



Appeal Decision

Site visit made on 2 December 2025

by **S F Murphy BSc (Hons) MSc MRTPI MISEP CEnv.**

an Inspector appointed by the Secretary of State

Decision date: 11th March 2026

Appeal Ref: APP/T0355/W/25/3371778

5 Llanvair Drive, Ascot, Windsor and Maidenhead SL5 9HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr J Kebe against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application ref is 25/00174.
 - The development proposed is subdivision of existing dwelling into 2x semi-detached dwellings with garage conversion, single storey and two storey rear extensions, first floor extension, new roof and 1no front canopy. Along with formation of new access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellant has submitted a Daylight Sunlight Assessment, an Energy Statement, a Preliminary Ecological Appraisal (PEA), a Preliminary Roosting Appraisal (PRA), a Tree Report, an Emergence Survey Report and correspondence to the Council. In summary these documents provide further information and surveys.
3. The appellant has also submitted amended drawings 23.1108.P.1607 revision J (proposed site and ground floor plan), 23.1108.P1608 revision C (proposed ground floor plan) and 23.1108.P1614 revision A (proposed refuse and cycle stores) alongside a Parking Report which contains swept pathway drawings. These drawings remove the second vehicular access into the appeal site, set the proposed sliding gate further back from the highway and move the cycle storage for Plot 2 from the rear of the property to the front of the property.
4. In considering these submissions I have been mindful that the appeals process should not be used to evolve a scheme. In considering whether to accept the additional information, I have had regard to Holborn Studios Ltd¹.
5. The additional ecology information, the Daylight Sunlight Assessment and Energy Statement provide further clarification on these matters. They do not create a substantial or fundamental change that would result in a different application. As these documents were submitted with the appeal, the Council have been given the opportunity to comment on them and I am satisfied that no interested party has been prejudiced by my approach. I have therefore considered these particular documents in determining the appeal.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

6. However, having reviewed the amended drawings and the Parking Report, I consider they would result in a fundamental alteration to the application over what was considered at the planning application stage. Whilst I note the Council have reviewed this change to the appeal design it is unclear whether interested parties are aware of the alterations and would, therefore, be prejudiced. Consequently, I have not accepted the amended drawings. In the interests of natural justice, I have determined the appeal on the basis of the application drawings.
7. The Council has previously granted planning permission (24/00944/FUL) for a garage conversion, part two storey and part single storey rear extensions and a front canopy which are similar to parts of the appeal proposal. I have therefore had regard to this in my determination of the appeal.

Main Issues

8. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect on the living conditions of the occupants of 3 Llanvair Drive with reference to outlook, privacy, sunlight and daylight;
 - whether the proposal would secure acceptable living conditions for future occupiers of Plot 2;
 - the effect of the proposal on trees, including protected trees;
 - whether the proposal makes adequate provision for cycle storage;
 - the effect of the proposal on the integrity of the Thames Basin Heaths Special Protection Area (SPA);
 - the effect of the proposal on highway and pedestrian safety;
 - effects on priority species and provision of biodiversity net gain (BNG); and
 - whether the proposal complies with the adopted policies relating to climate change and carbon emissions.

Reasons

Character and Appearance

9. Llanvair Drive and surrounding roads are residential in nature with large, detached dwellings sat in spacious plots set back from the highway. The majority of the plots have tree coverage which adds to the verdant character of the area, many of which are covered by a Tree Preservation Order (TPO). Llanvair Drive is located within the Leafy Residential Suburbs character area (LRSCA) detailed within the Royal Borough of Windsor and Maidenhead (RBWM) Townscape Assessment dated June 2010 (the Townscape Assessment). The LRSCA is described as low to medium density residential suburbs of detached two storey houses on medium to large plots with broad consistency of built form, spacing between buildings and lack of on street parking with a well-defined interface between public/ private realm. The Townscape Assessment goes on to describe that dwellings in the LRSCA can include a mixture of detached and semi-detached houses with

variations in roof heights and materials including brick and render, with clay tile or slate roofs.

