



Appeal Decisions

Inquiry held on 14-17 and 21 May 2024

Site visit made on 15 May 2024

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21/06/2024

Appeal A - Ref: APP/K3605/W/23/3336023

St George's Gardens South, St George's Business Park, Weybridge

KT13 ORH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Leos Weybridge Developments Ltd against Elmbridge Borough Council.
 - The application Ref is 2023/2169.
 - The development proposed is the demolition of 2no. existing office (Class E) buildings (Blocks A and B) and the erection of 168no. apartments (mix of 1-, 2- and 3-beds) across 4no. blocks (ranging from 3-6 storeys) and 18no. houses (mix of 3- and 4-beds) with associated basement and surface level car and bicycle parking, resident amenities and hard and soft landscaping with all necessary ancillary and enabling works.
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Appeal B - Ref: APP/K3605/W/23/3336025

St George's Gardens North, St George's Business Park, Weybridge

KT13 ORH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Leos Weybridge Developments Ltd against Elmbridge Borough Council.
 - The application Ref is 2023/2170.
 - The development proposed is the demolition of 2no. existing office (Class E) buildings (Blocks D and E) and the erection of 43no. apartments (mix of 1-, 2- and 3-beds) across 2 blocks (ranging from 3-4 storeys) and 10no. houses (mix of 3- and 4-beds) with associated surface level car and bicycle parking, resident amenities and hard and soft landscaping with all necessary ancillary and enabling works.
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Appeal C - Ref: APP/K3605/W/23/3336027

St George's Gardens Terraces, land at Locke King Road, Weybridge

KT13 OSY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Leos Weybridge Developments Ltd against Elmbridge Borough Council.
 - The application Ref is 2023/2167.
 - The development proposed is the erection of 4no. 3-bed houses with associated surface level car and bicycle parking, resident amenities and hard and soft landscaping with all necessary ancillary and enabling works.
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Decisions

1. Appeal A is dismissed and planning permission is refused.
2. Appeal B is dismissed and planning permission is refused.
3. Appeal C is allowed and planning permission is granted for the erection of 4no. 3-bed houses with associated surface level car and bicycle parking, resident amenities and hard and soft landscaping with all necessary ancillary and enabling works at St George's Gardens Terraces, land at Locke King Road, Weybridge KT13 0SY in accordance with the terms of application Ref 2023/2167 and subject to the conditions in the attached schedule.

Preliminary Matters

4. Reflecting the terms used in the main parties' statements of case, I have added wording to the addresses to distinguish the 3 sites more clearly. I have also deleted the words 'The application is supported by an Environmental Impact Assessment' from the first two descriptions because that is not a description of development.
5. The Council failed to determine the applications within the prescribed periods. Had it done so, it would have refused planning permission for the reasons set out in its statement of case. I have had regard to those reasons in identifying the main issues for the appeals.
6. Amended plans have been submitted with appeals A and C which did not form part of the original submissions. The Council accepts those relating to appeal A. Those relating to appeal C were subject to further publicity and additional representations were considered at the inquiry. Having regard to the additional publicity I am satisfied that no interested parties would be prejudiced if I were to have regard to the amended plans and I have taken them into account in my decisions.
7. The draft Elmbridge Local Plan 2022-2037 is being examined. The examination process has been paused to enable the Council to update information on its housing land supply position. As the examination has yet to conclude, the draft Plan may be subject to further modification. I therefore give it only limited weight in these appeals.
8. During the course of the inquiry, the Council provided a note clarifying the status of the Elmbridge Design Code 2023¹. The Council has resolved to implement the Design Code but only once validation requirements have been updated. Until then, the Elmbridge Design and Character Supplementary Planning Document 2012 (the Design Guide) will remain in force. Consequently, I have not placed weight on the Design Code in these appeals.
9. Issues relating to impact on the Thames Basin Heaths Special Protection Area (appeals A, B and C), encouraging the use of sustainable forms of transport (appeals A and B), and a contribution towards affordable housing (appeal C) were initially of concern to the Council. These issues have now been addressed by the appellant through submission of legal undertakings under Section 106 of the Town and Country Planning Act 1990. I consider the undertakings in more detail later in my decision letter.

¹ CD14.9

10. Shortly before the inquiry opened, the Council acknowledged that it was only able to demonstrate 3.6 years' worth of housing land supply against a 4-year housing land requirement. That position was further revised after the close of the inquiry². Irrespective of the extent of the shortfall, both parties agree that the presumption in favour of sustainable development contained in paragraph 11d) of the National Planning Policy Framework December 2023 (the Framework) applies³. I consider that presumption further under the planning balance.
11. I have considered each proposal on its own individual merits. However, to avoid duplication I have dealt with the three schemes together in my reasoning except where otherwise indicated.

