



Appeal Decision

Hearing held on 17 October 2024

Site visit made on 17 October 2024

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Appeal Ref: APP/J0350/W/24/3346602

39-41 Elmshott Lane, Cippenham, Slough, SL1 5QU

- 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 Throgmorton Developments Limited against the decision of Slough Borough Council.
 - The application Ref is P/00595/004.
 - The development proposed is the demolition of the existing ground floor commercial buildings and construction of a part 3, part 4 storey building to provide commercial floorspace (Class E) on the ground floor and residential units to the rear ground floor and above (comprising a mix of 1-bedroom, 2-bedroom and 3-bedroom units) with ancillary cycle storage, refuse storage and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing ground floor commercial buildings and construction of a part 3, part 4 storey building to provide commercial floorspace (Class E) on the ground floor and residential units to the rear ground floor and above (comprising a mix of 1-bedroom, 2-bedroom and 3-bedroom units) with ancillary cycle storage, refuse storage and landscaping at 39-41 Elmshott Lane, Slough, SL1 5QU in accordance with the terms of the application, Ref P/00595/004, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Throgmorton Developments Limited against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published during the appeal. The main parties were given the opportunity to comment and I have considered the revised Framework in my decision.
4. The appeal site is located some 3.5km from the Burnham Beeches SAC (the SAC), such that it falls within the zone of influence. I am the competent authority for the purposes of this appeal and the Habitats Regulations 2017 (as amended) requires the decision maker to consider whether the proposal could adversely affect the integrity of the SAC. I have therefore assessed this as a main issue in this appeal.

Main Issues

5. The main issues are the effect of the proposed development on:

- the designated shopping centre;
- the character and appearance of the area;
- parking provision;
- highway safety; and
- the integrity of the SAC.

Reasons

Designated Shopping Centre

6. The appeal site is at the corner of Bower Way and Elmshott Lane, comprising a 271sqm garage and tyre fitting operation along Bower Way, and a 181sqm convenience store on Elmshott Lane. In accordance with the Statement of Common Ground, 60.5% of the site falls in the neighbourhood centre of Elmshott Lane/ Bath Road. The proposal seeks to replace the buildings at the site with a part 3 storey, part 4 storey building comprising residential and commercial premises. Overall, it would result in the loss of 271sqm of commercial floorspace.
7. Policy S1 of the Slough Local Plan 2004 (the SLP) states that development proposals which adversely affect shopping centres, including the neighbourhood centre of Elmshott Lane/ Bath Road, will not be permitted. Supporting text is clear that the loss of retail frontage or loss of locally important shops will be resisted.
8. 181sqm of commercial floorspace would be retained at the site, relocated to provide an active frontage at the corner junction. However, there is no guarantee this would be provided as retail space. A condition to restrict the future use of the site to retail was discussed at the Hearing, but the appellant seeks the flexibility of a Class E use. While the appellant has referred to negotiations with the current tenant to lease the proposed unit, there is no guarantee that this would be the case.
9. Interested parties were clear at the Hearing that the current retail unit is seen as an important shop by the local community, providing an opportunity to purchase day-to-day necessities without the need to travel further to larger stores, and creating a sense of community. Written submissions also opposed the loss of the garage, highlighted as an important service following the closure of similar offerings nearby.
10. Accordingly, it remains that the proposal could result in the loss of a retail frontage or locally important shop. Combined with the fact that there would be a loss of 271sqm of commercial floorspace, the proposal would adversely affect the neighbourhood centre of Elmshott Lane/ Bath Road.
11. For the reasons given, the proposal would have an adverse effect on the designated shopping centre and would fail to comply with Policy S1 of the SLP.

Character and appearance

12. Bower Way is largely residential. Its eastern end is primarily lined with single and two storey dwellings but travelling west towards Elmshott Lane, larger scale development becomes apparent. The site is adjacent to Holly Court which, due to the gable front and roof level accommodation, reads as three storeys, and close to Charlcot Mews, a three storey apartment block with accommodation in the roof.

