
Appeal Decision

Site visit made on 25 June 2024

by S Leonard BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/K3605/W/23/3325989

4 Greenways, Esher, Surrey KT10 0QD

- 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 ASPI Homes Surrey Ltd TA ASPI Homes against the decision of Elmbridge Borough Council.
 - The application Ref is 2022/3287.
 - The development proposed is change of use from C2 to dwelling house C3, demolition of single storey extensions, new single storey extension to the rear and front elevation including a gabled elevation and new dormer and minor internal reconfiguration, severing of the site to provide a new 3-bedroom single dwelling house, associated landscaping, and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the refusal of the application, which is the subject of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 19 December 2023. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeal, and I have taken it into account where relevant to my decision.
3. The appellant's appeal form includes details of two other appeals which it submitted in respect of adjoining land within its ownership, at 4 Manor Road South. Both appeals have subsequently been determined.
4. The first appeal concerned a change of use and demolition of existing buildings and two replacement buildings comprising four 3-bedroom dwellings. This was dismissed in January 2024 (the January 2024 decision)¹. The second appeal related to a change of use, partial demolition of an existing building, conversion to dwelling house and an additional 3-bedroom dwelling. This was allowed in May 2024 (the May 2024 decision)².
5. The Council's appeal statement drew my attention to an, at the time of writing the statement, undetermined planning application (the 8-unit application)³, which had been submitted after this appeal was lodged. This related to the development of land comprising the appeal site together with 4 Manor Road South with four pairs of semi-detached two-storey houses with associated

¹ APP/K3605/W/23/3316875

² APP/K3605/W/23/3324132

³ LPA Ref 2023/2580

parking, refuse and cycle storage and landscaping, following the demolition of the existing buildings. The Council's planning register confirms that this application was approved on 24 May 2024.

6. I have not sought further comments from the main parties in respect of these appeal and planning application decisions, which both parties would be aware of, and I have taken them into account in so much as they are relevant to my consideration of this appeal.

Main Issues

7. The main issues are:

- Whether the proposal would maximise the efficient use of urban land, in order to meet the Borough's identified housing need;
- Whether it is appropriate to develop the appeal site in isolation rather than as part of a comprehensive development;
- Whether the proposal makes appropriate provision for affordable housing;
- The impact of the proposal on the living conditions of the occupiers of Nos 4 and 6 Manor Road South, with particular regard to outlook and daylight impacts;
- Whether there is sufficient information to demonstrate that the proposal would not harm protected species and/or their habitats; and
- The impact of the proposal on the character and appearance of the area.

Reasons

Efficient use of urban land

8. The appeal site is located within a residential area characterised by large, detached houses set within generous plots. The existing property comprises a part two-storey and part single-storey detached building which fronts onto Greenways and was formerly used as part of a wider residential care home site which also included 4 Manor Road South which lies to the east of the appeal site. The Council has confirmed that the lawful use of the property remains that of Use Class C2.
9. The proposal is to part demolish and extend the existing building and convert it into a 4-bedroom house and to build a new detached 3-bedroom dwelling. Both dwellings would be accessed from Greenways and have private gardens to the rear.
10. The Council asserts that the appeal scheme would fail to make the most efficient and effective use of urban land to meet the Borough's identified housing need, since it would fail to meet the overall housing density targets set out within Policy CS17 of the *Elmbridge Core Strategy* (July 2011) (the Core Strategy). The Council has calculated that the proposal would equate to a density of approximately 16.7 dwellings per hectare (dph). This figure is not disputed by the appellant. It would fall short of the minimum requirement of 30dph and the target of 40dph as set out in Policy CS17, which in turn, would require the provision of 4 and 5 units respectively.