Main Issues

12. The main issues in these appeals are the effect of the developments on:

- The character and appearance of the area (appeals A, B and C)
- Living conditions of future occupants, with respect to size and function of garden areas (appeals A and B), and light and aspect (appeal C)
- Retention of existing trees (appeals A and C) and potential for new landscaping (appeal A).

13. It is also necessary to consider material considerations, including the fallback position, the benefits of the scheme, the consequences of the acknowledged lack of housing land supply, and how the main issues and other material considerations should be weighed in the planning balance.

Reasons

Character and appearance

14. St George's Business Park consists of 5 large, 2-storey office buildings surrounded by surface level car parking. There are occasional mature oak trees along the road boundaries, with some shrubs and younger trees planted as peripheral landscaping. The appeal sites consist of 4 of the office buildings, the fifth now having been sold into different ownership. At the time of my site visit it was still in office use. Based on what I was told at the inquiry there may be an intention to convert it to residential use in the future.
15. The sites lie within the Weybridge Character Sub Area 14: Brooklands, described as a large non-residential area displaying a coarse grain of development reflective of its use for an out-of-town retail park, storage and distribution units and high-quality office space. The adjoining Character Sub Area 13: Lower St Georges Hill and East of Brooklands Road is described as a mix of large, detached, two-storey houses and flats, often set in generous wooded plots, with traditional style boundary walls and railings with hedges and mature trees which define the edges of the roadside⁴.
16. The appeal sites are largely screened from the majority of the Brooklands character sub area by banking and established tree cover along the rear

² CD14.15 and CD14.16

³ Statement of Common Ground Addendum, 1 May 2024

⁴ Elmbridge Design and Character Supplementary Planning Document and Companion Guide: Weybridge, April 2012

boundary of appeal site A and to its south. The only building within the sub area that is visible other than those on the appeal sites is a building on Member's Hill, and then only its upper storeys⁵. Views of it no doubt increase in winter when the leaves are off the trees, but it is still sited some distance away and plays little part in defining the character of the area around the appeal sites. That would remain the case even if it were extended as has recently been permitted. Neighbouring development consists of a variety of detached, semi-detached and terraced houses along Brooklands Road and Locke King Road. These are relatively closely spaced in comparison to much lower density housing to the south and east. While they do have front gardens bounded by hedges and walls, the front gardens do not contain many mature trees.

17. Because of these differences, I do not find the character area assessments of particular help in defining the character and appearance of the area around the appeal sites. What is apparent is that the business park is already of a different character to that of the adjacent residential housing. The buildings in it are of a much larger scale and different design to the domestic dwellings on the other side of Brooklands Road and further north along Locke King Road.
18. The existing office buildings are not particularly prominent in visual terms because they are set back from the road frontages and views of them are filtered by the trees and peripheral planting along Brooklands Road, and to a lesser extent along Locke King Road. Nevertheless, in terms of its character and appearance the business park is clearly distinguished from the neighbouring residential area. To redevelop it in a manner that would also be different from the wider suburban neighbourhood would therefore not necessarily be harmful.
19. Having regard to the above, in my view it is not necessary for redevelopment of the appeal sites to follow a suburban idiom in design terms, including along Brooklands Road, so long as that redevelopment is attractive and coherent in its own right, and does not dominate the street scene. I recognise that design approach is not the same as that promoted by the Council or other interested parties. However, given the need for housing within the borough it is important to make effective use of previously-developed land in a sustainable location. These sites provide an opportunity to achieve a higher density development than that found in the surrounding residential neighbourhood, because of the differences in character and appearance that already exist. Such an approach is consistent with Policies CS1 and CS2 of the Elmbridge Core Strategy 2011 (the Core Strategy), Elmbridge Development Management Advice Note 2, and Chapter 11 of the Framework on making effective use of land.
20. Accordingly, higher density development such as that proposed, including the use of blocks of flats as well as houses, is acceptable in principle and is not necessarily harmful to the character and appearance of the site or wider area. However, the effective use of land does not mean maximisation of development at any cost, and the appeal proposals are still required to achieve good design within the context of national and local policies and guidance.
21. In that respect I have concerns about the relationship of the row of town houses proposed along the Brooklands Road frontage. The layout of these houses would result in them turning their backs onto Brooklands Road, with their rear elevations and rear gardens facing onto the road. As the main private

⁵ Japanese Tobacco International (JTI), Members Hill, Weybridge

amenity space for the town houses, the gardens would be used for domestic activities associated with family housing and contain all the domestic paraphernalia that is to be expected in a garden. These activities and paraphernalia would be on public display, to the detriment of the character and appearance of the street scene.

