further erode the character and appearance of the area on this relatively prominent corner location. It would materially harm the quality of the approved development as a result of the proposed changes to the original permission, as discouraged by Paragraph 140 of the National Planning Policy Framework (the Framework).
20. For the reasons given above, varying Condition No.2 as proposed would harm the character and appearance of the area. Accordingly, there would be conflict with Policies Q2, Q5 and Q7 of the LLP. These policies collectively seek, amongst other things, development that is visually attractive and which responds to the positive aspects of the locality in terms of built form, including roofscape, and architectural detailing. It would also conflict with Policy Q8 of the LLP which, amongst other things, aims to support development that is of a

quality design and is visually interesting, well-detailed and well-proportioned with adequate detailing/architectural interest. It also seeks development that has a building line which adequately preserves or enhances the prevailing local character as well as development that includes well-considered windows and attractive roofscapes.

21. The proposed amendments would also conflict with Paragraph 131 of the current Framework which seeks to create development that is of high quality, beautiful and sustainable.

Living conditions – private outdoor amenity space

22. The plans indicate that apartment no.4 would be a three-bedroom maisonette which would be reliant upon a narrow parcel of land at lower ground level between the building and the street boundary as its sole outdoor amenity space (the lightwell), accessed from a bedroom.
23. Given apartment no.4 would be three-bedroom, it would be considered as family-sized accommodation. Policy H5:Bi) and ii) of the LLP requires that 10sqm of outdoor space is provided for occupants of residential units as a balcony/terrace or private garden. In addition, Policy Q2 of the LLP requires that adequate outdoor amenity space is provided for all new development that is practical in layout, free from excessive noise or disturbance, pollution or odour, would not result in an oppressive enclosure, unacceptable loss of privacy, wind/downdraught or overshadowing.
24. The lightwell would be more than 10sqm; however, it would not be directly accessed from a main living/kitchen area of this family-sized apartment. Moreover, due to the significant amended depth of the lightwell, its narrow width and proximity to Hainthorpe Road and Dodbrooke Road, I consider users of the outdoor amenity space would experience an oppressive environment, lacking in quality with particular regard to shading.
25. Even though there would be an area of communal space on the rooftop of the building, occupants of apartment no.4 would be required to exit their main entrance door, walk around to the main entrance of the block on Hainthorpe Road, and navigate a flight of stairs to the rooftop. Consequently, they would be unable to access the communal outdoor amenity space immediately from their property, resulting in a lack of seamless connection between the indoor and communal outdoor space. Moreover, Policy H5 of the LLP requires that any communal amenity space should be overlooked by habitable rooms, which this rooftop space would not.
26. The appellant has drawn my attention to comments made by previous Inspectors in relation to the provision of lightwells at the site as an acceptable form of outdoor amenity space⁴. Moreover, the original permission included provision for lightwells along the frontage of the site for apartment nos.1,2 and 3. However, each of these apartments also incorporated a small area of private outdoor amenity space at the rear of the building. No similar alternative balcony/terrace or other private outdoor space would be provided for occupants of apartment no.4. Given the sole area of outdoor amenity space for a family-sized apartment useable for typical domestic purposes such as sitting out and drying clothes would be an approximate 4m deep lightwell positioned close to

⁴ APP/N5660/1/17/317705 and APP/N5660/W/20/3259238

the street, I consider this would be a poor standard of outdoor amenity space for future occupants of apartment no.4.