13. The nature of development along Elmshott Lane is more mixed, with a range of commercial and residential uses, in addition to Cippenham Primary school opposite the site. In the immediate vicinity development is largely two storey, albeit that some evidence of roof level accommodation is present. Along both streets, the precise form and appearance of development is notably varied.
14. The proposal would increase the level and massing of built form at the site, in a prominent corner plot, with a central four storey element at the junction. It was clear at the Hearing that interested parties felt that this would be an imposing feature, too high and out of place in the perceived village setting of Cippenham. It was stated that, at present, there is no built precedent for a four storey structure in the vicinity.
15. However, while Elmshott Lane is largely low level, taller buildings are visible, particularly that of Charlcot Mews, alongside which the proposal would be experienced. Given the proximity of this building, with fourth floor roof accommodation, the four storey element of the proposal, while notable, would not read as jarring. In addition, the fourth storey of the proposal would be a mansard roof. This would be set back and finished in contrasting materials to ensure subservience to the main building. While concerns were raised at the Hearing that this would, in itself, be out of place, I observed examples of mansard roofs along Elmshott Lane and at the junction of Bower Way. Although the proposal may have a contemporary appearance, given the range of building designs in the immediate area, this would not, in itself, result in undue visual harm.
16. The central four storey element of the proposal would be flanked at either side by townhouses, which would be set back and step down to 3 storeys along Bower Way and two storeys along Elmshott Lane. This would respond to the scale of immediately adjacent development and provide a smooth visual transition in this regard. The articulation of the street-facing elevations of the proposal would reduce its overall prominence and assist with its assimilation in the streetscene.
17. For the reasons given, the proposal would not have an adverse effect on the character and appearance of the area. As such, it would comply with Policy EN1 of the SLP and Core Policy 8 of the Slough Local Development Framework Core Strategy 2006-2026 (the CS) insofar as they seek to ensure high quality design that respects its location and is compatible with its surroundings.

Parking provision

18. The main parties agree that, in line with the Council's parking standards, the proposal should provide 6 - 8 parking spaces. The appellant further acknowledges that, in line with 2021 census survey data, the proposal could result in 17-18 vehicles. However, the proposal would be a car free development.
19. The accessibility of the immediate area was discussed at the Hearing. While I acknowledge references to the deterioration of public transport services, it remains on the evidence before me and as observed on site that the proposal would be in an accessible location. It would lie in reasonable walking distance to Burnham Station and bus stops, with numerous services present in the designated shopping centre and nearby Bath Road Shopping Park.
20. Nevertheless, interested parties raised concerns about the lack of parking. Representations were made regarding the narrow and heavily parked nature of Bower Way, Elmshott Lane, and numerous surrounding streets, with residents

observing these to be heavily parked during the day, resulting in non-compliant parking and parking pressure in the wider area. This was stated to be particularly high at the start and end of the school day at Cippenham Primary School.

21. I observed the site and surrounding streets at the end of the school day. I noted the immediate vicinity was heavily parked, including non-compliant parking and waiting vehicles. However, further east along Bower Way and in streets to the north and west of the school, space for compliant on-street parking remained within reasonable walking distance of the site. I returned to the area during the evening, where I observed a much greater availability of parking close to the site.
22. Surveys were undertaken by the appellant over two nights in 2023 recording vehicles parked in a 200m walking distance of the site. Observations of weekday and Saturday daytime parking demand were also recorded. The survey showed 37 available on-street spaces in surveyed streets at the end of the school day, rising to 57 at 16h00. Morning, overnight, and Saturday daytime availability was between 43 and 53 spaces. As such, the estimated numbers of between 6 and 18 vehicles arising from the proposal could be accommodated via available on-street parking. The Highway Authority reviewed this information, found that the additional parking could be absorbed in the surrounding road network, and did not object to the proposal on the basis of parking provision. The survey was updated in 2024, providing similar results, and the Highway Authority maintained its position.
23. As such, while I acknowledge comments from interested parties, given my observations on the accessibility of the area and the availability of on-street parking, I find that the proposal would not result in harm with regard to parking provision and that the likely increase in parking demand could be addressed in surrounding streets. My findings are supported by the appellant's transport survey and the comments of the Highway Authority. In addition, the appellant has proposed the provision of a local car club, including contributions towards the cost of five years' membership for each dwelling of the proposal, which would serve to further alleviate the need for future occupiers to own a private vehicle.
24. For the reasons given, the proposal would not result in adverse harm with regard to parking provision. As such, it would comply with Policy T2 of the SLP and Core Policy 7 of the CS insofar as they seek to ensure a level of parking appropriate to the location and scale of development, taking account of local parking conditions.

Highway safety

25. Concerns have been raised regarding the effect of the proposal on highway and pedestrian safety, particularly given the proximity of Cippenham Primary School and existing congestion on the road network as outlined by interested parties. In this regard, I acknowledge the proposal would result in additional vehicular trips.
26. However, the proposal would replace the current situation at the site. As the retail store would be replaced with a similarly scaled commercial unit, similar effects are likely in this regard. However, it would replace the current garage. The appellant has undertaken surveys which showed this current garage use to generate 80-111 vehicle movements across the Bower Way footway which, due to the confines of the site, would include vehicles in reverse gear. In addition, associated customer or delivery vehicles were parked on the double yellow frontage.