22. The appellant suggests that the town houses are double fronted and would give the appearance of facing onto Brooklands Road. I do not consider that would be the case as the position of the rear garden areas and the patio doors on the ground floors indicate that these are the areas where most outside domestic activities would be conducted. Those features distinguish the elevations facing Brooklands Road from the elevations facing onto the internal boulevard.
23. The gardens backing onto Brooklands Road are proposed to be surrounded by railings and hedges. However, they are all intended to have rear gates meaning that for at least part of each frontage, the garden areas would be open to view. It is likely that for privacy homeowners would seek to screen their private space, which would add clutter when seen from the public realm. Given the limited size of the gardens, it may also be the case that hedging would be replaced by solid forms of boundary treatment, further adding to the clutter along the road frontage.
24. The Brooklands Road frontage of appeal site B is somewhat different to appeal site A in that it is separated from the road by a highway verge including an understorey of shrubs as well as occasional mature oak trees. The rear gardens of the town houses on appeal site B would still be visible through this shrubbery giving rise to the same discordant appearance as that described above, albeit to a lesser extent.
25. In terms of character and appearance this form of layout would fail to provide a public frontage to Brooklands Road or a clear separation between public and private space. It would run counter to national design guidance in failing to provide a coherent pattern of development with successful streets characterised by buildings facing the street⁶ and would not accord with any of the layouts included in the Elmbridge Design Guide. It is poor design and as a result the schemes in appeals A and B would conflict with Policies CS4 and CS17 of the Core Strategy and Policy DM2 of the Elmbridge Development Management Plan 2015 (the Development Management Plan), which require new development to deliver high quality and inclusive sustainable design.

Living conditions

26. The layout of the town houses with their rear gardens backing onto Brooklands Road would also be harmful to the living conditions of future occupants. The exposure to overlooking would reduce the privacy of the gardens. As these spaces form the main external private areas for the houses, that loss of privacy is of particular concern. I acknowledge that the gardens would be seen from the first and second floor windows of adjacent town houses, as is the case with any row of houses, but the perception of such views from neighbours that are known to one another is different to overlooking from casual passers-by. The layout would also be insecure as the rear gardens would be accessible from the road. These design flaws would apply to the rear gardens of all the town

⁶ National Design Guide 2021, Built form, section B2.

houses, albeit to a lesser extent to those in appeal B because of the presence of vegetation along the highway verge.

27. The depth of the rear gardens of the town houses would all be less than the 11m recommended in the Elmbridge Design Guide and shorter than the rear gardens of other dwellings in the area. However, I note that the guidance is qualified in that a suitable depth for gardens of new dwellings will depend on the character of the area and type of development proposed. The guidance goes on to say that higher density urban locations may benefit from individual design solutions to the provision of amenity space, such as providing balconies, courtyards or communal space. The town houses in both appeals A and B do include balconies and would have access to the communal spaces planned within appeal site A, in addition to their private gardens. Having regard to those features, I do not consider that the limited depth of the rear gardens is such as to make the schemes unacceptable for this reason alone.
28. The terrace of 4 houses proposed in appeal C would be flanked by a 3-storey block of flats as part of appeal B. Evidence provided by the appellant indicates that levels of daylight and sunlight to the houses and their gardens would meet the minimum standards set out in guidance⁷. However, as noted by that guidance, natural lighting is only one of many factors in site design layout. I am concerned that the substantial height, depth and proximity of the flank wall of the block of flats so close to the rear elevations and gardens of the terrace would have a dominating and overbearing effect on the enjoyment of the properties, particularly the nearest end units. Such a juxtaposition would conflict with the guidance set out in the Elmbridge Design Guide. I consider that the oppressive nature of that relationship would harm the living conditions of future occupants of the end house in the terrace and to a lesser extent to the next house along.
29. The Council also raises concern at potential disturbance and loss of privacy to the ground floor flat in Block D2 in appeal B. While the proposed layout is not ideal, the flat is surrounded by a pedestrian area which could be used instead for hedging or some other form of landscaping so as to provide a degree of separation between the windows of the flat and the communal parking and turning area. There was some discussion at the inquiry as to how the Council's concerns could be overcome by such planting or alterations to the internal layout of the ground floor of the block, potentially also providing the ground floor flat with an outdoor seating area. I consider that there are solutions to the concern raised by the Council, and as any amendments would be internal to the scheme they could be secured through a condition without prejudice to interested parties. On that basis, I consider that the living conditions of future occupants of the ground floor could be safeguarded.
30. While living conditions relating to Block D2 and the depth of the gardens to the town houses could either be safeguarded or are insufficient on their own to cause detriment, I conclude that harm would be caused to the living conditions of future occupants in appeals A and B by reason of the layout of the town houses turning their backs to Brooklands Road thereby exposing their main private gardens to overlooking and insecurity, and the oppressive relationship of Block D2 in appeal B on houses proposed in appeal C. As a consequence, appeals A and B would conflict with Policies DM2 and DM10 of the Development

⁷ British Research Establishment Report 209 2022 Third Edition – Site layout planning for daylight and sunlight: A guide to good practice

Management Plan, which seek amongst other criteria to protect the amenity of adjoining and potential occupiers and users from new development.