27. Even if the quality of the lightwell space associated with apartment no.4 would be enhanced by the removal of a cantilevered balcony overhanging the lightwell, due to the significant poor quality of the proposed outdoor space for occupants of this apartment, it would overcome the harm I have found.
28. Furthermore, the purported benefits to the internal layout of the amended plans in terms of the provision of bedrooms at lower ground level and living accommodation above does not negate the need to provide good quality outdoor amenity space for each apartment. Although there were no objections to the amended plans from the Council's parks and open space team, my assessment of the effect of the proposed amended plans on the provision of outdoor amenity space for future occupants of apartment no.4 would be unchanged.
29. For the reasons given above, varying Condition No.2 would not provide acceptable living conditions for future occupants of apartment no.4, with particular regard to outdoor amenity space. The proposal would therefore conflict with Policies Q2 and H5 of the LLP. These policies seek development that provides adequate outdoor amenity space that is, amongst other things, practical and free from oppressive enclosure. There would also be conflict with guidance at Paragraph 135 f) of the Framework which seeks that development incorporates a high standard of amenity for future users.

Living conditions – daylight and sunlight

30. Even though the maisonette arrangement would provide a good aspect for occupants of the main living areas of the ground floor apartments, it is also important that occupants of bedrooms would be provided with adequate daylight and sunlight as required by Policy Q2 of the LLP. The supporting text to Policy Q2 states, at paragraph 10.5, that established industry standards will be used when assessing schemes, including 'Site Layout Planning for Daylight and Sunlight' (BRE Trust, 2011) having regard to context and other material considerations. I note the BRE document was updated in 2022⁵. No daylight or sunlight assessment is before me.
31. The proposed amended plans indicate several bedrooms of the 4no. lower ground floor apartments would face towards the retaining Hainthorpe and Dodbrooke Road walls. Due to the height and orientation of the apartment block, this would result in a dominant feature in close proximity to the bedrooms. No south facing windows are proposed to the accommodation, the lightwell would be deeper than the original scheme and the width would be reduced at each end of the Hainthorpe Road frontage as a result of the amended footprint of the apartment block. For these reasons, occupants of these bedrooms would be likely to experience a gloomy room for most of the day. No substantive evidence has been provided to convince me otherwise.
32. I recognise paragraph 129 c) of the Framework states that a flexible approach in applying policies or guidance relating to daylight and sunlight should be taken when considering housing development. I also note no sunlight or daylight assessment was required by the Council, or undertaken in the

⁵ BRE Site layout planning for daylight and sunlight: a guide to good practice (BR 209 2022)

determination the original permission, even though the development included a lower ground floor bedroom at the rear of apartment nos.1 and 3 with lightwells as well as living accommodation on the lower ground floor. Nevertheless, in terms of this main issue, the proposed amended plans differ in that the depth of the lightwell along the boundaries with Hainthorpe Road and Dodbrooke Road would be deeper, which would be likely to affect the amount of light afforded to several bedrooms facing towards those boundaries.

33. On this basis, in the absence of an assessment of daylight and sunlight, I cannot be satisfied that sufficient light would be provided to the proposed lower ground floor accommodation within apartment nos. 1,2,3 and 4.
34. I therefore conclude that it has not been demonstrated that varying Condition No.2 would provide suitable living conditions for future occupants of apartment nos.1,2,3 and 4, with particular regard to daylight and sunlight. Consequently, there would be conflict with Policies H5 and Q2 of the LLP. Together, these policies seek to ensure that development accords with the principles of good design and does not have an unacceptable impact on levels of daylight and sunlight on the host building. There would also be conflict with guidance at Paragraph 135 f) of the Framework in this regard.