27. The proposal would remove the trips and non-compliant parking associated with the garage. It is estimated to result in 36 two-way trips per day and the additional parking as outlined above, but given its car-free nature such trips and parking will likely be spread across the road network rather than concentrated at the site. While parking and trips associated with deliveries would also be made to the proposal, these would be for temporary periods only. In addition, the appellant has proposed a contribution to a traffic regulations order for adjustments to local regulations governing the use of the existing lay-by on Elmshott Lane, to ensure its availability for a loading bay.
28. Having reviewed the survey information, the Highway Authority acknowledge that the proposal would remove numerous vehicle trips per day and raise no objection on highway safety grounds.
29. I observed congestion referred to by interested parties at the end of the school day. However, as seen on my later visit, such a level of traffic and congestion appears to be temporary. While references were made at the Hearing to 'near miss' collisions, accident history data for the last five years shows only two slight accidents at the junction, neither of which involved pedestrians or cyclists. As such, even noting the proximity of the school, there is nothing substantive to suggest a prevalence of highway or pedestrian safety concerns in the immediate vicinity of the site.
30. The comments and concerns of interested parties are noted, and have been taken into account. Nevertheless, given my observations that the on-street parking of the proposal could be absorbed in the surrounds, the reduction in vehicle movements concentrated at the site, the limited recorded accidents at the junction, the lack of objection from the Highway Authority, and the temporary nature of the traffic issues connected with the school during the day, I do not find that the proposal would result in unacceptable or severe impacts on highway or pedestrian safety.
31. For the reasons given, the proposal would not result in adverse harm with regard to highway safety. As such, it would comply with Policy T2 of the SLP and Core Policy 7 of the CPS insofar as they seek to ensure development does not lead to adverse road safety problems.

Burnham Beeches SAC

32. The qualifying feature of the SAC is Atlantic acidophilous beech forests, and it is also a rich site for deadwood invertebrates and important epiphytic communities. It is accepted that one of the greatest pressures to the SAC arises from recreational activity. As the proposal would introduce additional housing near the SAC, associated recreational issues are likely to arise from new residents.
33. As such, there is potential for the proposal, both on its own and in combination with other projects, to have a likely significant effect on the qualifying features of the SAC. This would compromise the conservation objectives of the SAC to maintain and, where not in favourable condition, restore the beech forest habitat, such that an adverse effect on its integrity cannot be ruled out.
34. However, the Burnham Beeches SAC Mitigation Strategy identifies that financial contributions will be secured from all net new residential development within 5.6km of the SAC to enable delivery of mitigation at Upton Court Park SANG. Accordingly, a contribution of £570 per dwelling would be required, being a total of £7,410.

35. Natural England has been consulted. It has confirmed the contribution figures outlined above and stated that, provided the appellant made such contributions to the Upton Court SANG and that the SANG still has capacity, it has no comments to make. It was confirmed by the Council at the Hearing that the SANG has capacity, and a planning obligation has been provided relating to the relevant contribution.
36. On the basis of the information before me I am therefore satisfied that, subject to the imposition of appropriate mitigation, the proposal would not result in adverse effects on the integrity of the SAC. It would comply with the Framework which seeks to ensure that development protects and enhances biodiversity.

Planning Obligation

37. The Unilateral Undertaking provides a mechanism to secure the provision of contributions in respect of the Burnham Beeches SAC, a Car Club, and a Traffic Regulation Order. I have considered the obligations in the Unilateral Undertaking with regard to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the tests in paragraph 57 of the Framework. I am satisfied all obligations are necessary, directly related to the development and fairly related in scale and kind. Accordingly, I consider these obligations can be taken into account in my assessment.

Other Matters

38. The proposal would provide 13 dwellings in an accessible and suitable location, among established residential uses and adjacent to the neighbourhood centre, adding to the housing mix and choice of the area. While interested parties have cited a lack of need or demand for additional housing in the locality, it is agreed between the main parties that the Council has a shortfall in housing supply, with the latest Housing Delivery Test figure being 58%. As such, I attach significant weight to the houses to be provided as part of the proposal.
39. The development would have some socio-economic benefits due to employment during construction and contribution to the local economy by future occupiers. However, these would be modest in scale and this benefit attracts limited weight. The scheme would make use of previously developed land, optimising the use of the site, this too counts in favour of the proposal. The proposal would also include provision of financial contributions towards highways/ transport infrastructure. While this is necessary to make the development acceptable in planning terms, it also provides a limited benefit.
40. The proposal would result in adverse harm to the neighbourhood centre through the loss of commercial floorspace and potential loss of locally important shops. The resulting need to travel due to the loss of the current retail unit was raised at the Hearing, which would include lengthy journeys for elderly and disabled persons. However, I observed a nearby supermarket at 27-31 Elmshott Lane, which provides a similar service and 181sqm of commercial, if not retail, floorspace would remain at the site, both of which reduce the overall harm in this regard. Nevertheless, given the comments of interested parties regarding the local importance of the shop and the closure of the garage, this harm still attracts moderate weight.
41. Interested parties raised concerns regarding the impact of the proposal on local services. However, given the level of housing proposed, it is not anticipated the proposal would have a significant effect on the availability of such services. While

concerns have also been raised regarding job losses, any impact in this regard would be limited by the re-provision of commercial floorspace at the site. Objections to potential disturbance during construction were also received. However, such disturbance would be for a temporary period only, and a condition has been attached relating to a construction management plan.