Trees and landscaping

31. Bounding the rear of appeal site A is a tree belt on the outer side of the banking to the former racing circuit. It consists of tall Grey Poplar and Sweet Chestnut trees and an understorey of smaller but denser Holm Oak. The tree belt provides a green backdrop to appeal site A and screens land and buildings beyond it. It is a landscape feature that contributes to the character and appearance of the area.
32. Blocks A1N and B2 would be sited close to the rear boundary and would require cutting back the line of Holm Oak at or close to the boundary and pruning back some of the branches on 2 Grey Poplar. I was presented with differing views on the extent of works required, the effect on the long-term health of the trees, and the degree to which shading would prompt future pressure to prune or remove the trees in question.
33. There was general agreement that the trees are in good health and have a reasonable life span left. While some pruning, particularly to the Holm Oak would be required, their wider landscape value would not be diminished to any significant extent. Pruning may increase the risk of disease but given that the trees are healthy I consider that risk to be small.
34. I also consider that the likelihood of pressure for future reduction or removal to be limited. I reach that view because the trees lie to the north of the flat blocks rather than the south and therefore would have less impact on loss of sunlight. In any event the appellant's evidence is that almost all the units would receive adequate daylight and sunlight, even with the shadowing effect of the trees taken into account. It is also the case that the ground floor rear elevation of Block B2, which is the block that would be most affected by the proximity of the line of Holm Oak, forms the entrance to the underground car park rather than living accommodation.
35. Concern was also raised at the landscape planting above the basement car park, in particular the ability to accommodate larger landscape features such as trees. While the species and size of trees selected for planting may be limited by the depth of soil above the basement, from the evidence presented to the inquiry I am satisfied that a suitable landscaping scheme could be provided on the site, including the use of trees if carefully selected. Although the depth of some parts of the external spaces is likely to be taken up by service runs, that should not significantly limit the ability to landscape the site or carry out planting.
36. A group of Beech trees stands in the garden of a property to the rear of appeal site C. While set back from Locke King Road they form a pleasant feature and would continue to be seen in oblique views from parts of the road and also the tops of their canopies above the proposed terrace of houses. The group of trees would shade the rear gardens of the terrace, in particular the endmost house, which is not ideal as it could result in future pressure for reduction or removal. However, I consider that, if needed, judicious pruning of the lower canopy to lift the crown could be undertaken without significantly harming the public amenity value of the group of trees. Therefore the risk of pressure to prune

would not in this case amount to a reason to resist the development proposed in appeal C.

37. I conclude that, notwithstanding the need, or likely need, to prune trees of public amenity value adjacent to appeal sites A and C, those works would not harm their public amenity value as landscape features in the local area. The proposed developments would not therefore conflict with Policy CS14 of the Core Strategy or Policy DM6 of the Development Management Plan, which seek to protect green infrastructure, landscaping and trees.

Other Matters

38. Appeal site A lies within the Brooklands Conservation Area. The special interest of the conservation area derives from its former use as an early motor racing circuit and as an aerodrome. Remaining parts of the banked track are designated as a scheduled monument, and some associated buildings and structures within the circuit are listed for their historic interest. The appeal site lies outside the line of the racing track and no longer has any historic association with it. Given the bank and tree belt to the rear, development on it also has no visual impact on those elements which are of significance to the historic and architectural interest of the conservation area.
39. It is agreed between the main parties that redevelopment of the site in the manner proposed would not have any appreciable impact, negative or positive, on the significance of the conservation area. I agree with that assessment and conclude that the proposals would preserve the character and appearance of the Brooklands Conservation Area in so far as it relates to its historic and architectural interest. The appeal proposals therefore satisfy the statutory test set out in Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. I also find no harm would be caused to other listed buildings or scheduled sites in the wider vicinity.
40. Legal undertakings were submitted relating to all three appeals. That for appeal A secures the provision of 2 car club spaces with free membership for all new residents to a car club for a period of 3 years, contributions towards a strategic access management and monitoring scheme for the Thames Basin Heaths Special Protection Area, and a travel plan monitoring fee. The legal undertaking for appeal B does the same but with the provision of 1 car club space. The unilateral undertaking for appeal C secures a contribution towards the strategic access management and monitoring scheme, and also a financial contribution towards the provision of off-site affordable housing.
41. These obligations address concerns raised by the Council and County Council in its role as the Highway Authority, and meet the requirements of Policies CS25 (travel and accessibility), CS13 (Thames Basin Heaths Special Protection Area) and CS21 (affordable housing) of the Core Strategy. I am satisfied that the obligations are necessary to make the developments acceptable in planning terms, are directly related to the developments, and are fairly and reasonably related in scale and kind. They therefore meet the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and I have taken them into account in reaching my decisions.
42. The sites lie within the zone of influence of the Thames Basin Heaths Special Protection Area, which is noted as an internationally important habitat for rare bird species. I am required to undertake an appropriate assessment to

determine if any of the proposed developments could have a significant adverse effect on the special protection area, and if so whether that effect could be mitigated.