10. The appeal site is located at the northern end of Llanvair Drive. While there are some exceptions, this part of the street is generally characterised by detached two-storey dwellings which are constructed of red brick with brown roof tiles, set back behind tall, mature vegetation to their frontages. There are reasonable gaps between dwellings that provide access to the rear garden areas and positively contribute to the appearance of the street. While the appeal property shares many of these characteristics, it has been extended to almost the full width of the plot such that the spacing to either side is narrower than others in its immediate context.
11. It is proposed to raise the overall roof height of the dwelling creating a third storey and habitable rooms within that space. However, when this and the first-floor extension on the southern elevation are considered with aspects permitted by 24/00944/FUL, the proposed development would create a cramped appearance within the plot. It would be out of character with the spacious setting of the surrounding dwellings.
12. To accommodate the proposal, additional car parking spaces would be required as stipulated within the RBWM Parking Strategy dated May 2004. As a consequence, vegetation along the boundary with No 7 would need to be removed and reduced along the front boundary. This would be harmful to the established verdant character of the frontage, which combined with the increase in activity of vehicles associated with two dwellings on the plot, would create a more urbanising feel. The creation of a secondary access to facilitate manoeuvrability within the appeal site and the associated electric gates would create further harm being a discordant feature in the street scene which is characterised by single vehicular access for dwellings and no gates. This would be further exacerbated by the introduction of other domestic paraphernalia associated with two dwellings including bin storage, cycle parking and car parking.
13. Having viewed the properties listed in the appellants Statement of Case on my site visit, I noted that, aside from 10 Llanvair Drive, the dwellings referred to were positioned in the southern part of Llanvair Drive and on cul-de-sacs. Dwellings at this point of Llanvair Drive and the cul-de-sacs that feed from it, had varying building materials, height and frontages compared to the regularity of dwellings in the northern end of Llanvair Drive. I am satisfied that given where those properties are positioned on Llanvair Drive and the consistency of scale, massing and design in the northern part of Llanvair Drive where the appeal site is located, I consider they are materially different to the appeal site.
14. Whilst No 10 is white in appearance, it is painted brickwork and has retained its clay roof tiles, so it maintains a degree of consistency with other dwellings in the northern end of Llanvair Drive.
15. The appellant has drawn my attention to 22 Llanvair Drive as an example of a property where extensions and alterations similar to that proposed for the appeal site have taken place. Whilst I note there are similarities between this property and the appeal site, as noted on my site visit, No 22 is positioned on a stretch of the street where there is a greater degree of variance in dwelling design. This is not the case for the position of the appeal site within Llanvair Drive where the strong rhythm of red brick and brown roof tiles persists. In any event, the weight to be

attributed to the material planning considerations is for the decision maker based upon the merits of each particular case and I have determined this appeal on its own merits.

16. Overall, I conclude the proposed subdivision of the detached dwelling into a pair of semi-detached dwellings alongside the physical works to facilitate the subdivision, including raising of the ridge height and the first-floor side extension, would be significantly harmful to the character and appearance of the area. The proposed development would conflict with Policies QP3 and HO5 of the Local Plan adopted February 2022 (the Local Plan) and Policies NP/DG1.1 – 1.3 of the Ascot, Sunninghill and Sunningdale Neighbourhood Plan adopted April 2014 (the Neighbourhood Plan), the RBWM Borough Wide Design Guide Supplementary Planning Document (SPD) dated June 2020 (the Borough Wide Design Guide) and the Townscape Assessment. These policies, the Borough Wide Design Guide and the Townscape Assessment collectively require development proposals to respect the character and appearance of the original property, respect and enhance the character and appearance of the local environment through scale, massing and use of materials with extensions being subordinate to, and respond positively to, existing buildings.
17. It would also conflict with paragraph 135 of the National Planning Policy Framework (the Framework) where it seeks to ensure that development is sympathetic to local character including the surrounding built environment and landscape setting.

Living conditions of adjoining neighbours

18. The property at 3 Llanvair Drive is set at an angle to the boundary with No 5, with the bay window to the lounge and bedroom facing in a southwest direction and having an outlook facing towards the appeal site. The separation distance between the common boundary line and No 5 is narrow due to the size of the plot and the mass of the current dwelling.
19. The proposed development would not physically move closer to the boundary with No 3 or have a forward projection along that boundary. However, both the increase in the height and the steepening of the pitch of the roof would result in a substantial bulk of development creating an overbearing appearance to No 3. This would unacceptably dominate the outlook from the southwest facing windows nearest the joint boundary. I consider this would be overwhelming causing significant harm for the neighbours at No 3.
20. The relationship of the proposal with No 3 and their orientation mean that there would be some transient and temporary loss of sunlight/ daylight to habitable rooms of No 3, at certain points during the calendar year and times of day. However, this would not result in a significant impact given the orientation of the window.
21. As no material changes are proposed to the number of windows on the northern elevation of the proposed development, I have no concerns with regards to overlooking towards No 3 or privacy afforded to its occupants. With regard to the southern elevation facing towards No 7 Llanvair Drive, the new windows proposed are for bathrooms and a WC. Such windows could be fitted with obscured glass, and this could be secured by planning condition. Given their small size and purpose, I am satisfied these windows would not be harmful to overlooking or privacy.