42. Flood risk has been raised by local residents. However, the site lies in Flood Zone 1, such that it is at low risk of tidal, fluvial, groundwater flooding, surface water flooding and flooding from artificial sources. A Flood Risk Assessment and SuDS Strategy was provided, and no objection was received from the Lead Local Flood Authority. I have also attached conditions in relation to flood risk, as outlined below. Overall, I am satisfied that there would be no adverse harm with regard to flooding.
43. Potential increase in crime and anti-social behaviour has been raised, including concerns that the scheme would overlook the school. As discussed at the Hearing, the proposal would provide an active use at the site, including an evening use. Private front terraces would provide defensible space and natural surveillance would be present. Taken together with the condition addressing a secure access strategy, I am satisfied there would be no adverse effect regarding crime. There is nothing substantive to suggest the proposal would lead to antisocial behaviour, and the scheme would be sufficiently separated from the school to prevent overlooking.
44. Concerns were expressed at the Hearing regarding the sustainability of the proposal but the submitted energy and sustainability statement identifies the proposal can achieve a 70% reduction in carbon emissions. With regard to pollution, the proposal would not be in an air quality management area and any potential contamination risks would be addressed by way of a condition. The issue of setting a precedent was also raised. However, each application is to be decided on its own merits, as I have done in this case.
45. The Council provided a copy of a recent appeal decision dismissing a proposal for the demolition of an existing retail unit and erection of 50 dwellings. The decision acknowledges an undersupply of employment land and concludes that the loss of employment land would be contrary to the economic objectives of the Framework and the need to support economic growth and productivity. However, the appeal site for that proposal was in a designated Existing Business Area, where local policy indicates there will be no loss to non-employment generating uses. The proposal before me is not in such an area and would not result in the total loss of commercial floorspace at the site. In any event, each application is decided on its own site specific merits, such that the appeal decision carries limited weight.
46. The appellant further suggested mitigation by way of the implementation of a scheme of bollards or low railings along the footpath edge at the junction of Elmshott Lane and Bower Way, to prevent pavement parking and deter drop-off/pick-up activity. While limited details on the scheme were provided, it was suggested that this could form the basis of a planning condition. This was discussed at the Hearing. However, given my observations above regarding the lack of harm arising with regard to parking provision and highway safety as a result of the proposal, I do not find such mitigation to be necessary. Even without this in place, I find that the proposal would be acceptable in these regards.

Planning Balance

47. The main parties agree the Council cannot demonstrate the requisite housing land

supply, such that paragraph 11(d) of the Framework is engaged. This is clear that, in this instance, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

48. The proposal would fail to comply with Policy SP1 of the SLP. It would not accord with the development plan as a whole. However, as outlined above, I attach only moderate weight to any associated harm. I have also found there is potential for the proposal to have a likely significant effect on the qualifying features of the SAC, but as such effects can be mitigated, this harm attracts limited weight. The issues raised relating to local services, job losses, and disturbance during construction further count against granting permission for the scheme. I have also attached weight to the appeal decision provided during the Hearing.
49. While the proposal would result in a shortfall in parking provision when compared to the Council's standards, I have found this would not result in adverse harm. I have also concluded that no harm would arise with regard to highway safety or character and appearance.
50. The government's objective is to significantly boost the supply of homes, and there is considerable support in the Framework for new housing. There is, on the information before me, an evidenced shortfall in housing within the Council area. The proposal would provide 13 additional homes, which would go some way to addressing the current shortfall, to which I attach significant weight. I have also attached limited weight to employment arising during construction and support for local services, in addition to acknowledging that the proposal would reuse previously developed land and optimise the use of the site. A limited benefit also arises from the contributions towards highways/ transport infrastructure.
51. Therefore, taking account of all matters outlined, I find that the adverse impacts of the proposal would be significantly and demonstrably outweighed by the benefits when assessed against the policies in the Framework taken as a whole. As such the presumption in favour of sustainable development would apply.