43. Increased recreational pressure arising from additional residents could potentially have an adverse effect on the habitat, as some of the rare bird species it supports nest on the ground. To counter such potential harm local authorities working in partnership with Natural England have devised a strategy to limit recreational pressure through a combination of providing alternative natural green space and managing access to the special protection area.
44. Provision of alternative natural green space is supported through the community infrastructure levy, and the financial contributions secured in the planning obligations would support the strategic access management and monitoring scheme. I am satisfied that these measures would mitigate any additional recreational pressure arising from the appeal schemes. The developments would therefore not have an adverse effect on the integrity of the Thames Basin Heaths Special Protection Area.

Planning Balance

45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires me to determine these appeals in accordance with the development plan unless material considerations indicate otherwise.
46. For appeals A and B I have identified conflict with Policies CS4 and CS17 of the Core Strategy and DM2 and DM10 of the Development Management Plan, relating to design and living conditions. I consider these to be the most important policies for determining the appeals.
47. I reach that conclusion notwithstanding that the developments receive support from other policies in the development plan, in particular those relating to housing provision, which encourages the use of previously-developed land in sustainable locations within existing built up areas. However, the Council raises no objection to the residential use of the sites, despite the loss of employment land, and therefore the principle of residential development is not in dispute. The lack of conflict with other policies is a neutral consideration. Accordingly, I conclude that for appeals A and B the proposals would conflict with the development plan when taken as a whole. That conflict weighs heavily against appeals A and B.
48. For appeal C, I have found no conflict with policies in the development plan. The Council raises concern over the height and massing of the terrace of houses but for the reasons set out in relation to design, I consider that such differences can be accommodated on the site without causing harm to the character or appearance of the area. I have also found that the proximity of the group of Beech trees to the rear does not justify resisting the development. There are no material considerations that weigh against the scheme, and therefore I find it acceptable in planning terms.
49. As regards appeals A and B, there are material considerations that weigh in favour of the developments that need to be taken into account. The most important would be the provision of 239 dwellings between the 2 sites. That is of particular benefit given that there is a shortfall in housing land supply in the borough.

50. The shortfall was agreed as 3.6 years at the inquiry but has subsequently changed because of work undertaken by the Council in response to its draft Local Plan examination. The appellant draws attention to a revised housing land supply position of 2.4 years reported to the Local Plan examination. The Council considers that for the purposes of the appeals, the revised housing land supply position is 3.1 years. The difference between these 2 figures is explained by the Council as being due to the draft Local Plan being assessed against the 2021 version of the Framework, while the appeals are assessed against the December 2023 version of the Framework.
51. Irrespective of where the housing land supply is within the broad range of 2.4-3.1 years, it is considerably below the 4-year supply the Council is supposed to provide. The provision of housing to help close that shortfall weighs in favour of the proposals. There would also be a mix of units from 1-4 bedrooms, providing a range of sizes to meet different needs. For those reasons I give the provision of new dwellings significant beneficial weight.
52. The proposed developments would deliver economic benefits, both in the short term from their construction, and also in the longer term from the additional spending power of future occupants and the availability of a larger workforce. I give these benefits moderate beneficial weight.
53. Biodiversity net gain would exceed that required by Policy CS15 of the Core Strategy by a considerable margin. The development on appeal site A would also provide a number of open spaces for informal recreational use. While these spaces are primarily intended to serve the needs of future occupants, they would also be accessible to members of the public. I give these environmental benefits limited beneficial weight.
54. There are a number of extant prior approvals for conversion of the office buildings to residential use. All but one of these would lapse unless the works are completed by August or October 2024, which is unlikely as no conversion work had started at the time of the inquiry. Four further applications for prior approval were submitted just prior to the inquiry. These have not yet been determined. The weight to be given to these approvals is therefore limited but I accept that conversion of the existing office buildings to residential flats is a realistic fallback position. However, given that the Council has no objection in principle to residential use of the sites, the fallback position is of limited relevance.
55. The Council acknowledges that it is unable to demonstrate 4 years' worth of housing land supply as required by paragraphs 77 and 226 of the Framework. Accordingly, the policies most important for determining the appeals are deemed to be out-of-date by virtue of footnote 8 and paragraph 11d) of the Framework, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
56. Policies in the Framework place considerable weight on design. Good design is seen as a key aspect of sustainable development to the extent that paragraph 139 of the Framework says that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. I have found that to be the case in relation to the schemes in appeals A and B.