22. Notwithstanding the proposed development would be acceptable in terms of its effect on sunlight, daylight and privacy, given its scale and massing and proximity to the south facing windows of No 3, I conclude the proposal would have a significant overbearing impact on No 3. This would result in harm to outlook, conflicting with Policies QP3 and HO5 of the Local Plan which seek to ensure proposed developments would not unacceptably affect the residential amenities of adjoining and nearby properties. It would also conflict with the Borough Wide Design Guide which recognises residents should be able to enjoy good quality outlook without adjacent buildings being overbearing.

Living conditions of future occupiers

23. Two large oak trees are located within the rear garden of No 7 Llanvair Drive. The submitted Tree Report shows the canopies of these trees appear to cover much of the rear garden and outside amenity space for Plot 2, which is much smaller in size than the rear garden for Plot 1.
24. The outlook from the only windows serving bedrooms 1 and 3 of Plot 2 would be dominated by the canopies which would appear overbearing to the users of these rooms due to its proximity, particularly to bedroom 1. This impact would be further pronounced in the ground floor rooms, including a large kitchen/ living/ dining room space, that opens out to the rear garden which would rely heavily on the rear facing sliding doors and is likely to be used for significant parts of the day. It is unlikely the side window to that living space, given it faces onto a fenceline, would provide much assistance. The garden to the rear would be closer to and beneath the canopies and would likely experience reduced daylight and overshadowing particularly when the trees are in leaf. Whilst the trees would provide some cooling effect in the height of summer, the increase foliage coverage during the summer would add to the heavy shading of both within the amenity area and the rooms.
25. Given the configuration of Plot 2 alongside the extent of the rear garden and amenity space, the living conditions of Plot 2 would be unreasonably affected by its proximity to mature, protected trees. Furthermore, given the constraints the tree canopy would present, this could lead to increased pressure for tree works to take place to improve the living conditions of those at Plot 2, which in turn could affect the character of the area.
26. I therefore conclude that the proposal would fail to provide acceptable living conditions for the future occupants of Plot 2, with particular regard to outlook, which consequently would lead to unnecessary pressure to undertake tree works. It would therefore conflict with Policies HO5 and QP3 of the Local Plan which seeks provision of satisfactory levels of residential amenity for future occupiers alongside usable outdoor amenity space. It would also be contrary to the Framework which seeks a high standard of living condition for future occupiers.

Effect on trees

27. Whilst the appeal site does not contain any trees, trees located close to the common boundaries with 3 and 7 Llanvair Drive make a positive contribution to the verdant character of Llanvair Drive. There are several trees, in close proximity to the appeal site all of which are covered by TPOs. Two of these trees (02 and 03) are located to the rear of the appeal site, and have been identified as Category A in the appellant's Arboricultural Impact Assessment (AIA), being of high quality with a good life expectancy and visual importance as landscape features. Their

canopies extend over much of the rear garden for Plot 2. Two trees (08 and 09) located to the front of the appeal site are identified as Category B, being of moderate quality and value with a reasonable life expectancy. Their canopies extend over areas of the front garden where the existing hard surfacing area would be extended to accommodate the refuse store and enable parking for Plot 2. These trees contribute to the wider verdant character of Llanvair Drive and the LRSCA.