Conditions

52. Both parties have had the opportunity to comment on suggested conditions and the appellant has confirmed their acceptance of those framed as pre-commencement conditions at the Hearing. In addition to the standard timeframe condition, I have imposed a condition to require adherence with the approved plans in the interests of certainty and proper planning. I have amended the Council's suggested condition to remove tailpiece elements to ensure interested parties are not prejudiced and to make the condition more precise.
53. Pre-commencement conditions relating to the approval of external finishes, including at the communal amenity space, landscaping, and boundary treatments are necessary in the interests of the character and appearance of the area. I have also attached pre-commencement conditions relating to the approval of the detailed design of a surface water drainage scheme, and its ownership and maintenance, in addition to a pre-occupation condition relating to the submission and approval of a verification report, in the interests of drainage and flood risk.

54. The approval of a Construction Management Plan (CMP), noise insulation mitigation measures, and a ventilation strategy prior to the commencement of construction above ground level are necessary in the interests of residential amenity, with the CMP also necessary in relation to and highway safety. Approval of a secure access strategy and secure letter/ parcel drop strategy prior to commencement of development above ground level is necessary to minimise crime. The approval of a piling method statement is also required given the proximity of the proposed works to underground infrastructure.
55. I have attached a suite of conditions relating to the assessment of contaminated land risks prior to commencement of development, and appropriate follow up action, to ensure no risk to human health or other receptors.
56. I have imposed a range of conditions to be discharged prior to the occupation of any dwelling approved. These include provision of the approved refuse facilities and the approval of details for: cycle storage; and external lighting. These are required in the interests of character and appearance; parking provision; and residential amenity, respectively. It is also necessary for the attenuation schemes in respect of any plant to be installed to be approved prior to occupation in the interests of residential amenity.
57. In the interests of character and appearance and the viability of the shopping centre I have attached a condition for the approval and retention of windows at the Class E unit that shall be unobstructed. A condition relating to level access is also required for the ease of access of all users. I have also restricted permitted development rights such that no new windows would be installed in the development and that no telecommunications equipment shall be erected at the development. These are necessary in the interests of character and appearance and I am satisfied that this is clearly justified and reasonable and necessary in this case.

Conclusion

58. For the reasons given, I conclude that the appeal should be allowed, subject to the conditions in the attached schedule.

C Rafferty

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - Existing Site Location Plan, Drawing No. 1041-S01-P1 dated 7 December 2022;
 - Existing Site Condition Ground Floor Plan, Drawing No. 1041-EX-GA00-P1 dated 7 December 2022;
 - Existing Site Condition Roof Plan, Drawing No. 1041-EX-GARF-P1 dated 7 December 2022;
 - Existing Site Condition Elevation 01, Drawing No. 1041-EX-GE01-P1 dated 7 December 2022;
 - Proposed Site Plan Roof, Drawing No. 1041-S-RF dated November 2022;
 - Proposed General Arrangement Ground Floor Plan, Drawing No. 1041-GA-00-P3 dated 9 November 2023;
 - Proposed General Arrangement First Floor Plan, Drawing No. 1041-GA-01-P3 dated 9 November 2023;
 - Proposed General Arrangement Second Floor Plan, Drawing No. 1041-GA-02-P3 dated 9 November 2023;
 - Proposed General Arrangement Third Floor Plan, Drawing No. 1041-GA-03-P3 dated 9 November 2023;
 - Proposed General Arrangement Roof Plan, Drawing No. 1041-GARF-P3 dated 9 November 2023;
 - Proposed Elevations 01 Elmshott Lane Elevation, Drawing No. 1041-FP01-GE01-P3 dated 9 November 2023;
 - Proposed Elevations 02 Bower Way Elevation, Drawing No. 1041-FP01-GE02-P3 dated 9 November 2023;
 - Proposed Elevations 03 Courtyard Elevation, Drawing No. 1041-FP01-GE03-P3 dated 9 November 2023;
 - Proposed Elevations 04 South Elevation, Drawing No. 1041-FP01-GE04-P3 dated 9 November 2023;
 - Proposed Elevations 06 East Elevation, Drawing No. 1041-FP01-GE05-P3 dated 9 November 2023;
 - Envelope Details 01, Drawing No. 1041-EN01-P1 dated 27 October 2023;
 - Envelope Details 02, Drawing No. 1041-EN02-P1 dated 27 October 2023;
 - Acoustic Planning Report by Sharps Redmore ref. no. 2221466; Dated November 2022;
 - Daylight & Sunlight Report by Consil ref no. Version 01; Dated November 2022;
 - Design & Access Statement by HdAr revision A; Dated November 2023;
 - FRA & SuDS Strategy by The PES ref. no. FRA 20136.1 A; Dated November 2022;
 - Energy & Sustainability Statement by The PES ref. no. V3; Dated 29/11/22;