11. The policy states that in exceptional circumstances, where overriding harm to the valued character of the area would occur...development at a lower density, which maximises the efficient use of land, may be acceptable. At the time of the determination of the planning application, the previous planning history of refused applications and dismissed appeals⁴ for reasons including harm to the character and appearance of the area, involving the appeal site and/or the neighbouring land at 4 and 6 Manor Road South, indicated that achieving a higher density scheme would be likely to compromise the area's spacious suburban character.
12. The aforesaid 8-unit application related to a scheme for eight 3-bedroomed houses. Four dwellings would front onto, and be accessed from, Greenways and would occupy land whose eastern boundary would align with the western boundary of 6 Manor Road South, thereby achieving a greater number of dwellings on an area of land which would be smaller than the current appeal site.
13. Taking the form of pairs of semi-detached two-storey houses which appear akin to single houses fronting their respective roads, the approved 8-unit scheme would satisfy the Council's minimum density requirements of Policy CS17, whilst respecting the character and appearance of the area. I therefore find that there is no justification, having regard to the exceptional circumstances cited in Policy CS17, for allowing the lower density of development proposed under the appeal scheme. In coming to this view, I have also taken account of the Council's current failure to demonstrate a five-year housing land supply and that the under-supply, comprising 3.81 years, is significant.
14. Moreover, Core Strategy Policy CS19 states that the Council will promote a mix of house types, such as to reflect the most up to date Strategic Housing Market Assessment (SHMA). Whilst the Framework no longer includes a requirement to produce a SHMA, my attention has been drawn to the Local Housing Needs Assessment (LHNA) 2020 which identifies that the overall need within Elmbridge is for affordable and smaller unit, namely 1 – 3-bedroom dwellings.
15. In this respect, the proposal, which includes a 4-bedroom dwelling in addition to a 3-bedroom dwelling, unlike the extant 8-unit wholly 3-bedroom scheme, would not strictly adhere to the percentage requirements as set out in the LHNA.
16. For the above reasons, I therefore conclude that the proposal would not maximise the efficient use of urban land, in order to meet the Borough's identified housing need. As such, it would not accord with the aforesaid objectives of Core Strategy Policies CS17 and CS19 of making the best use of urban land to provide housing to meet the needs of the community.
17. For similar reasons, the proposal would be contrary to the Framework objective of making an efficient use of land, taking into account, inter alia, the identified need for different types of housing, and meeting as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

⁴ LPA Ref 2018/0746 and appeal Ref APP/K3605/W/18/3214052– 35 specialist accommodation units on land comprising 4 Greenways and 4 and 6 Manor Road south and LPA Ref 2022/1057 and appeal Ref APP/K3605/W/3316875– 4 dwellings on land at 4 Manor Road South

Comprehensive development

18. Policy DM4 of the *Elmbridge Local Plan Development Management Plan* (April 2015) (the DMP) encourages comprehensive development that achieves a co-ordinated approach with adjoining sites, especially where it may result in additional benefits to the Borough. It also seeks to avoid piecemeal development through comprehensive development of adjacent sites, and for proposals to demonstrate that all reasonable attempts to develop the sites comprehensively have been exhausted, and that that development proposals do not fetter the potential for developing an adjoining site.
19. 6 Manor Road South (No.6) is a detached two-storey dwelling adjacent to the appeal site and occupies the corner plot with Greenways. 4 Manor Road South (No.4) is accessed off Manor Road South. Both plots extend to the eastern side of the appeal site. No.6 is not in the same ownership as the appeal site, whereas No.4 is.
20. A previous planning application was submitted in respect of the redevelopment of the appeal site together with No.4 and No.6, which dates back from 2018 (see footnote 4 above) and there is no evidence that convincingly indicates that all attempts to develop all three sites comprehensively have been exhausted. However, given the different ownership of No.6 and the time that has elapsed since a planning application was submitted, the development potential for this site is unclear, and whether a co-ordinated approach between No.6, No.4 and the appeal site would be feasible. Moreover, the appellant has confirmed that it had no involvement with the 2018 application and that approaches have been made to the current owners of No.6 who confirmed they did not wish to sell the property to the appellant for redevelopment.
21. The potential for the comprehensive redevelopment of the appeal site with No.4 has been demonstrated through the aforesaid extant planning permission for 8 dwellings (see footnote 3). The approved layout of development indicates a roughly 50:50 split of land given over to development fronting and being accessed directly from each road. This comprehensive scheme would facilitate the redrawing of the boundary line between the appeal site and No.4 in a manner which would facilitate, amongst other things, acceptable living conditions for the residents of both elements of the scheme, as well as an efficient scheme in terms of density and housing mix as described above.
22. As both sites fall within the same ownership and the planning application and decision are recent, it is reasonable to consider that this permission is capable of being implemented.
23. For the above reasons, I therefore conclude that it is not appropriate to develop the appeal site in isolation rather than as part of a comprehensive development involving No.4. As such, the proposal would not accord with DMP Policy DM4 and the policies of the Framework, in so much as they seek to promote an efficient use of land.