28. With regard to physical works to the front garden, the AIA proposes excavation by hand in sensitive areas alongside the installation of 'no-dig' geocell surface to ensure tree roots continue to survive. I am satisfied that the AIA provides sufficient detail that such an approach could be the subject of a condition to ensure the protection of the root protection area of trees 08 and 09.
29. However, whilst I note that no trees are to be removed to facilitate the proposed development and a method statement for the protection of trees during the construction phase is detailed within the AIA, due to the size of the canopies, height and proximity of trees 02 and 03 to Plot 2, the outlook experienced from rear facing rooms would be compromised. This is likely to result in significant pressure for trees to be pruned or felled in the future undermining their long-term retention. Whilst the appellant or prospective house purchasers may place a high value on the contribution woodland or the trees make to the setting of the property, failing to appreciate the implications and potential problems that may arise from living next to large trees beyond the appeal site's control may not be understood until the dwelling is occupied.
30. An increase in pressure to carry out tree works where safety is an issue, or where damage is being sustained to a property, would be difficult for the Council to resist such applications.
31. As such, I conclude the proposed development would conflict with Policies NR3 and QP3 of the Local Plan and Policies NP/DG1 and NP/EN2 of the Neighbourhood Plan which collectively seek the protection and retention of trees to enhance the sylvan, leafy nature of the area with careful consideration in development proposals of both individual and cumulative impacts. This would be as a result of the potential increased pressure to carry out works to protected trees within the rear garden of Plot 2 from the proposed development.

Cycle storage

32. In accordance with Policy HO5 h) the proposed development is required to provide satisfactory access and secure cycle parking. The Borough Wide Design Guide provides further details that cycle storage that is not easily accessible and poorly integrates into the design of the development will be resisted.
33. Cycle storage is identified on drawing 23.1108.P.1607 revision E (Proposed site and ground floor plan) for both plots as being to the rear of the dwellings. As the existing dwelling extends to the boundary with No 7 Llanvair Drive, for Plot 2 there is no external access connecting the front to the rear of the plot. For Plot 1, the existing side access would remain.
34. The proposed cycle storage would provide the required level of cycle storage spaces within the appeal site and therefore would be in broad compliance with the Parking Strategy dated May 2004. However, for Plot 2, due to there being no side

access, bicycles stored at the rear would have to be transported internally through the dwelling. This would not be ideal and would create cycle storage that is substandard.

35. Whilst noting the concerns regarding the side access for Plot 1, given this is the existing side access for the appeal site and there are no standards detailed within the Parking Strategy or Policy IF2 on this matter, I consider this access to cycle storage acceptable.
36. In view of the above, whilst the proposal can provide the required level of cycle parking provision in terms of numbers, I conclude that the proposal has not demonstrated that appropriate quality cycle storage provision for Plot 2 can be provided. As such, in respect of the issue of cycle storage, the proposal would not fully accord with Policies HO5 and IF2 of the Local Plan which taken together require development proposals to provide satisfactory secure cycle parking.

Thames Basin Heaths SPA

37. The appeal site is located within 5 kilometres (km) but beyond 400m from the Thames Basin Heaths SPA, which is designated for its lowland heathland bird populations, including ground nesting birds. The SPA bird populations and nests are particularly sensitive to recreational disturbance, particularly from dogs and cats, with residential properties within the catchment having the potential to add to this pressure. Within this distance, additional residential dwellings are likely to have a significant effect on the SPA unless mitigation measures are put in place.
38. Policy NR4 of the Local Plan sets out a precautionary approach for development to ensure the protection and conservation of the SPA. This requires new residential developments of between one and nine additional housing units on sites between 400m and up to 5km are to be mitigated through a combination of a contribution towards Strategic Access Management and Monitoring (SAMM) and through the provision of Suitable Alternative Natural Greenspace (SANG). The RBWM Thames Basin Heaths SPA SPD dated July 2010 aligns with this approach. Policy NR4 of the Local Plan identifies sites allocated as SANG and for future SANG provision.
39. Given the proposed development is for an increase of one dwelling and lies between 400m and 5km of the Thames Basin Heaths SPA, this would increase the number of residents within the catchment area of the SPA, which is likely to result in increased visitor numbers to the SPA. As such, the proposal, both alone and in combination with other development in the area, is likely to have a significant effect on the integrity of the SPA due to increased disturbance through recreational activity. Mitigation measures in the form of SANG and SAMM are required. This should be secured through a Section 106 agreement.
40. There is no substantive evidence before me to demonstrate that any of the available SANG capacity has been secured for this proposal. Whilst I note that the appellant indicated their willingness to enter into a Section 106 agreement with the Council on submission of the appeal, there is no such agreement before me. Therefore, in the absence of mitigation, the proposal would result in a significant adverse effect on the integrity of the SPA. Accordingly, it would conflict with Policy NR4 of the Local Plan adopted February 2022 and the Thames Basin Heaths SPD dated July 2010.