- Phase 1 Desk Study by Soil Technics ref: no. STU5849-R01 Rev. C; Dated December 2022;
 - Planning Statement by Rolfe Judd Planning ref: no. P7884; Dated 15/11/22;
 - Transport Statement by TTP Consulting; Dated December 2022;
 - Transport Addendum by TTP Consulting ref. no. N04-KM-SD-FP01; Dated November 2023;
 - Framework Travel Plan by TTP Consulting; Dated December 2022;
 - Shadow Habitats Regulations Assessment, Ecology By Design, November 2024.
3. No development above ground level shall take place until samples of the finishes and materials to be used in the construction of the external surfaces of the development hereby approved (including, reference to manufacturer, specification details, positioning, and colour, as well as, bonding were appropriate) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained thereafter.
4. No development above ground level shall take place until details of the external materials to be used in the laying out of communal amenity area at first floor level within the development hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained thereafter.
5. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The submitted details shall include:
Details (i.e., designs, diameters, invert and cover levels, gradients, dimensions and so on) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets, and attenuation structures;
Details of the drainage system are to be accompanied by full and appropriately cross-referenced supporting calculations which will include a 10% allowance for urban creep;
Cross sections of the control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves should be submitted for all hydrobrakes and other flow control devices;
Confirmation of site-specific soil conditions to confirm or exclude use of infiltration solutions;
The development shall be carried out in accordance with the approved details and retained thereafter.
6. No development shall take place until a detailed scheme for the ownership and maintenance for every element of the surface water drainage system proposed on the site shall be submitted to and approved in writing by the local planning authority.
Details are required of which organisation or body will be the main maintaining body where the area is multifunctional (e.g., open space play areas containing SuDS) with evidence that the organisation/body has agreed to such adoption.

The scheme shall include:

a maintenance schedule setting out which assets need to be maintained, at what intervals and what method is to be used;
a site plan including access points, maintenance access easements and outfalls;
maintenance operational areas to be identified and shown on the plans, to ensure there is room to gain access to the asset, maintain it with appropriate plant and then handle any arisings generated from the site; and
details of expected design life of all assets with a schedule of when replacement assets may be required.

The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved ownership and maintenance scheme.

7. No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
8. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include the following details:
A site set up plan displaying hoarding/fencing extents, vehicle and pedestrian access points during construction, provision for storage of materials, waste and recycling facilities/areas, contractor parking, turning space for construction vehicles, unloading area for deliveries, site office and wheel cleaning facilities during the construction period;
Construction vehicles and to comply with Euro VI Emissions Standard as a minimum and machinery to comply with Table 10 of the Low Emissions Strategy Guidance.
Delivery hours and working hours. Deliveries shall be made outside peak hours of 0800 – 0900 and 1700 – 1800, and outside of 1430 – 1530 where the development is located in proximity to a school.
Details of traffic management measures to control deliveries to site and pedestrian movements on footways in proximity to the site in order to minimise the impact of construction on the safe operation of the surrounding highway network.
Vehicle routing plan for HGVs. HGVs shall avoid weight restrictions and AQMAs and local schools at collection/drop off time.
Details of dust control measures and wheel washing facilities to be provided on site.
Confirmation of whether any abnormal loads will be required for the construction or demolition. If so, the LHA must be notified of any abnormal loads at the following location: <https://www.slough.gov.uk/licences-permits/abnormal-loads/1>.
The plan shall thereafter be implemented as approved and adhered to throughout the construction period for the development.
9. No development above ground level shall take place until full details of the noise insulation mitigation pursuant to the Acoustic Planning Report by Sharps Redmore ref. no. 2221466; Dated November 2022 has been submitted to and

approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved details prior to first occupation and shall be retained thereafter.