Affordable housing

24. Planning law requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. Core Strategy Policy CS21 aims to provide at least 1150 affordable homes between 2011 and 2026, by requiring all proposals where there will be a net increase in

dwelling to contribute to the provision of affordable housing in the Borough, subject to viability. For proposals of 1-4 dwellings, the policy requires a financial contribution to be paid towards off-site affordable housing, to be equivalent to the cost of 20% of the gross number of dwellings. This contribution is to be secured by way of a legal agreement in line with the *Development Contributions Supplementary Planning Document* (2021) (the DCSPD).

25. Policy CS21 predates the Framework, and conflicts with Paragraph 65 of the Framework, which says affordable housing should not be sought for residential developments that are not major developments, unless they are within designated rural areas. Major developments are defined in the Framework as development comprising 10 or more new homes or with areas of at least 0.5ha. This position is consistent with the content of the Ministerial Statement (2014) (WMS) and *Planning Practice Guidance* (PPG).
26. The Framework, PPG and WMS aim to ensure that financial contributions should not place undue hardship on small developments which could risk frustrating housing delivery. However, there is no substantive evidence before me which suggests Policy CS21 is placing undue financial burden on developers within Elmbridge. The Council's *Statement on Affordable Housing Provision on Small Sites (Update)* (October 2021) (the SAHPSS Update) shows that, in most cases, developers of small sites have been able to meet the affordable housing requirement set out in Policy CS21 in full, without any viability concerns. Where viability issues have been evidenced, the Council has either reduced the contribution requirement or waived it completely, thereby ensuring such requirements do not impede housing delivery.
27. Moreover, the SAHPSS Update highlights an acute and substantial need for affordable housing within Elmbridge. This need is due to continued affordability issues for first-time buyers, associated with soaring house prices which are significantly above regional and national averages. The Council's evidence clearly demonstrates that small sites make a valuable contribution to the provision of affordable homes in its area, and without such contributions, the Council would significantly limit its capacity to support delivery of such homes.
28. Based on the specific local evidence before me, the Framework's provisions do not outweigh the development plan in this instance. I am therefore satisfied that the Council is justified in requiring small sites to contribute towards affordable housing within the Borough, where viable, and that the requirement meets the tests in Regulation 122(2) of the Community Infrastructure Regulations 2010 and Paragraph 57 of the Framework.
29. Furthermore, the Council's requirement for contributions towards affordable housing has also been supported by Inspectors in other appeal decisions submitted in evidence by the Council.
30. In this instance, the appellant has confirmed an intention to pay an affordable housing contribution, and the evidence before me is that negotiations, including viability reviews, regarding the amount of contribution and whether the existing lawful use of the property is as Use Class C2 or C3, took place between the appellant and the Council during the course of the planning application, prior to its determination in May 2023, but that agreement was not reached.