41. I do acknowledge that the Council have commented that given the conclusions reached on the proposed development as a whole, they did not seek to enter into a legal agreement with the appellant to mitigate against this harm. However, it is unclear to me as to how SANG and SAMM might have been secured in the situation whereby an Inspector might find a proposal policy compliant or otherwise acceptable, and the provision of SANG and SAMM would be required in order for an appeal to succeed. Nevertheless, there is no mechanism before me to secure mitigation.

Highway safety

42. The proposed development includes the provision of a second access into the appeal site to provide individual access points to each dwelling. Both accesses would have electric sliding gates set back from the highway. I note the concerns of the Council regarding the second access and the gates on highway and pedestrian safety grounds.
43. With regard to the second access, reference is made to the Council's own internal standards that a second access is not allowed on a point of policy. I note the standards referred to do not appear to arise from a policy in the Local Plan or SPD and so the appropriateness of the accesses should be judged on the individual circumstances of the case. Furthermore, the Council have not clearly articulated the precise safety concern relating to this breach of internal policy.
44. Turning to the electric gates, the Council require these to be set further back from the highway so that when a vehicle enters the appeal site it can pull fully off the highway and onto the drive leaving the pavement clear of obstruction whilst the gate opened. Whilst I note electric sliding gates are proposed, such gates can malfunction and visitors would have to wait on the highway for the gate to open. Such circumstances could result in an obstruction on the pavement requiring pedestrians to walk on the carriageway. However, I am satisfied that a condition could be imposed prohibiting the installation of gates to the appeal site to address this issue.
45. As noted on my site visit, Llanvair Drive was not a heavily trafficked road serving the residential area. Furthermore, the appeal site is situated on a stretch of Llanvair Drive that provides for good visibility for drivers accessing and egressing the appeal site.
46. The proposed subdivision of the existing dwelling into two dwellings could lead to an increase in the number of vehicle movements at the appeal site and this, in addition to the electric gates, could create conflict users of the access by vehicle and pedestrians. Whilst I am mindful of the Highway Authority's comments that only one vehicle access is permitted per site to limit any adverse impact on pedestrians using the adjoining footway, I consider traffic movements generated by the proposed development are unlikely to be significant. Furthermore, there would be space along the footway for pedestrians to take refuge should they encounter a vehicle accessing or egressing the appeal site.
47. For these reasons, I conclude that the proposed second access would have no conflict with Policies IF2 and QP3 of the Local Plan which requires development proposals to deliver safe access and movement for pedestrians, cyclists and cars.

Protected species and Biodiversity Net Gain (BNG)

48. A Preliminary Ecological Appraisal (PEA) was conducted for the appeal site to identify whether any protected species or priority habitats were present. The PEA concluded that breeding birds were present at the appeal site, that the dwelling (referred to as B1) had moderate potential for roosting bats and the appeal site had potential to support hedgehogs. The PEA made a series of recommendations which included standard best practice for the protection of birds and hedgehogs, details to minimise the potential for impacts on bats from artificial external lighting and for a roost assessment to determine the presence/ absence of roosting bats within B1.
49. The submitted Preliminary Roosting Assessment concluded B1 had no sign of roosting bats but recommended that two dusk emergence surveys be conducted at the appropriate time of year to confirm whether B1 was supporting summer roosting bats. Following the completion of the two dusk emergency surveys, no bats were observed and it was confirmed that no further surveys were required. The emergence survey report reinforced the recommendation for external lighting to be designed and used in a sensitive manner to avoid harm to bats.
50. I note the Council's ecologist having reviewed the submitted documentation raises no concerns with regard to the details or recommendations contained within them. The ecologist also recommends that a wildlife sensitive lighting strategy be devised alongside the implementation of precautionary measures for hedgehogs and restrictions to be adhered to regarding bird nesting season.
51. Given the proposal would not impact on-site priority habitat, more than 25m square of habitat with biodiversity value greater than zero or more than 5m of linear habitat, the proposed development would be subject to the de minimis exemption for provision of BNG. This has been confirmed by the Council's ecologist.
52. Given the above conclusions, I am satisfied that from the evidence before me suitable management and mitigation measures could be employed such that there would be no harm to protected species from the proposed development. The proposed development would comply with Policy NR2 of the Local Plan and Policy NP/EN4 of the Neighbourhood Plan which when taken together seek to protect biodiversity and species from any adverse impacts requiring ecological surveys to be conducted at the appropriate time of year. The proposed development would also comply with the Framework insofar as it requires decisions to protect and enhance sites of biodiversity.