57. While the provision of residential dwellings is of significant benefit for the reasons I set out above, the Council is not opposed in principle to residential use of the appeal sites. It is therefore reasonable to anticipate that residential development will come forward on the sites, either through redevelopment schemes that do not conflict with the development plan, or as suggested on behalf of the appellant at the inquiry, through conversion of the existing office buildings. Such redevelopment may not result in the same number or mix of dwellings as proposed in the appeal schemes, and it is likely that they would not come forward as soon as those now proposed. Nevertheless, such development would result in a significant number of new dwellings with similar benefits to those summarised above. That tempers the weight I give to the benefit of delivering further housing through appeals A and B.
58. Taking all those factors into account, I conclude that the conflict with the development plan, in particular the poor design layout, would significantly and demonstrably outweigh the benefits. I consider that would be the case irrespective of whether the housing land supply is at the upper or lower end of the broad range outlined above. The developments proposed in appeals A and B are therefore unacceptable in planning terms.

Conditions

59. For appeal C I have considered the conditions suggested by the Council and imposed them where they meet the tests set out in paragraph 56 of the Framework. I have made changes to the wording of the conditions for consistency and simplicity. The conditions have been reordered in accordance with the advice in the Planning Practice Guidance. The appellant agreed to the pre-commencement conditions at the inquiry, in accordance with section 100ZA of the Town and Country Planning Act 1990.
60. Conditions setting a time limit and identifying the approved plans are necessary for certainty.
61. A condition is required to ensure investigation, and if necessary remediation, of any contamination on the site in the interests of public health. Conditions requiring biodiversity net gain, sensitive lighting and future environmental management are necessary in the interests of the ecological value of the site and to minimise disturbance to protected species. A condition is required to manage the construction process to minimise noise and disturbance to neighbouring residents.
62. Conditions are required to ensure existing trees are protected during construction, that new landscaping and tree planting is carried out in the interests of the appearance of the site, and that any trees or plants that die are replaced. A condition requiring approval of external materials is required in the interests of the appearance of the development. Conditions are required to ensure the access, sightlines and parking spaces are constructed and maintained in the interests of highway safety.
63. A condition requiring solar panels and heat pumps is necessary in the interests of minimising carbon emissions. I have combined it with a condition requiring implementation of the energy statement submitted with the proposal. A condition requiring approval of privacy screens is necessary in the interests of the privacy of future occupants. A condition requiring a noise assessment of the

proposed air source heat pumps is necessary in the interests of the living conditions of future and neighbouring residents.

64. A condition requiring the installation of electric vehicle charging points is no longer necessary as this is now covered by the Building Regulations. I have not imposed a condition requiring a post-completion report on tree protection measures as that is unnecessary. I have also not imposed a condition preventing commencement of development until a meeting has been held on-site with an arborist or site manager. While such a meeting may be good practice, I do not consider it is necessary in terms of the tests set out in the Framework. I have combined suggested conditions relating to landscape and tree planting to avoid repetition.

Conclusion

65. I conclude that the developments proposed in appeals A and B would conflict with the development plan when taken as a whole, and material considerations are insufficient to indicate that my decisions should be otherwise than in accordance with it, including the presumption in favour of sustainable development contained in the Framework. Accordingly, appeals A and B should be dismissed.
66. I conclude that the development proposed in appeal C accords with the development plan, and there are no material considerations which indicate my decision should be other than in accordance with it. Appeal C should therefore be allowed.

Guy Davies

INSPECTOR

Appearances

For the appellant:

Sasha White KC

Paul Rogers BA BArch (Hons)

Director, Whittam Cox Architects

Jonathan Lonergan LBB (Hons) MSc
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Frank Spooner BSc (Hons) MArborA
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Paul Manning BA (Hons) DipTP MRTPI

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For the Council:

James Corbet Burcher

Jason Clemons BA (Hons) DipUD MRTPI
IHBC FRSA

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Margarita Romanovich BSc (Hons) MSc
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Senior Planning Officer, Elmbridge
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Russell Gibbons ND Arb Tech Cert
(Arbor A)

Senior Tree Officer, Elmbridge Borough
Council

Interested parties:

Liza Griffin

On behalf of residents of Brooklands
Road and Locke King Road

Kay Williamson

Weybridge Society

Documents

Document relating to the inquiry can be found at: [Public Inquiry - Appeal at St George's Business Park | Elmbridge Borough Council](#)

Documents received during and after the inquiry:

- | | |
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| CD14.1 | Appellant's clarification note on historic environment, townscape and visual matters |
| CD14.2 | Japan Tobacco International, Member's Hill, Weybridge: Heritage, Townscape and Visual Impact Assessment, August 2022 |
| CD14.3 | Hard copy of plans (as amended) |
| CD14.4 | Opening statement on behalf of the appellant |
| CD14.5 | Opening statement on behalf of the Council |
| CD14.6 | Statement from Liza Griffin on behalf of Brooklands Road and Locke King Road residents |
| CD14.7 | Statement from Kay Williamson on behalf of the Weybridge Society |
| CD14.8 | Qualifications of appellant's witnesses |
| CD14.9 | Council's note on status of the Elmbridge Design Code |
| CD14.10 | Closing statement on behalf of the Council |
| CD14.11 | Closing statement on behalf of the appellant |
| CD14.12 | Completed legal undertaking – Appeal A |
| CD14.13 | Completed legal undertaking – Appeal B |
| CD14.14 | Completed legal undertaking – Appeal C |
| CD14.15 | Email from appellant dated 13 June 2024 referencing a revised housing land supply position submitted by the Council to the draft Local Plan examination of 2.4 years. |
| CD14.16 | Response from Council received 20 June 2024 revising housing land supply position to 3.1 years. |

Appeal C – schedule of 15 conditions:

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 220502-WCA-TP-ZZ-DR-A-PL001 Rev P01
 - 220502-WCA-TP-ZZ-DR-A-PL300 Rev P01
 - 220502-WCA-TP-ZZ-DR-A-PL400 Rev P01
 - 220502-WCA-TP-ZZ-DR-A-PL150 Rev P03
 - 220502-WCA-TP-00-DR-A-PL100 Rev P03
 - 220502-WCA-TP-01-DR-A-PL101 Rev P02
 - 220502-WCA-TP-02-DR-A-PL102 Rev P02
 - 220502-WCA-TP-RF-DR-A-PL103 Rev P02
 - 220502-WCA-TP-ZZ-DR-A-PL200 Rev P02
 - 220502-WCA-TP-ZZ-DR-A-PL201 Rev P02
 - 746-ALA-00-XX-DR-L-0301 Rev P03
 - 746-ALA-00-XX-DR-L-0302 Rev P03
 - 746-ALA-00-XX-DR-L-0303 Rev P03
 - 746-ALA-00-XX-DR-L-0304 Rev P03
 - 746-ALA-00-XX-DR-L-0305 Rev P02
 - 746-ALA-00-XX-DR-L-0306 Rev P02
3. No development including groundworks and demolition shall commence until a report in accordance with step (a) below has been submitted to and approved in writing by the Council. If step (a) identifies the need for any of steps (b) – (g) then these shall be completed before any development commences. There shall be no occupation of the development prior to complying with the terms of this condition.

(a) Preliminary Investigation of the Site

A preliminary investigation shall be carried out by a competent person to assess the condition of the site in respect of contamination. The preliminary investigation must include a site history, site walkover, desk-based evaluation and conceptual site model. A written report of the investigation shall be submitted to and approved in writing by the Council. If the Council is satisfied that the site could pose a significant risk to future occupiers as a result of contamination, then the following additional steps shall also be carried out.

(b) Site Investigation, Method Statement and Remediation

- i. A written investigation plan using the information obtained from the preliminary investigation providing details of the investigation for soil, gas and controlled waters where appropriate shall be submitted to and approved in writing by the Council.
- ii. The site investigation shall be undertaken in accordance with the scheme approved by the Council. The results of the site investigation, a refined conceptual model and a risk assessment of any contamination found shall be submitted to and approved in writing by the Council.

iii. A written Method Statement with verification plan, detailing any remediation requirements and how successful implementation of these requirements will be verified shall be submitted to and approved in writing by the Council.

c) Development in accordance with the Method Statement

The development of the site shall be carried out in accordance with the approved Method Statement. Any post remediation monitoring identified in the Method Statement shall be installed by the developer within the timescales identified in the Method Statement and maintained and operated for as long as identified by the Method Statement.

d) Unsuspected Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a written addendum to the Method Statement detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Council.

e) Piling

If piling is to be used, the development hereby permitted shall not commence until a Foundation Works Risk Assessment has been submitted to and approved in writing by the Council. The piling shall be undertaken in accordance with the approved Foundation Works Risk Assessment.

f) Imported material

No fill material shall be imported to the site until a sampling program, including appropriate import criteria for the proposed end use and frequency of sampling have been submitted to and approved in writing by the Council.

g) Completion of Remediation and Verification Report

A remediation and verification report by an independent, competent person shall be submitted to and approved in writing by the Council prior to occupation of any part of the development.