31. Since the submission of the appeal, the appellant has advised that agreement has been reached with the Council in respect of the required contribution and has submitted a draft Unilateral Undertaking with its response to the Council's appeal statement. However, no subsequent, more recent detailed viability information has been provided as part of this appeal. Neither has an executed legal agreement been submitted.
32. This matter is not capable of being dealt with by means of a pre-commencement planning condition to secure the required Section 106 Agreement. The PPG⁵ states that a negatively worded condition limiting the development that can take place until a planning obligation has been entered into, is unlikely to pass the enforceability test and be appropriate in the majority of cases. The proposal would not meet the exceptional circumstances criteria under the PPG because there is no evidence that the delivery of the development would be otherwise at serious risk. The PPG encourages parties to finalise planning obligations in a timely manner and emphasises the importance of this in the interests of transparency. For these reasons, the PPG is given significant weight and the relevant 6 tests for the imposition of conditions⁶ would not be met.
33. Moreover, for written representations appeals, the procedures are clear that if an appellant wants to be certain an obligation will be considered, they must provide an executed and certified copy at the time of making the appeal.
34. The proposal is without a legal mechanism to secure a planning contribution towards affordable housing, or a recent viability appraisal to demonstrate that making such a payment would render the development unviable. I therefore consider that the development would fail to make adequate provision for affordable housing. As such, for the reasons set out above, it would therefore conflict with Core Strategy Policy CS21 and the DCSPD, which seek an affordable housing contribution secured by a planning obligation.

Living conditions – light and outlook

35. The Council's concerns about neighbouring living conditions specifically relate to the impact of the proposed new detached dwelling unit 2 upon the occupiers of Nos. 4 and 6 Manor Road South immediately to the east of the appeal site.
36. Whilst the existing appeal site building extends across a large part of the site width, its position is restricted to that which directly faces the site frontage. Moreover, the eastern-most part of the building, which amounts to approximately one third of the overall floor area, comprises a single storey extension. This structure is set well back from the site boundaries with Nos. 4 and 6 and it has a low, shallow pitched roof design. As such, the height and position of the existing building in relation to Nos. 4 and 6 are such that the structure does not materially harm the outlook and light enjoyed by these properties.
37. The proposed new detached dwelling would be positioned significantly closer to the eastern site boundary than the existing structure. It would have a greater building depth than that of the existing single storey extension and a notably greater building height and massing, comprising a two-storey structure with a part pitched and part hipped roof.

⁵ Paragraph: 010 Reference ID: 21a-010-20190723

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

38. No.4 is a part single, part two-storey Use Class C2 property which was formerly used as a residential care home. It has several principal windows on its rear elevation, including large dining room, living room, bedroom and conservatory fenestration at ground floor level, and bedroom windows at first floor level, whose outlook would be affected by the proposed positioning of unit 2 directly to the rear of, and sited parallel to the shared boundary between the properties. Moreover, the rear garden depth of No.4 is notably shorter than that which is typical of the area, including that of the adjacent property at No.6.
39. Due to its combined height, depth, scale, parallel positioning in relation to, and proximity to, the adjacent property at No.4, and having regard to the relatively short rear garden depth of that property, the proposed dwelling unit 2 would create an overbearing, impressive and enclosing impact on the outlook from the rear private garden and principal rear elevation windows of No. 4.
40. In addition, the Council has referred to guidance within its adopted *Elmbridge Local Plan Design and Character Supplementary Planning Document* (2012) (the D and C SPD), which advocates the application of the '45-degree rule' to assess the effect of new development upon the availability of natural light to neighbouring properties. In applying this well-established method of assessing daylight impacts arising from new built development, there would be breaches in 45-degree sightlines when measured from several of the aforesaid principal rooms situated in the rear elevation of No.4 at ground and first floor level, with an associated resulting loss of daylight to these principal rooms.
41. The appellant has not disputed the above but considers the use of this assessment to be unreasonable having regard to the vacant condition of No.4. It is not unreasonable to consider that a Class C2 use may not resume at No.4 and its redevelopment with C3 housing is a credible assumption, having regard to the Council's acceptance of the loss of the existing Class C2 use in principle, and the history of planning applications for housing on the site, including that allowed under the May 2024 decision.
42. However, I must determine the current appeal having regard to the appeal scheme in relation to the existing surrounding site circumstances and neighbouring lawful planning use. Moreover, having regard to the orientation, shape, and depth of the plot of No.4 and the front and rear building lines established by the adjacent property at No.6, it is reasonably likely that any new residential development of No.4 would include two-storey residential accommodation sited parallel to the proposal in a similar arrangement to that of the existing Class C2 building.
43. The outlook and daylight of the adjacent detached two-storey house at No.6 would be notably less affected by the appeal scheme due to the significantly longer rear garden depth of this dwelling compared to that of No.4, the greater proposed distance between the new dwelling and this property, and the proposed juxtaposition of the two dwellings whereby the new house would not directly align with the rear of No.6. As such, the proposal would not materially harm the outlook enjoyed by the occupants of No.6.
44. Moreover, even accounting for the difference in opinion between the parties as to the proposed distance between the dwellings, there would only be a small infringement of the 45-degree rule, affecting the daylight to what, on the evidence before me, appears to be a rear ground floor conservatory. I find