10. No development above ground level shall take place until a ventilation and overheating strategy, including detail of proposed plant, location of inlet/outlets, and an associated noise assessment for any mechanical noise, has been submitted to and approved in writing by the local planning authority. Should a mechanical ventilation system not be installed, a full overheating assessment must also be provided. The development shall be carried out in full accordance with the approved details prior to first occupation and shall be retained thereafter.
11. No development shall take place until an Intrusive Investigation Method Statement (IIMS) has been submitted to and approved in writing by the local planning authority. The IIMS shall be prepared in accordance with current guidance, standards and approved Codes of Practice including, but not limited to, BS5930, BS10175, CIRIA 665 and BS8576. The IIMS shall include, as a minimum, a position statement on the available and previously completed site investigation information, a rationale for the further site investigation required, including details of locations of such investigations, details of the methodologies, sampling and monitoring proposed.
12. No development shall take place until a Quantitative Risk Assessment (QRA) has been prepared for the site, based on the findings of the intrusive investigation, and submitted to and approved in writing by the local planning authority. The risk assessment shall be prepared in accordance with the Land Contamination: Risk Management (LCRM) and Contaminated Land Exposure Assessment (CLEA) framework, and other relevant current guidance, and shall, as a minimum, contain details of any additional site investigation undertaken with a full review and update of the preliminary Conceptual Site Model (CSM) (prepared as part of the Phase 1 Desk Study), details of the assessment criteria selected for the risk assessment, their derivation and justification for use in the assessment, the findings of the assessment and recommendations for further works. Should the risk assessment identify the need for remediation, then details of the proposed remediation strategy shall be submitted to and approved in writing by the local planning authority. The Site Specific Remediation Strategy (SSRS) shall include, as a minimum, details of the precise location of the remediation works and/or monitoring proposed, including earth movements, licensing and regulatory liaison, health, safety and environmental controls, and any validation requirements
13. No development within or adjacent to any area(s) subject to remediation works carried out pursuant to the Phase 3 Quantitative Risk Assessment and SSRS condition shall be occupied until a full Validation Report for the purposes of human health protection has been submitted to and approved in writing by the local planning authority. The report shall include details of the implementation of the remedial strategy and any contingency plan works approved pursuant to the SSRS condition above. In the event that gas and/or vapour protection measures are specified by the remedial strategy, the report shall include written

confirmation from a Building Control Regulator that all such measures have been implemented.

14. Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
15. No development above ground floor level shall take place until details of an arboricultural method statement in conjunction with details of all soft landscaping including a tree planting scheme has been submitted to and approved in writing by the local planning authority. This scheme should include the type, density, position and planting heights, along with staking/guying, mulching, feeding, watering and soil quality, of the new planting and trees, and details of hardsurfaces which shall include compliance with the surface water drainage mitigation as approved under conditions 5 and 6 of this planning permission. On substantial completion of the development, the approved scheme of hard landscaping shall have been constructed and retained in accordance with the approved details. The approved scheme of soft landscaping and tree planting shall be carried out no later than the first planting season following completion of the development. Within a five year period following the implementation of the scheme, if any of the new plants and/or trees should die, are removed or become seriously damaged or diseased, then they shall be replaced in the next planting season with another of the same species and size as agreed in the approved planting scheme by the local planning authority.
16. No development above ground floor level shall take place until details of the proposed boundary treatment including position, external appearance, colour, height and materials of all boundary walls, fences and gates have been submitted to and approved in writing by the local planning authority. No occupation of any part of the development shall take place until the approved boundary treatment has been implemented on site. It shall be retained at all times in the future.
17. No development above ground floor level shall take place until a secure access strategy and secure letter/parcel drop strategy in line with the principles of Secured by Design has been submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall not be occupied or used until written confirmation of Secured by Design accreditation has been submitted to the local planning authority. The approved security measures shall be retained thereafter.
18. No occupation of any part of the development shall take place until the Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment & Sustainable Drainage Strategy, has been submitted by a suitably qualified drainage engineer and approved in writing by the local planning authority. The report shall include:

Any departure from the agreed design is keeping with the approved principles ;
Any As-Built Drawings and accompanying photos;
Results of any Performance testing undertaken as a part of the application process (if required / necessary);
Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.;
CCTV Confirmation that the surface water drainage system is free from defects, damage, and foreign objects; and
Confirmation of adoption or maintenance agreement for all SuDS elements as detailed within the drainage strategy is in place.

19. No occupation of any part of the development shall take place until the refuse and recycling facilities as shown on the approved plans shall be provided in accordance with standards set out in the Slough Developers Guide. Such facilities shall be retained at all times in the future.
20. Prior to the installation of any plant, full specification details including any attenuation demonstrating compliance with the assumptions set out in the Acoustic Planning Report by Sharps Redmore ref. 2221466 R1; Dated 30.11.22, shall be submitted to and approved in writing by the local planning authority. No occupation of any part of the development shall take place until the approved details have been fully installed. The plant shall be retained in good working order thereafter.
21. No occupation of any part of the development shall take place until details of the cycle parking provision (including the security measures of the facilities and cycle stand details) shall be submitted to and approved in writing by the local planning authority. The cycle parking shall be provided in accordance with the approved details and shall be retained thereafter.
22. No occupation of any part of the development shall take place until any scheme for external site lighting including details of the lighting units, location, levels of illumination and hours of use have been submitted to and approved in writing by the local planning authority. No lighting shall be provided at the site other than in accordance with the approved scheme.
23. Prior to the first occupation of the Class E unit hereby permitted the details of a scheme for the windows in the shop front elevations at ground floor level shall be submitted to and approved in writing by the local planning authority setting out the areas of clear glass where there shall be no obstruction, colouring, laminating, or similar behind the glass that would prevent or restrict views into the ground floor unit and shall be retained thereafter.
24. The ground floor entrance doors to any part of the development shall not be less than one-metre wide and the threshold shall be at the same level to the paths fronting the entrances to ensure level access. Level thresholds shall be provided throughout the development between the flatted residential units and the external amenity/balconies and the main lobbies.
25. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015, (or any Order or Statutory

Instrument revoking and re-enacting that Order), no windows, other than those hereby approved, shall be formed in any elevations of the development.