Climate change

53. Policy SP2 of the Local Plan requires all development to demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change with proposals for new and existing buildings providing information as to how they have been designed to take account of climate change. Policy SP2 states that applicants should refer to the Sustainable Design and Construction SPD for further guidance. This has been superseded by the Council's Sustainability Supplementary Planning Document (SSPD) dated July 2024 and is a material consideration.
54. The SSPD provides details of calculation methods and software that could be used for modelling and energy efficiency benchmarks. The SSPD also seeks a

contribution to the Council's carbon offset fund where developments have demonstrated that net zero cannot be achieved. An initial price of carbon offsets at £252 per tonne over a 30-year lifetime of the development is identified within the SSPD. Should a financial contribution be required to the Council's carbon offset fund, the SSPD states that such monies are to be collected through the Section 106 process.

55. The appellant submitted an Energy Statement as part of the appeal evidence. This document provides details of proposed carbon dioxide emissions for a notional dwelling and for the proposed dwelling for two options: the use of a gas boiler and the use of an air source heat pump. There is no confirmation in the document as to which is the preferred or expected choice, and it is also unclear how the figures used for the calculation have been arrived at given they do not align with the figures presented within the SSPD. Best practice with regards to waste management and minimisation is also unclear.
56. However, I am mindful of the advice given in the Planning Practice Guidance² (PPG) which states policies for planning obligations should be set out in plans and be examined in public, and it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations within SPDs as these would not be subject to examination. The requirement for a planning obligation for a financial contribution is set out within the SSPD, not within Local Plan policy. Consequently, whilst the SSPD can encourage developers to exceed current policy and aim to provide net zero carbon emissions, the SSPD has not been subject to independent examination, and it cannot introduce new compulsory targets.
57. For these reasons, I am satisfied that a contribution to the Council's carbon offset fund is not necessary to make the development acceptable in planning terms and would fail to meet the tests for legal agreements contained within the Framework and PPG. As such, I conclude the proposal would not conflict with Policy SP2 of the Local Plan adopted February 2022 in respect of climate change and carbon emissions. However, this would not affect my findings on the other main issues.

Planning Balance and Conclusion

58. I consider the policies which are most important for determining the appeal application are broadly consistent with the Framework. The proposed development would be contrary to policies that seek to ensure that development respects and enhances the character and appearance of the area, to protect the amenities of adjoining and nearby neighbours, to provide satisfactory levels of residential amenity for future occupiers, to protect and retain trees, and to provide satisfactory secure cycle parking. It would also not mitigate the harm to the SPA. I consider that the harm and policy conflict would be such that the proposal would conflict with the development plan as a whole. This is a matter to which I attach substantial weight.
59. The Council acknowledges that it has a supply of deliverable housing land equivalent to 4.04 years. This represents a moderate shortfall.
60. There would be a benefit from delivery of an additional dwelling given the Council cannot demonstrate the requisite supply, alongside economic benefits arising during the construction and occupation stages of the development. I have had

² Paragraph: 004 Reference ID: 23b-004-20190901

regard to the appellants comments that the appeal site would support the efficient use of existing land and buildings and enhances housing choice, however ultimately a balance of competing considerations must be carried out.

61. I further note that the appeal site is within a reasonable distance of access to public transport and some services and amenities and there are no objections from the Highway Authority on this matter. The proposed dwellings would exceed the minimum space standards alongside noise insulation to ensure sufficient noise control alongside water usage to comply with Building Regulations. Furthermore, materials and supplies for the proposed development would be sourced locally to minimise transport costs. I attach limited weight to these given the small scale of the proposal.
62. Paragraph 11 d) of the Framework sets out the presumption in favour of sustainable development. It details that where the policies which are most important for determining the application are out of date, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed. The policies referred to in this part of the Framework are set out in footnote 7 and include habitat sites and those sites listed in paragraph 194 of the Framework.
63. In the particular circumstances of this case, I have found that the harm to the SPA would not be mitigated due to the lack of a completed agreement under Section 106. This harm is significant and would not be outweighed by the public benefits. This provides a strong reason for refusing the proposal. As such, the presumption in favour of sustainable development does not apply in this case. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

Conclusion

64. For the reasons given above the appeal should be dismissed.

S F Murphy

INSPECTOR