that, although there would be a marginal impact upon the daylight experienced by the occupants of No.6, this would not be so materially harmful as to warrant refusal of the appeal scheme.

45. For the above reasons, I therefore conclude that the proposal would materially harm the living conditions of the occupiers of No. 4 Manor Road South, with particular regard to outlook and daylight impacts. As such, the appeal scheme would be contrary to DMP Policy DM2 and the D and C SPD. This policy and guidance, amongst other things, seek to ensure that new development protects the amenity of adjoining occupiers and users, including, inter alia, having regard to outlook and daylight.
46. This is generally consistent with Paragraph 135 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

Protected species

47. The Council's fourth reason for refusal relates to the failure to provide sufficient ecological survey information to demonstrate that the proposal would not harm protected species and/or their habitats, in respect of the potential presence of bats. This is due to the timings of the appellant's bat surveys undertaken before the application determination date, which fell outside of the optimum survey season.
48. The appellant's appeal submission includes a further Bat Emergence and Re-entry Surveys report dated 26 May 2023, (the May 2023 Bat Report)⁷. This confirmed that no bat roosts were identified at the site and included recommended precautionary working methods and enhancement opportunities.
49. The Council has not confirmed that the May 2023 Bat Report is sufficient to overcome this reason for refusal, on the basis that it contends that it did not receive it prior to the deadline for the submission of its appeal statement. This is disputed by the appellant.
50. I find that the Council's request for a further bat survey and report was appropriate, having regard to the high level of legal protection afforded to bats as European Protected Species and given a reasonable likelihood that the appeal property could provide bat access points and roosting accommodation, given its design and its location in relation to potential bat foraging habitat. As such, the proposed demolition and new build works have the potential to kill/injure individual bats and damage or destroy bat roosts, contrary to the Habitats Regulations.
51. Accordingly, I consider that the further survey work, which has now been undertaken, was required to confirm the presence of bats, or their likely absence, and to fully inform the design of any mitigation, compensation and enhancement measures, including whether there is a need for a bat European Protected Species (EPS) licence from Natural England (NE).
52. The Council has not commented upon the appellants' submitted information. It appears, from the consultation response of the Council's expert consultee on ecology matters, the Surrey Wildlife Trust, dated 7 February 2024, that the Council's fourth reason for refusal is capable of being satisfactorily resolved

⁷ Bat Emergence and Re-entry Surveys – Arbtech - Final Issue 1 - 26 May 2023

based on the conclusion contained within the May 2023 Bat Report. However, in the interests of timeliness, and having regard to my conclusions in respect of the first four main issues, which means that this matter is not determinative to the outcome of the appeal, I have not pursued this matter further with the Council, and I have based my decision on the information before me to date.