Ground water and land stability

35. From the evidence, Condition No.20 of the original permission was imposed in order to ensure that the excavation of the site to create basement accommodation would not increase the risk of groundwater flooding or ground stability at the site or in the surrounding area. A Basement Method Statement which confirmed that there would be no adverse effects in relation to these matters was approved by the Council in relation to the 2021 variation permission.
36. The proposed amendment to the plans in this appeal would result in a deeper excavation of part of the site below ground level in order to increase the floor to ceiling heights of accommodation within the apartment building and the replacement No.1. The area of additional excavation would match the approved level of excavation below the rear part of proposed apartment nos.1 and 2 as set out at enclosure 1 of the submitted land stability review.
37. Policy Q27 of the LLP notes that the Council will support basement and associated development where applicants can demonstrate that, amongst other things, no unacceptable impacts will result to subterranean ground water flow, land stability, surface flow and flooding, along with the cumulative effects of basement development in the locality.
38. The appellant submitted three technical reports in relation to this matter (GIR, BIA and BCMS) and a land stability review. The original BIA and BCMS have been reviewed by the appellant in the context of the proposed amended plans, taking into account the increased excavation below ground level. In addition, further ground investigation works were undertaken in March 2023 (the GIA) as well as a review of foundation design.
39. The information gathered concluded that groundwater was not present at shallow depths beneath the appeal site and that the proposed amendment to building depth would have no impact on groundwater flow or quality. Furthermore, given that the site would be retained by a perimeter piled wall to

a depth of 15m below ground level, and the bored piles would act as retaining walls, the land stability review concluded that there was sufficient evidence to demonstrate no adverse effects to ground stability would arise from the proposed increase in excavation to match the area already approved. The review also concluded there would not be a significant impact upon the stability of the surrounding soils or neighbouring sites.

40. I am satisfied that the additional information submitted with the appeal in effect provides an acceptable update to the already approved BIA and BMS with regards the impact of the amended excavation upon ground water and land stability. In reaching this conclusion I recognise the proposed excavation would not be any lower than the level approved by the original permission across part of the appeal site. I also note that the BCMS was found to be acceptable to the Council in their assessment of the 'approval of details of condition' application ref. 22/01939/DET. Moreover, the Council have not provided any contrary evidence to convince me otherwise. On the basis of the evidence, I therefore consider the proposed amendment to levels would not result in harm in relation to groundwater and land stability.
41. Consequently, the principle of the proposed variation of Condition No.20 would be acceptable and would accord with Policies EN5 and Q27 of the LLP. These policies seek, amongst other matters, that basement proposals incorporate appropriate mitigation measures which ensure no unacceptable impacts would result in relation to land stability and that development would be safe from all forms of flooding or would increase flood risk elsewhere.
42. However, the appellant's proposed wording of the condition would not take into account the GIA or the land stability review and would refer to details approved under a different planning permission (the 2021 variation). Were the current proposal otherwise acceptable in relation to Condition No.2, I would re-word Condition No.20 in the light of Paragraph 56 of the Framework and the Planning Practice Guidance in relation to conditions⁶.

Other Matters

43. Although dismissed for other reasons, Inspectors in relation to two previous appeals at the site had no significant concerns about the effect of those developments upon the character and appearance of the area⁷. However, from the evidence provided, these schemes were not the same as the proposal before me. Whilst consistency of decision making is important, the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits.
44. I have noted the appellant's comments highlighting the absence of identified harm in relation to the proposed variations to condition Nos.7, 11, 12, 13, 14, 15, 18 and 19 in addition to the proposed housing mix, internal space sizes, neighbours' living conditions, highways and parking. Even if I were to agree that there would be no unacceptable effects on these issues, this is a neutral factor which would not outweigh the harm identified and conflict with the development plan as a whole.

⁶ PPG Paragraph: 003 Reference ID: 21a-003-20190723

⁷ Appeal Refs: APP/N5660/1/17/317705 and APP/N5660/W/20/3259238

45. I note the appellant's comments about the lack of dialogue from the Council and that the proposal was amended in response to officer advice. However, this has had no bearing on the outcome of this appeal as I have only had regard to the planning merits of the proposal that is before me.
46. I have had regard to matters raised by local residents, including in regard to highways, parking, noise, density, flooding, overall quality of accommodation, light, wildlife, disruption during construction, privacy, lack of infrastructure. Many of these concerns fall outside the scope of the conditions to which it is within my remit to consider. In any event, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.

Conclusion

47. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
48. For the reasons given above, the appeal is dismissed.

A Veivers

INSPECTOR