26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no aerials, antennae, satellite dishes or related telecommunications equipment shall be erected on any part of the development hereby permitted.

END OF SCHEDULE

Richborough

APPEARANCES

FOR THE APPELLANT

O Tarlow	Legal Representative
M Day	Frogmorton Developments Ltd
K Mamphey	TTP Consulting
S Davies	TTP Consulting
J Ilibitson	HdAr
A Collins	Rolfe Judd Planning
S Tickle	Rolfe Judd Planning

FOR THE LOCAL PLANNING AUTHORITY

D Ray	Slough Borough Council
N Rhapt	Slough Borough Council
B Amey	Slough Borough Council
C Morrone	Slough Borough Council
S Seedhar	Slough Borough Council

INTERESTED PARTIES

T Hall	Local Resident
K Houghton	Local Resident
P Cooper	Local Resident
A Simpson	Local Resident
K Shaw	Local Resident
B Belson	Local Resident



Costs Decision

Hearing held on 17 October 2024

Site visit made on 17 October 2024

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Costs application in relation to Appeal Ref: APP/J0350/W/24/3346602 39-41 Elmshott Lane, Cippenham, Slough, SL1 5QU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Throgmorton Developments Limited for a full award of costs against Slough Borough Council.
 - The appeal was against the refusal to grant planning permission for the demolition of the existing ground floor commercial buildings and construction of a part 3, part 4 storey building to provide commercial floorspace (Class E) on the ground floor and residential units to the rear ground floor and above (comprising a mix of 1-bedroom, 2-bedroom and 3-bedroom units) with ancillary cycle storage, refuse storage and landscaping
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant asserts that the Council has acted unreasonably in this case in two main capacities, being: the failure to accurately apply the presumption in favour of sustainable development; and the failure to substantiate a reason for refusal.
4. In setting out its position, the applicant refers to the Council's housing land supply and the housing delivery test figures. It sets out that as a result of these, the Council is unable to demonstrate the requisite housing land supply and as such paragraph 11(d) of the Framework is engaged. However, the applicant considers that the Council failed to properly consider the housing land supply and housing delivery test when considering the planning balance and did not reasonably consider the benefits of the provision of housing in this regard.
5. A copy of the agenda document for the planning committee has been provided. This acknowledges that the Council cannot demonstrate a five year housing land supply, and that the Council has a shortfall against its housing delivery target. It further notes the housing to be delivered by the proposal, in addition to other benefits of the scheme.
6. The Council's Statement of Case is then clear that, despite the recommendation at officer level, committee members considered that the adverse impacts of the

development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. While the Statement of Case itself may provide limited detail beyond this, given the information before the committee members at the time, there is nothing substantive before me to suggest that they failed to properly consider the housing land supply and housing delivery test when considering the planning balance, or did not reasonably consider the benefits of the provision of housing in this regard. While it can be seen from my decision that I do not agree with the conclusions of the committee members, I do not find that they acted unreasonably in their determination.

7. I note the applicant's submissions regarding the age of the Council's local plan documents and that they pre-date the publication of the National Planning Policy Framework. However, this alone does not result in such policies being out of date. In any event, it remains that, due to the housing position, paragraph 11(d) of the Framework was engaged in this case and, as outlined above, I do not consider that the Council acted unreasonably in their application of this.
8. With regard to the purported failure to substantiate a reason for refusal, I acknowledge the positions of the planning officers and highway authority. Nevertheless, it remains that members of planning committees are entitled to make decisions that are contrary to the officer recommendations that they receive, provided this is clearly demonstrated on planning grounds.
9. The applicant refers largely to highway safety and parking provision in its costs application. It alleges that anecdotal statements of members of the public were considered instead of the professional advice and technical evidence provided. However, even if this were to be the case, the proposal was also refused on other grounds. The evidence before me shows that the committee members exercised planning judgement in this regard, and found harm based on planning grounds. The reasons for refusal were ultimately clearly articulated in the Decision Notice, substantiated with reference to policy conflict.
10. While it can be seen from my decision that I have taken a different position, the reasons for refusal were complete, precise, specific, and relevant to the application. I do not find that the Council failed to substantiate its reasons for refusal, or acted unreasonably in this regard.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Rafferty

INSPECTOR