53. For the above reasons, I therefore conclude that, for the purposes of the determination of this appeal, there is insufficient information to demonstrate that the proposal would not materially harm protected species and/or their habitats. As such, the proposal does not accord with the objectives of Core Strategy Policy CS15, DMP Policy DM21 and Chapter 15 of the Framework, which seek to ensure that new development protects and enhances biodiversity, including protected species.

Character and appearance

54. The site lies within a predominantly residential urban area to the south of the A309 Kingston bypass, which runs alongside its northern boundary, at an elevated height in relation to the appeal site.
55. It lies within designated character area DHW03 (Hinchley Wood, including Lynwood Road and Woodfield Road) of the Thames Ditton, Long Ditton, Hinchley Wood and Weston Green Companion Guide to the Council's adopted *Elmbridge Local Plan Design and Character Supplementary Planning Document* (2012) (the D and C SPD).
56. Built development in this sub-area is described as mainly dating back to the 1930s. Whilst including pockets of non-residential development, including local centres, the area is generally characterised by a high degree of homogeneity and cohesiveness. On the evidence before me, including my site visit, I find that this is evident in the area to the south of the Kingston Bypass, within which the appeal site is located.
57. This area is characterised by mainly detached, two storey, street-facing houses, of a traditional pitched/hipped roof design, with consistent front building lines which are set back from the road frontage behind front gardens or parking areas and have generously sized rear gardens.
58. This prevailing modest domestic scale two-storey building height, spacing between and to the front of buildings, and frontage and backdrop soft landscaping, street trees and grassed highway verges, all contribute to a high-quality public realm with a pleasant, verdant spacious suburban character.
59. Within this distinctive suburban area, which is largely influenced by the Arts and Crafts style, there are a variety of dwelling roof forms, including pitched, hipped, half-hipped and cat-slide structures, symmetrical and asymmetrical roofs, various dormer designs, feature front bays and gables, and varying ridge and eaves heights. Extensions to the original dwellings add further variety of individual building design.
60. This character of built development is evident along both sides of Greenways, where the appeal scheme would form part of the prevailing street scene, and within the adjacent Manor Road South.
61. The existing appeal site dwelling, whilst of no architectural significance, has a simple, traditional, detached, predominantly 2-storey design, incorporating a

mix of roof heights and forms, as well as single storey elements. Its design, combined with its positioning on the site and palette of materials, means that it fits comfortably within the prevailing townscape.

62. The proposal would notably alter the design of the existing dwelling, primarily through the introduction of a large new front gable projection and a roof dormer to the front elevation. The front gable feature would result in a marked increase in bulk of the roof form, with a ridge height which would exceed that of the main roof, and it would be visually prominent within the street scene.
63. However, the proposal would maintain the existing ridge height of the main roof and it would be only a small part of the new gable that would exceed that height. With this in mind and noting that the width of the new front gable its eaves height would only marginally exceed the overall width of the building and the eaves height of the main roof respectively, I am not persuaded that this element of the appeal scheme would comprise an unduly top-heavy or over-dominant feature within the overall building design. Moreover, I am satisfied that the proposed front dormer addition would be sufficiently modest in width, depth and height and would be positioned within the roof slope to appear as a non-dominant feature which would provide interest to the front elevation of the building.
64. The proposed new dwelling would also incorporate a front gable feature which would exceed the height of the ridge of the proposed main roof of the dwelling. This gable feature would be narrower than and have a more vertical emphasis than the proposed gable of the converted and extended building. It would form a key component within a distinctly differently designed building, which would be narrower than the converted building and would incorporate a steeply, and partly barn-hipped roof form, in contrast to the gable ended sides of the converted building.
65. The new building would comprise a significantly different design to that of the extended and converted dwelling and it would incorporate an asymmetrical roof form and a mix of ridge and eaves heights, which would also differ from the eaves and ridge heights of the building to be converted.
66. In terms of overall roof height, the new dwelling whilst exceeding that of the building to be converted and extended, would be lower than the roof ridges of 6 Greenways and 6 Manor Road South, the former of which has a steeply hipped roof form which is significantly higher than that of both its side neighbours. Compared to their immediate neighbours, the proposed dwellings would not appear incongruous in terms of their roof height and massing or 2-storey domestic scale of building.
67. Whilst the two proposed building designs would differ from each other and other properties within the locality, this is acceptable within the context of the aforesaid variety of detailed dwelling designs, roof forms and eaves and ridge heights which characterise this suburban area, noting that front feature gables and low-eave roof sections are features of the street scene.
68. There is no difference of opinion between the parties in respect of the proposed siting, footprint and materials for the proposed dwellings, and the proposal includes enhanced soft landscaping to soften the appearance of the proposed built development.