4. No development including groundworks and demolition shall commence until details of a biodiversity net gain plan has been submitted to and approved in writing by the Council. The approved biodiversity net gain plan shall be implemented prior to occupation of the development.
5. No development including groundworks and demolition shall commence until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Council. The LEMP should be based on the proposed impact avoidance, mitigation and enhancement measures specified in the submitted Ecological Appraisal prepared by Assystem Energy & Infrastructure Ltd, dated 26th July 2023, and should include the following:
 - a) Description and evaluation of features to be managed
 - b) Ecological trends and constraints on site that might influence management
 - c) Aims and objectives of management
 - d) Appropriate management options for achieving aims and objectives

- e) Prescriptions for management actions, together with a plan of management compartments
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 30-year period)
 - g) Details of the body or organisation responsible for implementation of the plan
 - h) Ongoing monitoring and remedial measures
 - i) Legal and funding mechanisms by which the long-term implementation of the plan will be secured by the applicant with the management body(ies) responsible for its delivery
 - j) Monitoring strategy, including details of how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.
- The development shall be implemented in accordance with the approved LEMP.

6. No development including groundworks and demolition shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. The CEMP should include:
- a) Map showing the location of all ecological features
 - b) Risk assessment of the potentially damaging construction activities
 - c) Practical measures to avoid and reduce impacts during construction
 - d) Location and timing of works to avoid harm to biodiversity features
 - e) Responsible persons and lines of communication
 - f) Use of protective fencing, exclusion barriers and warning signs.
- The development shall be implemented in accordance with the approved CEMP.
7. No development including groundworks and demolition shall commence until the following arboricultural information has been submitted to and approved in writing by the Council:
- a) Existing trees and hedges to be retained in the form of a Tree Survey and Arboricultural Impact Assessment, in line with BS5837:2012
 - b) Measures taken to protect existing trees and hedges during construction, demolition, delivery / storage of materials and machinery, including a Tree Protection Plan
 - c) Location and installation of services/utilities/drainage/soakaways, including services to automated gates and how they can be installed in an arboriculturally sensitive manner to limit the impact to retained trees
 - d) Methods of demolition within root protection area (as defined in BS 5837: 2012) of retained trees
 - e) Details of construction and installations including methodologies within a root protection area that may impact on retained trees
 - f) Full specification for the construction of any roads, parking areas, driveways, hard surfacing, including details of no dig specification and extent of the areas to be constructed using no dig surfacing
 - g) Detailed levels and cross sections to show that the raised levels of surfacing, where the installation on no dig surfacing within root protection area is proposed, demonstrating that they can be accommodated

- h) All arboricultural site monitoring and supervision required for the duration of the development
- i) Methods to improve the rooting environment for retained and proposed trees and landscaping
- j) Foundations designs and any other proposals involving below ground excavation inside root protection areas or that may impact on root protection areas.

The development shall be implemented in accordance with the approved details. All tree protection measures shall be maintained for the course of the development works.

8. No development other than for groundworks and demolition shall commence until details of proposed landscaping, including tree planting, has been submitted to and approved in writing by the Council. Details should include:
 - a) Refuse and cycle store details serving the houses
 - b) Means of enclosure and boundary treatments
 - c) Schedule of trees and plants noting species, sizes, numbers, locations, protection, and aftercare
 - d) Hard surfaces including parking areas
 - e) Details of when planting will take placeAll landscaping and tree planting shall be carried out in accordance with BS 8545:2014. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree or shrub of the same size and species shall be planted at the same place, in the next available planting season or sooner.
9. No development other than for demolition and groundworks shall commence until samples of the materials to be used on the external faces and roof of the building has been submitted to and approved in writing by the Council. The development hereby permitted shall be carried out in accordance with the approved details.
10. No development other than for demolition and groundworks shall commence until a Sensitive Lighting Management Plan has been submitted to and approved in writing by the Council. The approved plan shall be implemented prior to occupation of the development.
11. No development other than for demolition and groundworks shall commence until a plan has been submitted to and approved in writing by the Council showing which residential units will include balcony screen(s) to prevent harmful overlooking. Prior to occupation of the development the approved screens shall be installed and retained thereafter.
12. The development hereby permitted shall not be occupied until the proposed vehicular access to Locke King Road has been constructed and provided in accordance with a scheme to be submitted to and approved in writing by the Council. The layout and visibility splays shall be in accordance with drawings 23016-MA-XX-DR-C-0142-P05 and 23016-MA-XX-DR-C-0143-P05 and thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6m high.

13. The development hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawings 23016-MA-XX-DRC-7001-P06 and PL100-P03 for vehicles and cycles to be parked and for vehicles to turn around within the site. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
14. The development hereby permitted shall not be occupied until details of the solar photovoltaic panels and air source heat pumps in accordance with the submitted Energy and Sustainability Assessment dated July 2023 by Twin & Earth have been submitted to and approved in writing by the Council. The development shall be carried out and maintained thereafter in accordance with the approved details.
15. The development hereby permitted shall not be occupied until a noise assessment of the proposed air source heat pumps in accordance with the criteria set out in BS4142:2019 has been submitted to and approved in writing by the Council. Installation of the heat pumps shall be implemented as approved and thereafter maintained in accordance with that approval.

***** End of conditions*****