69. For the above reasons, I therefore conclude that the proposed development would not have a materially harmful impact on the character and appearance of the area. As such, it would accord with Core Strategy Policies CS8 and CS17, DMP Policy DM2 and the D and C SPD.
70. These policies, amongst other things, seek to ensure that new development supports the primary role of the area as an attractive and individually distinctive residential neighbourhood and is of a high-quality design which integrates sensitively with the locally distinctive townscape and enhances the public realm and the street scene. This is with particular regard to, inter alia, appearance, scale, mass, height and prevailing pattern of built development.
71. For similar reasons, the proposal would also accord with Chapter 12 of the Framework, which seeks to achieve well-designed and beautiful places.
72. The Council has drawn my attention to the January 2024 appeal decision in which one of the reasons for dismissal related to harm to the character and appearance of the area. However, that appeal related to a different site and appeal scheme. As such, the appeal circumstances and immediate surroundings were not directly comparable to those of the current appeal, and my consideration of the current appeal must relate to the merits of the appeal scheme before me. As such, this decision does not alter my aforesaid views on the appeal scheme.

Other Matters

73. The Council has confirmed that it cannot demonstrate a 5-year supply of deliverable housing sites as required by the Framework, and that the Council's supply stands at 3.81 years of deliverable housing land.
74. As such, Paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a 5-year housing land supply cannot be demonstrated, or the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years.
75. Paragraph 11 sets out that, where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.
76. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development, and Paragraph 11 d) of the Framework is engaged.
77. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social, and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area within a designated settlement boundary, where access to facilities and services and public transport connections is likely to be greatest.

78. Paragraph 60 of the Framework refers to significantly boosting the supply of homes, and two additional dwellings would make a modest contribution towards addressing the housing delivery deficit. Moreover, one of the houses would comprise a size of dwelling which the Council has identified there is a need for within the Borough, and the scheme could be built out relatively quickly, having regard to Paragraph 70 of the Framework.
79. There would also be economic benefits arising from the construction of the new dwellings and economic and social benefits as a result of their future occupation. The proposal would also potentially contribute to the Framework objective of creating mixed and balanced communities by providing a financial contribution towards the provision of affordable housing.
80. The above benefits weigh in favour of the development, and I afford them moderate weight, having regard to the modest size of the proposed residential development and the lack of a method of securing an affordable housing contribution.
81. The Council has raised no objection to the appeal scheme in respect of matters including the principle of the change of use, highway safety and parking, living conditions of future occupants and flood risk. Moreover, I have found no harm in respect of the impact upon the character and appearance of the area and the living conditions of No.6 Manor Road South. In terms of the planning balance, the lack of identified harms is a neutral factor.
82. Whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified.
83. Accordingly, having carefully considered the balance of factors, I consider that when assessed against the policies in the Framework taken as a whole, the significant harms that would arise from the impact of the proposal upon the living conditions of the occupiers of No.4 Manor Road South and the failure of the scheme to maximise the efficient use of urban land and develop the site as part of a comprehensive development, provide an affordable housing contribution and demonstrate that there would be no harm to protected species would significantly and demonstrably outweigh the benefits.
84. As a result, the social and environmental objectives of sustainable development of supporting strong, vibrant, and healthy communities and protecting our natural and built environment, would not be achieved. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

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

S Leonard

INSPECTOR